



## **STAFF REPORT**

DATE: July 5, 2016

**REGULAR**

ITEM #: 18

**MOTION**

**TO:** Mayor and City Council

**FROM:** Kristina Handt, City Administrator

**REVIEWED BY:** Sarah Sonsalla, City Attorney

**AGENDA ITEM:** Amend Chap 31 of City Code

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### **BACKGROUND:**

The Council last updated Chapter 31 of the City Code related to the City Council at their April 5, 2016 meeting. After adoption Parliamentarian Wendt noted some conflicting provisions about how many times a member may speak. In addition, after learning about state statute related to presiding officer duties, updates are proposed for section 31.02 Presiding Officer

### **ISSUE BEFORE COUNCIL:**

Should the City amend Chapter 31 of the City Code?

### **PROPOSAL DETAILS/ANALYSIS:**

A redlined version of the proposed changes is included in your packet.

### **FISCAL IMPACT:**

NA

### **OPTIONS:**

- 1) Approve Ordinance No 08-143
- 2) Amend and then Approve Ordinance No 08-143
- 3) Do not approve Ordinance No 08-143

### **RECOMMENDATION:**

*Motion to approve Ordinance No. 08-143*

*Motion to adopt Resolution No 2016-54 Approving Summary Publication of Ordinance No 08-143*

**CITY OF LAKE ELMO  
COUNTY OF WASHINGTON  
STATE OF MINNESOTA**

**ORDINANCE NO. 08-143**

**AN ORDINANCE AMENDING CHAPTER 31 OF THE LAKE ELMO CITY CODE OF  
ORDINANCES REGARDING THE PRESIDING OFFICER AND THE ORDER OF  
BUSINESS AT REGULAR MEETINGS**

**SECTION 1.** The City Council of the City of Lake Elmo hereby amends Section 31.02 of the City Code by deleting the ~~stricken~~ language and adding the underlined language as follows:

**§ 31.02 PRESIDING OFFICER.**

(A) *Presiding Officer.* The mayor, or in the mayor's absence the acting mayor, shall preside at all meetings of the Council.

- (1) *Role of the presiding officer.* The presiding officer shall preserve order, enforce the Council Rules of Order and Procedure as adopted, and determine, without debate, all questions of procedure and order, subject to the final decision of the Council on appeal as provided in this Section. The presiding officer shall determine which member has the right to speak and may move matters to a vote once the officer has determined that all members have spoken. The presiding officer may determine whether a motion or proposed amendment is in order and may call members to order. Except as otherwise provided by statute or by the provisions of this Chapter, the proceedings of the Council shall be conducted in accordance with the latest edition of *Roberts Rules of Order*.
- (2) *Adjourning a meeting.* If considered necessary, because of grave disorder as determined by the presiding officer, the presiding officer may adjourn or continue any meeting to another time or suspend the meeting for a specified period of time.
- (3) *Designation of a sergeant-at-arms.* The presiding officer may request that local law enforcement designate a member to serve as a sergeant-at-arms at Council meetings. The sergeant-at-arms shall carry out all orders or instructions given by the presiding officer for the purpose of maintaining order and decorum at meetings.
- (4) *Motions and voting.* The presiding officer may make motions, second motion, speak on any questions, and vote on any matter properly before the Council.
- (5) *Absences of presiding officer.* In the absence of the mayor, the acting mayor shall preside. In the absence of both the mayor and the acting mayor, the city clerk/administrator shall call the meeting to order. The first order of business

shall be to select a presiding officer for the meeting from the members present. The city clerk/administrator shall preside until the Council members present choose a member to act as presiding officer.

- (6) *Appeals and ruling of the presiding officer.* Any member of the Council may appeal to the full Council a ruling on order or procedure made by the presiding officer.
- (7) *Procedure for appeals.* An appeal is made by motion. No second is needed for the motion of appeal. The member making the motion may speak once solely on the question involved, and the presiding officer may speak once solely to explain their ruling, but no other Council member may participate in the discussion.
- (8) Once both the maker of the motion and the presiding officer has spoken, the matter must be voted upon by the Council as a whole.
- (9) The appeal shall be sustained if it is approved by a majority of the members present, exclusive of the presiding officer.
- (10) *Temporary designation of a presiding officer.* The presiding officer may choose to designate a temporary presiding officer before participating in debate on a given matter. The presiding officer shall resume presiding as soon as action on the matter is concluded.

**SECTION 2.** The City Council of the City of Lake Elmo hereby amends Section 31.04 of the City Code by deleting the ~~stricken~~ language and adding the underlined language as follows:

**§ 31.04 ORDER OF BUSINESS AT REGULAR MEETINGS.**

(A) *Order established.* Each meeting of the Council shall convene at the time and place appointed for the meeting. Council business shall be conducted in the order determined by the Council at its first annual meeting or as thereafter amended by the majority vote of the Council.

- (1) *Order of Business.* The standard order of business for Council meetings shall be the following:
  - (a) Call to Order/Pledge of Allegiance;
  - (b) Approval of Agenda;
  - (c) Approval of Minutes from Past Meeting(s);
  - (d) Public Comment;
  - (e) Presentations;

- (f) Consent Agenda;
- (g) Regular Agenda;
- (h) Report of the Council;
- (i) Reports from City Staff; and
- (j) Adjourn.

(B) *Agenda.* An agenda will be prepared for all regular Council meetings by the city clerk/administrator or their designee. Agenda items may be placed on the agenda by the Mayor and a Council member, two Council members or staff. Members of the public wishing to place an item on the agenda must do so by contacting city staff or Council members, or by speaking during the public comment period. No member of the general public may add any items to the agenda.

- (1) *Special Meetings.* When a special meeting is called pursuant to applicable law, the agenda for the special meeting must be included in the request for the meeting and in the publication of the notice of the meeting pursuant to Minn. Stat. § 13D.04, subd. 2.
- (2) *Agenda Procedures.* Any Staff member or Mayor and Council member or two Council members wishing to add an item to any agenda pursuant to this Section shall do so by complying with the following:
  - (a) All requests to place an item on the posted agenda must be received by the city clerk/administrator by 10 a.m. five days prior to the next Council meeting. For a regularly scheduled Tuesday meeting, the deadline for agenda items would be 10 a.m. on the preceding Thursday.
  - (b) All requests to place an item on the posted agenda must be on the form prescribed by the city clerk/administrator. The form shall be completed with the goal of clearly describing the subject matter to be considered by the Council and any action requested or required. Supporting information may be attached to the form as necessary.
  - (c) All requests to place an item on the posted agenda by city staff or Council members must be reviewed by the city clerk/administrator or their designee prior to being included in the agenda.
  - (d) The agenda, along with all related information materials, will be provided to all City Council members and the city attorney at least three days prior to the Council meeting for which it applies. For a regularly scheduled Tuesday meeting, the packet will be provided by 5 p.m. the Friday preceding.

(C) *Consent Agenda.* A consent agenda may be used to improve the efficiency of meetings. The consent agenda allows the Council to consider several items at one time. Only one motion is necessary to approve all items on the consent agenda.

- (1) Items that require findings of fact or an explanation of Council actions, such as land use matters and the consideration of licensing requests, should not be placed on the consent agenda.
- (2) An item on the consent agenda may be removed from such agenda for full consideration by the Council upon request made by any member of the Council. Items removed from the consent agenda will be placed on the regular agenda for discussion and consideration.

(D) *Presentation, discussion and agenda item decisions.* The following is the order of business for presenting and discussing items on Council agendas:

- (1) Introduction of item;
- (2) Report by staff or other presenter;
- (3) Questions from Council members to the presenter in a round robin manner. The presiding officer will facilitate the round robin process by asking each individual Council member for one question and allowing for a response to the individual question. Then the presiding officer will ask the next Council member, in sequence, until all Council members have asked and received responses to a question. No Council member shall take more than three minutes to ask a question or comment on an item which is being presented before another Council member has a turn to question and comment on the same item;
- (4) Receive questions/comments from the applicant/requesting party to the Council, and allow each Council member to respond in the round robin process;
- (5) Allow questions from Council members to the applicant/requesting party, if applicable, using the round robin process;
- (6) Allow questions/comments from the public to Council members. Each member of the public shall state his or her comments in six minutes. Council shall not interrupt or interact until all public comments are completed;
- (7) At the conclusion of the round robin process, the presiding officer calls for a motion or discussion among the Council. Discussion on any presentation shall be kept to a minimum, and each Council member shall only speak twice on the issue. This action is not an indication that the motion on the table is the motion that will be approved in its current form. It is purely for discussion purposes;
- (8) Discussion among Council members using the round robin process with each

members speaking no more than twice on a motion;

(9) Action by the Council on the motion.

(E) *Meeting Schedule.*

- (1) Each meeting of the Council shall convene at the time and place appointed. All public hearings shall commence at the advertised time.
- (2) Council business shall be conducted in the order of the prepared agenda, unless an alteration is approved by a majority of the Council.
- (3) The last item on the agenda will be commenced no later than 12 a.m.
- (4) If all business has not been completed by 12 a.m., the meeting shall be continued to another date and time following the notice provisions contained herein.

(F) *Public participation and comment at council meetings.* Council meetings are the forum for the Council to conduct the city's business. While Council meetings are open to the public pursuant to the Minnesota Open Meeting Law, they are not a forum for public expression. As such, members of the public are not allowed to participate in Council discussion and debate without a specific invitation and/or formal recognition by the presiding officer. Members of the public shall not applaud, engage in conversation, or engage in other behavior through words or actions that may disrupt the proceedings of the Council.

(G) *Members of the public shall follow the direction of the presiding officer.* Members of the public who do not follow the direction of the presiding officer will be warned that further disruptive conduct will result in removal from the meeting. After such warning, if the conduct continues, the presiding officer may ask the member of the public to leave the meeting room. If the member of the public refuses to follow the direction of the presiding officer, the presiding officer may direct the sergeant-at-arms to remove the person through any lawful means. In emergency situations, or where the conduct is an egregious threat to the safety of the public or the Council, a warning is not necessary before the sergeant-at-arms is directed to remove the person.

(H) *Public comment period.* A limited forum for members of the public to speak with the Council is provided on each agenda. Public comments during the public comment period are subject to the following limitations:

- (1) Speakers must be recognized by the presiding officer before speaking and are limited to six minutes for comment;
- (2) When multiple speakers appear to speak on the same topic, comments should not be repetitive. The presiding officer may request speakers to appoint a spokesperson;

- (3) The presiding officer may place a time limit on the public comment period if necessary to allow for the conduct of city business. If there is not sufficient time at the meeting to hear all public comments, the comment period may be deferred to the next regular Council meeting or at a continued meeting;
- (4) Speakers must sign up prior to speaking and provide their name, address, and a brief summary of the subject matter which they wish to address. The sign-up sheet will be available at the start of the City Council meeting;
- (5) Speakers must direct their remarks toward the presiding officer;
- (6) Speakers shall not use obscene, profane, insulting, or threatening language, nor conduct themselves in a threatening, loud, or boisterous manner that disrupts the conduct of the meeting or the security of the public;
- (7) Speakers are required to follow the direction of the presiding officer; and
- (8) The Council will generally not respond at the same meeting where an issue is initially raised by a member of the public. Generally, the matter will be referred to staff for further research and possible report or action at a future Council meeting.

(I) *Public Hearings.* Public hearings are sometimes required by law to allow the public to offer input on Council decisions. Unlike public comment periods, public hearings allow the public to speak on a matter currently before the Council. When public hearings are required by law, notice shall be provided as required by state statute. Public hearings shall be commenced at the time advertised in any notice required by law.

- (1) *General procedure for public hearings.* The order of business for all public hearings conducted by the Council shall be:
  - (a) Opening comments by the presiding officer announcing the purpose of the public hearing;
  - (b) The presiding officer opens the public hearing portion of the meeting;
  - (c) Staff presentation, if any (i.e. administrator/clerk, attorney, engineer etc.);
  - (d) Developer/other presentation, if any;
  - (e) Public comment (all individual comments limited to six minute maximum);
  - (f) The clerk/administrator shall make note of any submitted written testimony; and
  - (g) The presiding officer formally closes the public hearing portion of the

meeting.

- (2) Speakers who wish to address the Council at a public hearing must follow the same rules as contained herein for public comment periods. The presiding officer may allow more time, where appropriate.
- (3) Speakers may also provide written comments to the Council before or at the meeting. Written comments shall be noted and provided to the Council and to anyone else as required by law.
- (4) The presiding officer may continue the hearing, if necessary, following the procedures for continuing a meeting contained in this Section.

**SECTION 3. Effective Date.** This ordinance shall become effective immediately upon adoption and publication in the official newspaper of the City of Lake Elmo.

**SECTION 4. Adoption Date.** This Ordinance No. 08-143 was adopted on this \_\_\_\_ day of July, 2016, by a vote of \_\_ Ayes and \_\_ Nays.

**LAKE ELMO CITY COUNCIL**

\_\_\_\_\_  
Mike Pearson, Mayor

ATTEST:

\_\_\_\_\_  
Julie Johnson, City Clerk

This Ordinance \_\_\_\_\_ was published on the \_\_\_\_\_ day of \_\_\_\_\_, 2016.

**CITY OF LAKE ELMO  
COUNTY OF WASHINGTON  
STATE OF MINNESOTA**

**RESOLUTION NO. 2016-54**

**RESOLUTION AUTHORIZING PUBLICATION OF ORDINANCE 08-143 BY TITLE  
AND SUMMARY**

**WHEREAS**, the City Council of the City of Lake Elmo has adopted Ordinance No. 08-143, an ordinance amending the City Code of Ordinances by amending the City's provisions related to the City Council; and

**WHEREAS**, the Ordinance is 7 pages in length; and

**WHEREAS**, Minnesota Statutes Section 412.191, subdivision 4, allows publication by title and summary in the case of lengthy ordinances or those containing charts or maps; and

**WHEREAS**, the City Council believes that the following summary would clearly inform the public of the intent and effect of the Ordinance; and

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Lake Elmo, that the City Clerk shall cause the following summary of Ordinance No. 08-143 to be published in the official newspaper in lieu of the entire ordinance:

**Public Notice**

The City Council of the City of Lake Elmo has adopted Ordinance No. 08-143, which amends Chapter 31 of the City Code by deleting sections 31.02 and 31.04 in their entirety and replacing them with new sections 31.02 and 31.04. The Ordinance clarifies the duties of the presiding officer and how many times a council member may speak to a motion.

The full text of Ordinance No. 08-143 is available for inspection at Lake Elmo city hall during regular business hours.

**BE IT FURTHER RESOLVED** by the City Council of the City of Lake Elmo that the City Administrator keep a copy of the Ordinance at City Hall for public inspection and that a copy be placed for public inspection at the Lake Elmo Public Library.

Dated: July 5, 2016.

\_\_\_\_\_  
Mike Pearson, Mayor

ATTEST:

\_\_\_\_\_  
Julie Johnson, City Clerk

(SEAL)

The motion for the adoption of the foregoing resolution was duly seconded by member \_\_\_\_\_ and upon vote being taken thereon, the following voted in favor thereof:  
and the following voted against same:  
Whereupon said resolution was declared duly passed and adopted.