



Legislation Text

File #: 22-0975, Version: 1

City of Alexandria, Virginia

MEMORANDUM

DATE: MARCH 1, 2022

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: JAMES F. PARAJON, CITY MANAGER /s/
JOANNA C. ANDERSON, CITY ATTORNEY /s/

DOCKET TITLE:

Public Hearing, Second Reading and Final Passage of an ordinance to amend sections 2-1-4 (Compensation of members) and Section 2-1-10 (City Clerk Generally) of Article A (General Provisions) and Sections 2-1-41 (Regular meetings), Section 2-1-42 (Regular Meetings for public hearings) and Section 2-1-46 (Quorums) of Article B, all of Chapter 1 (The City Council) of Title 2 (General Government) of the Code of the City of Alexandria, Virginia, 1981, as amended to update City Council procedures and consideration of updates to City Council special regulations regarding council aides and council appointees. [ROLL-CALL VOTE]

ISSUE: Consideration of updates to City Council procedures and special regulations.

RECOMMENDATION: That City Council:

- 1) Hold the public hearing and adopt the ordinance shown in Attachment 1 on second reading and final passage on March 12, 2022 and after public hearing adopt the ordinance to amend certain sections of City Code Title 2, Chapter 1, Article A and B regarding certain City Council procedures; and
- 2) Adopt the changes to the Council Aide Special Regulation as shown in Attachment 2 and adopt a City Council Appointee Special Regulation as shown in Attachment 3.

BACKGROUND: The City Council governance and rules of procedure are set forth in City Code Title 2, Chapter 1 Articles A (General Provisions) and B (Rules of Procedure). In addition, City Council has adopted a resolution governing the procedures for its meetings, and a special regulation governing the administrative procedures for its aides. Most of the provisions in the City Code come directly from the City Charter and therefore, do not have much room for amendment without asking the General Assembly for changes to the City

Charter. However, in a few areas, the Charter does allow for some flexibility which can be implemented through the City Code and/or the City Council Resolution on Meeting Procedure (Resolution #2991). With the start of a new City Council session, we have been asked a few questions regarding these procedural documents which promoted a review of the documents and some suggested amendments. Lastly, City Council has not previously adopted a procedure policy for how it interacts with its appointees so we thought it may be helpful to memorialize the current practices in a City Council special regulation for future reference and use.

DISCUSSION:

City Council Procedures:

The recommended changes to the City Council Procedures in the City Code are as follows and are show in the proposed ordinance which is attached as Attachment 1:

1. 2-1-4 Compensation of members

It has come to our attention that there are some circumstances under which members of the City Council may be restricted from taking compensation for their service as a council member by their employment or other personal reasons. The city code currently reads that members *shall* take the compensation as outlined in the code. The City Charter leaves some flexibility for how members are compensated by allowing the council to set the rate of compensation by ordinance. Therefore, we suggest changing the language to say members *are allowed to* receive the compensation, rather than they shall. Note, the City Charter prohibits a council from increasing the rate of compensation for itself, it can only increase it to take effect for the next council. Since this change is not an increase of compensation, it can take effect upon adoption. City Council has also indicated it may want to review the compensation amount to take affect January 2025 for the next council session. Staff is reviewing this and will provide additional information to City Council in the coming months so that it can make an informed decision about whether the compensation amounts for council members should be increased.

2. 2-1-10 City Clerk, generally

The City Charter Section 3.06 governs the City Clerk's position and allows for this position to appoint or remove a Deputy City Clerk that has the same powers as the City Clerk in order that the Deputy may act for the Clerk if the Clerk is not available. The current city code indicates that the City Council will appoint or remove the deputy rather than the City Clerk. In practice today, the City Clerk, not the City Council appoints and removes the Deputy Clerk. Therefore, we recommend updating the City Code to be in line with the Charter and with current practice.

3. 2-1-41 Regular Meetings and 2-1-42 Regular meetings for public hearings

The current City Code is very specific about the date and time of City Council legislative and public hearing dates. The City Charter section 3.08 that requires City Council to meet is broad and indicates that the Council must meet at least once a month except it is not required to meet during the months of July and August. Over the years, the date and time of council meetings are sometimes changed based on schedules or other matters that may conflict with the scheduled date and time. Therefore, rather than having a provision in the City Code that is very prescriptive as to the exact date and time the council must meet, it would be better and more in line with the City Council's practice to set a standard time to meet in the City Council Resolution on Meeting Procedures, leaving some flexibility there for necessary schedule changes. Note, all meetings must comply with the legal noticing provisions so no meeting date City Council will be changed without complying with all required noticing provisions.

The proposed change to the city code would put it in line with the City Charter Section 3.08.

4. 2-1-46 Quorum

Section 2-1-46 requires that a majority of the members of City Council shall constitute a quorum for the transaction of business. The requirement that a majority of the members be present before business can be transacted is required by the City Charter Section 3.08 and is standard practice of public bodies. However, meetings may still take place without business being transacted. Pursuant to the Virginia Freedom of Information Act (FOIA) any gathering of 3 or more members of the City Council is considered a meeting, whether or not votes are taken. However, the City Code currently goes on to say that if there is not a quorum of the City Council, the Mayor must adjourn the meeting and reschedule it for another time. There have been times however, when three members of the body would like to start the meeting without transacting any business (ie, taking any votes). Therefore, we recommend deleting this language in order to accommodate a legally noticed meeting of less than a quorum where business is not transacted.

Council Aide Regulation

In 1974 the City Council adopted a special regulation policy document to establish a set of regulations for aides. The special regulation has been amended over the years with the most recent City Council amendment being in 2003.

The main amendment we propose to the City Council Aide regulation is to update the section of the policy regarding council aides who want to work on a City Council member's campaign. In 1995 the City Council asked the General Assembly to amend charter section 3.06.1 to indicate that an aide can work on the campaign of any member other than the one they are working for. The General Assembly decided instead at that time to just remove any reference in the charter to working on campaigns and to leave it silent to allow City Council to make its own decision. The City Attorney at that time advised that the silence still allowed City Council to adopt the policy that aides can work on the campaign for any member other than the one they work for. So that was included in the regulations for the council aides and has been there ever since. In 2000 the General Assembly adopted Code of Virginia § 15.2-1512.2 which prohibited localities from restricting *firefighters, EMTs, and law-enforcement officers of the locality* "from participating in political activities while these employees are off duty, out of uniform and not on the premises of their employment with the locality." And then amended it in 2009 to make it apply to *all employees of the locality*, not just firefighters, EMT's and law-enforcement officers. Now that there is a statute on point, and the charter was amended to be silent, the statute governs over the city charter and therefore applies to the City. Therefore, the City Council Aide regulation now needs to be updated to comply with this state law. The proposed change shown in Attachment 3 is to delete the current Section II.E. and replace it with the proposed language that is in line with the current state law to allow aides to work on campaigns but with certain limitations.

Additionally, we have reviewed the other provisions of the special regulation and propose some updates to address current practices as well as bring the language more in line with the City Charter and standard employment practices.

Council Appointee Regulation

City Council appoints a City Attorney, City Clerk, City Manager and Police Auditor. The appointment process and management approach for these appointees has not been memorialized in one place in the past. The City Code has some guidance and past practice has guided the City Council's approaches. We thought it

might be helpful to consolidate these practices into one document that summarizes the current council's approach and can be shared with future city councils to ensure consistency.

The special regulation addresses the appointment process, the annual evaluation process, and guidance regarding employees of appointees other than those of the City Manager who are subject to the Administrative Regulations.

FISCAL IMPACT: None

ATTACHMENTS:

- Attachment 1: Proposed Ordinance and Coversheet to amend the City Council procedures section of the City Code
- Attachment 2: Current City Council Procedural Resolution
- Attachment 3: Proposed Amended Special Regulation regarding Council Aides
- Attachment 4: Proposed Special Regulation regarding City Council Appointees

STAFF:

Gloria Sitton, City Clerk