



City of Petersburg Virginia

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January 3, 2023 - Organizational Meeting

January 3, 2023
Petersburg Public Library
201 West Washington Street
Petersburg, VA 23803
3:00 PM

City Council

Samuel Parham, Mayor – Ward 3
Annette Smith-Lee, Vice Mayor – Ward 6
Marlow Jones, Councilor – Ward 1
Darrin Hill, Councilor – Ward 2
Charlie Cuthbert, Councilor – Ward 4
W. Howard Myers, Councilor – Ward 5
Arnold Westbrook, Jr., Councilor – Ward 7

City Manager

John March Altman, Jr.

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1. **Call to Order**
 2. **Roll Call**
 3. **Business or reports for/from the Mayor and other Members of City Council**
 - a. Nominations and appointment of Mayor
 - b. Nominations and appointment of Vice Mayor
 - c. Discussion and consideration of the Rules of Council.
 - d. Consideration of a resolution to amend the Rules of Council and add Conflict of Interest.
 4. **Closed Session**
 - a. Closed Session Items:

The purpose of this meeting is to convene in the closed session pursuant to:

 1. §2.2-3711(A)(7) and (8) of the Code of Virginia for the purpose of receiving legal advice and status update from the City Attorney and legal consultation regarding the subject of specific legal matters requiring the provision of legal advice by the city attorney, as of actual or probable litigation, specifically including but not limited to the requirements of Code of Virginia Title 58.1, Subtitle IV, Chapter 41, Article 1 through 11; and Petersburg Circuit Court Case Number CL22-787; and under subsection §2.2-3711(A)(29) of the Code of Virginia for the purpose of discussion regarding the subject matter of a public contract involving the expenditure of funds and terms or scope of such contract, where discussion in an open session would adversely affect the bargaining or negotiating strategy of the public body, specifically including but not limited to the discussion of the award and terms of a public contract; and under subsection §2.2-3711(A)(1) of the Code of Virginia for the purpose of discussion pertaining to performance, assignment, and appointment of a specific public officer of the City of Petersburg.
 5. **Adjournment**



City of Petersburg

Ordinance, Resolution, and Agenda Request

DATE: January 3, 2023
TO: The Honorable Mayor and Members of City Council
THROUGH: March Altman, Jr., City Manager
FROM: Nykesha Lucas
RE: Discussion and consideration of the Rules of Council.

PURPOSE: To review and make changes to Rules of Council.

REASON: To review and make changes to Rules of Council.

RECOMMENDATION: To approve by resolution after changes have been made, if any.

BACKGROUND: See attached Rules of Council.

COST TO CITY: N/A

BUDGETED ITEM: N/A

REVENUE TO CITY: N/A

CITY COUNCIL HEARING DATE: 1/3/2023

CONSIDERATION BY OTHER GOVERNMENT ENTITIES: N/A

AFFECTED AGENCIES: N/A

RELATIONSHIP TO EXISTING ORDINANCE OR RESOLUTION: N/A

REQUIRED CHANGES TO WORK PROGRAMS: N/A

ATTACHMENTS:

1. 22-R-01

A RESOLUTION ADOPTING THE RULES OF COUNCIL

RULE I. – MEETINGS

Section 1. Regular Meetings. Except as set forth in Section 8 of Rule I, Council shall hold regular meetings on the first and third Tuesdays of each month. Regular meetings shall be comprised of Council “Work Sessions” and Council “Business Meetings.” Work Sessions shall be held for the purpose of allowing council to receive information on proposals and other items of city business. No formal action of council shall occur at a Work Session. Work Sessions will be held on the first Tuesday of each month at a time and location properly noticed by the Clerk of Council in accordance with the rules. Business Meetings shall be held on the third Tuesday of each month at a time and location properly noticed by the Clerk of Council in accordance with these rules.

“Formal Action of Council” shall mean the adoption by council of any resolution or ordinance, or the approval of any motion other than procedural motions for the purpose of conducting the meeting. Formal action of council shall not include first readings, schedule public hearings, directions to appointees to have items researched directly or by their staff, direction to prepare future agenda items, and other such requests or direction to Council-appointed personnel.

Section 2. Special Meetings. Special meetings of Council shall be held when called by the mayor or requested by two or more Council Members. The call or request shall be made to the Clerk and shall specify the matters to be considered at the special meeting. Upon receipt of such call or request the Clerk, after consultation with the mayor, shall immediately notify each Council Member and the City Attorney in writing. Such notice shall specify the matters to be considered at the special meeting. Only matters specified in the notice shall be considered at such meeting, unless all Council Members are present. The notice may be waived if all Council Members attend the special meeting or sign a waiver.

Section 3. Organizational Meeting. In January of every year, Council will hold an organizational meeting prior to the first regularly scheduled public meeting. The purpose of the organizational meeting will be to adopt the rules. In odd-numbered years, Council will elect a Mayor and Vice Mayor. At least three days prior to the Organizational Meeting, Members of Council and/or City staff shall provide draft copies of any proposed changes to these Rules to all Members of Council, the City Manager, the City Attorney, and the Clerk of Council, which draft changes shall be made available to the public upon receipt by the Clerk in conjunction with the council agenda for the Organizational Meeting. Any changes not submitted in accordance with this Section shall not be considered by council.

Section 4. Quorum. A majority of Council shall constitute a quorum for the transaction of business, unless otherwise required by law or ordinance.

Section 5. Adjournment. If a quorum of Council fails to attend any meeting, whether regular or special, the presiding officer may adjourn the meeting to some later date and notice of such adjournment shall be given to each Council Member by the Clerk. The Clerk shall enter such adjournment on the journal.

Section 6. Presiding Officer. All meetings of Council shall be presided over by the Mayor, or, in the Mayor's absence, by the Vice Mayor, or, in the absence of both, by some other Council Member to be designated by Council and entered of record on the journal. As used in these Rules of Council, the term "presiding officer" refers to the Mayor, or in the Mayor's absence, the Vice Mayor, or, in the absence of both, the Council Member designated by Council and entered of record on the journal.

Section 7. Length of Meetings. No meeting shall extend after the hour of 10:00 p.m. unless Council by an affirmative vote of the majority of Council Members present extends the length of the meeting. The Council Member so moving to extend the length of the meeting shall include in his or her motion the matters appearing on the docket for that meeting to be considered after the hour of 10:00 p.m.

Section 8. Meeting Schedule. No regular meetings of Council will be held during the month of August of each year. Also, there shall be only one regular meeting in the month of December, and it shall be held on the second Tuesday of that month, unless otherwise scheduled by Council. If a regularly scheduled meeting shall fall on a holiday or the day of a general election, this meeting shall be held, instead, on the next Tuesday.

Section 9. Start Time of Meetings. All meetings of Council shall be beginning at 4:00 p.m. with a closed session with the regular meeting beginning at 5:00 p.m., unless a majority of Council Members vote to schedule it at a different time or unless a majority of Council Members inform the Clerk otherwise in writing. Required legal notice shall be given of such change.

Section 10. Place of Meetings. All meetings of Council shall be held in the Union Train Station or Petersburg Public Library unless a majority of Council Members vote to schedule it elsewhere or unless a majority of Council Members inform the Clerk otherwise in writing. Required legal notice shall be given of each change.

Section 11. Virginia Freedom of Information Act. Council whole-heartily concurs with the General Assembly of Virginia that the affairs of government are not intended to be conducted in an atmosphere of secrecy since at all times the public is the beneficiary of all action taken by its own government. Therefore, Council shall conduct its business in a way that promotes increased awareness, by all citizens, of Council's activities and affords every opportunity for citizens to witness the operations of Council except as authorized by the Virginia Freedom of Information Act, Virginia Code § 2.2-3700 et seq. Accordingly in addition to those notice and meeting requirements established by law, Council shall give no less than three (3) business days' prior notice of all special and emergency meetings unless a majority of Council Members inform the Clerk otherwise in writing and all such meetings shall take place at the time and place indicated in Sections 9 and 10 of Rule I. Notwithstanding the foregoing, actions taken at meetings, where a

quorum is present and in compliance with other minimum requirements of law, shall not be invalidated by any departure from this Section 11 of Rule I.

Section 12. Cancellation or Rescheduling of Meetings. Once the Clerk has notified the public of a meeting of Council, the meeting shall be held as noticed unless a majority of Council Members ask the Clerk in writing to cancel or re-schedule the meeting.

Section 13. Roundtable Format. The presiding officer may request that any regular or special meetings of Council be conducted in a roundtable format to create an environment that facilitates thorough and productive discussion. Council Members and the Clerk shall assist in adjusting the set-up of the meeting room to create the roundtable format.

RULE II – CLERK AND RECORDS

Section 1. Clerk of Council. Council shall elect a Clerk who shall keep a neat and accurate journal of Council proceedings and shall be the custodian thereof. After the minutes are read and approved, they shall be signed by the presiding officer.

Section 2. Docket. The Clerk shall prepare and present at each sitting of Council a docket of all matters requiring the attention of Council. The docket of all regular meetings shall be provided to all Council Members no later than five (5) days before Council is scheduled to meet.

Section 3. Form of Ordinances. Council shall comply with Virginia Code § 15.2-1426, which states that:

The object of every ordinance, except an ordinance approving a budget and annual appropriation ordinance or an ordinance which codifies ordinances, shall be clearly expressed in its title. All ordinances which repeal or amend existing ordinances shall identify by title the section to be repealed or amended.

Council shall comply with Virginia Code § 15.2-1427(B), which states that:

On final vote on any ordinance or resolution, the name of each member of the governing body voting and how he voted shall be recorded...[t]he governing body may adopt an ordinance or resolution by a recorded voice vote unless otherwise provided by law, or any member calls for a roll call vote.

Section 4. Records of Meetings. Except as provided herein, all meetings, whether open or closed, shall be recorded electronically. The electronic recording shall be produced and maintained by the Clerk; provided, that if a recording is not possible, detailed minutes of the meetings shall be kept by the Clerk. The Clerk shall maintain accurate and up-to-date Council records, including the journal described in Section 1 of Rule II, and shall make such records available to the public. Copies of the records shall be provided to the public or any requester at his or her expense. A copy of the minutes shall be made available to the public or requester no more than seven (7) business days after the meeting. A copy of the full record, including any recording or transcript, shall be

made available no later than seven (7) business days after the meeting. This Section 4 of Rule II shall not apply to administrative meetings, breakfast meetings, open discussions, or other gathering of Council when no official action is expected to take place; provided, that no official action may be taken at such meetings.

Section 5. Notice of Ceremonial Proclamations. Each ceremonial proclamation shall be circulated and filed by 12:00 p.m. on the business day before the meeting at which it is to be considered.

RULE III. - ORDINANCES AND AMENDMENTS

Section 1. Introduction of Ordinances. Every ordinance shall be read by its title when presented. No ordinance shall be amended, suspended, or repealed except by ordinance regularly introduced and passed, nor shall any section of any ordinance be amended unless the whole section shall be reordained. No ordinance shall be considered at the meeting at which it is introduced if objection thereto be made by four (4) Council Members.

Section 2. Recording Ordinances. All enacted and adopted ordinances and resolutions shall be recorded in a book to be kept for that purpose and shall be attested by the Clerk as having been enacted or adopted by Council. They shall then be signed by the Mayor.

Section 3. Approval Requirements for Certain Ordinances and Resolutions. No ordinance or resolution appropriating money exceeding the sum of One Hundred Dollars (\$100.00), imposing taxes, or authorizing the borrowing of money, shall be passed except by a recorded affirmative vote of a majority of Council Members. No ordinance appropriating money exceeding the sum of One Thousand Dollars (\$1,000), imposing taxes or authorizing the borrowing of money shall pass on the date of its introduction. The vote on such ordinance or resolution shall be taken by "ayes" and "nays" and shall be entered on the journal, and the affirmative vote of a majority of Council Members shall be necessary for its passage. No ordinance or resolution amending or changing the rate of license fees or taxes imposed by the City of Petersburg shall pass on the day of its introduction.

Section 4. Public Hearings. The presiding officer shall provide an opportunity for the public to be heard on each ordinance or resolution considered by Council. Where specific procedures for public hearing are established by law, such procedures shall be followed. In all other instances, public comment will be heard after a motion for adoption of the ordinance or resolution has been accepted by the presiding officer and prior to discussion by Council. Once Council has started discussing the motion, no further input from the public will be accepted.

RULE IV. - RECONSIDERATION

No question decided by Council shall be again brought forward at any subsequent meeting during the period of thirty (30) days thence ensuing, unless there is a motion to reconsider it before Council adjourns. No such motion to reconsider shall be entertained unless it is made by a Council Member voting with the prevailing side at that meeting.

RULE V – ORDER OF BUSINESS

Section 1a. Order of Business. Unless otherwise provided in accordance with Section 4 of Rule VI, at every regular meeting of Council, the order of business shall be as follows:

1. Roll Call
2. Prayer
3. Pledge of Allegiance
4. Determination of the Presence of a Quorum
5. Proclamations / Recognitions / Presentation of Ceremonial Proclamations
6. Responses to Previous Public Information Posted
7. Approval of Consent Agenda (to include minutes of previous meeting)
8. Official Public Hearings
9. Public Information Period
10. Business or Reports from Mayor or Council Members
11. Items Removed from Consent Agenda
12. Unfinished Business
13. New Business
14. City Manager's Agenda
15. Business or Reports from the Clerk
16. Business or Reports from the City Attorney
17. Adjournment

Section 1b. Order of Work Session. Unless otherwise provided in accordance with Section 4 of Rule VI, at every work session of Council, the order of business shall be as follows:

1. Roll Call
2. Prayer

3. Pledge of Allegiance
4. Determination of the Presence of a Quorum
5. Approval of Consent Agenda (to include minutes of previous meeting)
6. Special Reports
7. Monthly Reports
8. Finance and Budget Report
9. Capital Projects Update
10. Utilities
11. Streets
12. Facilities
13. Economic Development
14. City Manager's Agenda
15. Business or Reports from the Clerk
16. Business or Reports from the City Attorney
17. Public Comments
18. Adjournment

Section 2. Closed Meetings.

- A. Council may hold closed meetings only for the purposes set forth in Virginia Code § 2.2-3711. No closed meeting shall be held unless Council has taken an affirmative recorded vote in an open meeting approving a motion that (i) identifies the subject matter, (ii) states the purpose of the meeting and (iii) makes specific reference to the applicable exemption from open meeting requirements provided in Virginia Code § 2.2-3707 or Virginia Code § 2.2-3711(A). The matters contained in such motion shall be set forth in detail in the minutes of the open meeting. A general reference to the provisions of the Virginia Freedom of Information Act, the authorized exemptions from open meeting requirements, or the subject matter of the closed meeting shall not be sufficient to satisfy the requirements for holding a closed meeting.

- B. Council shall restrict its discussion during the closed meeting only to those matters specifically exempted from the provisions of the Virginia Freedom of Information Act and identified in the motion required by Virginia Code § 2.2-3711(A).
- C. At the conclusion of any closed meeting, Council shall immediately reconvene in an open meeting and shall take a roll call or other recorded vote to be included in the minutes of Council, certifying that to the best of each Council Member's knowledge (i) only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the meeting by Council. Any Council Member who believes that there was a departure from the requirements of clauses (i) and (ii), shall so state prior to the vote, indicating the substance of the departure that, in his or her judgment, has taken place. The statement shall be recorded in the minutes of Council. Failure of the certification required above to receive the affirmative vote of a majority of Council Members present during a meeting shall not affect the validity or confidentiality of such meeting with respect to matters considered therein in compliance with the provisions of the Virginia Freedom of Information Act. The recorded vote and any statement made in connection therewith, shall upon proper authentication, constitute evidence in any proceeding brought to enforce the provisions of the Virginia Freedom of Information Act.
- D. Council may permit non-members to attend a closed meeting if such persons are deemed necessary or if their presence will reasonably aid Council in its consideration of a topic that is a subject of the meeting.
- E. To the extent legally permissible, a Council Member shall be permitted to attend and observe a closed meeting held by any Council Appointed Board or Commission in accordance with §2.2-3712(G) of the Code of Virginia.
- F. Except as specifically authorized by law, in no event may Council take action on matters discussed in any closed meeting, except at an open meeting for which notice was given as required by Virginia Code § 2.2-3707.
- G. The Clerk shall attend all closed meetings of Council. Minutes may be taken during closed meetings of Council but shall not be required. Such minutes shall not be subject to mandatory public disclosure.

Section 3. Consent Agenda. The Clerk, with the approval of the presiding officer, is authorized to prepare a consent agenda for routine, non-controversial matters. The purpose of the consent agenda is to provide a method for the expeditious handling of items which, in the opinion of the Clerk and the presiding officer, will not require discussion and will be approved unanimously by Council. Prior to the consideration of a motion to approve the consent agenda, the presiding officer shall ask if any Council Member would like to have an item removed from the consent agenda for discussion, for further information, or to have a separate vote on that item.

There may be a short discussion of consent agenda items to answer any questions or clarify a matter. There shall be no lengthy debate or discussion of a consent agenda item. Matters shall be removed from the consent agenda and placed on the regular docket for debate at the request of any Council Member, with the approval of the patron, or the presiding officer. In the discretion of the presiding officer, any item on the docket may be called out of the order as listed thereon. The consent agenda shall be introduced by a motion to approve and shall be considered by Council as a single item. The consent agenda shall include, by way of illustration but not limitation, the following:

- A. Approval of minutes.
- B. Routine ordinances or resolutions.
- C. Final/second readings of appropriations, ordinances or resolutions which received unanimous approval upon introduction at a previous meeting; and
- D. Any item believed by the Clerk to be routine and non-controversial in nature.

Section 4. Public Information Period. A public information period, limited in time to thirty (30) minutes, shall be part of the Order of Business at each regular meeting of Council. Each speaker shall be a resident or business owner of the City of Petersburg and shall be limited to three (3) minutes. No speaker will be permitted to speak on any item scheduled for consideration on the regular docket of the meeting at which the speaker is to speak. The order of speakers, limited by the 30-minute time period, shall be determined as follows:

- A. First, in chronological order of their notice, persons who have notified the Clerk no later than 12:00 p.m. on the day of the meeting, and
- B. Second, in chronological order of their sign up, persons who have signed a sign-up sheet placed by the Clerk in the rear of the meeting room prior to the meeting.

The sign-up sheet will be retrieved by the Clerk two (2) minutes prior to the commencement of the meeting. Only those persons who have notified the Clerk prior to the meeting in accordance with (A) above, or whose names appear on the sign-up sheet in accordance with (B) above, will be eligible to speak. In the event that more than ten (10) people so qualify to speak, Council, by majority vote, may increase the 30-minute period or decrease the three (3) minutes otherwise allotted to each person to speak. Any matter brought before the attention of Council during a public information period shall not be acted upon by Council at that meeting.

Section 5. Business and Reports from Council Members. Each Council Member shall have five (5) minutes to present to Council a business update and report from his or her ward. Information provided during these reports shall be limited to events occurring in the respective member's ward/city and shall not include the proposal and presentation of any new action items by members of council.

Section 6. Decorum of Council Members. Council Members shall refrain from private discourse or other acts tending to distract the attention of Council from the business before it. In debate, a Council Member shall confine remarks to the pending question and avoid use of personalities. It is not the person but the measure that is the subject of debate, and it is not allowable to question or impugn the motives of a Council Member, but the nature or consequences of a measure may be condemned in strong terms.

Section 7. Decorum of Members of the Public. Persons appearing before Council will not be allowed to:

- A. Campaign for public office;
- B. Promote private business ventures;
- C. Use profanity or loud, vulgar, threatening or abusive language or gestures;
- D. Use language which insults or demeans any person or which, when directed at a public official or employee is not related to his or her official duties; however, citizens have the right to comment on the performance, conduct and qualifications of public figures;
- E. Commit any act or disruptive behavior tending to impede or distract the attention of Council from the business before it, including interrupting other speakers, applauding, cheering or jeering;
- F. Make non-germane or frivolous statements; or
- G. Address Council on issues that do not concern the services, policies, or affairs of the City of Petersburg.

The presiding officer shall preserve order and decorum at Council meetings. If the presiding officer determines that the removal of a person other than a Council Member is necessary to maintain order, after warning the person, the presiding officer may order the removal of the person. Unless permitted by the presiding officer, no person may enter the area designated as the dais of the Chamber during an official meeting of Council. No person, except a Council Member or staff, shall be allowed in the anterooms of the Chamber during the course of any hearing or other proceeding of Council, except upon invitation of the presiding officer.

No attention-seeking devices of any kind or nature shall be carried or placed within Council hearing or meeting rooms, with the following exceptions:

1. Articles of clothing and items attached thereto (such as buttons).
2. Signs, placards, posters, and the like, provided that they are not attached to sticks.

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No demonstrations are permitted in any area in which a Council proceeding, or a public hearing is being conducted. This prohibition shall not apply to armbands, emblems, badges, or other articles worn on the personal clothing of individuals; provided, that such armbands, badges, or emblems are of such a size and nature as not to interfere with the vision or hearing of other persons at a meeting and do not extend from the body as may cause injury to another. Any person who violates the provisions of this section or who willfully interrupts or disturbs Council proceedings, after a warning to desist, may be removed from the premises. Models, photographs, maps, charts, drawings, and other such demonstrative materials intended for use in a presentation by a specific person in testimony before Council shall be permitted without objection.

RULE VI – RULES OF PROCEDURE FOR COUNCIL MEETINGS

Section 1. Robert's Rules of Order. The rules of parliamentary procedure set forth in the current edition of Robert's Rules of Order shall govern the conduct of meetings of Council, except where otherwise specified by these Rules of Council or otherwise mandated. The City Attorney shall serve as the parliamentarian for the purpose of advising Council when an interpretation on parliamentary procedures is required.

Section 2. Priority in Speaking. When two or more Council Members wish to speak at the same time, the presiding officer shall name the one to speak.

Section 3. Comments and Queries. Council Members are to observe the following rules during the discussion of agenda items:

A. The presiding officer shall keep discussion germane to the subject. Points of clarification shall be limited to questions only. The presiding officer shall rule other comments out of order.

B. Council Members may address questions to the City Manager or staff present at the meeting in accordance with the procedures and time limits set forth in Section 5 of Rule VI. Staff members should be at a microphone when answering Council Members' questions. All legal questions should be addressed to the City Attorney.

Section 4. Action by Council; Proceeding Out of Order. Items of business will be considered and dealt with one at a time, and a new proposal may not be put forth until action on the preceding one has been concluded. The presiding officer, without objection, or upon the vote of a majority of the Council Members present and voting, may proceed on any item of business out of order.

Section 5. Rules of Discussion and Debate.

A. **Obtaining the Floor.** A Council Member who wishes to speak, give notice, make a motion, submit a report, or obtain the floor for any other purpose, shall address, and be recognized by the presiding officer before addressing Council.

B. **Time Limits.** No Council Member may be recognized more than once to debate or make a motion relating to a pending matter until all Council Members who wish to

speaking have been recognized. A Council Member may speak no more than three (3) minutes during the first round of debate on a pending matter, and no more than two (2) minutes during a subsequent round. A Council Member may yield all or part of his or her time provided by this section to another Council Member. The presiding officer may in his or her discretion modify time limitations with respect to specific matters scheduled for debate.

- C. Personal Privilege. Any Council Member, as a matter of personal privilege, may speak no more than ten (10) minutes under new business concerning a matter outside of a meeting that may affect Council collectively, its rights, its dignity, or the integrity of its proceedings, or the rights, reputation, or conduct of its Council Members in their representative capacities only.
- D. Point of Order. A point of order is made when a Council Member raises the question to the presiding officer, and seeks a determination by the presiding officer, as to whether there has been a breach of order or Rule. A point of order is not debatable unless the presiding officer permits debate. If the presiding officer permits debate on a point of order, the presiding officer may limit debate.
- E. Appeal. An appeal may be taken from any decision of the presiding officer. A Council Member shall state the basis for appealing a decision, to which the presiding officer may respond. An appeal from a decision of the presiding officer must be made promptly and before other business has intervened. A majority or tie vote of the Council Members present and voting on the question (whether the decision of the presiding officer shall be sustained) sustains the decision. An appeal is not debatable; provided, that the presiding officer may explain the basis for the presiding officer's decision.
- F. Parliamentary Inquiry. A parliamentary inquiry is made when a Council Member raises a question to the presiding officer seeking information about the procedure or business before Council. The presiding officer shall direct the question to the City Attorney. A parliamentary inquiry is not debatable or appealable.
- G. Recognition of Non-Members. The presiding officer may recognize a person who is not a Council Member if the participation of the person would, in the judgment of the presiding officer, enhance the understanding of the matter under consideration by Council. Such person shall be permitted to speak no more than three (3) minutes during the debate on the matter under consideration.
- H. Ceremonial Proclamations. A ceremonial proclamation that has been adopted by Council may be presented during a meeting by the Council Member who introduced the resolution, or another Council Member designated by the Council Member who introduced the resolution. Without objection, adopted ceremonial proclamations scheduled for presentation at a meeting may be presented at a regular meeting of Council scheduled for the same day. During a Council period, no Council Member may present more than eight (8) ceremonial proclamations, except that a Council Member may yield his or her right to present a ceremonial proclamation under this section to another Council Member. No Council Member may speak for more than

two (2) minutes on each ceremonial proclamation. No recipient of a ceremonial proclamation may present a display or performance during a meeting. No more than one recipient for each ceremonial proclamation shall be permitted to speak during a meeting.

Section 6. Motions.

- A. Motions Allowed During Debate. When a question is under debate, the presiding officer may entertain only the following motions, which shall take precedence in the order listed:
1. To adjourn.
 2. To recess.
 3. To reconsider.
 4. To lay on the table.
 5. To move the previous question.
 6. To close debate.
 7. To postpone to a day certain.
 8. To amend or substitute.
 9. To postpone indefinitely.
- B. Withdrawal or Modification of Motions. Any motion may be withdrawn or modified by the mover at any time before it has been amended or voted on.
- C. Adjourn. The presiding officer shall adjourn a meeting when there is no more business before Council. A Council Member may move to adjourn at any time. A motion to adjourn is not debatable, but the presiding officer may inform the Council Members of any unfinished business requiring attention of Council.
- D. Recess. The presiding officer may, without a vote, recess a meeting of Council to another time, day, or place. A Council Member may move to recess a meeting. A Council Member may move to amend a pending motion to recess to set a different length of the recess. If a motion to recess does not specify the time, day, or place at which the meeting will reconvene, the presiding officer may set a time, day, or place. Neither a motion to recess nor a motion to amend a pending motion to recess is debatable. A Council Member may move to recess a hearing or roundtable and reconvene the hearing or roundtable at a future time, day, or place. A recess may be taken under this section without a vote. If Council recesses a hearing or roundtable without specifying the future time, day, or place for the hearing or

roundtable, the presiding officer must circulate notice of the new time, day, or place.

E. Reconsider.

1. A Council Member recorded as having voted with the prevailing side on a question may move to reconsider the question at any time, except as limited by this section.
2. An act may be reconsidered before it has been approved, deemed approved, or vetoed by the presiding officer. A resolution may be reconsidered at any time before its implementation. A motion to reconsider a question considered at a different meeting shall not be in order unless the motion to reconsider has been properly noticed.
3. For the purpose of this rule, a Council Member who was present and voting on a question decided by a voice vote will be considered as having voted with the prevailing side on the question, unless the Council Member had asked to be recorded as voting against the prevailing side or recorded as "Present".
4. A motion to reconsider cannot be made by a Council Member who was absent during a voice or roll-call vote on a question.
5. A motion to reconsider requires the approval of a majority of the Council Members present and voting.
6. If the question to which a motion to reconsider applies is debatable, the motion to reconsider is debatable and the debate may go to the question. If the question to which a motion to reconsider applies is not debatable, the motion to reconsider is not debatable.
7. If a motion to reconsider fails, the motion cannot be repeated.
8. A motion to reconsider is not required to consider amendments accepted or rejected on a previous reading of a measure.
9. Votes to approve or amend these Rules of Council may not be reconsidered pursuant to this section.

F. Lay on the Table and to Postpone.

1. A Council Member may make an unqualified motion to lay a question on the table, which is not debatable and, if adopted by a majority of Council Members present and voting, shall immediately end debate on the question. If an amendment to a measure is pending before Council, a Council Member may make a motion to lay the amendment on the table, which is not debatable and, if adopted by a majority of Council Members present and voting, shall immediately end debate on the amendment.

2. A Council Member may move to postpone a question to a time certain, which shall be adopted by a majority of Council Members present and voting. A motion to postpone to a time certain is debatable, though it is not in order to debate the merits of the underlying question.
3. A Council Member may move to postpone indefinitely any question pending before Council. A motion to postpone indefinitely is debatable, and it is in order to debate the merits of the underlying question. Upon adoption of a motion to postpone indefinitely, the question may not be reconsidered unless two-thirds (2/3) of Council Members present and voting agree to reconsider the question.
4. Both a motion to table and a motion to postpone may be applied to main motions only.

G. Motions to Limit Debate.

1. Debate may be limited by a motion to close debate or a motion to move the previous question. Neither a motion to close debate nor a motion to move the previous question is debatable.
2. A Council Member may move to close debate, which shall require approval of two-thirds (2/3) of the Council Members present and voting. If a motion to close debate carries, no further debate is in order, except that: (i) each Council Member who has not spoken on the pending question may speak for no more than two (2) minutes; and (ii) the presiding officer may recognize the maker of the pending motion.
3. A Council Member may make a motion to move the previous question, which shall require approval of two-thirds (2/3) of the Council Members present and voting. If a motion to move the previous question carries, no further debate is in order on the pending question, and no further amendments to the main motion are in order absent a motion to reconsider the motion to move the previous question.

Section 7. Investigative Powers. As provided by Virginia Code § 15.2-1409, Council may make such investigations relating to its government affairs as it deems necessary, may employ financial, legal, and other personnel it deems necessary to assist in such investigations, may order the attendance of witnesses and the production of books and papers and may administer oaths. Council may apply to the Circuit Court of the City of Petersburg for a subpoena or subpoena duces tecum against any person refusing to appear and testify or refusing to produce books, papers or records as ordered Council and the judge of such court shall, upon good cause shown, cause the subpoenas to be issued. Any person failing to comply with any such subpoena shall be subject to punishment for contempt by the court issuing the subpoena.

RULE VII – COUNCIL – STAFF INTERACTION AND REQUESTS FOR INFORMATION, SERVICES, AND/OR WORK – DEFINING RESEARCH AND WORK

Discussion of matters of City Business by a member of Council with any member of the City's Administration shall be made through the City Manager or City Manager's designee. All requests for legal services and/or work (including legal research) from a Member of Council

shall be made directly to the City Attorney. Upon determination by the City Manager or City Attorney at their discretion that such request for information, services (including legal services), and/or work will consume a substantial amount of time or resources, or upon the determination of the City Manager or City Attorney, at their discretion that such request for information, services (including legal services), and/or work may be of interest to other Members of Council in their official capacity, the City Manager or City Attorney may share the request and other associated information with all of Council, and may request confirmation by Council of its desire for completion before proceeding or completion with the gathering of such information, the provision of such services and/or work.

RULE VIII – CHANGES AND SUSPENSIONS OF RULES

No Rule of Council shall be suspended or changed except upon the affirmative vote of a majority of Council Members, or as regulated by the City Charter or other controlling law.

Resolution 22-R-1

Adopted by the City of Petersburg

Council of the City of Petersburg on:

1/4/2022


Clerk of City Council



City of Petersburg

Ordinance, Resolution, and Agenda Request

DATE: January 3, 2023

TO: The Honorable Mayor and Members of City Council

THROUGH: March Altman, Jr., City Manager

FROM: Anthony Williams

RE: **Consideration of a resolution to amend the Rules of Council and add Conflict of Interest.**

PURPOSE: Council requested that the City Attorney prepare and present an Amendment to the Rules of Council incorporating a summary of the provisions of the Virginia Conflict of Interests Act into the Rules of Council.

REASON: Requested by Council.

RECOMMENDATION: Recommend City Council adopt the resolution.

BACKGROUND: Council requested that the City Attorney prepare and present an Amendment to the Rules of Council incorporating a summary of the provisions of the Virginia Conflict of Interests Act into the Rules of Council.

COST TO CITY: N/A

BUDGETED ITEM: N/A

REVENUE TO CITY: N/A

CITY COUNCIL HEARING DATE: 1/3/2023

CONSIDERATION BY OTHER GOVERNMENT ENTITIES: N/A

AFFECTED AGENCIES: N/A

RELATIONSHIP TO EXISTING ORDINANCE OR RESOLUTION: Amends existing Rules of Council.

REQUIRED CHANGES TO WORK PROGRAMS: N/A

ATTACHMENTS:

1. RULE IX

RULE IX – CONFLICT OF INTERESTS

City Council holds the public trust and public interest in the highest regard. To that end, each Member of Petersburg City Council shall comply in all respects with the State and Local Government Conflict of Interests Act, found in Code of Virginia, Title 2.2, Chapter 31, §§2.2-3100 *et. seq.* (hereinafter “the Conflict of Interests Act” or “the Act”) which is hereby adopted *mutatis mutandis* as if set forth fully herein. These Rules of Council shall supplement and not supplant any of the provisions of the Act. In any instance where these Rules conflict with any provision of the Act, the provisions of the Act shall supersede.

The act divides conflicts into three broad sections – “Illegal Conduct and Undue Influence”; “Prohibited Acts”; and “Prohibited Contracts.” Prohibited Acts pertain primarily to formal actions being taken by the governing body, while Prohibited Contracts pertain to actual agreements between the individual Member (or their immediate family member) and the governing body upon which he or she serves.

SECITON 1 - ILLEGAL CONDUCT AND UNDUE INFLUENCE

- A. **Soliciting or Accepting Bribes** – Members of Council are prohibited from accepting or soliciting bribes and from allowing money to influence their formal actions in their official capacity as a public official.
- B. **Accepting Gifts and Donations** – Members of Council may not accept money, loans, gifts, services, business opportunities, or other benefits if it is reasonable to construe that the benefit was given to influence the council member in his or her duties. An exception is made for political campaign contributions – but only if the contribution is used for a political campaign or constituent service purposes and is reported pursuant to the campaign disclosure laws.

Council Members are prohibited from receiving gifts or benefits if he or she knows or reasonably should know that it is being offered to influence him or her in their official duties.

Council Members are prohibited from accepting a gift from a private party whose interests can be affected by the council member’s actions, where the timing of the gift would lead a reasonable person to question whether the gift is being given to influence the council member.

Council Members may not solicit, accept or receive a tangible gift that is valued at over \$100 or a combination of gifts within a year with an aggregate value of over \$100 if it is given to him by (1) a lobbyist, (2) a lobbyist’s principal, or (3) a person, organization, or business that is seeking to be or already is a party to a contract with the City.

- C. **Use of Confidential or Non-Public Information** - Council Members may not use information gained in or by virtue of their official capacity as Members of Council, which is not available to the public, for their own or another person’s economic benefit.

SECTION 2 – PROHIBITED ACTS – Discussion, Deliberation and Voting

A. Definitions:

Personal Interest in a transaction. A personal interest exists when an officer or employee or immediate family member has a personal interest in property or a business and such property or business is:

1. The subject of the transaction.
2. May realize a reasonable foreseeable direct or indirect benefit or detriment as a result of the action of the agency considering the transaction.

A personal interest in a transaction does not exist when:

1. An elected member of a local governing body serves without remuneration as a member of the board of trustees of a not-for-profit and the member and his immediate family has no personal interest in the entity.
2. An officer, employee, or elected member of a local governing body is appointed by such local governing body to serve on a governmental agency and the personal interest in the transaction is the result of benefits provided to the member or his immediate family.

Transaction. In the context of a city or town council, a transaction is defined as any matter considered by the council, a council committee or subcommittee, or any department, agency, or board of the locality, if any official action is taken or is being contemplated. §2.2-3101.

B. Application:

The Virginia Conflict of Interests Act regulates the financial relationship of council members and mayors with their city, town and with any other governmental agency that is related to the local government. The Act focuses on preventing situations where public officials and their immediate family members stand to improperly receive financial benefits from acts taken through or by virtue of their official public capacity.

Members are required to comply with all aspects of the Virginia Conflict of Interests Act in instances of a conflict of interest.

C. Prohibition:

Except as expressly excluded herein or by statute, where a matter comes before Council or a council committee or involves any department of the locality, Council appointed board or commission, and a council member has a personal interest in the subject matter or represents the business involved, the council member must:

1. Disclose the personal interest by identifying the interest, including the name and address of the business or property. This disclosure is required whether or not the law requires disqualification of the Council member or the council member disqualifies himself out of an abundance of caution. This disclosure may be:

- i. Delivered to the Clerk by a signed writing containing the elements above in advance of the matter being presented in the public meeting; or
 - ii. Recorded in the minutes of the public meeting where the matter is being presented.
 - iii. The disclosure must be kept for a minimum of five years in the records of Council
2. Except as otherwise provided herein, the Council Member may not vote or participate in any discussion on the transaction.
3. The member may not attend the portion of a closed meeting at which the transaction is discussed.
4. The member may not discuss the matter with anyone in the government who is involved in the transaction.

D. Exceptions:

1. A personal interest in a transaction does not exist if the council member serves on a not-for-profit board without pay and neither the council member nor his immediate family has a personal interest in the not-for-profit organization. (Definition of personal interest in § 2.2-3101.)
2. No conflict exists if an employee or council member of a locality is appointed by his locality to an ex-officio role in a governmental agency and the conflict exists solely due to the employment with the locality or the employment by the locality is of his or her spouse. See the definition of “personal interest in a transaction” in § 2.2-3101.
3. In order for a council to sell or lease land, state law requires a three-fourths vote of all people elected to council. § 15.2-2100. Section 2.2-3112(D) of the COI act allows a council member to participate in a discussion and vote on a proposed sale, lease, or similar conveyance of land if the council member’s only personal interest in that sale is that he or she is employed by the business that is subject to the contract for the deal.

E. Savings Clause - Where the disqualification of a Member results in the lack of a quorum, Council may act by a vote of the majority of the members who are not disqualified. Even if the law requires a unanimous vote, it only has to be by a unanimous vote of the remaining members.

F. Disclosures –

These requirements are in addition to Annual Statement of Economic Interests required by 2.2-3115 of the Code of Virginia.

If a transaction affects a group, business, or profession as set forth in § 2.2-3112(B)(1), the council member may participate if he or she certifies in good faith that he or she can represent the public fairly in the transaction. The certification requires the following elements to be identified - § 2.2-3115(H):

- The transaction;
- The nature of the personal interest;
- The fact that the council member is a member of a business, profession, occupation, or group that will be affected by the transaction;

- A statement that the council member is able to participate fairly, objectively, and in the public interest.

If the transaction affects a party that the council member's firm represents but the council member is not involved on behalf of the firm, the disclosure requires the following elements to be identified. § 2.2-3115(I):

- The transaction involved;
- The fact that a party to the transaction is a client of the council member's firm;
- A statement that the council member does not personally represent the client;
- A statement that the council member is able to participate fairly, objectively, and in the public interest.

If either of the disclosures is required, the council member must either state it at the meeting or file it in writing with the clerk of the council or the manager. A written disclosure should be filed before the meeting or, if that is impracticable, by the end of the following business day. § 2.2-3115(H), (I). In both cases, the disclosure is public. It is recommended that the Member make the disclosure at the meeting, orally, when the transaction is on the floor. It is also recommended that the person sit in the audience for the discussion and vote. This conveys a clearer message of self-disqualification than simply handing the clerk a written statement. If the disqualification is handed in with no announcement, the public will wonder why the council member is not participating.

SECTION 3 – PROHIBITED CONTRACTS

A. Definitions:

- a. *“personal interest”* - a financial benefit or liability accruing to an officer or employee or to a member of his immediate family. Such interest shall exist by reason of
 - i. ownership in a business if the ownership interest exceeds three percent of the total equity of the business;
 - ii. annual income that exceeds, or may reasonably be anticipated to exceed, \$5,000 from ownership in real or personal property or a business;
 - iii. salary, other compensation, fringe benefits, or benefits from the use of property, or any combination thereof, paid or provided by a business or governmental agency that exceeds, or may reasonably be anticipated to exceed, \$5,000 annually;
 - iv. ownership of real or personal property if the interest exceeds \$5,000 in value and excluding ownership in a business, income, or salary, other compensation, fringe benefits or benefits from the use of property;
 - v. personal liability incurred or assumed on behalf of a business if the liability exceeds three percent of the asset value of the business; or

- vi. an option for ownership of a business or real or personal property if the ownership interest will consist of clause (i) or (iv).
 - b. “*immediate family*” - “means(i) a spouse and (ii) any other person who resides in the same household as the officer or employee and who is a dependent of the officer or employee.” Virginia Code Sec. 2.2-3101 Definitions (Virginia Statutes (2022 Edition))
- B. Prohibition** - Except as described in subparagraph (C), a Council Member may not participate in a contract with the City or any of its agencies where he or member of his immediate family has a personal interest in the contract as defined herein.
- C. Exceptions –**
- a. A council member may buy goods or services the City and its agencies as long as they are made available to the public at uniform prices.
 - b. A council member may sell goods to the City and its agencies if the following conditions are met, pursuant to § 2.2-3107(B)(3) of the Code of Virginia:
 - i. The purchase must be made by competitive sealed bidding.
 - ii. The contract must be for goods, not services, and the need for the goods must have been established prior to the person’s coming on council.
An example is if the city needs a tractor, if a council member has a tractor dealership, and if the city had bought tractors prior to the council member’s election, the dealership could continue to bid on the contract.
 - c. The council member who wants to sell to the locality must play no role in preparing the specifications for the purchase.
 - d. The remaining members of council must pass a Resolution in writing that the council member’s bidding on the contract is in the public interest. Note: this exception does not apply to providing services, rather only goods. For example, a council member who is an accountant cannot provide auditing services to his or her town or city.

The following eight exceptions to the prohibition on having a personal interest in a contract apply not only to council members, but to all other local government officials and employees as well. § 2.2-3110(A).

- 1. A council member may be an employee of the locality as long as the employment predates his appointment or election to council. § 2.2-3107(B)(1). This section of the law also allows employment and service on council if the person was an employee prior to July 1, 1983, whether or not he or she was elected to council after that date.
- 2. Any sale, lease, or exchange of real property between a council member and his or her locality is allowed as long as the council member doesn’t participate in the deal on behalf of council, and the fact that the member wasn’t involved is recorded in the public record of the government involved in the transaction. The reason for this exception is that each parcel of real estate is deemed to be unique. If a city needs a certain lot or parcel, the fact that a council member owns it should not prohibit the purchase by the city. § 2.2-3110(A)(1).
- 3. The prohibition does not apply to contracts for the publication of official notices, presumably so that the local newspaper may be used for ads required by state law even when a council member is an owner or employee of that paper. This is a balancing of needs: the state code requires many notices to be run in the local paper. Without this exception, those requirements could not be met. § 2.2-3110(A)(2)

4. If the sole personal interest the council member has in the contract is his or her employment by the contracting business and the council member's annual salary exceeds \$5,000, the business may contract with the locality. For this exception to apply, the council member and members of his or her immediate family must have no authority to participate in the deal, and must not participate in the deal. Further, the council member must not participate in the deal on behalf of the locality. A typical example is a contract with a large engineering firm that is the council member's employer. § 2.2-3110(A)(4).
5. If the council member is employed by a public service corporation, a bank, a savings and loan association, or a public utility, and if he or she disqualifies himself from participating on behalf of the city or town and does not participate for his or her locality, then the utility, bank, etc., may contract with the locality. § 2.2-3110(A)(6).
6. The prohibition does not apply to contracts for goods or services below \$500.
7. Program grants made to a council member are allowed if the rates or amounts paid to all qualified applicants are uniform and are established solely by the agency administering the grants. § 2.2-3110(A)(8).
8. If the spouse of a council member is employed by the locality, the personal interest prohibition does not apply if the spouse was employed by the agency five or more years prior to marrying the council member. § 2.2-3110(A)(9). If one spouse is the supervisor of the other spouse, the conflict does not exist if the subordinate spouse earns less than \$35,000 per year. § 2.2-3110(B).

Any questions or concerns regarding requirements or compliance with the Virginia Conflicts of Interest Act may be submitted to the City Attorney as a request for an Informal Opinion or Formal Written Advisory Opinion in accordance with §2.2-3121(c) of the Code of Virginia. Members may also request advisory opinions from the Commonwealth's Attorney or the Virginia Conflict of Interests Advisory Council in accordance with the provisions of the Code of Virginia.