Charlotte City Council

Council-Manager Relations Committee

Meeting Summary for May 29, 2012

COMMITTEE AGENDA TOPICS

I. **Subject:** **City Council Rules of Procedure**
Action: None.

II. **Subject:** **Next Meeting**
Action: Monday, June 4, 2012 at 9:00 a.m. in Room 280

COMMITTEE INFORMATION

Present:	Mayor Anthony Foxx, Council members David Howard, Patsy Kinsey, and James Mitchell
Absent:	Council member Warren Cooksey
Time:	12:00 p.m. to 1:00 p.m.

ATTACHMENTS

1. Agenda Package

DISCUSSION HIGHLIGHTS

Committee Discussion:

Mayor Anthony Foxx called the meeting to order.

I. <u>City Council Rules of Procedure</u>

Carolyn Johnson, Senior Deputy City Attorney, said that she reviewed the minutes from the first meeting as well as Council member Cooksey's proposed amendments and created a comparison document with his changes highlighted in yellow. She noted most of his changes were formatting; re-shifting and re-ordering. Ms. Johnson also reviewed what is actually allowed in the statutes and determined they are very broad. She provided the Committee with a document summarizing what is done in the other major cities in North Carolina. The Committee discussed the variety of procedures in place. Ms. Johnson then reminded the Committee their rules of procedure have been in place since 1980.

The Mayor asked Ms. Johnson in her opinion, not as a critique, but in review of Council member Cooksey's amendment, should the Council consider adoption? Ms. Johnson reiterated that most of the proposed changes weren't substantive, so the decision to adopt them was within Council's prerogative. She had a few comments for the Committee to consider:

1) A-1. Should there be a cut-off period for speaker registration? As it is now, speakers can continually come up to sign up to speak even during the meeting.

Ms. Johnson noted that in Durham, citizens have to sign up 10 days before the meeting, which allows staff a chance to research the issue. In Wilmington, they have to register by noon the day of the meeting, but its Council doesn't take those issues up at their meetings; they are referred to the Manager who reports back.

Council member Mitchell suggested that might be something to think about because it is distracting for the Clerk to be interrupted to sign up speakers during the meeting and would allow time for research. Council member Kinsey requested that Council receive a copy of the Speaker's List in their Friday packets. Mr. Hall noted that could be done; however, the list is continually changing. So, what they receive on Friday will likely change by Monday.

Council member Howard wondered if this would look like additional restrictions were being implemented and maybe all of the changes to the rules could be done at one time. He felt they needed to look for a way to give something back so there

is a balance. The Committee continued discussing various options other cities utilize for signing up speakers.

2) A-2. May need clarification that this applies to all public hearings, not just those required by law.

Council member Kinsey said she thought it was for zoning only. Ms. Johnson said that zoning is covered in "B". Council member Mitchell said he thought this was to cover situations like the taxicab issue. The ordinance was adopted four or five months ago, yet the drivers and owners continued to sign up to speak and eventually the issue was re-opened and sent back to Committee. The Clerk should be able to say the matter is closed; it was voted on and is policy. Those speakers took slots for new issues.

The Mayor asked if the new language meant it would preclude people from speaking? Ms. Johnson said her interpretation was it was meant to preclude speaking on an issue, but the Council could rewrite the language. The Mayor said he thought the intent was to preclude people from continuing to speak on items that had already been decided, but not clamping down on citizens' rights to speak. The Mayor's concern was the language might be too broad and citizens would read that they couldn't address Council. Ms. Johnson said it was fair to say that no person could address Council after a public hearing on the topic while a matter is under consideration. However, after an issue is decided, Council could opt to hear citizens on matters previously decided as it may want to re-think a policy. Council member Kinsey added this was another good reason to see the sign-up list beforehand so that new Council members could hear the history in advance.

3) (c) Request for Council action appearing on the agenda.

Ms. Johnson's noted the proposed rule references that two speakers may yield their time to another speaker, but it doesn't reference the speakers should be proponents or opponents. While the intent may be first-come first serve, a consideration would be to ensure hearing both sides of issues. Council member Howard noted that this statement repeats itself in (d) (1). The Committee discussed that it would be better to not allow yielding of time. They continued discussing limiting time and speakers sending substitutes.

The Mayor noted that another conversation that needs to be held is looking at the entire set of rules and procedures because it is difficult to predict how changes to one section might implicate others. Ms. Johnson said she felt comfortable the amendments proposed would not significantly impact the other rules, as the intent is to make the current ones easier to understand. However, she agreed that it would be a good idea to look at all of the rules together to ensure there's no long-term negative impact.

The Committee discussed confusion with the zoning public hearings. The prescribed conditions aren't always followed. So, they should be cleaned up. For example: the first one says "…Council shall dispense with any presentation by staff …" if no one wishes to speak or if there is no opposition. However, staff does make presentations. The Committee discussed changing the word "shall" as they often do want a presentation anyway. Ms. Johnson said she would talk with Ms. Terrie Hagler-Gray to get a better sense of what happens at these meetings. She reiterated that these rules have been in place since 1980, so Council might want to rethink how things should be handled in 2012. Council member Howard suggested also talking with Debra Campbell and her staff.

Council member Howard then asked for clarification in (e) if it says anyone can address Council or respond to questions. Ms. Johnson confirmed that is how she read it.

The Committee then agreed it would be a good idea to have a well-defined FAQ on the website for citizens. Citizens would see clearly what the rules are for speaking to Council; when time limits can be shortened; how often they can speak, etc. This should take away some of the tension and confusion. Mr. Hall suggested that it would be a good idea to get input from the City Clerk. There is a filter process that happens when citizens call into the Clerk's office. But, there might be some new technology available that would be of benefit. Ms. Johnson said that information such as discussed could likely be included on online forms.

Council member Mitchell said he felt that a thorough FAQ would help citizens understand the process for signing up to speak. Council member Howard said that eventually Kim McMillan and her staff should be plugged in to help explain the changes.

II. Next Meeting

The Mayor asked the Committee if they would be willing to schedule a meeting prior to June 25 to discuss the City Manager's Evaluation Process.

The next meeting was scheduled for Monday, June 4 at 9:00 a.m. in Room 280.

Council-Manager Relations Committee

Tuesday, May 29 – 11:45 a.m. – 1:00 p.m.
Room 280

Committee Members: Anthony Foxx, Chair
Warren Cooksey, Vice Chair
James Mitchell
David Howard
Patsy Kinsey

AGENDA

I. <u>City Council Rules of Procedure</u>
Staff Resource: Carolyn Johnson, Senior Deputy City Attorney

The Committee will continue to discuss the proposed amendments to Section 5 of Council's Rules of Procedures.

II. <u>Next Meeting</u>

Monday, June 25 at 11:45 a.m. in Room 280

CITY OF CHARLOTTE

OFFICE OF THE CITY ATTORNEY

Memorandum

TO: Mayor and City Council

City Manager

FROM: Carolyn D. Johnson, Senior Deputy City Attorney cdj

DATE: May 24, 2012

RE: Council's Rules of Procedure – Addressing Council

Council discussed several issues concerning its rules for addressing council at the April 23rd Council-Manager Relations Committee meeting, and requested assistance from the City Attorney's Office to facilitate further discussion of those issues. In response, the following information is provided for your review.

1. A redlined Word document comparison of the current rules for Addressing Council to Councilmember Cooksey's proposed amendments. Please note the seemingly excessive redlining is not necessarily indicative of numerous substantive changes, most of the redlining is the result of format changes. The yellow highlighting tracks Councilmember Cooksey's proposal and hopefully aids in comparing the current and proposed rules.

2. Copies of relevant general statutes pertaining to the conduct of public hearings (G.S. §160A-81) and public comment periods (G.S. §160A-81.1). These statutes provide Council with fairly broad latitude in adopting rules governing public hearings and public comment periods; provided, such rules are reasonable and protect constitutional freedoms of speech, public assembly, and petition, and afford equal protection of the laws.

   A review of cases interpreting such statutes indicate courts will support establishing time limits for the number of speakers, time allotments for speakers and provisions for yielding time. Time allotments for speakers of two and five minutes have been upheld. The courts, it appears, will support procedures that provide for the orderly dispatch of business, so long as those procedures allow adequate time to receive varied viewpoints and do not discriminate based upon viewpoint or other impermissible reasons such as race, religion or national origin.

3. A summary of research, conducted to date, outlining public comment procedures in other major North Carolina cities. This research reflects a variety of procedures utilized across the State.

I will be available to address concerns/questions of Council and/or the Manager at the May 29th committee meeting.

CC: Bob Hagemann, City Attorney

~~5.~~ 5. Addressing Council

~~(a)~~ (a) General ~~Procedure~~Procedures

(1) Persons desiring to address the City Council shall ~~call~~register with the office of the City Clerk and ~~give~~provide their name, address, and subject matter to be discussed. Any person unable to give advance notice prior to a Council meeting shall fill out the card available for this purpose and hand it to the City Clerk. ~~Persons desiring to speak on a non-agenda matter will be recognized to speak at the Citizens Forum preceding designated Council meetings. If there is no scheduled Citizens Forum, those persons desiring to speak may be recognized upon the completion of the agenda. Persons desiring to speak on an agenda item will be recognized to speak when the agenda item is reached.~~ before the Council begins consideration of the subject matter. No person shall address the Council for more than three (3) minutes on any subject matter except as otherwise provided herein. Opportunities for persons to address the Council consist of public hearings, requests for Council action appearing on the agenda, and Citizens Forums.

~~(b) Agenda Items~~

~~No person in addressing the City Council, except as otherwise provided herein, shall be allowed to speak more than three (3) minutes unless the Mayor allows and extension of time. The Mayor, as the presiding officer, may in his discretion, subject to appeal, shorten the time for speaking when an unusually large number of persons have registered to speak. Citizens may yield their time to another person or to a spokesperson for a group when addressing a scheduled agenda item, except during public hearings which are subject to Section (c) below. When four or more citizens wish to address the Council about the same scheduled agenda item, the time allotted to that presentation will be ten (10) minutes. The Council may allow an extension of this time as they deem appropriate.~~

~~(c) Public Hearings~~

~~(1) Zoning. At hearings involving amendments to the zoning ordinance, proponents of the amendment shall be heard first and shall be provided a total of three (3) minutes or ten (10) minutes according to subsections B and C below. Opponents of the amendment shall be heard after the proponents and shall be provided a total of ten (10) minutes notwithstanding the number of persons desiring to be heard. Proponents may speak a total of (2) minutes in rebuttal. The time of proponents or opponents may be extended by an affirmative vote of a majority of the Council members present.~~

~~A. 1. If petitioner does not wish to speak, and~~
~~2. If Council has no questions, and~~
~~3. If no one wishes to speak in opposition:~~

~~(a) Dispense with staff presentation.~~
~~(b) Dispense with petitioner's presentation.~~
~~(c) Let rezoning hearing stand on written material.~~

~~B. 1. If there is opposition, or~~
~~2. If Council feels written material by petitioner and staff does not answer all questions:~~

~~(a) Full hearing will be held.~~
~~(b) Proponents and opponents will be allowed 10 minutes each; proponents will be allowed 2 minutes rebuttal.~~

~~C. 1. If there is no opposition, but petitioner wishes to speak:~~

~~(a) There will be a staff presentation~~
~~(b) Petitioner will be allowed 3 minutes.~~

~~(2) Other hearings. At public hearings other than zoning hearings, each person addressing Council is limited to three (3) minutes. The Mayor may, at his discretion, extend the time for speaking. Citizens may not yield any of their time allotment to another person or to a spokesperson for a group when addressing Council at hearings subject to this subsection.~~

~~(3) Once a matter has been the subject of a public hearing, persons will not be allowed to address the Council on the matter at a subsequent Council meeting, or at a subsequent informal session devoted to hearing from citizens. Citizens may respond to questions or inquiries for information from Council members or the Mayor after the close of a public hearing.~~

~~(d) Scheduling Citizens Forum:~~

~~The Citizens Forum shall be held on the first Monday of each month beginning at 7 p.m. pursuant to the procedures herein. To enable all citizens an opportunity to speak, a citizen may only speak at the Citizens Forum once each month. At any Citizens Forum where the number of speakers is limited, citizens~~(2) Once a matter has been the subject of a public hearing, no person shall address the Council on the matter after the public hearing has been closed unless the Council schedules a new public hearing as allowed by law.

(b) Public hearings

(1) Zoning. Each public hearing involving a proposed amendment to the zoning ordinance shall be conducted according to the following conditions:

(A) 1. If the petitioner does not wish to speak, and
2. If neither the Mayor nor any Council member has any questions, and
3. If no one wishes to speak in opposition:

The Council shall dispense with any presentation by staff and with the petitioner's presentation and shall let the rezoning hearing stand on written material.

(B) 1. If the petitioner wishes to speak, and
2. If no one wishes to speak in opposition:

There will be a staff presentation and the petitioner shall be recognized to speak to the Council.

(C) If there is opposition, including opposition by staff:

There will be ten (10) minutes allotted to proponents of the petition to speak to the Council; proponents may divide the time among themselves as they wish, but in no case will proponents receive more than (10) minutes to present their support. Opponents of the petition shall then receive ten (10) minutes to speak to the Council; opponents may divide the time among themselves as they wish, but in no case will opponents receive more than ten (10) minutes to present their opposition. Proponents may then speak up to two (2) minutes in rebuttal.

(2) Other public hearings. The Council may conduct such other public hearings as it directs or as are required by law. The Mayor, with the consent of the Council, may extend the time for each speaker during other public hearings, but in no case shall any speaker yield any time to another person.

(c) Requests for Council action appearing on the agenda

Persons who registered to speak on a request for Council action appearing on the agenda shall be recognized to speak when the request is reached and shall receive priority over any Council member's debate on the item. In the event that twenty (20) or more persons register to speak on a request for Council action, the Mayor, with the consent of the Council, may shorten the time for each speaker. Up to two (2) registered speakers may yield their time to another registered speaker, provided that the yielding of time shall not be considered a reduction in the number of persons registered to speak.

(d) Citizens Forums

(1) During one regular meeting each month, the Council shall schedule a Citizens Forum, which shall be placed on the agenda ahead of any requests for Council action. No more than fifteen (15) persons shall speak during the scheduled Citizens Forum. Persons who have not spoken at Citizens Forums in the preceding twelve (12) months shall be given preference over citizens who have spoken within the preceding twelve (12) months. Up to two (2) registered speakers may yield their time to another registered speaker, provided that the yielding of time shall not result in the addition of more speakers during the scheduled Citizens Forum.

Forma

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(2) Citizens who registered to speak during the scheduled Citizens Forum but did not qualify to speak may be recognized upon completion of the agenda.

(e) Other speakers

Notwithstanding any other provision of this section, persons may address the City Council at the invitation of the Mayor, the Council, or the City Manager, or in response to questions from the Mayor or Council members.

§ 160A-81. Conduct of public hearings.

Public hearings may be held at any place within the city or within the county in which the city is located. The council may adopt reasonable rules governing the conduct of public hearings, including but not limited to rules (i) fixing the maximum time allotted to each speaker, (ii) providing for the designation of spokesmen for groups of persons supporting or opposing the same positions, (iii) providing for the selection of delegates from groups of persons supporting or opposing the same positions when the number of persons wishing to attend the hearing exceeds the capacity of the hall, and (iv) providing for the maintenance of order and decorum in the conduct of the hearing.

The council may continue any public hearing without further advertisement. If a public hearing is set for a given date and a quorum of the council is not then present, the hearing shall be continued until the next regular council meeting without further advertisement. (1971, c. 698, s. 1.)

§ 160A-81.1. Public comment period during regular meetings.

The council shall provide at least one period for public comment per month at a regular meeting of the council. The council may adopt reasonable rules governing the conduct of the public comment period, including, but not limited to, rules (i) fixing the maximum time allotted to each speaker, (ii) providing for the designation of spokesmen for groups of persons supporting or opposing the same positions, (iii) providing for the selection of delegates from groups of persons supporting or opposing the same positions when the number of persons wishing to attend the hearing exceeds the capacity of the hall, and (iv) providing for the maintenance of order and decorum in the conduct of the hearing. The council is not required to provide a public comment period under this section if no regular meeting is held during the month. (2005-170, s. 3.)

Summary of Public Comment Procedures

Other Major North Carolina Cities

City/Town	Frequency Held	Registration Requirement	Total Time Allotted	Individual Time Allotted	Yielding
Raleigh	First and third Tuesdays of regular meeting schedule (emailed)	Request form submitted by noon, 1-week prior to regular meeting at which citizen speaks	No limit	3 minutes – This can be extended to five minutes with the mayor's permission.	Everyone is limited to either three or five minutes.
Greensboro	First and Third Tuesdays of Regular meetings	Sign up in chambers prior to meeting	Technically 30 minutes, but not a hard limit	Speakers on agenda items – 5 minutes; speakers from the floor – 3 minutes	Normally all speakers from the floor will get three minutes, but this can be decreased to two minutes if there is a multitude of speakers.
Durham	Held at Council Work Sessions, two Thursdays before regular meeting	Submit request to agenda coordinator by 5 p.m. Monday, 10 days prior to work session (2/3rds vote of Council suspends this rule)	Hearing on citizen matters start at 1:00 pm, no defined time limit	Each person is limited to five minutes, but this can be extended or decreased at the discretion of the mayor and the council.	No specific limits, but it appears that a person's time could be extended if they spoke for numerous individuals.
Winston-Salem	Council meets twice a month and they have a public comment section during the second meeting (every third Monday).	You can sign up at the meeting.	Normally limited to thirty minutes, but the council can make a motion to extend	3 minutes	Everyone gets three minutes
Fayetteville	Public forum at first meeting each month – First Monday	You can sign up beforehand (online or by phone) or you can sign up at the meeting.	15 minutes but this can be changed by the mayor	Two minutes (they actually have an electronic clock that shows you how much time you have). Again, this is at the discretion of the mayor.	Everyone is limited to two minutes, but at a public hearing, a group can elect a spokesman and they will have fifteen minutes
Cary	Every meeting	Complete a contact card at the meeting	1 hour	3 minutes	Encourage designated speaker for large groups
Wilmington	Every regular meeting	Register with Clerk by noon one day before regular meeting	30 minutes (Persons not recognized scheduled for next business meeting	5 minutes	Multiple speakers on same subject must abide by allotted 5 minutes
High Point	First Monday of regular meeting schedule	Sign register in Chambers	45 minutes (Council may extend time, resume at end of meeting or continue to next meeting)	3 minutes	Recommend designated speakers for large numbers

City/Town	Frequency Held	Registration Requirement	Total Time Allotted	Individual Time Allotted	Yielding
Jacksonville	Every meeting at beginning and end, meetings held every first and third Tuesday.	You can sign up at the meeting, but the mayor will normally allow people to speak if they arrived after the sign-up period.	No time limit.	3 minutes	You cannot cede your time to another person, but you can request additional time from the council. However, if the council gives one speaker additional time, they must give all subsequent speakers the same amount of time.
Asheville	Occurs at the end of every meeting but is limited to issues that have been discussed during the meeting.	You can sign up at the meeting.	1 hour	3 minutes	One person can have ten minutes about a particular issue, but there must be three other people in the chamber that are willing to give up their time.