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MEMORANDUM

Date: October 3, 2013

To: Mayor and Council Members

From: Tim Wright, Town Attorney

Re: Systematic Town Code Review – Title III, Sections 30.35-30.55: COUNCIL PROCEDURE and Title III, Sections 30.65-30.68: INITIATIVE AND REFERENDUM (Ordinance 839)

This is part 3 of the Systematic Town Code Review. The changes recommended below are for Title III, Sections 30.35-30.55: Council Procedure and Sections 30.65-30.68: Initiative and Referendum. (insertions are noted with a double underline, deletions are noted by ~~strikeout~~)

Title III, Sections 30.35-30.55: Council Procedure

Section 30.35(A) Regular meetings – Subsections (1) and (2) are amended to reflect current Council Procedures.

30.35(A) Regular Meetings

(1) The Town Council shall generally hold its regular meetings on the first and third Thursday of each month at 5:30 pm in the Town Council Chambers.
~~(1) The Town Council shall hold regular meetings on the first and third Thursdays of each calendar month. Council meetings shall be held at 5:30 p.m.~~
(2) Each year, the Town Council shall approve a schedule of its Regular Meetings.
(~~2~~3) The Council may~~, by motion duly adopted,~~ decide to cancel, reschedule or delay a meeting for any reason the Council deems appropriate. ~~regular or special meeting of the Council as a result of foul weather, disaster, conflicts with legal holidays or other prudent reasons which the Council deems appropriate to cancel,~~

~~reschedule or delay a meeting. Any motion adopted by the Council to cancel, reschedule or delay a Council meeting, whether a regular or special session, shall state the reason for the action, and shall state whether the meeting is rescheduled to a new date or time, or is canceled.~~
~~(3) All scheduled meetings of the Council shall be held in the Town Hall facility unless some other place is designated on the agenda.~~

Section 30.36 AGENDA – Currently, this Section requires the Clerk to 'furnish' the Council and the Attorney with a copy of the Agenda. With each agenda being available on the internet, the language is changed such that the Clerk is only required to 'make a copy available.'

30.36 AGENDA.

Prior to each Council meeting, or on or before a time fixed by the Council for preparation and distribution of an agenda, whichever is earlier, the Clerk shall collect all written reports, communications, ordinances, resolutions, contracts and other documents to be submitted to the Council, prepare an agenda according to the order of business, and shall make a copy available to ~~furnish~~ each Council member and the Mayor~~ and the Attorney with a copy~~.

Section 30.37 ORDER OF BUSINESS – Section 6 of the Council's Rules of Procedures (adopted in 2002 and amended several times since) contains an order of business that for the most part mirrors this Section. It is not advisable to have a set of rules located in two places. Additionally, it is recommended that the Order of Business be in the Council's Rules rather than the Town Code. This would allow the Council to change such Order by Resolution as opposed to Ordinance. Because of this it is recommended that Section 30.37 be deleted in its entirety. Note – Subsections C (Consent Agenda) and D (Public Comments) of Rule 6.6 of the Council Rules of Procedure are being reversed to conform to the Council's current practice.

30.37 ~~ORDER OF BUSINESS~~ Reserved. For Order of Business, See Council Rules of Procedure.

~~The business of the Council shall be taken up for consideration and disposition in the following order:~~
~~(A) *Call to order.* The Mayor shall take the chair precisely at the hour appointed for the meeting and shall immediately call the Council to order. In the absence of the Mayor, the Vice-Mayor shall call the Council to order. In the absence of both the Mayor and the Vice- Mayor, the Clerk shall call the Council to order and an acting Mayor shall be selected to chair the meeting. Upon the arrival of the Mayor or the Vice-Mayor, the Vice-Mayor or the Acting Mayor shall immediately relinquish the chair upon the conclusion of the business immediately before the Council. The Mayor shall preserve order and decorum, decide all questions of order and conduct the proceedings of the meetings in accordance with the parliamentary rules contained in *Robert's Rules of Order.*~~

~~(B) *Roll call.* Before proceeding with the business of the Council, the Clerk or the Clerk's deputy shall call the roll of the members, and the names of those present shall be entered in the minutes. If a quorum is not present, the members present may adjourn pursuant to § 30.35(D) of this chapter.~~

~~(C) *Communications from citizens with speaker's request.* Communications and comments or suggestions from citizens present who have submitted a speaker's request form to the Mayor, Town Clerk, or designee, prior to the meeting being convened, concerning matters other than those listed on the agenda for consideration, shall be heard by the Council. All remarks shall be addressed to the Council as a whole and not to any member thereof. The Council cannot discuss nor take action upon comments received; however, the Council may direct staff to address the issue and/or it may be referred to a later agenda. No public discussion of comments under this section is permitted, except that other members of the public may, at the discretion of the Mayor, present follow-up comments on a matter raised by a speaker's request form.~~

~~(D) *Consent agenda.* Items listed on the agenda with an asterisk are considered to be routine in nature and will be enacted by one motion. No separate discussion of these items shall be held unless a Council Member so requests, in which event the item will be removed from the consent agenda and will be considered in its normal sequence on the main agenda.~~

~~(E) *Ceremonial; announcements; presentations; introductions.* Matters of ceremony, announcements, presentations, introductions and proclamations shall be presented and considered.~~

~~(F) *Minutes.* The Clerk or the Clerk's deputy shall read or present the minutes of the preceding Council meeting, which shall be approved if correct. Any errors noted shall be corrected.~~

~~(G) *Hearings and appeals.* Public hearings may be held under this division, including, but not limited to, hearings of zoning applications and liquor license applications.~~

~~(H) *Resolutions and ordinances.* Resolutions and ordinances shall be presented to the Mayor and Council for consideration and disposition. Public hearings on the same shall be held under this division.~~

~~(I) *Unfinished business.* The Council shall consider any business that has been previously considered and which is still unfinished.~~

~~(J) *New business.* The Council shall consider any business not heretofore considered.~~

~~(K) *Claims.* The Clerk shall present any claims against the town which will then be approved or disapproved by the Council.~~

~~(L) *Miscellaneous business.* The Council shall, as it deems necessary, consider any business as is not specifically provided for herein, including, but not limited to, presentation of current events by the Mayor and/or Town Manager.~~

~~(M) *Public comments.* Communications and comments or suggestions from citizens present who have not submitted a speaker's request form, on matters other than those listed on the agenda for consideration, shall be heard by the Council. All remarks shall be addressed to the Council as a whole and not to any member thereof. The Council cannot discuss nor take action upon comments~~

~~received; however, the Council may direct staff to address the issue and/or it may be referred to a later agenda. No public discussion of comments under this divisions is permitted.~~

~~(N) *Adjournment.* The Council may, by a majority vote of those present, adjourn from time to time to a specific date and hour. A motion to adjourn shall always be in order and decided without debate.~~

Section 30.50 PRIOR APPROVAL – This Section is being amended to clarify that all ordinances, resolutions, and contracts should be reviewed by the Town Attorney prior to submittal and all Council Decision Requests should be reviewed by the Town Manager.

30.50 PRIOR APPROVAL.

(A) Before presentation to the Council, all ordinances, resolutions and contract documents shall~~, before presentation to the Council, have~~ be~~en~~ reviewed as to form by the Attorney~~and shall, when there are substantive matters of administration involved, be referred to the person who is charged with the administration of the matters. Such person shall have an opportunity to present objections, if any, prior to the passage of the ordinance, resolution or acceptance of the contract.~~

(B) Before presentation to the Council, all Council Decisions Requests shall be reviewed by the Manager.

Section 30.51 INTRODUCTION – This Section requires that all ordinances, resolutions, etc. have a 'sponsor,' who is a Council Member, the Attorney, the Manager, or the Clerk. This process is currently not used. Rule 7 of the Council's Rules of Procedure contains a provision that addresses how an item can be placed upon an agenda. This Rule appears to be working efficiently. Based upon this, it is recommended removing this Section.

30.51 ~~INTRODUCTION.~~ Reserved

~~Ordinances, resolutions, and other matters or subjects requiring action by the Council shall be introduced and sponsored by a member of the Council, except that the Attorney, the Manager or the Clerk may present ordinances, resolutions and other matters or subjects to the Council, and any member of Council may assume sponsorship thereof by moving that the ordinance, resolution, matter or subject be adopted; otherwise, they shall not be considered.~~

Section 30.52 SAME DAY PASSAGE; TWO SEPARATE READINGS – This Section codifies the requirement that most ordinances have two readings on two separate days. Clarifications are made as follows (1) the language referencing final passage is replaced with voted upon; (2) it is clarified that two readings/hearings are not required for 'emergency' ordinances and other ordinances that are not referable such as the adoption of the property tax; (3) the word 'reading' is replaced by the word 'hearing' which more accurately describes the Council action; and (4)

language regarding whether only the title (as opposed to the entire ordinance) may be read is removed.

30.52 SAME DAY PASSAGE; TWO SEPARATE ~~READINGS~~ HEARINGS.

(A) No ordinance except an emergency ordinance or other ordinance not subject to referendum shall be voted upon ~~put on its final passage~~ on the same day on which it ~~was~~ is introduced.
(B) All ordinances except emergency ordinances or other ordinances not subject to referendum shall have two separate hearings ~~readings~~. Such hearings ~~but the first and the second reading~~ shall be on separate days. ~~never be made on the same day. The first reading may be by title only, but the second reading shall be in full, unless the Council, in possession of printed copies of the ordinance, shall unanimously allow reading by title only.~~

Section 30.55 SIGNATURES, PUBLISHING, POSTING. The wording in this Section is cleaned up and requires the Clerk to publish or post only those Council actions required by State Statute or specifically ordered by the Council.

30.55 SIGNATURES, PUBLISHING, POSTING.

(A) In order for an ordinance or resolution passed by the Council to become effective, it shall ~~Every ordinance passed by the Council shall, before it becomes effective,~~ be signed by the Mayor and attested by the Clerk.
(B) Only such ordinances ~~orders~~, resolutions, motions, regulations or proceedings of the Council shall be published or posted as may be required by state statutes or expressly ordered by the Council.
~~(C) Every ordinance imposing any penalty, fine, forfeiture or other punishment shall, after passage, be posted by the Clerk in three or more public places within the town, and an affidavit of the person who posted the ordinance shall be filed in the office of the Clerk as proof of posting.~~

Title III, Section 30.65-30.68: Initiative and Referendum

Section 30.66 NUMBER OF SIGNATURES – The words 'Initiative' and 'Referendum' at the beginning of Subsections (A) and (B) were added for readability.

30.66 NUMBER OF SIGNATURES.

(A) Initiative - The total number of registered voters qualified to vote at the last municipal election, whether regular or special, immediately preceding the date upon which any initiative petition is filed shall be the basis upon which the number of qualified electors of the town required to file an initiative petition shall be computed.

(B) Referendum - The basis upon which the number of qualified electors of the town required to file a referendum petition shall be as determined by state law.

Section 30.68 SAMPLE BALLOTS AND PUBLICITY PAMPLETS – State Law provides the requirements for Sample Ballots and Publicity Pamphlets. See A.R.S. 19-124 and 19-141-143. The proposed language would reference State Law, while retaining the Council's ability to set the amount of the deposit for arguments.

30.68 SAMPLE BALLOTS AND PUBLICITY PAMPLHETS.

(A) The procedures relating to sample ballots and publicity pamphlets shall be as set forth in State Law.

~~The following procedures relating to sample ballots and publicity pamphlets are hereby adopted for conducting elections at which an initiative or referendum is to be voted upon:~~

~~(A) A publicity pamphlet, containing the entire text of the official ballot, shall be mailed by the Town Clerk to each household within the town in which a registered voter resides, not less than ten days prior to the election to which the sample ballot pertains.~~

~~(B) The pamphlet shall contain the proposition as it will appear on the ballot together with a summary of each proposition. Each summary shall be followed by any arguments supporting the proposition followed by any arguments opposing the proposition. Arguments submitted by the person filing the initiative or referendum shall appear first. The remaining arguments shall be placed in the order in which they were filed.~~

~~(C) Arguments supporting and opposing propositions appearing on the ballot shall be filed with the office of the Town Clerk by 5:00 p.m. not less than 60 days prior to the election at which the propositions are to be voted upon. If time does not permit compliance within the 60-day deadline, the Town Clerk may establish a separate deadline for filing referendum ballot arguments. Arguments supporting or opposing propositions appearing on the ballot shall meet the following requirements:~~

~~(1) Arguments must relate to the propositions proposed by initiative or referred by referendum which will appear on the ballot.~~
~~(2) Arguments must identify the proposition to which they refer and indicate whether the argument is in support of or in opposition to the proposition.~~
~~(3) Arguments may not exceed 300 words in length.~~
~~(4) Arguments must contain the original signature of each person sponsoring it. Arguments submitted by organizations shall be signed by two executive officers of the organization, or if the argument is sponsored by a political committee, it must be signed by the committee's Chairman or Treasurer. All persons signing documents shall indicate their residence or post office address and a telephone number, which information shall not appear in the publicity pamphlet.~~

~~(5) No person or organization shall submit more than one argument for each proposition to be voted upon.~~

~~(6)~~ (B) Each argument supporting or opposing a proposition shall be accompanied by a deposit in an amount set by Council from time to time.