

ORDINANCE NO. 2020-27

AN ORDINANCE OF THE CITY OF VENICE, FLORIDA, AMENDING THE CODE OF ORDINANCES, CHAPTER 2, ADMINISTRATION, ARTICLE II, MAYOR AND COUNCIL, DIVISION 2, MEETINGS, SUBDIVISION I, IN GENERAL AND SUBDIVISION II, RULES OF PROCEDURE, TO UPDATE PROCEDURES FOR MEETINGS AND RULES; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, during strategic planning on February 21, 2020, City Council discussed several procedures and reached consensus on updating the meeting procedures relative to staff directives, deadlines, presentations, time limits, and November meeting schedule; and

WHEREAS, the City's Code of Ordinances adopts Robert's Rules of Order to guide the conduct of business;

WHEREAS, the City's boards and committees have also historically utilized Robert's Rules of Order for the conduct of business associated with their meetings even though not required by the Code; and

WHEREAS, City Council would like to deviate from Robert's Rules of Order, as allowed by Section 2-72, to provide an additional opportunity for a matter to be considered under certain circumstances when a tie vote occurs.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VENICE, FLORIDA:

SECTION 1. The Whereas clauses above are ratified and confirmed as true and correct.

SECTION 2. Chapter 2, Administration, Article II, Mayor and Council, Division 2, Meetings, Subdivision I, In General, and Subdivision II, Rules of Procedure, is hereby amended as follows:

DIVISION 2. MEETINGS

Subdivision I. In General

Sec. 2-51. Meetings to be public; attendance; order of business.

All meetings of the council shall be open to the public. Promptly at the hour set for each meeting, the members of the council, the city attorney, the city manager, the city clerk, and such of the department heads as shall have been requested by the council or the city manager to be in attendance shall be in attendance in the council chamber or via video conferencing.

The agenda shall constitute the order of business, unless otherwise determined by a majority of the membership of the council then present.

Sec. 2-52. Agenda.

(a) There shall be an official agenda for each regular meeting of the city council, which shall determine the matters of business to be considered at the meeting and the order in which the items shall be presented. Matters may be proposed for placement on the agenda by the mayor, any councilmember, the city manager, the city clerk, and the city attorney.

- (1) Deadline for submissions. All minutes of prior meetings requiring approval and all ordinances, resolutions, contract documents, reports, communications and other matters to be submitted to the council shall be delivered to the city clerk not later than 12:00 noon on ~~the Friday 11 days Monday of the week~~ preceding the regularly scheduled Tuesday meeting. Any exceptions shall be approved by the city manager or his designee.
- (2) Deadline for publication. The city clerk, upon receipt of the agenda items, shall immediately prepare the agenda by listing such matters according to the order of business and furnish each member of council, the city manager, and the city attorney with a copy of the agenda, together with copies of the documents and papers which are pertinent thereto, on Wednesday of the week preceding a regular meeting or as far in advance of the meeting as time for preparation will permit. If the final agenda is not available by the Wednesday deadline, a draft agenda will be provided to council by the deadline.
- (3) Agenda requests by mayor and councilmembers. The agenda shall provide times when the mayor and councilmembers may bring before the council any matter concerning the city's business, over which the council has control or that he or she feels should be deliberated upon by council. These matters should be submitted as an agenda item in accordance with (a)(1) above and should strive to supply backup materials for distribution with the agenda packets. To assign directives to charter officers for disputed matters or those constituting a staff work assignment, matters must be placed on an agenda and receive a majority vote.
- (4) Consent agenda. The consent agenda is used to handle routine matters on the agenda expeditiously. There is no separate discussion of these items unless the mayor or a councilmember requests an item be removed for consideration in its normal sequence on the agenda. The approval of the consent agenda is usually handled in one motion.

(b) The city council shall not take action upon any matter, proposal, report or item of business which is not listed upon the agenda except those of an urgent nature and concerning

which a majority of the membership of the council shall have first consented to the presentation thereof for consideration and action.

Sec. 2-53. Addressing council.

(a) Except for quasi-judicial public hearings, any person desiring to present his views on any matter over which the council has control may do so in the following manner:

- (1) *Written communications.* Interested parties or their authorized representatives may address the council by written communications, including emails or other electronic means, in regard to matters under discussion. Such communications shall be copied to each member of the council by the city clerk.
- (2) *Presentations by the public.* ~~*Oral communications.*~~ Members of the public or their legal representatives, may request to address the council orally by oral communications on any matter concerning the city's business or on any matter over which the council has control; provided that those persons have notified the city clerk in writing by 12:00 noon on the Friday 11 days of the Monday of the week immediately preceding the Tuesday council meeting of their desire to speak in order that their names may appear on the agenda. The written request must include the topic and action, if any is being requested of council. Those not making previous arrangements will be allowed to speak during audience participation as set forth in subsection (3) of this section.
- (3) *Audience participation.* The council will hear comments, concerns or questions from members of the public present at the meeting during defined time periods for public comment on the agenda. Any person wishing to speak shall complete and submit a request to speak card prior to the start of the applicable opportunity for public comment. Any single presentation must be limited to five minutes for city residents, city property owners, and owners of businesses within the city limits and two minutes for all other speakers unless other time limits are established. Comments will be permitted on agenda items at the time the item is under consideration by the council if a request to speak card has been submitted to the city clerk.
- (4) *Addressing council.* Each person addressing council shall speak into the microphone and shall limit his address to the time granted by subsection (3) above. The time limits will be strictly enforced. Time limits for any member of the public may be extended at the discretion of the presiding officer. All remarks shall be addressed to the council as a body and not to any member thereof. There is to be no interruption during the presentation; however, at its completion, any councilmember may, through the chair, ask questions with the intent of receiving pertinent information but will not enter into a debate. The person will then be dismissed ~~from the dais~~. Then council may open the question for their discussion. In all areas other than public hearings or audience participation, the audience will not be allowed to speak, unless it is approved by four affirmative votes of council.

(5) *Improper remarks or conduct.* Any person making personal, impertinent or slanderous remarks, or who shall become boisterous or disorderly, or who speaks longer than the allotted time without permission, or who speaks vulgarities, may be requested to leave the meeting and may be barred from further presentation before the council at that meeting by the presiding officer.

(6) *Enforcement of time limits.* The city clerk or his designee shall indicate by a bell, light, buzzer or voice when the allotted time has expired.

(7) *Order of audience participation.* Regardless of pro or con standing, citizens shall be asked to speak on the issue in the order called by the city clerk, with city residents, city property owners and owners of businesses within the city limits being called first.

(b) Quasi-judicial hearings shall be conducted in substantially the following manner:

(1) All speakers shall sign and submit a request to speak card, which shall contain an oath or affirmation that the testimony to be given will be truthful.

(2) Affected party. City council may allow a person or entity to intervene as an affected party if they have an interest in the application which is different than the public at large. At least three business days prior to the hearing, the person or entity shall complete an application for affected party status and submit it to the city clerk's office.

(3) Designated representative. Members of the public, an association, corporation, legal entity, or group who wish to communicate the same message or provide the same competent substantial evidence to the city may choose a designated representative to speak on the members' behalf, rather than individual members of the group speaking. Designated representatives shall submit a written list of the members they represent and shall verify that the representative speaks on behalf of the members. Such verification may be by testimony under oath or by notarization. Members of the public on the written list shall cede their time for public comment to the designated representative, who shall be granted additional time to speak based on the number of members represented. Designated representatives shall be considered participants and not an affected party.

(4) The order of the hearing should generally be as follows:

- a. The mayor, or designee, shall open the public hearing and call upon the city clerk to read the title of the proposal before council.
- b. The mayor and councilmembers shall disclose any conflicts of interest and ex parte communications.
- c. City attorney shall raise any preliminary matters including whether there are any requests for affected party status.
- d. City council decides on any preliminary matters including affected party status.
- e. Staff makes a presentation, if requested.

- f. After the staff presentation, the applicant may make a presentation.
- g. Any affected party may make a presentation.
- h. Cross examination of witnesses may occur after each presentation.
- i. City council shall hear any public comment whereupon the public comment portion of the public hearing shall be closed.
- j. Staff may offer rebuttal or a summary.
- k. Any affected party may offer rebuttal or a summary.
- l. The applicant may offer rebuttal or a summary.

(5) During the course of the hearing, councilmembers may ask questions through the mayor, or designee, of the person testifying. The timing of these questions shall be at the sound discretion of the mayor, or designee, in consultation with the presenter in order to facilitate and achieve an orderly public hearing process. After rebuttal, the mayor, or designee, shall close the public hearing but may allow staff, the applicant or any affected party to respond to specific questions from councilmembers.

(6) Staff shall submit written material in accordance with the requirements of this Code. Any written material the applicant and any affected party wishes to have considered by city council should be submitted at least three business days prior to the hearing. The hearing may be continued to the next available agenda at the discretion of city council if any substantive written material is submitted thereafter. All material submitted shall be made part of the record except for material specifically excluded by law.

(7) Staff, the applicant and any affected party shall each be entitled to 30 minutes for presentation. All other persons shall be entitled to five minutes. Rebuttal shall be limited to 15 minutes. To ensure that due process is afforded, time limits may be extended by vote of the majority of councilmembers present. All time limits shall be enforced by the city clerk and shall not include the time for council questions or presenter's responses.

(8) Statements of counsel, or any non-attorney representative, shall only be considered as argument and not testimony unless counsel or the representative indicates at the start of their presentation that they are a fact witness, is sworn in, and the testimony is based on personal knowledge of the matters which are the subject of the statements.

(9) All evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible, whether or not such evidence would be admissible in a court of law in Florida. Irrelevant, immaterial, harassing, defamatory or unduly repetitive evidence shall be excluded. Hearsay evidence may be used for the purposes of supplementing or explaining other evidence, but it shall not be sufficient by itself to support a finding unless it would be admissible over objection in a civil action.

(10) Any person making personal, impertinent or slanderous remarks, or who shall become boisterous or disorderly, or who speaks longer than the allotted time without permission, or

who speaks vulgarities, may be requested to leave the meeting and may be barred from further presentation before the council at that meeting by the mayor, or designee.

(11) City council shall vote on the matter within 30 days of closing the public hearing unless the mayor, or designee, announces at the close of the public hearing that a vote will be taken on a specific date beyond the 30-day period.

Sec. 2-54. Minutes.

Minutes of council meetings shall contain a concise and accurate summary of actions taken at the meeting, but shall not include verbatim comments from councilmembers or of persons making presentations to council.

Secs. 2-55—2-70. Reserved.

Subdivision II. Rules of Procedure

Sec. 2-71. Generally.

The rules of procedure in this subdivision shall govern all meetings of city council.

Sec. 2-72. Robert's Rules of Order to govern.

(a) Except as otherwise provided by the Charter and this Code, the conduct of business of the city council, boards, committees, and groups shall be governed by Robert's Rules of Order (latest edition).

(b) Except as provided in subsection (c) of this section, in the event of a tie vote on any motion, the motion shall be considered lost.

(c) Except for items that require four affirmative votes pursuant to the City Charter, if one or more members are absent from a meeting but would have been able to vote on a proposed motion if present and there is a tie vote amongst the remaining members, then said tie vote shall cause an automatic one-time continuance of the item to the next regularly scheduled meeting unless the matter or ordinance must be resolved at that particular meeting by law, in which case said tie vote shall constitute a rejection of the proposed matter or ordinance.

Sec. 2-73. Time and place of regular meetings.

City council will hold regular meetings on the second and fourth Tuesday of each month, with the exception of November and December, in council chambers of City Hall at a time to be determined by the city clerk or whatever other day, time or place within the corporate boundaries of the city as may be deemed temporarily expedient by the city clerk; provided,

however, the public is properly notified. There will be one meeting in November which will be held after the certification of election results and one meeting in December which will be held on the second Tuesday of the month. City council may cancel regular meetings at its discretion. When the day fixed for any regular meeting of city council falls upon a day designated by law as a legal or national holiday, such meeting shall be canceled.

If a regularly scheduled council meeting is deemed to require a second day for continuation or completion of a quasi-judicial hearing, the second day shall be the Wednesday immediately following the Tuesday of the meeting with a start time of 9:00 a.m. and stop time of 5:00 p.m. unless approved by the majority of council to continue the meeting beyond the scheduled stop time no later than 4:00 p.m. on the day of the second meeting.

Sec. 2-74. Special, emergency and workshop meetings.

(a) *Special meetings Generally.* A special meeting of city council may be called by the mayor, or in his absence by the vice-mayor, or by any four members of the council, upon 24 hours' notice verbally or in writing, signed by the persons calling the meeting and stating the date and hour of the meeting and the purpose thereof; and no business shall be transacted thereat except such as is stated in such notice. Every notice of a special meeting shall be prepared by the city clerk and posted at City Hall in a prominent place. The city clerk or his designee shall notify each member of the council by telephone and/or email.

(b) *Emergency meetings.* An emergency meeting of city council may only be called by the city manager when upon the judgment and belief of the city manager appropriate exigent circumstances exist which require the calling of an emergency meeting.

(1) Notwithstanding the foregoing, city council members may contact the City Manager to discuss the need for the calling of an emergency meeting.

(2) If the city manager calls an emergency meeting, the city clerk shall immediately inform the city council of the time of the meeting and thereafter make every reasonable effort to provide notice of the meeting to the public. Whenever an emergency exists which requires immediate action by city council, a special meeting may be called at any time, as provided for in subsection (a) of this section, by notifying the city clerk, who shall cause a meeting to be called on short notice for the emergency purpose and for that purpose only. If, after exercising due diligence, the city clerk is unable to give notice of such emergency meeting to the mayor and each councilmember, such failure shall not affect the legality of the meeting if a quorum is in attendance. A written waiver of notice of the time and purpose thereof, signed by all members present, shall be made a part of the official record of the meeting.

(c) *Workshop meetings.* Workshop meetings may be called to informally discuss matters relating to city business. No formal action shall be taken at a workshop meeting. However, items on which there is a consensus may be placed on a future agenda of a council meeting.

Notice of workshop meetings shall be posted at least 24 hours in advance at City Hall and on the city's website.

Sec. 2-75. Presiding officer; voting; motions and debate; preservation of order.

(a) *Presiding officer; voting.* The mayor shall moderate and chair all meetings of city council. In the absence of the mayor, the vice-mayor will assume the duties of the chair. In the absence of both the mayor and vice-mayor, city council shall elect a chair from those present; such substitution shall not continue beyond adjournment. The chair shall state all questions submitted for a vote and announce the result. A roll call vote shall be taken upon the request of any member and on first and final reading of all ordinances and resolutions.

(b) *Motions and debate.*

- (1) While city council is in session, members are expected to preserve order and decorum; and a member shall not, by conversation or otherwise, delay or interrupt the proceedings or the peace of city council, or disturb any member while speaking, or refuse to obey the orders of city council or its presiding officer. When addressing the assembly, councilmembers shall address one another by official titles thus: "Mr. Mayor," "Mr. Jones" or "Councilmember Jones."
- (2) When a motion is on the table, the order of speaking on the motion shall be 1) member making the motion; 2) member seconding the motion; 3) any members wishing to speak on the motion; and 4) the mayor speaks last. This sequence is repeated if there is another round of discussion.
- (3) In debate, each member has the right to speak twice on the same motion question on the same day and may speak to the motion question again only if he has not used up his allotted ten minutes. A councilmember who has spoken twice on a particular motion question on the same day has exhausted his right to debate that motion question for that day, without the permission of the majority of city council. Without the permission of city council, no one may speak longer than ten minutes on a particular motion question. The motion to move the question shall not be entertained until each member present has had at least one opportunity to speak.

(c) *Preservation of order.* The chair shall preserve order and decorum; prevent attacks on personalities or the impugning of member's motives and confine members in debate to the question under discussion. He may call to order any person who is being disorderly by speaking or otherwise disrupting the proceedings, by failing to be germane, by speaking longer than the allotted time or by speaking vulgarities. The chair shall determine all points of order, subject to the right of any member to appeal to city council. If any appeal is taken, the question shall be, "Shall the decision of the chair be sustained?"

(d) Council reports. There is a ten minute time limit for individual council reports.

(e) *Parliamentarian.* Council will defer to the city clerk for guidance on parliamentary matters.

(f) *Council absences.* Council absences will be excused for the following reasons: 1) city business; 2) health issues; 3) family emergencies or death; 4) emergency duties; 5) government deployment; 6) acts of God; or 7) acts of terrorism.

Secs. 2-76—2-100. Reserved.

SECTION 3. All ordinances or parts of ordinances in conflict herewith shall be and the same are hereby repealed.

SECTION 4. If any part, section, subsection or other portion of this ordinance or any application thereof to any person or circumstance is declared void, unconstitutional or invalid for any reason, such part, section, subsection or other portion, or the prescribed application thereof, shall be severable and the remaining provisions of this ordinance, and all applications thereof not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The city council specifically declares that no invalid or prescribed provision or application was an inducement to the enactment of this ordinance and that it would have enacted this ordinance regardless of the invalid or prescribed provision or application.

SECTION 5. This ordinance shall take effect immediately upon approval and adoption as provided by law.

PASSED BY THE COUNCIL OF THE CITY OF VENICE, FLORIDA, THIS 22ND DAY OF SEPTEMBER, 2020.

First Reading: October 27, 2020

Final Reading: November 17, 2020

ADOPTION: November 17, 2020

Ron Feinsod, Mayor

ATTEST:

Lori Stelzer, MMC, City Clerk

I, LORI STELZER, MMC, City Clerk of the City of Venice, Florida, a municipal corporation in Sarasota County, Florida, do hereby certify that the foregoing is a full and complete, true and

correct copy of an Ordinance duly adopted by the Venice City Council, at a meeting thereof duly convened and held on the 17th day of November, 2020, a quorum being present.

WITNESS my hand and the official seal of said City this 17th day of November, 2020.

Lori Stelzer, MMC, City Clerk

Approved as to form:

City Attorney