



**Special Meeting Agenda
Freeport City Council
October 22, 2013
Freeport City Hall
6:00 p.m.**

6:00pm	Call to Order
6:01pm	Council Conduct
7:00pm	Adjournment <i>Motion to adjourn.</i>

Next Meeting: October 29, 2013 at 7:00 PM



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Memorandum

To: Freeport City Council
From: Gerald W. Von Korff and Adam A. Ripple
Re: Meeting Management Techniques When Meetings are Not Going Well
Our File: 15542-0001
Date: October 17, 2013

The meeting management techniques presented here are commonly used by many of the most experienced mayors and councils in Minnesota and elsewhere. They are fully consistent with Minnesota law, and they are primarily founded on Roberts Rules of Order, although to some extent, Roberts Rules of Order are overridden by the basic concept of majority rule in public bodies, so that super majorities are not generally required to take action, unless the law provides otherwise. Over the years, we here have observed a variety of meeting procedures. The conduct of meetings must be adjusted to fit the will of the council, as determined by the mayor, subject always to the decisions that the majority may make.

When there is controversy about how a meeting should be conducted, it makes sense for the council to have a discussion about the issues that they confront and adopt rules of order by majority vote. The ultimate goal is to run business meetings in a business like way. That means that:

- When matters come before the members, everyone should have adequate notice of the matters to be discussed, unless there is a genuine emergency.
- The rights of the minority and majority should be protected fairly to address matters at an appropriate time and place.
- When business is properly before the council, each member should have an opportunity to be heard within reasonable time limits, but debate should not be prolonged in a repetitive or abusive way. Debate should close when a majority of the members determine that further debate will not advance the deliberative process.

- Members should have an opportunity to obtain reasonable information in advance of deliberations so that they can fulfill their public duties. But requests for data should not become abusive. Staff should have reasonable notice of the data that members will require sufficiently in advance of the meeting, so that data can be obtained and provided to the requesting members as well as all other members.
- The business of the council should be completed in a reasonable amount of time. Meetings should not last beyond the ability of members to function effectively. It is our experience that meetings that last longer than three hours are beyond the capacity of most people, and most meetings can be appropriately concluded in two hours or less.

The strategies described below are options for your consideration. They can be used individually or in combination.

1. Agenda Meeting. Many councils conduct an agenda meeting in which the mayor meets with select staff members to plan the agenda about seven to ten days before the meeting. At the agenda meeting, staff present a draft agenda. The participants attempt to anticipate the kinds of information the members will require to make decisions. The mayor brings forward issues that should go on the agenda on behalf of the members. Before the agenda meeting, members notify the mayor of the issues that they wish to place on the agenda. With advice of the staff, the mayor determines finally what should go on the agenda, and which items should be deferred to a later meeting. In doing so, the mayor is seeking to bring before the council the issues at a time when the members are ready to hear them. Agenda meetings should be used to anticipate the concerns of the rest of the council. The goal is to make sure that the concerns of all members get a fair hearing at a time when the issue can be addressed most effectively.

2. Long Term Meeting Plan. Some councils prepare a quarterly meeting plan, or an annual meeting plan, which is then updated from time to time. The meeting plan lists the issues that the members will need to confront over the next quarter (or other period) and states when the issue is likely to come forward to be heard by the members. The advantage of doing this is that staff, the members, and the public can see that an issue they are concerned about will be heard at future meeting. The meeting plan is updated and revised as needed.

3. Disputes About the Agenda. Adopting the agenda should take less than a minute; usually it should take a few seconds. Disputes about the agenda should not be a surprise. When members first receive the agenda, they should notify the mayor of any concerns. The proposed agenda should then be moved and seconded - or moved and seconded with a proposed amendment. If a member dissents from proposed agenda, then the member should bring a motion to add the item to the agenda. If there is no second, then it fails. If there is a second, then a vote should be taken with either no debate, or with debate lasting less than a minute. Usually disputes about the agenda should be resolved by providing a reasonable time at a future meeting for the item to be properly heard.

4. **Member Agenda Comments.** Many councils follow the procedure of having a time at the end of the meeting where each member can briefly state an issue that they would like placed on the agenda of a future meeting. Often the mayor asks other members if this is something they would like to discuss, and if so, what information they would like to have at that meeting.

5. **Member Requests for Information.** Most cities maintain reciprocal respect for the orderly flow of data between the council and the staff. The principles typically followed are:

- **Advance Information to the Council.** Members should not be expected to deliberate or vote on matters added to the agenda at the last minute, except in case of emergency. If the staff wants to put items on the agenda after it has been sent out, the mayor and members should resist doing so, except in exigent circumstances or where the matter is very minor.
- **Members Notify of Information Requests in Advance.** When a member receives his agenda, he should review it promptly. Members should notify staff if they have particular concerns relating to the item of business, so that the staff can provide information to all the members before or at the meeting as appropriate. It is unfair to the staff to expect them to answer complicated questions posed for the first time at the meeting; it is unfair to the members to expect them to vote without adequate information.
- **Identify Action Items.** Issues should be identified on the agenda for action or for discussion. If an item is identified for action, all concerned should make sure that staff knows what information is needed to make the item ready for action.
- **Member Requests for Information, not Data Practices Requests.** Rarely, if ever, should member requests for information be dealt with as a data practices request. Members are acting as part of the city. They are entitled to the information they need to deliberate. They also have a responsibility as fiduciaries for the organization not to make unreasonable or burdensome requests. The members, acting as a whole, should make sure that individual member's rights to reasonable information are protected. Issues dealing with timing and manner of providing adequate information should be addressed by council policy.

6. **Public Participation.** Most public bodies that have problems with the length of their meetings adopt procedures for managing public participation. Typically, they provide a comment period of approximately ten minutes at the beginning of the meeting for general public comment. Members do not then respond to the comments. The comments are collected, and someone is assigned to get back to the citizen with appropriate information. If citizens are present to comment on items on the agenda, citizens may be afforded the opportunity to

comment if the council so determines. The public does not intervene or interject into the deliberations of the council. If an item is designated as appropriate for public participation as part of a public hearing, typically, the council discusses the matter first. Then the mayor opens the matter for comment and assigns a specific amount of time for a citizen to comment. The mayor enforces the time allotment. When everyone has had an opportunity to comment, the mayor closes the public comment and then if action is required, a motion, second and council discussion on the motion occurs.

7. Time Limits on Deliberation. All deliberative bodies observe time limits for debate or discussion. One way of handling this is to state the estimated time for each matter on the proposed agenda. The mayor then makes an effort to keep the meeting on the scheduled time limits. If the time limit approaches, the mayor points that out and seeks to wrap the issue up as close to the scheduled time as possible. If the item on the agenda is a discussion item, and it appears that the council is going to require further discussion, the mayor endeavors to find out what additional information will be required, and states that the item will come back for further discussion or action at a designated meeting.

If the matter is on the agenda for action, it is important to understand the fundamental principle that endless debate is fundamentally inconsistent with the principles of orderly meetings and with democracy. The mayor recognizes members. Members do not speak until they are recognized. Under the leadership of the mayor, the council works to stop debating, when all points of view have been heard.

The mayor then says, it appears to me that we have heard all points of view, I am looking for a motion to cut off debate. Or, the mayor says, something like “does anyone have something really important to say, that hasn't been said.” The motion to terminate debate is not debatable. The mayor tries to sense whether someone has something new to say, to protect the deliberative process. But once the council is ready to move on, debate is terminated by the vote of the majority of the council, and then it is time to vote.

Once the issue has been voted upon, there is no occasion to discuss the matter further. The council moves on.

8. Reconsideration. Once a matter is decided, it may be reconsidered at the next regular meeting, but only if a member who voted on the prevailing side moves to have it reconsidered, and then only upon the second of one other member. Motions to reconsider matters by members who voted on the losing side are out of order. If a member who was on the losing side wants a matter reconsidered, he needs to convince a member who voted on the prevailing side to make the motion, and that request should occur before the meeting.

9. Rulings of the Mayor are the Law of the Meeting. The mayor is the presiding officer. When the mayor makes a ruling, the ruling of the mayor is the law of the meeting,

unless it is appealed from by a member. No member has the right to ignore the ruling of the mayor simply because the member believes that the ruling is wrong or unfair, or that it is unlawful. The mayor is vested with the power to make decisions on procedural matters. Sometimes it is unclear how to apply the rules of parliamentary procedure: reasonable people can differ. The basic rule is that once the mayor decides, that is the rule which governs the body, unless a majority of the council votes to overrule the decision of the mayor. The proper way to dissent from the ruling of the mayor is for a member to seek recognition. The member says I believe that the ruling of the mayor is incorrect, briefly stating the reason. At that point, the mayor may consult legal advice, ask the advice of a member present who is regarded as having special knowledge on procedure, may ask for a brief discussion, or may make a ruling without further consultation as he sees fit. If the member still dissents from the ruling, then the member requests a vote of the council on the ruling, which is not debated. If the council upholds the ruling of the mayor, then all members abide by the ruling, because it becomes the law of the council during the meeting.

10. Disputes Over the Minutes. Disputes over the content of the minutes should be rare, and should be quickly resolved. The following principles may assist:

- **Keep Meeting Recordings.** Keeping recordings of your meetings prevents you from having to argue about whose memory is correct.
- **Minutes are Official Record of Actions Taken.** It is not the purpose of the minutes to record what everyone says. The main purpose of the minutes is to create an official record of what the members decided. Where findings are needed to support the decision, of course, the minutes should recite the reasons. However, members seldom argue about what was decided, and more often disagree about how something was said, or who said it. By keeping an audio recording, you maintain a record of that which cannot be disputed, and use the minutes for their real purpose.
- **Members Raise Concerns About the Minutes Before the Meeting.** If there are significant issues about the minutes, members should make them known in advance of the meeting. That way, someone can review the tape and fix the proposed minutes beforehand. If the minutes are accurate, staff can notify the member, who can listen to the tape if there is any doubt, in advance of the meeting. There is no good reason to have lengthy debate on the content of the minutes.
- **Consideration of the Minutes is Not an Occasion to Reargue or Reconsider.** The purpose of the adoption of the minutes is to approve the official record of what was decided. If a member disagrees with what happened, that is not a reason to object to the minutes. The member has already registered that objection

by voting against the item at the last meeting. If the members believes that the council had the wrong information, or was poorly advised, that issue is not taken up when the minutes are adopted. That is resolved by having a proper motion and second to reconsider during the meeting itself. Attempts to reargue the merits of what should have happened during adoption of the minutes are out of order.

11. Consent Agenda. Most councils have a consent agenda. The mayor and staff recommend items for placement on the agenda, because they are likely to be non-controversial. Typically, more than half of the business of the council is placed on the consent agenda. Examples of items placed on the consent agenda, would be (a) payment of the bills; (b) formal adoption of a matter that has been previously fully discussed and a consensus is known; (c) performance of a statutory duty; and (d) such other matters as the council routinely approves without debate or discussion. When members see the agenda, if they have a concern about an item proposed for the consent agenda, they contact staff and raise their concern. The goal is to get the member the information he needs, so that he can agree to leave it on the consent agenda. When the agenda is proposed, any one member can remove any item from the consent agenda. The item is then placed at the foot of the consent agenda. The member who removed the item then explains why he removed it from the consent agenda. If there is inadequate information, staff attempts to answer the questions posed. If discussion is required, a motion to approve the item is made and seconded, and discussion is then held. A vote is then taken, or the matter is deferred to a later meeting, according to the wishes of the council.

12. Committee Work. Some councils improve the quality of their deliberation by creating committees. For example, a personnel committee, a finance committee, or a projects committee. An attempt is made to balance these committees so that the staff gets advice from the committee of the likely concerns of all members. Members should join committees to help the council implement the will of the majority. The committee attempts to represent the spectrum of views of the membership, and helps the staff to anticipate the concerns that the members are likely to have. Then, at the council meeting, the mayor of the committee moves the item that has come through his committee and explains what the committee has done to make the recommendation. These committees would be subject to the open meeting law.

13. Meeting Decorum. There are some generally accepted rules of decorum that are important for ensuring respectful and productive meetings. Some councils go so far as adopting these rules as part of a council code of conduct.

- a. Time limits, as addressed above, can become important tools in ensuring proper decorum during meetings. It protects both the majority and the minority on the Council by allowing voices to be heard. It also protects the council and public from having to endure meetings that drone on for hours.

- b. Members and the public may passionately disagree on issues, but abusive language, cursing, and threats have no place in a public meeting. Members may be declared out of order by the council for using such language. The Council may choose not to recognize members and the public who violate rules of decorum. As a last resort, unruly members or the public may be removed if they refuse to comply with the rules of decorum. Threats may also rise to the level of criminal conduct.
- c. Members should not be having side conversations with each other during a council meeting or using cell phones or electronic devices. Such actions not only violate rules of decorum, they potentially violate the Open Meeting Law. Members may be declared out of order by the council for such discussion and device use, and may ultimately be removed if they refuse to comply.

14. Interactions with Staff Outside of Council Meetings. City councilmembers have very little meaningful authority as an individual outside of council meetings. Any authority must be carried out by the council as a whole. This limited authority is applicable to interactions with staff. An individual councilmember cannot make employment decisions (reprimands or termination) related to city staff or direct city staff to exercise city powers. The sole authority lies with the council as a whole. While it is appropriate to interact with staff in order to understand the day to day workings of the city, if an individual councilmember oversteps their bounds, it may create liability for the city and the individual member. Such overstepping is unfair to staff and create unnecessary conflict between the individual member and the council as a whole.

15. Councilmembers' Individual Liability. Individual councilmembers can be sued. While the city is required to indemnify and defend individual members, such protections only apply when the member is carrying out his official duties as a councilmember. Councilmembers are not protected for actions outside of their official duties or action taken in malice or bad faith. Again, this can create unnecessary conflict between the individual member and the council as a whole.

16. Unofficial Conflicts Of Interest. Some conflicts of interest are black and white—such as a councilmember being a party to a contract with the city. Many conflicts of interest, however, fall into any number of gray areas. Any time a member has a personal issue that does not allow them to be an impartial decision-maker, this may not be an official conflict of interest, but it may create the appearance of impropriety. In such situations, members may consider disclosure to the council, consultation with the city attorney, and recusal. Refusal to appropriately address unofficial conflict of interest may create unnecessary tension at the council level and undermine the public's faith in the council.

17. Code of Conduct. One way to fully clarify the council's expectations of itself and its members is to adopt a code of conduct that addresses decorum; member interaction with city

staff, the public, and each other; and any other issues relevant to proper functioning of the city. The League of Minnesota Cities has a model code of conduct, but there is a wide array of examples from cities throughout the state.

Appendix

LMC Memo- Role With It

(<http://www.lmnc.org/media/document/1/individualvscouncilauthority.pdf?inline=true>)

MMA Minnesota Mayors Handbook

(http://www.lmnc.org/media/document/1/mayors_hdbk.pdf?inline=true)

LMC Handbook Chapter 6- Council Role

(<http://www.lmnc.org/media/document/1/chapter06.pdf?inline=true>)

LMC Handbook Chapter 18- Liability

(<http://www.lmnc.org/media/document/1/chapter18.pdf?inline=true>)

LMC Memo- Conflict of Interest

(<http://www.lmnc.org/media/document/1/officialconflictinterest.pdf?inline=true>)