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TOWN OF CHAPEL HILL



TOWN COUNCIL
PROCEDURES MANUAL

Revised Draft - October 11, 2004

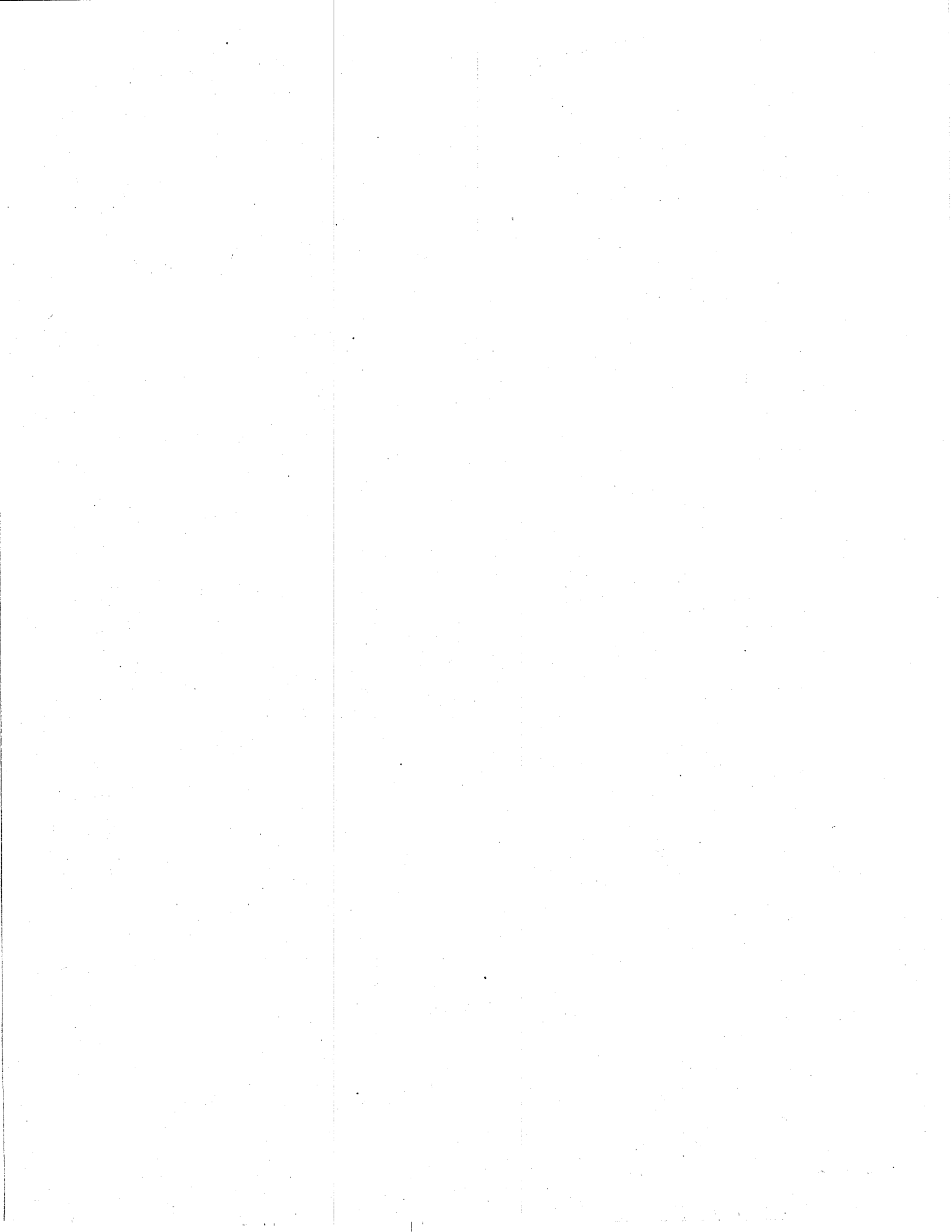


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TOWN OF CHAPEL HILL

TOWN COUNCIL PROCEDURES MANUAL

PURPOSE

The Town Council Procedures Manual is a reference guide that sets out the accepted practices and policies of the Council regarding how it conducts the business of the Town. The Procedures Manual references State statutes where applicable, as well as the Town Code of Ordinances and the Land Use Management Ordinance.

The Procedures Manual sets out the general and specific processes and procedures of the Council, including:

- the purpose and types of Council meetings;
- Council agendas and meeting procedures;
- types and descriptions of committees, as well as the appointment process;
- general policies and procedures of the Council; and
- Council-adopted policies and procedures.

The Procedures Manual includes an excerpt of the latest edition of the Open Meetings law of North Carolina, provided in a question and answer format. Appendix A provides the most recent listing of all Advisory Board and Commission members, as well as their contact information and term expiration dates.

The Procedures Manual may be amended at any time at the Council's discretion.

I. MEETINGS.

A. Definitions.

1. Regular. Regular meetings are set by the Council at such times and places as it seems appropriate, except for the organizational meeting which falls on the first regular meeting date in December in odd numbered years (unless otherwise determined by the Council). North Carolina's Open Meetings Law requires the Council's regular meeting schedule be filed in the Office of the Town Clerk. The schedule is permanent and need be filed only once unless the regular meeting schedule changes. This filing is the only notice required by law for regular meetings. The Council adopts a regular meeting schedule ~~during~~ **August at the first business meeting after the summer break** of each year for the coming year. Most meetings are at 7:00 p.m. in the Council Chambers of the Chapel Hill Town Hall, 306 North Columbia Street, Chapel Hill, North Carolina.
2. Special. Special meetings may be called by the Mayor, Mayor Pro Tempore, or any two Council members. Notice of a special meeting and the purpose of such special meeting shall be given each member of the Council or a copy of the notice of the meeting shall be left at the member's residence at least six hours prior to the meeting. A special meeting is subject to the State's Open Meetings Law by its definition. Therefore, notice of time and place of the meeting must be posted on the door of the governing body's normal meeting room at least forty-eight (48) hours in advance and must be mailed or delivered (within the same time limit) to anyone who has requested such notice.
3. ~~Adjourned~~ Recessed or Continued. The Council may recess a meeting to a specified time, date and location without further notice to members of the public being required.
4. Joint. The Council has authority to hold joint meetings and public hearings with the governing bodies of other governmental units, and such joint meetings may be held in the jurisdiction of either body. They may be regular or special.
5. Emergency. Emergency meetings may be held to deal with an emergency at any time. The State's definition of an emergency meeting has two elements. First, the meeting must concern "generally unexpected

circumstances," and second, those circumstances must require "immediate consideration" by the Council. All that is required is to notify any local news medium that has requested notice. There is no minimum time period for this notice, and the meeting may be held as quickly as the members of the Council can gather.

6. a. Work Sessions, Informal Meetings, Committee of the Whole. The Council may hold work sessions, informal meetings, or committee of the whole meetings; however, no final action may be taken at such a meeting. The Open Meetings Law defines an informal meeting as any gathering of a majority of the Council for the purposes of considering or deliberating on the public business. Such a meeting is an official meeting of the Council and requires forty-eight hours' advance notice to the public.
- b. Work Sessions with Advisory Boards and Commissions. The Council **normally** meets once each year with each advisory board or commission. ~~The Council and board or commission jointly decide the date, time and duration of these work sessions.~~
7. Closed Session. Closed sessions may be held only when the Council has convened a meeting. See Section I.C.9 - Closed Session Procedures.
8. Social Gatherings. The law exempts genuine social gatherings of a majority of the Council from constituting an official meeting of the Council. That is, "a social meeting or other informal assembly or gathering together of the members of a public body does not constitute an official meeting unless called or held to evade the spirit and purposes of this Article." (N.C.G.S. 143-318.10)

B. Agenda of Council Meetings.

The business of a Council meeting is controlled by the agenda prepared as hereinafter set forth. The agenda per se is not normally adopted by the Council. Items may be taken out of order upon motion and two-thirds vote, or by unanimous consent. Any business on the agenda may be considered by the Council, and if all members are present any business not on the agenda may be considered if there is no objection.

1. Preparation of the Agenda. The Town Manager, in consultation with the Mayor, prepares the agenda.

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2. Request for Agenda Items. Items may be placed on the agenda by the following methods:
 - a. Request of the Mayor.
 - b. Request of a Council Member:
 - (1) At the petition time at the beginning of a meeting. (Such practice is usually limited to items for discussion only, or items of a non-controversial nature, which arise after the preparation of the agenda, or as an oversight. The Council discourages the use of this method for items requiring documentation and study, unless delivered in advance, or items of a controversial nature since public notice thereof has not been given in advance); or
 - (2) At the end of the agenda at the preceding regular meeting;
 - (3) At any time between meetings by request to the Manager.
 - c. Request of the Manager.
 - d. Request of the Town Attorney.
 3. Items on the Agenda. No item shall be placed on the agenda until all necessary relevant reports, supporting data, and memoranda are available for distribution with the packet and the agenda.
 4. Adding Items to the Agenda. No item may be added to the Council's agenda during a meeting without the unanimous consent of all members present at the meeting.
 5. Order of the Agenda. The agenda shall be set in the following order:
 - a. Ceremonies.
 - b. Public hearings **or public forums**, if any.
 - c. Oral and written petitions **from citizens**.
 - d. **Council announcements**.

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- d. e. Consent Agenda - items of a routine nature will be placed on the Consent Agenda to be voted on in a block. The Mayor and the Manager will decide which items will be placed on the Consent Agenda. Consideration of **Council meeting** minutes shall normally be the first item on the Consent Agenda. **Nominations to vacancies on boards or commissions shall normally be the second item on the Consent Agenda, or first if no minutes are scheduled for consideration.**
 - e. f. ~~Staff reports and general~~ **Information reports that do not require action.**
 - f. g. ~~Old B~~ **business items deferred or continued from previous meetings.**
 - g. h. Items having wide public concern or likely to result in the attendance of citizens interested in them.
 - h. i. ~~Routine m~~ **Matters of a housekeeping nature with less public interest.**
 - i. j. Appointments.
 - k. **Council petitions.**
 - l. **Manager/Attorney petitions.**
 - m. **Discussion of consent agenda items, if necessary.**
 - j. n. Closed Session, if needed.
6. Removal of Items from the Agenda. The Council may remove items from the agenda on the regular agenda or the Consent Agenda:
- a. Removal of an item not on the Consent Agenda may be requested by Council member(s) during the petition time.

If a Council member desires to have an item removed from the agenda of a meeting at which the Council member will not be present, a written request shall be distributed to the Council by the Friday prior to the meeting. At the meeting, the Mayor shall present the written request to the Council for a vote.

Five affirmative votes shall be necessary to remove an item from the agenda. Items removed, unless noted otherwise, will be placed on the agenda of the next similarly scheduled (regular or public hearing) meeting of the Council.

b. Removal of Consent Agenda Items.

Any item may be removed from the Consent Agenda by the request of the Mayor or any member of the Council at the time during the Council meeting that the Consent Agenda is considered.

A Council member who wishes to remove an item from the Consent Agenda should so inform the Manager no later than 3:00 p.m. on the day of the Council meeting so that the Manager will be able to arrange attendance of staff as he determines necessary.

7. Delivery of Agenda and Packet to Council. The Council has directed that the agenda and all supporting materials (packet) be distributed to the Mayor and Council no later than Thursday evening preceding each regular meeting of the Council. Other mail or material may be delivered with the packet.
8. Distribution to the Public. Copies of the agenda, minutes and all related materials distributed with the packet will be made available to the news media, usually by the morning after they are delivered to the Council, depending on their length and the copying resources of the Town. A copy of the packet is also delivered to the Chapel Hill Public Library, usually by the morning after delivery to the Council. Copies of the agenda are made available for the public at each Council meeting.

C. Meeting Procedures.

1. Presiding Officer. Under the Charter, the Mayor is the presiding officer, and in the absence of the Mayor, the Mayor pro tempore. Neither General Law nor the Charter provide for a presiding officer in the absence of both the Mayor and the Mayor pro tempore. Parliamentary usage would permit the Council to select a Chair Pro Tempore from the quorum of members present for this purpose.
2. Quorum. Five members of the Council are necessary for a quorum. The Mayor is counted in determining whether a quorum is present. Each Council member is asked to notify the Mayor if he or she will be absent

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3. Staff Presentation. Prior to discussion of each item on the agenda, the presiding officer may call upon the Town Manager or such other appropriate person for the purpose of background presentation of the business to be discussed.
 4. Discussion. Parliamentary procedure (see Section I.C.10 - Parliamentary Procedure) requires that a motion be on the floor prior to discussion. However, the practice of the Council, in some instances, has been to discuss an item on the agenda prior to a motion's being made. Persons other than the Mayor and Council members may enter into discussion on a matter only by ruling of the Chair. As with all rulings by the Chair, this decision may be overridden by a majority of the Council.
 5. Order of Discussion. Parliamentary practices indicate that all members desiring to discuss a matter under consideration should be given an opportunity to do so prior to any member's being able to discuss the item more than once. The Council practice has not adhered strictly to this procedure.
 6. Public Participation. Citizens who wish to speak on matters on the agenda may sign up with the Town Clerk at the beginning of the meeting and will be recognized when the Council reaches that item on the agenda.
 7. Petitions to the Council. The Council hears petitions, either written or oral, at the beginning of each regular meeting. By resolution, the Council has agreed that:
 - a. Citizens may petition the Council regarding matters germane to Town policies or business but not appearing on the agenda at petition time. Citizens desiring to present such petitions are strongly encouraged to contact the Mayor's or Town Manager's office by the Tuesday before a Monday night meeting to indicate their desire to petition the Council and so that the agenda distributed to Council members will reflect their petition under the "petition" heading of the agenda.

Generally, petitions will be limited to three minutes per speaker. The Council may, by a two-thirds vote of those present, extend the time for petitions on any subject.

The Council strongly discourages petitions regarding a matter which recently has been, or which soon will be, before the Council as a public hearing item. Petition time is not intended to substitute for public hearings.

- b. Except in the case of urgency, petitions shall not be acted upon at the time they are presented. After hearing a petition, the Council shall, by simple motion, receive it and dispose of it as follows (receiving does not imply approval, agreement, or consent):
 - (1) Consideration at a future regular meeting of the Council; or
 - (2) Referral to another board or committee for study and report; or
 - (3) Referral to the Town Manager for investigation and report.
- c. It shall take a unanimous vote of the Council members present declaring a petition to be of unusual urgency for such petition to be acted upon immediately upon its presentation. Unless all members of Council are present, only petitions which have been distributed with the Agenda materials in advance may be considered for action upon their presentation.
- d. Members of the Council may also petition the Council, generally to ask the Town staff for a report on a particular subject. Petitions from Council members should be distributed to the Mayor and Council in writing prior to the meeting or at the start of the meeting.

8. Time Limits.

Exclusive of matters to be discussed in Closed Session, the Council will not begin discussion of an agenda item after 10:30 p.m. without the affirmative vote of two-thirds of those members present.

9. Closed Session Procedures.

- a. Permitted Topics for Discussion. The Open Meetings Law allows the discussion of limited topics during a Closed Session. The matters which appear most likely to concern the Town are as follows:
 - (1) To consult with the Town's attorney in order to preserve the attorney-client privilege between the attorney and the public

body. The Council may consider and give instructions to the attorney concerning the handling or settlement of a claim, judicial action or administrative procedure in Closed Session.

- (2) To instruct the Town staff concerning the position to be taken on behalf of the Town in negotiating the price and other material terms of a contract for acquisition of an interest in real property.
 - (3) To consider the performance, qualifications or fitness of an employee or applicant for Town employment or office under the Council's jurisdiction. This provision does not allow consideration of fitness or performance of a member or prospective member of the Council or another public body to be considered in Closed Session.
- b. Attendance. The Mayor and members of the Council and only those persons necessary for a discussion should be permitted to be present. Permitting unnecessary persons to be in attendance could lead to serious problems as to whether or not they were present as members of the public while other members of the public were excluded.
- c. No final action may be taken in Closed Session, except in a very few cases as provided by North Carolina Law. Minutes shall be kept of all Closed Sessions. Such minutes may be withheld from public inspection so long as public inspection would frustrate the purpose of a Closed Session. Where final actions in Closed Session is authorized, minutes indicating what action was taken would be required to be made public at a later date as provided by the Open Meetings Law.

Some of the decisions which can be made in closed session include:

- (1) decisions pertaining to the initiation defense or settlement of litigation, and
 - (2) decisions pertaining to the price to be paid to acquire real property.
- d. Calling a Closed Session. The Council may hold a Closed Session only upon a motion duly made and adopted at an open meeting. The motion shall cite one or more of the purposes permitted by the Open Meetings Law and shall otherwise conform to the requirements of

the Open Meetings Law. Generally, the Town Attorney will be expected to prepare specific language for the Council to use in a motion to go into closed session.

- e. Disclosure to the Public. The reason for permitting Closed Sessions at all indicates that the details of the subject matter should not be revealed, otherwise the purpose of the session is defeated. It is the Council's policy that any Council member present at a Closed Session may disclose whatever that Council member thinks or says about the matter, but not to disclose statements made by another person in expressing his or her opinion.
10. Parliamentary Procedure. The Code of Ordinances of the Town of Chapel Hill states the following: "Parliamentary usages shall be the rules of government in the deliberations of the Council." (See Section 2-6 - Parliamentary Procedure to Control Council Meetings.)

The suggested parliamentary procedures set forth below are ~~offered~~ **adopted as guidelines** for ~~consideration~~ by the Council. ~~They have been compiled in the hope that their use by the Council will~~ **Their purposes are to** assist the Council in considering and acting upon business before it, assure a fair opportunity to all members to present their views, and insure an accurate recording of the Council's actions. It is to be noted that the Code does not require that Robert's Rules of Order be the guide in all deliberations of the Council. This is intentional in order to afford the Council the flexibility of acting in an accepted parliamentary manner without being limited to certain strict technical requirements which Robert's would impose. For example, when a motion is made and seconded, and stated by the chair, under Robert's this becomes the property of the Council and can be withdrawn only with the consent (by vote of the Council); whereas the common practice of the Council has been to permit the seconder to withdraw the second or the mover to withdraw the motion entirely. This seems to be the practically desirable result although it would not be the technically correct procedure under Robert's.

As hereinafter set forth, the Council acts by motion; however, the motion may be to adopt an ordinance, a resolution, or merely a simple motion. (See I.D. - Action by the Council.)

Motions are generally of two types:

- a. Main Motion. Such a motion is in order only when there is no other motion on the floor; or
- b. Subsidiary Motion. Such a motion is in order only when there is another motion already on the floor.

A main motion requires a second and when then stated by the presiding officer is before the Council. A motion failing to receive a second dies for lack thereof. A motion duly made and seconded, and stated by the Chair, becomes the property of the Council, and is then before the Council for discussion and debate. It is subject to amendment.

A motion to amend a main motion is always in order prior to final vote and requires a second. A motion to amend does not change the subject of the motion it proposes to amend, and may be applied to any main motion except a motion to table, adjourn, reconsider, etc., but may change a portion of the motion by adding to, deleting from, or substituting different language, or meaning for a portion thereof. When a motion to amend has been duly made, accepted and stated by the chair, it must be voted upon prior to a vote on the main motion which it purports to amend. If the vote on the amendment passes, then a vote is taken on the main motion as amended.

If the vote on the amendment fails, the main motion (unamended) is still before the Council for action.

Although not allowed under Robert's, the Council allows a motion to be amended by the agreement of the mover and the seconder. A so-called "friendly amendment" may be proposed by any member of the Council.

A substitute motion is a subsidiary motion, and may be made only when a main motion is pending, and may be applied to any main motion (again, except for motions to table, adjourn, reconsider, etc.). Such a motion is one which, if adopted, would dispose of the matter under consideration. That is, if a substitute motion is adopted, it is substituted for the main motion and if finally approved the main motion is disposed of by substitution rather than by vote. Only one substitute motion may be pending at a time. A substitute motion requires a second and must be stated by the chair. The chair, in expressing the question before the body expresses it, "Shall the

motion before the Council be substituted for the main motion?" If this motion passes, then the vote is on the substitution only, not on the merits and a second vote is required to adopt the substituted motion. If a substitute motion fails, the original motion is before the body.

A motion to table, except with respect to a motion to adjourn, is always in order. It is a subsidiary motion and if made, seconded and stated by the chair, must be disposed of prior to action on the motion to which it is addressed. Generally, such a motion may be to table to a certain time, or until a specified event, or table indefinitely or without limitation. If a motion to table fails, the motion which it addressed is before the Council for further action. If adopted, the matter is tabled under the terms of the motion. A motion to remove from the table is required, however, before the Council may consider the matter further. Both a motion to table and a motion to remove from the table require seconds.

A motion to reconsider a previous action may be in order, at the same meeting at which the action was taken or at a subsequent meeting. For certain types of actions, however, the Council is limited in its ability to reconsider without following additional procedural steps. For example, an ordinance amended or a permit issued following notice and hearing requirements proscribed by ordinance or law cannot be modified without following procedures similar to those followed in the initial consideration. Where a motion to reconsider is in order, it must be made by a Council member who voted with the prevailing side on the action to be reconsidered. Such a motion requires a second and the seconder may be any member of the Council. When such a motion is made and seconded and stated by the chair, the question is, "Shall the Council reconsider its action on the matter to which the motion is addressed?" If such a motion fails, the matter is not reopened or reconsidered. If adopted, the motion is again on the floor for consideration, discussion and action.

A motion moving the previous question is a subsidiary motion and may be made only when a main motion is pending before the Council. Such a motion requires a second and when stated by the chair is to be voted on prior to any further action or discussion. Such a motion is not debatable. If the motion fails, consideration and debate continues. If such a motion passes, debate ceases, and an

immediate vote must be taken on the same motion, or any amendments for substitution thereto prior to further discussion.

Rather than a motion, a Council member may "call for the question," in which event the Chair addresses the Council advising that the question has been called and inquires if there is any objection to ceasing debate. If there is objection, debate continues. If there is no objection, debate ceases and a vote is then taken.

The presiding officer is responsible for ruling on all motions as to their appropriateness, validity, and vote. Upon the request of any member a division may be required, or the presiding officer may order such a division (record vote of the individual members). Any ruling by the Chair may be appealed, and if appealed, the presiding officer states the question before the Council as "Shall the ruling of the Chair be upheld?" If upheld, that ends the matter. If by majority vote the ruling is not upheld, then the matter is determined in accordance with the vote.

A motion to go into closed session is always in order. Such a motion requires a second, and when stated by the chair is before the Council as a main motion to be disposed of. Such a motion can, however, be made only when there is no other motion pending before the Council.

A motion to adjourn: Pursuant to parliamentary procedure, a motion to adjourn is in order at any time from any Council member. The motion, once seconded, is not debatable and requires a simple majority for adoption. All regular and special meetings may be adjourned only by majority vote of Council approving a motion to adjourn.

Adjournment prior to completion of a meeting's scheduled agenda is an unusual occurrence, unless it is due to the length of the agenda itself and the lateness of the hour.

D. Action by the Council.

The Council, in exercising its legislative authority, acts either by ordinance, resolution, or motion. In other matters, such as the appointment of boards and commissions, the Council acts by simple nominating and electing processes. (See II.F. - Nomination and Appointment Procedures.)

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1. Ordinances. Certain matters require that Council action be by ordinance. In general, these include exercise of the police power (the authority of a municipality to enact ordinances to promote the public health, safety, and welfare) by the Council; for example, zoning amendments, traffic regulations, budget ordinances levying taxes and appropriating revenues. Actions of this type affect the public generally.
 2. Resolutions. In general parliamentary practice, whether an action may be authorized by a simple motion or whether it requires a resolution depends upon the scope of the contemplated action. However, Chapel Hill has traditionally taken almost all actions by resolution. For example, although actions such as awarding contracts, authorizing special requests, or authorizing a temporary street closing are limited actions which refer only to a particular matter and, as such, could be handled by a simple motion, Chapel Hill's practice has been to prepare resolutions for these actions. Resolutions also should be used for authorizing actions of broader scope such as establishing written policy.
 3. Motions. Motions have been confined, for the most part, to approving minutes or directing that an ordinance or resolution be prepared for consideration by the Council to consummate a particular desired course of action.
 4. As to Particular Matters. Examples of these and the correct suggested procedures are set forth below.
 - a. Special Use Permits.
 - (1) To Grant a Special Use Permit. The appropriate motion,-is: "I move the Council adopt Resolution (specify the TITLE of the resolution and its number)."
 - (2) To Deny a Special Use Permit. The appropriate motion, is: "I move the Council adopt Resolution (specify the TITLE of the resolution and its number)."
 - b. Zoning Change. The proper motion is "I move the Council adopt Ordinance (specify the TITLE of the ordinance and its number)."
 - c. Contracts. In all contract matters, the recommendation of the Manager is forwarded to the Council in the form of a resolution. It

usually will be a recommendation to accept the low bid. The proper motion is "I move the Council adopt Resolution (specify the TITLE of the resolution and its number)."

~~d. Releases and Refunds. The proper motion is that Council adopt a resolution authorizing the refunds and releases. (NOTE: State law requires that action of this type be only upon written request, the finding by the Council that certain facts exist, and that action with respect thereto be by resolution.)~~

~~e. d. Procedure for Adopting. Most ordinances and resolutions require only that some member move the adoption of the ordinance or resolution, another member second, and a vote be taken and recorded in the minutes. In certain instances, however, in connection with federally required resolutions and applications, and some bond ordinances and resolutions, it is required that three members be involved; one to introduce, one to move adoption, another to second, and then the vote. In such instances, the requisite procedure is called to the attention of the Council at the time for action.~~

E. Voting.

1. Routine. Although a quorum of the Council is five, a quorum cannot act by simple majority. The affirmative vote of five members of the governing body to take **almost all** actions. Any motion not receiving the required vote is not defeated, but merely fails adoption. (See Section 5, below.)
2. Ordinance. General law provides that no ordinance (except for budget, bond order and franchise ordinance) may be ~~adopted~~ **enacted** at the meeting it is introduced unless it receives two-thirds vote. An ordinance failing to receive the requisite vote merely goes over to the next regular meeting of the Council for a second vote before becoming final. At second reading, an ordinance requires only five votes to ~~pass~~ **be enacted**.
 - a. Budget Ordinances. A budget ordinance may be adopted by simple majority at any regular or special meeting of the Council. This provision is designed to expedite the fiscal operations of the Town.

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- b. Bond Order. The certificate must indicate the split. A five-four split on adoption of a bond ordinance could raise serious questions with bond counsel.
 - c. Franchise Ordinances. To adopt an ordinance granting a franchise, the ordinance must be approved at two regular meetings of the Council. Such meetings need not be consecutive, but approval must be by a five vote majority vote at both such meetings.
3. Protest. In matters involving amendments to the Zoning Ordinance having to do with zoning regulations applicable to particular areas, State law provides that a protest petition may be filed. If such a petition is timely filed and correctly executed, this will be called to the attention of the Council at the time of final voting. In the event such a valid petition is filed, the rezoning ordinance cannot be ~~adopted~~ **enacted** except by three-fourths vote of the Council.
 4. Abstention. **By State statute, No** member of the governing body may be excused from voting on any matter before the Council except in matters involving the consideration of his or her own financial interest or official conduct. In ~~all~~ **most** other cases, the failure to vote by a member who is physically present or has withdrawn without being excused (preferably by a majority vote of the remaining members present) shall be recorded as an affirmative vote. This rule does not apply where the matter being voted upon is not a motion but rather offers the Council more affirmative choices than just approval or disapproval of a specific ordinance or resolution. For example, if the Council is voting on appointments to an advisory board a Council Member may elect to turn in a signed, unmarked ballot. **Certain other circumstances may make abstention from voting appropriate in case involving quasi-judicial proceedings. These are reviewed during Council orientation by the Town Attorney.**
 5. Tie Votes. In the event that voting on an item being deliberated for the first time results in a tie, then the item is carried over for consideration at the next regular meeting. If that same item receives a tie vote at its second, third, fourth, etc., consideration with one or more members of the governing body absent, the item is again carried over. Should any consideration of an item, after the first consideration, result in a tie vote when all members are present (one or more excused from voting), the item is removed from the agenda as if it had never been before the Council.

These principles shall also apply to occasions where there is not a tie vote, but where a matter has received less than the required vote to constitute a decision on a particular matter.

F. **Public Hearings and Public Forums.**

1. **Purpose.** The purpose of public hearings is to permit public input and discussion. Newspaper and other media notice are given. Generally such hearings are of two types:
 - a. Those called by the Council in its discretion (**often referred to as public forums**); and
 - b. Those required by law.
2. **Required by Law.** Certain public hearings, for example those on zoning changes, subdivision applications, special use permits, the annual budget, assessment rolls, and federal programs are all examples of public hearings required by various regulations.

Present ordinances provide that public hearings on land use matters may be held normally on the third Monday in January, February, March, April, May, June, September, October, and November. The Council may schedule a public hearing at any time on its own motion.

3. **Notice of Public Hearings.** Various regulations prescribe the minimum notice and advertisement time, usually by publication in a newspaper. The time required varies with the subject of the hearing. Generally it is between ten and fifteen days. There is generally no legal form of notice required, only that the notice be of sufficient clarity and fullness to give the public an idea as to what the subject matter will be, when and where the hearing will be held, and where additional information may be obtained.
4. **Procedure at Public Hearings.** No precise statutory procedure exists for the conduct of public hearings. The Council has informally determined the format to be:
 - a. Description and explanation of the request or proposal and questions with respect thereto;

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- b. Hearing from the public on the proposal;
 - c. Comments or questions from members of the Council;
 - d. Referral to the Manager or appropriate agency.
5. Recess of Public Hearings. Hearings on Master Plans, Special Use Permits and Subdivisions shall be recessed to allow the Manager's follow-up report to be submitted under oath and subject to cross examination prior to adjournment of the hearing and consideration by the Council. Unless otherwise reopened by action of the Council, public hearings shall in all other respects conclude at the end of the initial regularly advertised and conducted public hearing.
 6. Adjournment Reconvening of Public Hearings. Pursuant to General Statute, the Council may continue a public hearing from time to time without further advertisement, **as long as the date, time and location for reconvening are specified at the time the hearing is postponed.**
 7. Special Use Hearings. The Supreme Court of North Carolina has held that the Council, in conducting a special use hearing, is acting as a quasi-judicial body which finds facts based upon evidence presented to it. Witnesses desiring to give evidence must be sworn; this oath is to be administered by the Town Clerk. In the event there are opposing views, both sides must be given a reasonable opportunity to examine or cross-examine witnesses. The Council may consider, in making its final decision, only evidence submitted to it under oath at the public hearing which has been subject to the appropriate rules of procedure. Unless withdrawn with the permission of the Council or found fatally defective by reason of improper legal notice, etc., the only appropriate action for the Council following a special use or rezoning hearing is to refer the matter to the Manager for his/her consideration and recommendation.
 8. Subdivision Hearings. Subdivision hearings shall be conducted in the manner of special use hearings, with testimony presented under oath and a reasonable opportunity made available for examination and cross-examination of witnesses. The Council may consider, in making its final decision, only evidence submitted to it under oath at the public hearing, which has been subject to the appropriate rules of procedure. A summary of Council actions will be prepared as soon as possible following each Council meeting.

G. Record of Council Action.

1. Minutes. General Statute requires that full and accurate minutes of the Council proceedings shall be kept and shall be open to inspection to the public. Parties wishing to examine Council minute books, ~~listen to audio tapes~~ or view videotapes of prior Council meetings may do so in the Office of the Town Clerk during regular business hours. A brief statement indicating this availability shall be made on the cover sheet of draft minutes of regular Council meetings. ~~Present Statute~~ **State law** requires the ayes and noes of every vote be recorded in the minutes. The minutes as prepared for the consideration by the Council are draft minutes, and only when corrected and approved and entered in the official minute book do they become the official minutes of Council action. As soon as possible after each meeting, the Town Clerk shall distribute draft minutes to the Mayor and Council for review and revisions. The period for reviewing the minutes and returning revisions to the Town Clerk shall be at least 7 days. After revision of the draft minutes as needed, the Manager will place the final draft minutes as recommended on the Consent Agenda.
2. Minute Book. There is maintained in volumes in the Office of the Town Clerk the official Minute Book of the Council. In this are kept all notices, waivers of notices of special meetings, election results, as well as the minutes of the Council containing all ordinances and resolutions adopted by the Council.
3. Book of Ordinances. ~~General Statute requires t~~ The Town to maintain a Book of Ordinances, separate and apart from the official Minute Book, ~~Such a book is maintained~~ in the Office of the Town Clerk. Each ordinance is entered herein and assigned a sequential ordinance number for the calendar year in which adopted prior to January, 1986; and a sequential ordinance number for the meeting day, month and year, beginning in January, 1986. For example, 79-O-1 being the first ordinance adopted by the Council in calendar year 1979, and 86-1-13/O-1 being the first ordinance adopted at the January 13, 1986 Council meeting.
4. Book of Resolutions. The Town maintains a Book of Resolutions separate and apart from the official Minute Book and Ordinance Book, and into this permanent volume are entered all resolutions adopted by the Council. All resolutions, like ordinances, are assigned a sequential number for the calendar year prior to January, 1986; and a sequential

resolution number for the meeting day, month and year, beginning in January, 1986. For example, 79-R-1 being the first resolution adopted by the Council in calendar year 1979, and 86-1-13/R-1 being the first resolution adopted at the January 13, 1986 Council meeting.

5. ~~Code of Ordinances. Although now required by General Statute, the Council some time ago adopted a Code of Ordinances with periodic supplements in loose leaf form.~~ The Code of Ordinances contains in codified form all general ordinances adopted by the Council except those of a technical nature, ~~zoning ordinances,~~ and budget ordinances. Such ordinances excluded from the Code are bound and supplemented separately. Technical ordinances; i.e., the State Fire Code, the Building Code, the Electrical Code, etc., are maintained in separately-bound volumes and are available in the Office of the Town Clerk. ~~Each Council member and the Mayor are given copies of the Code of Ordinances at their swearing in.~~ **Copies of the Code of Ordinances are located in the offices of the Mayor and the Council at Town Hall for their use.** Such copies are updated periodically throughout the members' terms.