

COUNCIL WORKSHOP ITEM

ITEM: An Ordinance Amending Council Rules and the Home Rule Policy of the Village Council
DATE: March 17, 2004
PREPARED BY: Enza Petrarca, Village Attorney
PURPOSE: To amend council rules and the home rule policy

DISCUSSION:

Attached is a proposed ordinance amending several Council Rules. I am recommending the following changes:

Add Rule 2 regarding meetings via electronic means.

Amend Rule 14 regarding procedures for abstaining.

Amend Rule 30 regarding minutes to reflect the actual procedures followed.

Amend Rule 32 to mirror State law and eliminate the requirement that four affirmative votes are needed to adopt any motion, resolution or ordinance.

Amend Rule 35 by adding that violating the confidentiality of executive session is a cause for censure.

Also attached are proposed amendments to the Village Council Policy regarding home rule powers. I have attempted to amend the policy to reflect the procedures actually in place. For example, I deleted the publication requirement and replaced it with a requirement that all home rule tax ordinances be workshopped. I am recommending limiting the application of this policy to only home rule tax ordinances as opposed to all home rule ordinances. Further, I am proposing eliminating the paragraph requiring that proposed home rule tax ordinances be taken to referendum if the proper petition is presented to the Village Clerk. This policy seems to be outdated and needs to be updated to reflect the current procedures.

ATTACHMENT:

An Ordinance Amending Chapter 2 – Council Rules
An Ordinance Amending the Home Rule Policy

RECOMMENDATION:

Place on March 23, 2004 Workshop Agenda

2\word\memo04\mangrchapter2

ORDINANCE NO. _____

AN ORDINANCE AMENDING COUNCIL RULES

BE IT ORDAINED by the Village Council of the Village of Downers Grove in DuPage County, Illinois, as follows: (Additions are indicated by shading/underline; deletions by ~~strikeout~~):

Section 1. That Section 2.5. is hereby amended to read as follows:

2.5. Council rules.

The following rules shall govern the deliberations and proceedings of all Council meetings:

Rule 1. Presiding officers. The Mayor shall preside at all meetings of the Council. During the temporary absence or disability of the Mayor, the Mayor pro tem shall act as presiding officer of the Council. In the event both the Mayor and the Mayor pro tem are absent, the Council shall elect one of its members Acting Mayor, who shall act as presiding officer of the Council. The presiding officer shall not make or second motions but shall vote on all questions and matters brought before the Council. The presiding officer shall preserve order and decorum, and may speak to points of order in preference to other members, and shall decide all questions of order subject to appeal. All questions relating to the priority of business at any meeting shall be decided by the presiding officer without debate, subject to appeal. In case of any disturbances or disorderly conduct, the presiding officer shall have the power to require the chamber to be cleared.

Rule 2. ~~Reserved~~ Meetings via electronic means. Any member of the Village Council may participate in a public meeting via electronic means, provided that a quorum is physically present, and in accordance with State law.

Rule 3. Commencement of meeting. Each meeting of the Council shall convene at the time appointed for such meeting, as provided by Section 2-1. The Clerk, or someone appointed to fill his place by the presiding officer, shall thereupon immediately call the roll of members. A quorum for the transaction of business shall consist of a majority of all the Council, including the Mayor, entitled by law to be elected. If no quorum is present, the Council shall not thereby stand adjourned, but the members present shall have authority to adjourn or recess the meeting to a day certain by majority vote of those members present.

Rule 4. Filing or receipt of documents.

(a) Where the Council determines that it is desirable or necessary that a document be permanently maintained in the office of the Village Clerk, it may direct that the document be placed "on file". Materials placed on file by the Village Council shall be maintained by the Village Clerk with the official records of the Village Council, in the permanent files of the Village.

(b) Where the Council determines that it is desirable or necessary that a document be temporarily held in the office of the Village Clerk, it may direct that the document be "received". Materials received by the Village Council shall not be considered records or documents of the Village, and shall be held by the Village Clerk for a period of sixty 60 days, or such other time as the Council may direct.

Rule 5. Consent Agenda.

(a) The Village Manager shall submit a consent agenda to be considered by the Village Council at each regularly scheduled Village Council meeting. Such consent agenda shall contain all matters, except ordinances, deemed by the Village Manager to be suitable and of a non-controversial nature. This is expected to include, but is not necessarily limited to approval of bids, bills payable, resolutions and miscellaneous motions as well as matters on which a preliminary vote or recommendation, awaiting the drafting of final documents, has been taken by the Council. The consent agenda may be adopted by a roll call vote and such roll call shall be recorded in the minutes of the Village Council as approving each item contained in said consent agenda. The motion to adopt the consent agenda shall be non-debatable.

Council Rules

(b) Any item may be removed from the consent agenda at the Council meeting by the request of any Council member in which case the item shall be considered separately.

(c) In the event one or more Council members wishes to receive further information regarding any individual item in a list of bills payable, said Council member shall immediately before the vote approval of the consent agenda so notify the Village Clerk who will make an appropriate reference in the minutes and such individual item shall be removed from the list of bills payable and the remainder of items approved as part of the Consent Agenda.

(d) The taking of a single vote on the consent agenda shall be deemed sufficient compliance with all requirements of law to all intents and purposes and with like effect as if the vote in each case had been taken separately by nays and ayes on the question of each ordinance, resolution and motion included on the consent agenda. In particular, but without limitation, such vote shall be deemed to have authorized the suspension of the rules, waiving of first reading and pass on second reading, waiving competitive bidding and awarding contracts, approving and adopting resolutions, as needed per items listed in the Consent Agenda.

(e) In the event one or more Council members wishes to be recorded as passing or voting against any item included in the consent agenda, said Council member shall immediately before the vote approval of the consent agenda so notify the Village Clerk who will make an appropriate reference in the minutes to so record such negative votes.

Rule 6. Order of business—~~Order of Business.~~ The Manager, or the Manager's designee shall prepare an agenda for each Council meeting. In the absence of a written agenda, the presiding officer of the meeting shall establish the order of business. The Village Clerk shall post or otherwise provide notice of the agenda as required under the Illinois Open Meetings Act.

Rule 7. Duties of members. While the presiding officer is putting the question, no Council member shall walk across or out of the Council chamber.

Every member, previous to speaking, making a motion, or seconding one, shall address the presiding officer by his/her last name preceded by the word "Mayor", and shall not proceed until recognized and named by the chair. Remarks shall be confined to the question under debate, avoiding personalities and refraining from impugning the motives of any other member's argument or vote.

When two or more members address the chair at the same time, the presiding officer shall name the member who is first to speak.

Rule 8. Visitors.

(a) Persons other than a member of the Council shall be permitted to address that body as follows:

- (1) With the consent of a majority of the members present.
- (2) During a public hearing. Provided comments and questions shall be limited to the purpose and scope of the public hearing.
- (3) During public comment or question portions of any meeting.

(b) Each person addressing the Council shall give his or her name and address in an audible tone of voice for the record, and unless further time is granted by the Council, shall limit his or her address to five (5) minutes.

(c) All remarks shall be addressed to the Council as a body and not to any member thereof.

(d) No person, other than the Council and the person having the floor, shall be permitted to enter into any discussion, either directly or through a member of the Council, without the permission of the presiding officer.

(e) No question shall be asked of a Council member except through the presiding officer.

Rule 9. Presentation of Communications. When a member wishes to present a communication or other matter to be placed on file, he shall send it to the Mayor, or at the Mayor's discretion, the Village Clerk, who shall either read such matter when reached in its proper order, or shall describe its content in a manner sufficient for it to be identified, prior to its being placed on file.

Rule 10. Debate. No member shall speak more than once on the same question, except by unanimous consent, and then not until every other member desiring to speak shall have had an opportunity to do so; provided, however, that the proponent of the matter under consideration shall have the right to open

and close debate. No member shall speak longer than ten (10) minutes at any one time, except by consent of the Council; and in closing debate on any question, as above provided, the speaker shall be limited to five (5) minutes, except by special consent of the Council.

While a member is speaking, no member shall hold any private discussion.

Rule 11. Call of member to order. A member, when called to order by the chair, shall thereupon discontinue speaking and take his seat, and the order or ruling of the chair shall be binding and conclusive, subject only to the right of appeal.

Rule 12. Appeals from decisions of the chair. Any member may appeal to the Council from a ruling of the chair and, if the appeal is seconded, the member making the appeal may briefly state his reason for the same, and the chair may briefly explain his ruling; but there shall be no debate on the appeal, and no other member shall participate in the discussion. The chair shall then put the question, "Shall the decision of the chair be sustained?" If a majority of the members present vote "No", the decision of the chair shall be overruled; otherwise, it shall be sustained.

Rule 13. Question of personal privilege. The right of a member to address the Council on a question of personal privilege shall be limited to cases in which his integrity, character, or motives are assailed, questioned, or impugned.

Rule 14. Voting. Every member of the Council who shall be present when a question is stated from the chair shall vote thereon, unless excused by the Council, or unless such member is personally interested in the question, in which case that member shall abstain. If a Council member is personally interested in the question, he/she shall disclose such interest and abstain from voting on the matter. The abstention shall count in the manner provided by law.

Rule 15. Special order of business. Any matter before the Council may be set down as a special order of business at a time certain, if a majority of the Council present vote in the affirmative, but not otherwise.

Rule 16. Seconding of motions required; written motions. No motion shall be put or debated in the Council unless it be seconded. When a motion is seconded, it shall be stated by the presiding officer before debate, and every motion in the Council, except motions of procedure, shall be reduced in writing, if required by a member, and the proposer of the motion shall be entitled to the floor.

Rule 17. Withdrawal of motions. After a motion or resolution is stated by the presiding officer, it shall be deemed to be in possession of the Council, but it may be withdrawn at any time before decision, by consent of the Council.

Rule 18. Division of questions. If any question under consideration contains several distinct propositions, the Council by majority vote of the members present may divide such question.

Rule 19. Record of motions. In all cases, the name of the member moving, and also the name of the member seconding, a motion, shall be entered in the minutes.

Rule 20. Taking and entering the votes. The "yeas" and "nays" or any "abstentions" upon any question shall be taken and entered in the minutes.

When the Clerk has commenced to call the roll of the Council for the taking of a vote by "yeas" and "nays" or any "abstentions", all debate on the question before the Council shall be deemed concluded, and during the taking of the vote, no member shall be permitted to explain his vote, but shall respond to the calling of his name by the Clerk by answering "yea" or "nay" or "abstain", as the case may be.

Rule 21. Announcement and change of votes. The result of all votes by "yeas", "nays", or "abstains" shall be announced by the Mayor, and no vote shall thereafter be changed.

Rule 22. Precedence of motions. When a question is under debate, the following motions shall be in order and shall have precedence over each other in order, as listed:

- (a) To adjourn to a day certain
- (b) To adjourn
- (c) To take a recess
- (d) To lay on the table
- (e) The previous question

Council Rules

- (f) To amend
- (g) To defer or postpone to a time certain
- (h) To defer or postpone (without reference to time)
- (i) To defer or postpone indefinitely

Paragraphs (b), (d), and (e) shall be decided without debate.

Rule 23. Motions to adjourn. A motion to adjourn the Council shall always be in order except:

- (1) When a member is in possession of the floor;
- (2) When the members are voting;
- (3) When adjournment was the last preceding motion; or
- (4) When it has been decided that the previous question shall be taken.

A motion simply to adjourn shall not be subject to amendment or debate, but a motion to adjourn to a time certain shall be.

The Council may at any time adjourn over one or more regular meetings, on a vote of a majority of all the Councilmen authorized by law to be elected.

Rule 24. Previous question. This is the motion used to cut off debate and to bring the group to an immediate vote on the pending motion (i.e. the motion on the floor that was stated last). When the previous question is moved on the main question, and seconded, it shall be put in this form:

"Shall the main question now be put?"

If such motion be carried by a majority vote, all further amendments and all further motions and debates shall be excluded, and the question put without delay, upon the pending amendments in proper order, and then upon the main question.

Rule 25. Motions to lay on the table and to take from the table. A motion simply to lay a question on the table shall not be debatable; but a motion to lay on the table and publish, or with any other condition, shall be subject to amendment and debate.

A motion to take any motion or other proposition from the table may be proposed at the same meeting at which such motion or proposition was laid upon the table, provided a majority of the Councilmen present vote therefor.

A motion to lay any particular motion or proposition on the table shall apply to that motion or proposition only. An amendment to the main question or other pending question may be laid on the table and neither the main question nor such other pending question shall be affected thereby.

Rule 26. Indefinite postponement; motion to defer or postpone, without any reference to time. When consideration of a motion or other proposition is postponed indefinitely, the effect is to reject the proposition. A motion to postpone indefinitely opens the main question to debate. If passed, a motion to postpone indefinitely may be reconsidered.

A motion to defer or postpone, without reference to time, shall not be construed as a motion to postpone indefinitely, but shall be considered to be of the same general nature, and to possess the same general attributes so far as applicable under these rules, as a motion to postpone definitely or to time certain.

Rule 27. Motion to amend. A motion to amend an amendment shall be in order, but one to amend an amendment to an amendment shall not be entertained.

An amendment modifying the intention of a motion shall be in order; but an amendment relating to a different subject, shall not be in order.

On an amendment to "strike out and insert", the paragraph to be amended shall first be read as it stands, then the words proposed to be stricken out, then those to be inserted, and finally the paragraph as it will stand if so amended shall be read.

Rule 28. Motion to substitute. A substitute for any original proposition under debate or for any pending amendment to such proposition may be entertained notwithstanding that at such time further amendment is admissible; and if accepted by the Council by vote, shall entirely supersede such original proposition or amendment, as the case may be, and cut off all amendments appertaining thereto.

Rule 29. Reconsideration. A vote or question may be reconsidered at any time during the same meeting, or at the first regular meeting held thereafter. A motion for reconsideration, having once been made

and decided in the negative, shall not be renewed, nor shall a motion to reconsider be reconsidered.

A motion to reconsider may be made and seconded only by members who voted on the prevailing side of the question to be reconsidered, unless otherwise provided by law; provided, however, that where a motion has received majority vote in the affirmative, but is declared lost solely on the ground that a greater number of affirmative votes is required by statute for the passage or adoption of such motion, then in such case a motion to reconsider may be made and seconded only by those who voted in the affirmative on such question to be reconsidered.

Rule 30. The minutes. The Clerk shall keep the minutes of the proceedings of the Council. Within no more than ~~seven~~fourteen (14) days after each meeting of the Council, the Clerk shall supply each member ~~at his residence~~ a typewritten, ~~or~~ printed copy or electronic copy of the proceedings.

Rule 31. Style of ordinances. The style of all ordinances shall be: "BE IT ORDAINED by the Council of the Village of Downers Grove, DuPage County, Illinois..."

Rule 32. "Yea" and "nay" vote Vote Required. ~~The yeas, nays and abstentions shall be taken upon the passage of all ordinances for whatever purpose, and of any resolution or motion and on all propositions (i) to create any liability against the Village; or (ii) for the expenditure or appropriation of its money shall require the concurrence of a majority of all members then holding office on the Village Council, unless otherwise expressly provided by State law or Village Ordinance, and in all other cases at the request of any member of the Council;~~ and such vote shall be entered on the journal of the proceedings.

~~— The Mayor and each Commissioner shall have the right to vote on all questions coming before the Council. Four members of the Council shall constitute a quorum. Except when a greater number is mandated by law, the affirmative vote of 4 members shall be necessary to adopt any motion, resolution or ordinance.~~

Rule 33. Adoption of Robert's Rules of Order Revised". The rules of parliamentary practice comprised in the latest published edition of Robert's Rules of Order Revised, shall govern the Council in all cases to which they are applicable, and in which they are not inconsistent with the special rules of this Council.

Rule 34. Temporary suspension of rules; amendments of rules. These rules may be temporarily suspended by a majority vote of all members of the Council entitled by law to be elected, and shall not be repealed, altered or amended, unless by concurrence of a majority of the Councilmen entitled by law to be elected.

Rule 35. Censure of members; expulsion of members. Any member acting or appearing in a lewd or disgraceful manner, or who uses abusive, obscene or insulting language to or about any member of the Council, or who does not obey the order of the chair, or who disregards the confidentiality of matters discussed in executive session, may be, on motion, censured by a majority vote of the members present, or expelled by a ~~four-fifths~~three-fourths vote of all members elected.

Rule 36. Personal announcements. A member shall not address the Council with regard to his or another person's candidacy for election or re-election to any public office, events sponsored by organizations other than the Village or other matters not related to the business of the Village, except as such matters may concern mayoral proclamations properly before the Council.

Rule 37. Reading. Each resolution or ordinance shall be reduced to writing and its contents summarized by the Mayor, or such other official as the ~~m~~Mayor may from time to time designate, before a vote is taken thereon. At any time prior to a final vote thereon, including such time as when a matter is scheduled for formal consideration, the Council, by a majority vote of its members present, may direct the Village Clerk to read aloud the complete text, or such portion thereof as the Council may instruct, of any resolution or ordinance. Proposed resolutions and ordinances shall be submitted to the Village Council for a first reading at a public meeting, including any regular, workshop or special meeting, not less than five (5) days before the meeting at which final action is to be taken thereon. Thereafter, such proposed resolutions or ordinances may be amended without further opportunity for public inspection but all such amendments shall be noted at the time of formal action on such resolutions or ordinances. Provided, the Village Council may, for such reasons as the Council determines appropriate, waive this reading requirement by majority vote of

those present, and any vote to approve such item shall be deemed to include a motion to waive first reading.

Rule 38. Validity of enactments. The validity and enforceability of any ordinance, resolution or motion which is otherwise adopted in accordance with applicable law shall not be impaired or affected by any violation of any provision of ~~this~~these rules. (Ord. No. 1024; Ord. No. 1491, § 1; Ord. No. 2261, § 8; Ord. No. 2339, § 2; Ord. No. 2715, § 1; Ord. No. 2920, § 1; Ord. No. 3266, § 4.)

Section 2. That Section 2.53.1. is hereby amended to read as follows:

2.53.1. Removal of members to boards and commissions.

(a) Members of any board or commission serve at the pleasure of the appointing authority and may be removed as provided in this section.

(b) Where removal from a board or commission is governed by statute, such statute shall control.

(c) The Mayor shall have the authority to remove any member of a board or commission where such member is appointed by the Mayor, or appointed by the Mayor with the concurrence of the Village Council, or appointed jointly by the Mayor and Village Manager.

(d) The Village Council, by a vote of not less than ~~three~~four (4) members, shall have the authority to remove any member of a board or commission where such member is appointed by the Village Council.

(e) The Village Manager shall have the authority to remove any member of a board or commission where such member is either appointed by the Village Manager, or appointed by the Village Manager with the concurrence of the Village Council.

Section #3. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section #4. That this ordinance shall be in full force and effect from and after its passage and publication in the manner provided by law.

Mayor

Passed:

Published:

Attest: _____

Village Clerk

VILLAGE COUNCIL POLICY

VILLAGE OF DOWNERS GROVE, ILLINOIS

SUBJECT: Home Rule Powers

ISSUED BY: Village Council **Effective Date:** ~~October 30, 1995~~

THIS IS A New Policy or Procedure

X Supersedes Previous Policy Dated 7/26/71, 1/5/81, 10/30/95

Relating to Home Rule

~~RESOLUTION ORDINANCE~~ NO. ~~95-53~~

**~~AN RESOLUTION ORDINANCE~~ AMENDING THE
**VILLAGE COUNCIL POLICY REGARDING
THE EXERCISE OF HOME RULE POWERS****

WHEREAS, Article VII of the Constitution of the State of Illinois of 1970 (the "Constitution") became effective on July 1, 1971, and Section 6(a) of said Article provides that, except as limited by said Section 6, a home rule unit (as therein defined) may exercise any power and perform any function pertaining to its government and affairs, including but not limited to the power to regulate for the protection of the public health, safety, morals and welfare; to license; to tax; and to incur debt; and

WHEREAS, upon the effectiveness of the Constitution the Village of Downers Grove became, automatically and without further action of any kind, a home rule unit within the meaning of said Article; and

WHEREAS, the Council of the Village of Downers Grove believes that the Council should exercise the special home rule unit powers and functions under the Constitution with due care and caution, and with a view to the long-range effects that such exercise may have upon the Village and its residents, and for such reasons believes it necessary and desirable to adopt policy guidelines for the exercise of such special home rule unit powers; and,

WHEREAS, the Village Council has previously adopted Resolutions 71-81, ~~and 81-1, and 95-53~~ setting forth a policy regarding the exercise of home rule powers (the "Home Rule Policy"); and,

WHEREAS, The Village Council has determined that this Home Rule Policy should be amended.

NOW, THEREFORE, BE IT ~~RESOLVED by~~**ORDAINED by** the Council of the Village of Downers Grove, DuPage County, Illinois, as follows:

1. Prior to adoption of an ordinance imposing a tax on any person or property in the Village that is not authorized under the provisions of the Illinois Municipal Code (Illinois Compiled Statutes, Chapter 65) for municipalities that are not home rule units, the Village Council will cause a summary of the proposed ordinance to be published in a newspaper having general circulation in the Village placed on a Workshop Agenda. Copies of the proposed ordinance shall be made available for public distribution inspection at the Downers Grove Library, and Village Hall and on the Internet. Finally, the pendency of such proposed ordinance will be announced in at least two meetings of the Village Council: Finally, the proposed ordinance will not be placed on an active agenda for adoption until at least two weeks after the Workshop meeting.

~~2. Prior to adoption of any ordinance imposing a tax on any person or property in the Village that is not authorized under the provisions of the Illinois Municipal Code for municipalities that are not home rule units, the Village Council will follow the following procedures:~~

(a) A statement setting forth the intended use of the additional revenue to be derived from such tax will be prepared and published made available for inspection along with the publication of the summary of the proposed ordinance, in accordance with referred to in paragraph 1 above.

(b) A public hearing will be held with respect to the proposed ordinance to be presided over by the Mayor or the Mayor Pro-Tem, or by some other person designated for such purpose by the Mayor, at which any person interested in the subject matter of such proposed ordinance may appear, in person or by attorney, and submit statements and documentary evidence to the person conducting such hearing. Notice of the time and place of such public hearing will be published at least once, seven days or more prior to the date of such hearing, in a newspaper having general circulation in the Village.

~~(c) The Village Council will consider the minutes of the public hearing, as well as the written statements submitted as part thereof. If, prior to a vote on adoption of the ordinance petitions opposing such proposed ordinance are filed with the Village Clerk containing signatures of eligible voters in the Village equal to 10% or more of the total votes cast for the office of Mayor at the last preceding election of Mayor, it will be the policy of the Village Council to hold an advisory referendum on such proposed ordinance. If the majority of the persons voting at such referendum are opposed to such proposed ordinance, it will be the policy of the Village Council not to adopt such ordinance.~~

32. The interpretation and application of this ~~Resolution Ordinance~~ shall be within the sole discretion of the Village Council which decision shall be final. Notwithstanding anything to the contrary in the foregoing provisions of this ~~Resolution Ordinance~~, any ordinance or resolution hereafter adopted by action of the Village Council shall not be invalidated, impaired or affected in any way by non-compliance or alleged non-compliance with any one or more provisions of this ~~Resolution Ordinance~~.

43. Any and all resolutions and ordinances in conflict with the provisions of this ~~Resolution Ordinance~~, and in particular Resolutions 71-81, ~~and 81-1; and 95-53~~ are hereby repealed.

54. The provisions of this ~~Resolution Ordinance~~ shall be come effective immediately upon its passage and approval.

Mayor

Passed:

Published:

Attest:

Village Clerk

I:\m w\ord.04\homerule