

## **City Council Action Item Cover Sheet**

DATE: August 1, 2018

### **Agenda Item:**

Council Rules

### **Question Before Council:**

Review of proposed modification to Council Rules

### **Person/Group Initiating Request:**

City Council

### **Item Summary/Background:**

Attached is a red-lined version of the proposed changes to Council Rules. The additions proposed at the July Council meeting have been incorporated.



## **City Council Rules**

### **City of Yachats, Oregon**



## City Council Rules - City of Yachats, Oregon

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## **1 Authority and Purpose Statement**

The Charter of the City of Yachats provides that the Council shall adopt rules for the government of its proceedings. The City utilizes the Council-Manager form of government which combines the political leadership of local elected officials (Mayor and City Council) with the managerial experience of an appointed manager. All power and authority to set policy rests with the City Council. The City Council in turn hires a nonpartisan manager who has very broad authority to run the organization. The following set of rules shall be in effect upon their adoption by the Council and until such time as they are amended or new rules adopted.

## **2 Meetings of the Council**

### **2.1 Meetings to be Public**

The deliberations and proceedings of the Council shall be open to the public, except as state law may provide otherwise (e.g., executive sessions).

### **2.2 Regular City Council Meetings**

The Council shall meet at 9:30 AM on the first Wednesday each month, following the work session, if held, and at 6:00 p.m. on the second Wednesday of each month in the City Hall Council Chambers or at any place that the Council may direct. On recognized City holidays which fall on a Wednesday, the Council shall determine date, time and place of that meeting.

### **2.3 Special City Council Meetings**

The Mayor, or in the Mayor's absence, the President of the Council may call a special meeting of the Council. Three Councilors may also call a special meeting by filing a request with the City Manager. Notice of a special meeting shall be given to each member of the Council at least 24 hours in advance of the meeting. Notice may be given in writing, in person, by telephone or by electronic communication. No business other than that for which a special meeting is called can be transacted at a special meeting.

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### **2.4 Executive Sessions**

An executive session (a meeting closed to the public) may be held in accordance with the Oregon Public Meetings Law. The Presiding Officer, or three (3) Councilors may call any regular, special or emergency meeting into executive session by citing the specific provision of ORS 192.660 which authorizes the session. Executive sessions may also be separately scheduled pursuant to the requirements for special meetings.

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#### **2.4.1 Attendance at Executive Sessions**

The Presiding Officer shall determine which persons other than the Council shall attend an executive session.

#### **2.4.2 Media Attendance**

Representatives of the news media shall be allowed to attend executive sessions except those called pursuant to the ORS subsection for deliberations with persons designated to carry on labor negotiations. The Presiding Officer shall instruct any media representatives present not to disclose the substance of any discussion during executive session.

#### **2.4.3 Final Decision Prohibited.**

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.

#### **2.5 Work Session Meetings**

Work Session meetings ~~will~~ may be held on the first Wednesday of the month and would precede the regular Council Meeting prior to the regular Wednesday City Council meeting. Work Sessions may also be scheduled as necessary by consensus of the Council. Work Session meetings are informal sessions to review upcoming issues, receive special reports, conduct goal setting sessions and for special training purposes.

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##### **2.5.1 Subjects For Work Sessions**

Review the list of topics to be included on the agenda of the next regular meeting with the following considerations:

- **Staff/Council Discussion.** Provide an opportunity for discussion between staff and Council to analyze an issue and receive direction from Council on how to proceed.
- **Information.** Receive selected information concerning proposed agenda items.
- **Available Data.** Establish if enough information has been submitted for the Body to make informed decisions. If more information is required, notify City staff that additional information is required before the regular meeting.
- **Finalize Agenda.** Set final Agenda for the regular meeting. Allowing for time constraints, determine if an additional meeting will be needed to address all agenda items or if certain items can be carried over to the next month's agenda.

##### **2.5.2 Limits to Topics For Discussion**

The merits of specific topics brought before the body by the public should not be discussed nor any direct action taken until a regularly scheduled meeting.

#### **3 Meeting Procedures**

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##### **3.1 Presiding Officer and Duties**

The Mayor, or in the absence of the Mayor, the Council President, shall be the Presiding Officer at all meetings. In the case of the absence of the Mayor and the Council President, the City Manager shall call the meeting to order and the Council shall elect a Presiding Officer by majority vote. The Presiding Officer shall conduct all meetings, preserve order, enforce the

rules of the Council and determine the order and length of discussion on any matter before the Council subject to these rules. The Presiding Officer may debate and vote on any issue.

### **3.1.1 Quorum Requirements**

The Presiding Officer shall call the meeting to order at the time designated for a scheduled meeting. Except to adjourn, a quorum is necessary to conduct business at any meeting of the City Council. Quorum is defined by charter as a majority of the Council members.

### **3.1.2 Right of Councilor to be Heard**

Every Councilor desiring to speak shall gain the attention of the Presiding Officer by raising his/her hand and, upon recognition by the Presiding Officer, shall confine their remarks to the question under debate. No member shall speak more than once on the same subject until all members who wish to speak have had the opportunity to do so. Agenda item "Other Business - Council" is the time for Council members to offer a topic for consideration for a future Council agenda. Members should state their concern up front, followed by a brief explanation of why the Council may want to consider the topic at a future meeting. Questioning of Staff. Councilors desiring to question the administrative staff may direct the inquiry to the Presiding Officer or to the person designated by the Presiding Officer to answer the inquiry during the Council meeting.

### **3.1.3 Preservation of Order**

The Presiding Officer shall preserve order and decorum, discourage attacks on personalities or the impugning of Councilor's motives, and confine Councilor debate to the question under discussion. Persons in attendance at the meeting who become disorderly, abusive, or disruptive may be removed from the meeting. The Presiding Officer may summon the assistance of police or other administrative staff to assist in maintaining order, and if an arrest of a person(s) is deemed necessary by the presiding officer to restore or maintain order, the Presiding Officer may sign a complaint or citation on behalf of the city.

### **3.1.4 Points of Order**

The Presiding Officer shall determine all points of order, subject to the right of any Councilor to appeal to the Council.

### **3.1.5 Administrative Staff, City Employees Addressing Council**

City administrative staff and other City employees desiring to address the Council shall first be recognized by the Presiding Officer and shall address such remarks to the Presiding Officer. The staff shall respond to questions or comments by the Council or members of the public with permission of the Presiding Officer, and shall do so in a polite, tactful manner.

### **3.1.6 Citizen Question or DiscussionPublic Comment**

No person shall enter into any discussion without being recognized by the Presiding Officer. Any citizen desiring to address the Council should come to the designated location to address the Council and be recognized by the Presiding Officer. After being recognized by the Presiding



Officer, the person shall state their name and address for the record and their remarks shall be limited to the question under discussion or agenda items.

Agenda item "Public Comment" provides the opportunity for any member of the public to speak on any topic that is not on the meeting agenda. There will be an opportunity to speak on agenda items as the items are announced. Audience members will be recognized by a show of hand, and will come forward to the podium, stating name and address for the record. Audience members are asked to address their comments to the Presiding Officer, avoid personalizing or directing comments to any one or more individuals, try to be succinct and avoid lengthy commentary. Responses from Council members should be made after being recognized by the Presiding Officer.

Any citizen addressing the Council shall be limited to five minutes unless further time is granted by the Presiding Officer. No citizen shall be allowed to speak more than once upon any one subject until every other citizen choosing to speak has had an opportunity.

After a motion has been made, no citizen shall address the Council without first securing permission from three councilors ~~say they can speak~~.

### **3.2 Decorum of Meeting.**

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#### **3.2.1 Improper Conduct**

The following items are not condoned by the City Council and may be cause for the Presiding Officer to have the person(s) removed from the Council Chambers:

- Using or making of loud or disruptive language, noise or conduct which obstructs the work or the conducting of the business of the Council.
- Engaging in violent or distracting action
- Willful injury of furnishings or of the interior of the Council Chambers or other meeting place
- Refusal to obey any rules of conduct, including the limitations on occupancy and seating capacity.
- Refusal to obey an order of the Presiding Officer or an order issued by a Councilor which has been approved by a majority of the Councilors present.

#### **3.2.2 Removal Action**

The Presiding Officer shall warn any person(s) whose conduct is described above before taking action to have such person(s) removed.

#### **3.2.3 Vacating Council Chambers**

If a meeting is disrupted by members of the audience, the Presiding Officer or a majority of the Councilors present may call for a recess until order is restored.

#### **3.2.4 Picture Taking and Filming**

Filming in the Council Chambers or other meeting places shall be allowed when permitted by the Presiding Officer.

#### **3.2.5 Seating Capacity And Safety Requirements**

The safe occupancy and seating capacity of the Council Chambers, as determined by the Fire Chief, shall be posted within the Council Chambers. The limitations on occupancy and seating capacity so determined and posted shall be complied with at all times.

Aisles shall be kept clear at all times. Members of the audience shall abide by the seating plan in the chambers, and should not move forward of the seating areas unless wishing to address and be recognized by the Presiding Officer.

#### **3.2.6 Flags, Signs and Posters**

No flags, posters, placards, or signs, unless authorized by the Presiding Officer, may be carried or placed within the Council Chambers, any other meeting place, or in any meeting place where a public hearing is being held. This restriction shall not apply to arm bands, emblems, badges or other articles worn on personal clothing of individuals, provided that such devices are of such a size and nature as not to interfere with the vision or hearing of other persons at the meeting, and providing that such devices do not extend from the body in a manner likely to cause injury to another.

#### **3.2.7 News Media**

The Council recognizes the important role of the news media in informing the public about the decisions, activities and priorities of government. Accommodations shall be made where practical for members of the press at Council meetings so that they may observe and hear proceedings clearly. The terms "news media" "press" and "Representative of the press" for the purpose of these rules are interchangeable and mean someone who:

- Represents an established channel of communication, such as a newspaper or magazine, radio or television station, and
- Regularly reports on the activities of government or the governing body.
- Final decisions on the qualifications of an individual as a representative of the news media shall rest with the Council.

#### **3.3 Rules of Order**

The City of Yachats has adopted Modern Parliamentary Procedure by Ray E. Keesey as its procedural guide for deliberation and decision making, subject to charter and ordinance provisions.

##### **3.3.1 Ordinary And Special Motions**

General consent may be used for ordinary and special motions such as:

- to adjourn
- to recess

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- to close deliberation
- to postpone
- to refer
- to withdraw, reconsider, or rescind
- ~~to motion to table an item~~

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### **3.3.2 Main Motions**

For main motions such as requests for action, policy changes, appointments, etc., use the following:

Parliamentary procedure:

After a motion has been made the presiding officer:

- Asks if the motion is understood by the entire Council.
- Invites discussion (from the Council).
- Restates the motion in its final form (the minutes taker can repeat the motion).
- Asks for the affirmative vote followed by the negative vote.
- Announces the result of the voting and adds any necessary information to interpret or to effect the decision.

### **3.4 Order of Business**

The order of business of the City Council shall be as follows:

- Announcements
- Correspondence
- Public Comment
- Consent Agenda
- Minutes of the Previous Work Session, Executive and Regular Meeting.
- Bills for Approval
- Resolutions Memorializing Actions Taken by Simple Motion at Previous Meeting
- Resolutions Not Requiring Further Discussion by Council
- Other Actions Not Requiring Further Discussion by Council and Those Actions Outlined in Council Rules
- Reports
- Guests
- Commissions
- City Council
- Public Works Director
- City Manager
- City Attorney
- City Planner
- Public Hearing
- Unfinished Business
- New Business
- Other Business
- From the Council
- From the Staff

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The Mayor or Presiding Officer has authority to adjust the agenda items and order of business.

### **3.4.1 Consent Agenda**

Before the vote is taken on the Consent Agenda, a Council member may request that one or more items be excluded therefrom. The remaining items may then be voted upon as a whole. Items removed from the Consent Agenda as provided above shall be taken up for action immediately after the Consent Agenda vote and before the next item on the agenda is taken up.

### **3.5 Public Hearings**

The public hearing procedure shall be followed as set forth in the Municipal Code and or Resolutions adopted by City Council. See Exhibit "A" (attached).

The Presiding Officer may, with the approval of Council, limit the time and number of speakers at each public hearing. In such event, the Presiding Officer shall announce such restriction prior to beginning of the hearing.

### **3.6 Voting Procedures**

The vote on every motion shall be taken and entered in the meeting minutes. The Council will normally exercise its administrative authority by approving resolutions. Actions adopted by simple motion shall be memorialized by adoption of a resolution at the following meeting. Such resolutions shall be placed on the consent agenda.

### **3.7 Duty to Vote**

Except as otherwise provided by law, every member shall vote, unless three or more Councilors excuse the member from voting. Any Councilor shall withdraw themselves from the item being voted on should there exist a direct pecuniary interest in the matter. If a member is not ready to vote, the member may request additional time to consider their response and the Council may wait.

#### **3.7.1 Reconsideration of Actions Taken**

Any Councilor who voted with the majority may move for a reconsideration of an action at the same or the next following regular meeting. Once a matter has been reconsidered at the same meeting, no motion for further reconsideration shall be made without unanimous consent of the Council.

#### **3.7.2 Absentee Voting**

The right to vote is limited to those present at the time of the vote. Attendance by electronic means (phone, Skype, etc.) is considered present.

### **4 Agenda Packets for City Council Meetings**

- Any councilor may request to have an item placed on the Council agenda.
- Any Councilor may request, if responsible for an agenda item, postponement of the item to another meeting if the Councilor cannot be present at the meeting at which time the item is scheduled.

Amended and Adopted by City Council—May 2, 2018 Updated June 25, 2018

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- Any two Councilors may request that an item be postponed to the following meeting. Further postponement requires a majority vote of the Councilors present.

#### **4.1 Deadline**

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The deadline for public submission of topics for inclusion on the Agenda of a regularly scheduled Council meeting shall be 12:00 noon, on ~~Wednesday~~ Tuesday of the calendar week before the meeting for the Council.

#### **4.2 Late Submissions**

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Items submitted after the deadline may be heard by the Council at their own discretion. Otherwise, they shall be put on the Agenda of the next regularly scheduled meeting.

#### **4.3 Packets Available**

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Packets shall be available for Council members to pick up at City Hall at the end of business hours on Friday of the week before a regularly scheduled meeting. A sample Council packet will be filed intact in the permanent files. Packets shall be available at City Hall and the Library for public review. Copies may be obtained at the current cost. A complete packet will be available for audience review during Council and Commission Meetings.

#### **4.4 Packet Material**

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##### **4.4.1 Text Exhibits**

Packets shall include copies of applications, map locations and any other pertinent, easily reproducible text exhibits.

##### **4.4.2 Drawings and Reports**

Drawings, reports and other materials difficult or expensive to reproduce will be made available in limited quantity at work sessions or scheduled meetings and will be available for inspection at City Hall during regular business hours.

#### **5 Minutes of the City Council Meetings**

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##### **5.1 General Format**

All official printed minutes of City Meetings shall be fashioned after the minimum as required by State Law with minor additions. Audio tape recordings of entire meetings will be kept on file for more detailed references for a period of two years.

##### **5.2 Contents of Minutes**

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- **Meeting Particulars.** Minutes shall include the date, time, and place of all meetings.
- **Audio Taping.** Agendas shall indicate that all proceedings are being audio tape recorded for back-up reference.
- **Attendance.** Minutes shall include the names of all members of the governing body and indicate whether they are present or absent.

- **Motions.** Minutes shall include all motions, proposals, resolutions, ordinances, and measures proposed and their disposition.
- **Result of Votes.** Minutes shall include the results of all votes and the vote of each member by name.
- **Substance of Topics.** Minutes shall include an outline of the substance of discussion on any matter.
- **Reference to Documents.** Minutes shall include any references made to any specific document mentioned in discussion.
- **Public Participants.** The Minutes shall include the name and address of member of the public who addressed the body.
- **Emergency Meetings.** The Minutes shall include, if required, the nature of the emergency for calling an emergency meeting.
- **Speeches and Statements.** Speeches or statements or the exact text of discussions shall not be transcribed verbatim.

### **5.3 Submittal to Council**

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After being prepared in draft form by the City Manager or designee, the City Manager shall submit them to Council as part of the "Consent Agenda" for the next regular Council meeting agenda.

### **5.4 Amendment & Approval by Council**

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The Council may amend the minutes to more accurately reflect what transpired at a meeting. An individual Councilor may call for additions or corrections to the minutes during the Work Session Meeting or before adoption of the consent agenda, and unless there is disagreement from other Councilors, the motion to approve the Consent Agenda shall include the minutes as amended. If the Council questions the minutes or is unsure they accurately reflect what transpired during a meeting, the Council may postpone approval of the minutes until a transcript of the portion of the meeting in question can be prepared. Information obtained subsequent to a meeting, which is relevant to discussions or action which occurred during that meeting, may be referenced into the record of the meeting at which the minutes are approved. The Council is the final authority as to amendment of the minutes. After Council approval, the City Manager shall incorporate any amendments approved by the Council, the Mayor shall sign the minutes. Under no circumstances shall the minutes be changed following approval by the Council, unless the Council authorizes such a change.

### **5.5 Retention**

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When approved and fully executed, the minutes shall be kept on file in the City Manager's Office. A "working copy" may be prepared for use in the City Manager's Office with the original transferred to the city storage area for permanent retention.

### **5.6 Public Access and Copies**

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Both written minutes and sound recordings (as long as kept) shall be available for public inspection during office hours. Copies of the written minutes shall be available to the public at

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the currently established price. Sound recordings and a transcriber shall be available to the public for use on City premises. Citizens may use their own storage device to make copies of sound recordings. The City Manager may implement additional reasonable rules and procedures to assure the preservation of original sound recordings. The City is not required to cause a transcript to be made of Council meetings. Upon a citizen request, however, copies of transcripts made for other purposes shall be made available in the same manner and for the same cost as written minutes.

## **6 Guidelines and Procedures for City Councilors**

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### **6.1 General Conduct**

- Councilor should only speak for himself/herself and not for other Councilors, unless authorized to do so by the Council.
- Councilors should avoid personalizing issues; therefore, discussion should be issue-oriented.
- Councilors should not create or infer a change in City policy before, during or after consideration of a particular issue unless the specific issue has been established as policy by vote of the Council.
- During public meetings, Councilors should not attempt to edit or rewrite existing ordinances because of the potential impact on other issues. If changes are necessary, amendments to an ordinance shall be prepared and reintroduced.

### **6.2 Conflict of Interest**

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Generally, conflicts of interest arise in situations where a Councilor, as a public official deliberating in a quasi-judicial proceeding, has an actual or potential financial interest in the matter before the Council. Under state law, an actual conflict of interest is defined as one that would be to the private financial benefit of the councilor, a relative or a business with which the Councilor is associated. A potential conflict of interest is one that could be to the private financial benefit of the Councilor, a relative or a business with which the Councilor is associated. A relative means the spouse, children, siblings or parents of the public official or public official's spouse. A Councilor must publicly announce potential and actual conflicts of interest and, in the case of an actual conflict of interest, must refrain from participating in debate on the issue or from voting on the issue.

### **6.3 Legal Advice**

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Use of the City Attorney's time must be authorized by the Mayor or Council President. Requests to the City Attorney for advice requiring legal research shall not be made by a Councilor except with the majority approval of the Council. Before requesting research or other action by the City Attorney, the Council is encouraged to consider consulting with the City Manager to ascertain whether the request or action can be accomplished more cost-effectively by alternate means. Outside a Council meeting, a Councilor should make requests of the City Attorney through the City Manager. Exceptions to this are issues related to the performance of the City Manager and unique and sensitive personnel that involve city business-related requests. The City Attorney shall in either case provide any written response to the full Council and City Manager.

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#### 6.4 Communication with Staff

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Councilors shall respect the separation between policy making and administration by:

- Attempting to work together with the staff as a team in a spirit of mutual confidence and support.
- Refraining from interfering with the day-to-day administration of City business, which is the responsibility of the City Manager.
- Respecting the administrative functions of the City Manager and department heads by refraining from actions which could undermine their authority.
- Not attempting to influence or coerce the City Manager or department head concerning personnel, purchasing, awarding of contracts, selection of consultants, processing of development applications or the granting of City licenses and permits.
- Addressing all formal inquiries and requests for information from staff to the City Manager or City Attorney and allowing sufficient time for response. All written information given by the City Manager or his/her designee to one Councilor should be distributed to all Councilors.
- Limiting individual contacts with City officers and employees so as not to influence staff decisions or recommendations, to interfere with their work performance, to undermine the authority of supervisors or to prevent the full Council from having benefit of any information received.
- Respecting 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. All written informational material requested by individual Councilors will be submitted by staff to the entire Council with a notation indicating which Councilor requested the information.

Requests of use of City staff time shall be made to, and scheduled through the supervisor. This shall include, but not be limited to, typing, site inspection, telephoning, etc.

#### 6.5 Confidentiality

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Councilors will keep all written materials provided to them on matters of confidentiality under law in complete confidence to insure 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, City Staff or City Attorney.

If the Council in executive session provides direction or consensus to city 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 Councilor will not have any contact or discussion with any other party or its representative nor communicate any executive session discussion.

All public statements, information, or press releases relating to a confidential matter will be handled by staff designated by majority of the Council.

The Council, by vote, may reprimand a member who discloses a confidential matter, or take any other appropriate legal action.

#### **6.6 Expenses and Reimbursement**

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Councilors will follow the same rules and procedures for reimbursement as those which apply to City employees, as established by City policy. Councilor expenditures for other than routine reimbursable expenses (e.g., conference registration, travel, etc.) must require advance Council approval according to the purchasing rules which apply citywide.

A Councilor who will be traveling on City business may make his or her own reservations for travel and lodging in accordance with City policy. Upon request to the City Manager, travel accommodations for Councilors will be made by City Staff.

The City does not reimburse Councilors for expenses incurred by their spouses.

***Exhibit A – Hearings Procedures for Land Use Matters***

**CITY OF YACHATS - RESOLUTION NO. 2007-02-01**

**A RESOLUTION ADOPTING RULES OF PROCEDURE FOR THE CONDUCT OF HEARINGS RELATING TO LAND USE MATTERS AND REPEALING RESOLUTIONS NO. 62 AND NO. 280**

**WHEREAS**, legislation of the State of Oregon mandates the adoption of rules for the conduct of certain hearings before the Council and Planning Commission; and

**WHEREAS**, the Council has determined that the rules set out in Resolution 280 need updating to provide clarity;

**NOW THEREFORE**, the City of Yachats resolves that the following hearing procedure rules are adopted:

**RULES FOR CONDUCT OF HEARINGS**

**Section 1. Scope of Rules.**

These rules shall govern the conduct of hearings held by the Council and the Planning Commission, hereafter referred to as the deliberating body, pursuant to the Zoning and Land Use Code of the City of Yachats, including all hearings and appeals provided for within said Code. Any other matters coming before the deliberating body for hearings may be governed by any or all of these rules at the discretion of the Council or Planning Commission, hereafter referred to as members.

**Section 2. Nature and General Conduct of Hearing.**

1. The deliberating body, in conducting a hearing which will result in a determination as to the permissible use of any specific property, is acting in an administrative, quasi-judicial capacity and all hearings shall be conducted accordingly. Interested parties are, therefore, entitled to notice of hearing, if required by Charter, Code or statute, an opportunity to be heard, to present and rebut evidence before a tribunal which is impartial, to have the proceedings recorded, and to have a decision based on evidence offered supported by findings of fact as part of that record.

2. No person shall be disorderly, abusive or disruptive of the orderly conduct of the hearing. There shall be no audience demonstrations, such as applause, cheering, display of signs, or other conduct disruptive of the hearing. Such conduct may be cause for immediate suspension or continuance of the hearing by the deliberating body or the presiding officer may have the person or persons causing said disturbance removed from the hearing room.

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3. No person shall testify without first receiving recognition from the presiding officer and stating his full name and residence address.

4. No person shall present irrelevant, immaterial or unduly repetitious testimony or evidence; provided, however, that reports and documents prepared by City staff shall be deemed relevant, material and competent unless objected to by any interested party with good cause at the first available opportunity.

5. The presiding officer, members of the deliberating body and, with the approval of the presiding officer, the City Attorney or any other officer or employee of the City may question any person who testifies.

### **Section 3. Challenge for Bias, etc./Disqualification**

1. Any proponent or opponent of a proposal before the deliberating body may challenge the qualification of any member thereof to participate in such hearing and decision. Such challenge must state facts in writing, by affidavit, relied upon by the submitting party relating to a member's bias, prejudgment, personal interest, or other facts from which the party has concluded that the member will not participate and make a decision in an impartial manner.

A) Such written challenge must be delivered by personal service to the City Manager and the member whose qualification is challenged not less than 48 hours preceding the time set for public hearing.

B) Such challenge shall be incorporated into the record of the hearing.

2. No member shall participate in discussion of the proposal or vote on the proposal when:

A) Any of the following has a direct or substantial financial interest in the proposal: The member or spouse, brother, sister, child, parent, father-in-law, mother-in-law, any business in which the member is then serving or has served within the previous two years, or any business with which the member is negotiating for or has an arrangement or understanding concerning prospective partnership or employment; or

B) The member has a direct personal interest in the proposal; or

C) For any other reason, the member has determined that he or she cannot participate in the hearing or decision in an impartial manner.

3. Any member owning property, or having an interest in property within the area entitled to receive notice of the public hearing shall declare for the record the nature and extent of such interest. If the member has determined that he or she cannot participate in the hearing or decision in an impartial manner that member shall remove himself or herself from the deliberating body and join the audience and abstain from the vote on the proposal.

4. No other officer or employee of the City who has a financial or other private interest shall participate in discussion with or give an official opinion to the deliberating body on the proposal without first declaring for the record the nature and extent of such interest.

5. The general public has a right to have members free from pre-hearing or ex-parte contacts on matters heard by them. It is recognized that a countervailing public right is free access to public officials on any matter. Members of the deliberating body shall place on the record the substance of any written or oral ex-parte communications concerning a decision or action at the first hearing on the decision or action which occurs after the communication was made. Parties shall be given the right to rebut the substance of the communication. If such contacts have impaired their impartiality or their ability to vote on the matter, they shall so state and shall abstain therefrom.

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

A) An abstaining or disqualified member may be counted for purposes of forming a quorum; and

B) A member may represent himself or herself, a client or any other member of the public at a hearing provided the member:

1) Abstains from the vote on the proposal;

2) Removes himself or herself from the deliberating body and joins the audience; and

3) Makes a full disclosure of the member's status and position at the time of addressing the deliberating body.

#### **Section 4. Presiding Officer.**

1. The Mayor, the Council President in the Mayor's absence, Chair of the Planning Commission or the Vice Chair in the Chair's absence shall be the presiding officer at all hearings. In their absence, or with their consent, the deliberating body may designate one of its members, or any other officer, employee, or person to act as presiding officer at a hearing. A presiding officer, if not a member shall have no vote on the question in determination of the matter.

2. The presiding officer shall have authority to:

A) Regulate the course and decorum of the hearing;

B) Dispose of procedural requests or similar matters;

C) Rule on offers of proof and relevancy of evidence and testimony;

D) Impose reasonable limitations on the number of witnesses heard and set reasonable time limits for oral presentations and rebuttal testimony; and

E) Take such other action authorized by the deliberating body appropriate for conduct commensurate with the nature of the hearing.

#### **Section 5. Burden and Nature of Proof.**

1. The burden of proof is upon the proponent. The more drastic the change or the greater the proposal or the greater the impact of the proposal on an area, the greater the burden is upon the proponent.

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2. The requested proposal must be supported by proof that:

A) It conforms to the Comprehensive Plan for the City of Yachats as now or hereafter constituted, and any other special plan for the area involved;

B) It conforms to all applicable City Charter and other Code requirements;

C) There is a public need for the proposal;

D) The public need will be best served by granting the proposal, (if the proposal is for a zone change, proof must be submitted that the public need will be best served by changing the classification of the particular piece of property in question as compared with use of other available property); and

E) If other areas have been previously designated for use or development submitted in the proposal, there is a necessity for introducing the proposal into an area not previously contemplated and that the property owners there should bear the burden, if any, of introducing that proposal into their area.

3. The following criteria and factors are deemed relevant and material and shall be considered along with other factors deemed relevant by the deliberating body in reaching its decision on a proposal:

A) Mistake in the original zoning ordinance or Code;

B) Change of conditions within the immediate neighborhood in which the use or development is proposed;

C) All factors pertinent to the preservation and promotion of the public health, safety and general welfare, including but not limited to the character of the area involved, its peculiar suitability for particular uses, the conservation of property values and the direction of building development.

**Section 6. Order of Procedure.** The presiding officer, in the conduct of the hearing shall:

1. **Open the Hearing.** Announce the nature and purpose of the hearing and summarize the rules for conduct of the hearing. Hearings on land use actions shall include a statement that:

A) Describes the applicable substantive criteria which will be used to review the land use action;

B) Testimony at the hearing must be directed towards the criteria which will be used to review the land use action, or other criteria in the plan or land use regulations which a party believes to apply to the land use action;

C) Failure to raise an issue with sufficient specificity to afford the decision makers and the parties an opportunity to respond to the issue may preclude appeal to the Land Use Board of Appeals based on that issue.

2. **Objections to Jurisdiction.** Inquire of the audience whether there are any objections to the jurisdiction of the deliberating body to hear the matter, and if such objections are received, conduct such further inquiry as necessary to determine the question. The presiding officer shall terminate the hearing if an inquiry results in substantial evidence that the deliberating body

lacks jurisdiction or the procedural requirements of the ordinance were not met. Any matter thus terminated shall, if the defect can be remedied, be rescheduled by the deliberating body.

3. Call for Abstentions.

A) Inquire of the deliberating body whether any member thereof wishes to abstain from participation in the hearing. Any member then announcing his abstention shall identify the reasons for abstaining and shall not participate in discussion of the proposal or vote on the proposal.

B) Any member whose participation has been challenged by allegation of bias, prejudgment, personal interest, or partiality or who has been subject to significant ex-parte or prehearing contact with proponents or opponents may make a statement in response thereto or in explanation thereof, for the record, and his decision to participate in the hearing. This statement shall not be subject to cross-examination except upon consent of that member, but shall be subject to rebuttal by the proponent or opponent, as appropriate.

4. Staff Report. Summarize the nature of the proposal, explain any graphic or pictorial displays which are a part of the record, summarize the staff report, summarize the findings and decision of the Planning Commission if on appeal to Council and provide such other information as may be requested by the deliberating body. The presiding officer may request a representative of the Planning Commission or any other city officer or employee to perform this duty.

5. Applicant's or Proponent's Case. Determine whether the proponent will conduct the case in person or by representative. The applicant-proponent shall first be heard followed by any other persons in favor of the proponent's proposal.

6. Opponent's Case. Allow all persons in opposition to the proposal to present evidence and argument.

7. Applicant's Response. Allow the proponent to offer rebuttal evidence and testimony. Because the applicant bears the burden of demonstrating that the application should be approved, the applicant may respond to any opposing testimony but no new evidence shall be accepted.

8. Staff Recommendation. If the deliberating body wishes, request staff to make final comments and give their recommendations on the application.

9. Close of Hearing and Deliberation.

A) If the deliberating body decides that all necessary evidence has been presented, the presiding officer shall conclude the hearing and the deliberating body shall deliberate the proposal. The deliberating body shall either make its decision and state its findings, which may incorporate findings proposed by the proponent, opponents, or staff, or may continue its deliberations to a subsequent meeting, the time and place of which must then be announced; but shall be within time limits established by ordinance. The subsequent meeting shall be for

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the purpose of continued deliberation and shall not allow for additional submission of testimony, except upon decision of the deliberating body.

B) If the deliberating body decides it needs more information, the hearing may be continued to a future date, the time and place of which must then be announced; but shall be within time limits established by Code.

#### **Section 7. Official Notice.**

1. The deliberating body may take official notice of the following:
  - A) All facts which are judicially noticeable; and
  - B) The Charter, Code, resolutions, rules, regulations and official policies (if written) of the City of Yachats.
2. Matters officially noticed need not be established by evidence and may be considered by the deliberating body in the determination of the proposal.

#### **Section 8. Record of Proceedings.**

1. The City ~~Administrator/Manager~~ or designate, or, if unable to attend, a designee of the presiding officer, shall be present at each hearing and shall cause the proceedings to be recorded. It shall not be necessary to transcribe testimony unless required for judicial review or unless ordered by the deliberating body
2. The presiding officer shall, where practicable, cause to be received all physical and documentary evidence presented which shall be marked to show the identity of the person offering the same and whether presented on behalf of proponent or opponent. Unless evidence is capable of being offered and incorporated into the record of the case, it shall not be received. All exhibits received into evidence shall be retained by the City until after any applicable appeal period has expired, at which time the exhibits may be released upon written demand to the person identified thereon.
3. Any member of the public shall have access to the record of the proceedings at reasonable times, places and circumstances. Any members of the public shall be entitled to a copy of the record at their own expense.

#### **Section 9. Publication of Rules.**

1. These rules shall be filed with the City Manager.
2. A copy of these rules shall be available at all meetings of the deliberating body at which a public hearing is scheduled. A copy shall be available to the public at a reasonable cost.
3. These rules are supplementary to any rules of procedure previously adopted by the City Council, either by ordinance or resolution, for the conduct of public hearings; provided, however, these rules shall control where there are conflicting provisions.

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**Section 10. Amendment and Suspension of Rules.**

Any rule of procedure not required by law or the City Charter may be amended, suspended or repealed at any hearing by majority vote of the deliberating body members present and voting.

**Section 11. Repeal.**

Resolutions 62 and No. 280 are hereby repealed.

**PASSED AND ADOPTED** by the City Council February 2007.

DRAFT

## **EXHIBIT B – Mayor, Council & City Manager Duties and Goals**

### **Preamble:**

#### **2016-17 TRANSITION OF POSITIONS AND MAYOR; GOALS OF COUNCIL**

This memorandum was created to record the multi-layer changes to the operations of the City of Yachats during the fiscal year of 2016-17, when the administrative duties of the Mayor, City Recorder and Public Works Director were moved to a newly-created position of City Manager.

### **CITY CHARTER PROVISIONS**

1. Mayor is the political head of the five-member council (Mayor plus four)
2. Council has legislative, administrative and quasijudicial authority
3. Different audiences dictate leadership roles of mayor/council members
4. Partnership is essential between Mayor and council members
5. Rotate assignments of issues/goals between Mayor, council members
6. Council members may help train future mayors
7. Council members may act as a mentor for new members
8. Mayor, Council President, City Manager work with attorney, engineer
9. Mayor, Council President, City Manager work with planner, insurance
10. Mayor, Council, City Manager, City Clerk III may all sign checks
11. Mayor, Council, City Manager, staff will attend meetings as City needs
12. Mayor, Council, City Manager may monitor committees/commissions
13. Mayor will assign commission/committee seats, as approved by council
14. Mayor, Council represent City in various aspects and authorities
15. Mayor, Council, staff will research, present written reports in meetings
16. Mayor maintains relationships with other governmental entities
17. Mayor participates in meetings with organizations on behalf of City
18. Mayor is encouraged to participate in LOC, OCZMA, OCWCOG
19. Mayor, Council President act as first-line supervisors to City Manager
20. Mayor, Council represent City at social functions, information meetings
21. Mayor, Council maintain phones and/or email to facilitate emergencies
22. Mayor, Council advise City Manager of planned absences, availability

### **MAYOR - Elected to serve a two-year term**

1. Presides over & facilitates meetings
2. Preserves order, enforces council rules
3. Determines order of business, under council rules
4. Has a vote on the council
5. Does not have veto authority
6. Appoints commission/committee members, with consent of council

7. Must sign all records of council decisions
8. Serves as the political head of the city government
9. Substituted for by council president, elected by council
10. Is elected to two-year term
11. Must be a qualified elector under state law
12. Must reside within the city for at least one year before takes office
13. May not be employed by the city

#### **COUNCIL - Elected to serve a four-year term each**

1. Council consists of the Mayor and four other councilors
2. At its first meeting of the year, must elect a president from council
3. Has legislative, administrative, quasijudicial authority
4. Legislative = ordinance; administrative = resolution; quasijud = order
5. May not delegate its authority to adopt ordinances
6. Must adopt rules by resolution to govern its meetings
7. Must meet at least once a month, at a place designated by rule
8. May meet at other times, in accordance with the rules
9. A majority of members is a quorum to conduct business
10. A small number may meet, compel attendance of absent members
11. Express approval of majority of quorum required for council decision
12. A majority of the council may be required by Charter on occasion
13. A record of meetings must be kept according to council rules

#### **COUNCIL PRESIDENT - Elected every year at the first meeting of the year**

1. Presides in the absence of mayor, or Mayor's inability to act
2. Acts as first-line supervisor of City Manager, in the absence of Mayor

#### **CITY MANAGER - Divided into five subcategories of responsibilities**

##### **Chief Administrative Officer**

1. Accountable for all City operations
2. First point of contact for citizens proposing or requesting City Council action
3. Advise Mayor and Council of affairs and needs of the City
4. Attend city council meetings; represents city in various other meetings
5. Sit with Council and take part in Council discussions
6. Implement policy under general direction of council
7. Coordinate information flow between other agencies, public, council
8. Primary contact for City Attorney, Engineer, Planner, Council, Mayor
9. Organize or reorganize the departmental structure of City
10. Prepare ordinances and resolutions for review by city attorney

11. Analyze/create/discover/implement leading efficiency practices
12. Supervise/responsible for public works programs and facilities; City property
13. Not required to work with public works crew/have CDL/operate equipment
14. Meet with reps of various governmental agencies on problems
15. Confer with all department heads on programs, procedures, issues
16. Supervise all public utilities and properties owned by City
17. Recommend legislation to improve compliance with operations
18. Develop and revise city policies for approval by council
19. Analyze administrative problems, recommends solutions to council
20. Maintain a thorough and up-to-date knowledge of all municipal laws
21. Assist citizens seeking information or making complaints
22. Attempt to dispose of complaints to best advantage of all parties
23. Maintain cooperative working relationship with staff and public
24. Direct and follow all safety rules and procedures for work areas
25. All staff and contractors report to CM, under general supervision
26. Provide ordinance enforcement; may issue citations for Muni Court process
27. Provide for all ordinances to be administered
28. Approve and assign training for all department employees
29. Review approve all overtime accruals and time sheets
30. Annual evaluation of all employees
31. Discipline employees within guidelines of rules and contracts
32. Investigate complaints against persons supervised
33. Periodic review of position descriptions
34. Control, general supervision over employees, appointive officers
35. Employ/supervise/reward/discipline/dismiss any employee, under rules
36. Plan and direct activities of all City departments
37. Analyze, supervise committee functions, commissions, services
38. Develop and organize projects and programs, assist in conclusion
39. Coordinate department work with affected business or agencies
40. Advise public of service interruptions and emergencies
41. Investigate reports and complaints of service failures, resolve
42. Maintain accurate and orderly records of work accomplished
43. Generate or maintain maps, diagrams, correspondence, written reports

#### Chief Financial Officer

44. Chair Finance Committee and annual CIP process, with input
45. Authorize vendors and all purchases, under guidelines
46. Provide supporting exhibits for comprehensive financial plan
47. Supervise city contracts and operations of all City properties
48. Ensure that all terms of franchises, leases, contracts are fulfilled
49. Maintain knowledge of grant programs available
50. Supervise preparation of grant application, administers all grants
51. Provide administration for grants and contracts

52. Maintain insurance records on all City property; confers with agents
53. Supervise recording of assessment liens and collections
54. Invest City funds; responsible for and supervises all financial processes
55. Obtain estimates, quotes or bids from contractors
56. Draft or finalize staff reports, forwards to Council
57. Prepare agendas in coordination with chair of each body
58. Research, provide materials and supporting data for agenda items
59. Perform follow-up action, as necessary
60. Work with City Engineer, City Attorney, City Planner on projects
61. Fiscal supervision over City Budget and expense control
62. Business agent for sale of real or personal City property

#### Budget Officer

63. Administer/plan/direct overall budgeting and finance functions
64. Supervise preparation of annual budgets
65. Approve departmental needs, communicate to Budget Committee
66. Prepare Budget Message
67. Ensure budget documents are published in accordance with budget law
68. Act on broad policy, planning and budget decisions for operations
69. Prepare and transmit to Council an annual budget
70. Analyze, interpret, prepare, propose new budget to Budget Committee

#### Elections Officer

71. Prepare canvass of votes, posts notices
72. Ensure that documents are filed with County Clerk, under elections laws
73. Observe all deadlines and coordinate with County on verifications, filings

#### City Recorder

74. Supervise management of all City records and archives
75. Ensure minutes and/or journals of proceedings are kept
76. Countersign all writings authorized by the council
77. Prepare council agendas, provides info and documents for agendas
78. Custodian of record for all personal, intellectual, real property
79. Oversee publication of City newsletter and calendar of events
80. Oversee and/or perform work relating to maintaining records
81. Perform such other related duties as assigned

