MINUTES
City of Cocoa
City Council Workshop

January 5, 2022

A Special City Council Meeting was held on Wednesday, January 5, 2022, in Cocoa City Hall, in City Council Chambers, located at 65 Stone Street, in Cocoa, Florida, 32922, as publicly noticed.

I. Opening Matters:

Mayor Blake called the meeting to order at 1:01 p.m. He spoke about the intent of the workshop and would like to be concise. The purpose is to work together as a group and as a body.

Deputy Mayor Hearn provided the invocation and Mr. Bryant Smith led the assembly in the Pledge of Allegiance to the Flag of the United States of America.

The City Clerk took the roll.

PRESENT:	Michael C. Blake	Mayor
	Lavander Hearn	Deputy Mayor
	Rip Dyal	Councilmember
	Alex Goins	Councilmember
	Lorraine Koss	Councilmember
	Anthony Garganese	City Attorney
	Stockton Whitten	City Manager
	Carie Shealy	City Clerk

OTHER STAFF MEMBERS PRESENT:

Tammy Gemmati, Administrative Services Director; Jack Walsh, Utilities Director; Charlene Neuterman, Interim Community Services Director; Evander Collier, Chief of Police; Bryant Smith, Public Works Director; Rebecca Bowman, Finance Director; Samantha Senger, Assistant to the City Manager/PIO; and Mitch Lawyer, Tech Services Supervisor.

II. DISCUSSION

City Manager Whitten noted that Deputy Mayor Hearn had requested this workshop/retreat for the purposes of moving the City forward. It was a difficult workshop as it is such a broad topic and the items for discussion that were provided were not necessarily related to relationships or goal setting.

A presentation was provided[1] and he discussed the overall goal of the workshop which was to talk openly about Council relationships and defined the word "relationship" which is "the way in which two or more people, groups, etc., talk to, behave toward, and deal with each other."

Discussion was further held on how to act more like a collegial body.

Councilmember Dyal shared that he has been coming to meetings since 2008 when he was appointed to the Board of Adjustment. He believes that being on the dais is a privilege but he has a problem with things being said. He is seeing the law being broken and all that this does is make people angry and puts staff in between them. He has respect for most of them but does not know how to approach the problem. He can be polite but this is all of the time. For example, there are serious problems in the City like kids going hungry, but community gardens and butterfly gardens are being discussed. We have a great opportunity to get a lot of things done, commercially, new homes, new developments, etc. There are jobs out there that need people and we need to think about training programs. Being called sexist on an open dais or being accused of a crime on an open dais is uncalled for.

City Manager Whitten reviewed the ground rules for this meeting which are: listening with respect, value differences, stay on task, be candid and honest, no sidebar conversations and to limit yourself to the allocated time limit. He requested that there be a time limit established of two minutes but also a time of rebuttal.

Councilmember Goins thought honesty was important and that time needs to be respected as well as respecting each other.

A three minute time limit with a one minute rebuttal was agreed upon.

Councilmember Koss felt that three minutes was not enough and preferred five minutes. She felt they should be thoughtful and diplomatic in how they speak about things.

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1 EXHIBIT A: 2022 Workshop presentation, Resolution No. 2002-08 and City Council Rules of Procedure

Mayor Blake felt that four minutes was fair with a two-minute rebuttal. All agreed this was fair. **Consensus among Council on the ground rules and time limit.**

City Manager Whitten pointed out that there are Rules of Conduct that we all abide by. He mentioned the City Charter, City ordinances, policies, and resolutions. Council also has their own personal Code of Conduct and he wanted to focus on that one particular document which is Resolution No. 2002-08. He believed that this document hits a lot of points that he has heard from them collectively as well as individually. This was adopted in 2002 and they have all signed it as well. He further announced that he was not originally going to have staff come to this but thought it was important as many of them may not be aware of the document.

He read the rules of the Resolution one by one and each were discussed if needed:

a) *I affirm that the proper statutory and City Charter role of a City Council Member, as with any elected member of a legislative body, is to act collectively, not individually, to set and/or revise the City of Cocoa's governing policies and that the City Manager and staff administer such policies.*

Deputy Mayor Hearn asked when it was appropriate to make motions at a council meeting. In response, City Manager Whitten explained under Reports it talks about action items and how they are addressed. He further clarified that a clear direction to staff is a unanimous decision under Reports. Motions help because they cannot say they are the wishes of one council member. The operating procedures do govern what can be done under each section of the agenda. It says that each council member can put an item on. If an item is requested, staff does it "at the request of Councilmember X."

City Manager Whitten pointed out Article I, d, and that it does not specifically state that the City Attorney can put something on the agenda, however, the City Attorney works through the City Manager to put items on.

Mayor Blake advised that emergency items happen but he asked that they speak with the City Manager so that they can be placed on the agenda in a timely fashion unless it is an extreme emergency.

Councilmember Goins asked if it would be smart to get a consensus from Council to put something on an agenda before having a conversation with the City Manager.

Mayor Blake wanted all to be mindful and that reports are at the end of the meeting and most of them work and he does not want to set a precedent. He reiterated his request that they speak with the City Manager.

b) *I understand that a City Council member does not manage the affairs of the City (a) by intruding into daily operations or spheres of responsibility designated by Florida Statutes and the City Charter to the City Manager as the chief executive officer or to administrators acting as City Manager designees; or (b) by undermining the City Manager's lawful authority.*

Councilmember Goins spoke about an issue that he recently had about zoning. His intention was not for staff to do it right then and there. He asked if there was a distinction between a direction and/or question about a policy.

City Manager Whitten feels that employees do a good job of deciphering information. However, if the City Manager is going to be held responsible for direction then it should come to him, however, most are good about knowing what they can and cannot do.

City Manager Whitten reiterated some of the issues that were brought forward for this agenda.

Minutes were an issue that was brought up and Mayor Blake wanted to discuss this issue. He stated in being an athlete and from his college to professional careers, if you are recorded, then what you say is what you mean to say. The City Clerk has been accurate with details and notes in her minutes and he has been familiar with the City Clerk in previous elections and every council meeting. We are all professionals but not once has this one individual not said something about the minutes. He asked for clarification.

Councilmember Koss noted that the minutes are not verbatim and one of the most difficult jobs is trying to listen at a council meeting and then having to do minutes. She noted that her vote has been recorded wrong twice in minutes and understands the challenge of writing them as it is difficult.

Mayor Blake asked her to put herself in their shoes and never get a thank you. They take capias notes and minutes are amended at every council meeting. He pointed out that the camera does not lie. There is no communication with staff and that is where the breakdown takes place. If he was that person it would be hard

to appreciate her if she is always being badgered. Mayor Blake felt kindness goes a long way and it does not hurt to say thank you.

Councilmember Dyal asked Councilmember Koss if she goes back and listens to the video before making changes. He stated that one time she amended the minutes and he went back and she had added a word. He stated that she changed the minutes when the word was added.

Councilmember Koss agreed that no doubt she changed a word and they have a right to amend the minutes. She would prefer that because they have video that they just do action minutes. She believed action minutes would be more useful.

Councilmember Goins asked if it was legal for a council member who has an issue with the minutes to contact the City Clerk prior to the meeting. City Attorney Garganese advised that they could approach her with a change that they think may need made, however, it is ultimately up to the Council to approve the minutes and council does not have to agree with the one person who is amending the minutes.

Councilmember Dyal spoke about Council Liaisons and had spoken to the attorney about the following issue. He advised that at one meeting the Chairperson of the board was not there and Councilmember Koss (liaison) had two sets of minutes. The minutes accepted had been done by the Chairperson. There was a set done by staff and one by the Chairperson and Councilmember Koss gave the board the choice of the two and stated the Chairs' were more accurate. The Recording Secretary does the minutes and boards do not accept minutes unless done by them.

Councilmember Koss was not sure of what meeting he was referring to, but knows that there were times when the Chair wrote up corrections because there were enough of them. She apologized but they were corrections.

City Manager Whitten felt that if they were going to change the way minutes were done it should be for all boards, as well as quasi-judicial boards.

City Manager Whitten spoke about Council Liaison duties and pointed out Article XIII in the City Council Rules of Procedure. It is very clear in that their duties are to simply report on the activities of the board at the next council meeting.

Councilmember Koss asked if that was limited to what it states. In response, City Manager Whitten felt it was pretty black and white but did not feel she would be stopped if she wanted to ask a question to the board.

c) *I will represent the interests of the entire City and the District that has elected me (excluding at-large Mayor) when making decisions and will rely upon available facts and my independent judgement. In my capacity as an elected City Council Member, I will avoid all legal conflicts of interest and avoid using my official position for personal, professional, or partisan gain.*

Councilmember Goins mentioned the budget and that things discussed were twisted even though he fought for Provost Park and not for Stradley Park. The City Manager had asked for a budget wish list and believed they were supposed to care about the City as a whole but also their districts.

Mayor Blake mentioned that one of the side effects of single member districts is when people get possessive about their districts. We are here as a whole to help our city.

Councilmember Koss submitted a spreadsheet that included the Blake Subdivision, Provost Park, and the City overall. They were all given a list and a lot of negative issues transpired from a meeting where decisions were made which made her constituents feel unrecognized. They did not realize that Stradley Park was in District 4 at that time.

Deputy Mayor Hearn thought that a solution could be that when the next budget process is started and to make sure everyone is heard, that they all submit priorities and a wish list. He stated last year was behind them and hoped that the process could be fixed.

Councilmember Goins stated that his point was that the way the former and current City Manager does the budget is different and suggest they submit things now.

Councilmember Koss thanked everyone for staying focused on solutions.

City Manager Whitten reiterated that they keep talking about fixing the process but there is nothing broken. They talked about two different things last year which were unassigned fund balance and fund balances that could be reassigned. Ms. Bowman does a great job of keeping up with it and he stated the amount of money

that was available. He brought those dollars forward and talked about allocating those. That was outside of the budget development process outside of this fiscal year and he does not want that confused.

d) *I will demonstrate dignity, respect, and courtesy toward those with whom I am in contact in my capacity as a City Council Member. I will refrain from intimidation and ridicule of fellow Council Members, City Manager, staff, and other stake-holders in the City of Cocoa.*

Councilmember Koss has been told by several supporters to bring up the following point. She has supporters and constituents who say it would not be appropriate for another council member to go to another's supporter or constituent and say that "we" have decided not to second motions, or that "we" have a plan to make her resign before her time is up, etc. That is not appropriate for several reasons. If her supporters and constituents are told that whatever she brings forward will not be approved then it creates a lot of unnecessary drama.

Deputy Mayor Hearn also heard of a particular incident himself and for him, any plan of bad intent or targeting of one council member, he is not a part of and does not feel that any others are. He requested that if it is being done to stop.

Councilmember Goins advised that Councilmember Koss let him listen to a message and it named a councilmember and that was Rip Dyal. Whether true or not, this person said that Councilmember Dyal made those statements. Furthermore, when Councilmember Koss said what she did to him about the Sunshine Law he was mad; however, he understands after listening to the message and people think that the four of them stick together. Regardless, they have to be careful in the community as people can twist words and asked them all to be cautious.

Mayor Blake noted he is old school and warned them to be careful of the person that brings them the bone, it is a hindrance to their character if they bring that to them. He pointed out that two people rode together to Fort Myers and someone stood up. He has been called a sexist and justice and truth prevails.

Councilmember Dyal stated that he has said that he does not like Councilmember Koss. He admits that he has made a lot of remarks and has said that he hoped she does not get re-elected. He further made mention on an incident where she placed her hands on him.

Councilmember Koss apologized to Councilmember Dyal for touching him and noted she received the recording on the date that she accused Councilmember Goins of the Sunshine Law violation.

Deputy Mayor Hearn advised that if you look at meetings from last year they have all voted differently. They are not voting together most of the time.

e) *In my capacity as an elected City Council Member, I will refrain from inappropriate language including statements that are malicious, threatening, disparaging, mean-spirited, vulgar or abusive. All disagreements, concerns or criticisms shall be framed in language that is keeping up with the dignity and professionalism of an elected official and the honor of the City Council.*

f) *I will focus on solving problems. I will maintain appropriate decorum and professional demeanor in conduct of City business and work cooperatively and conscientiously with others as I request or receive information, examine data or weigh alternatives in the decision-making process.*

g) *I will demonstrate patience and refrain from demanding interruptive access to staff or immediate responses or services when requesting information that requires significant staff time in research, preparation or analysis or that will result in staff neglect of more urgent duties. Such requests will be made through the City Manager for scheduling and prioritizing or through consensus of the City Council.*

Councilmember Goins admitted his patience was horrible but many times it is due to a citizen who has called him. He apologized to the City Manager for texting at all times.

Councilmember Koss asked for a quick response, even if just a text back. City Manager Whitten understands and that they have valid points. His goal is to get better and to do what was best for the City.

h) *I will devote sufficient time for adequate preparation prior to City Council meetings and be in attendance, insofar as possible, at those meetings and all other scheduled events at which Council member participation is required. I will prepare myself through study, inquiry and thought so as to be informed thoroughly about issues being discussed.*

City Manager Whitten advised that he has meetings with three members of council to review the agenda and he is looking at bi-weekly briefings with the professional staff to speak with them on the items[2].

Mayor Blake announced that development was coming and there is productivity and people are moving here. He believes that they are being productive as council and staff.

Councilmember Koss agreed that the Space Coast is growing.

i) *I will respect diversity and encourage the open expression of divergent ideas and opinions from fellow City Council Members, staff, citizens of Cocoa, and utility customers. I will listen actively and objectively to others' concerns or constructive criticisms.*

Councilmember Koss and the Mayor both embrace diversity and Councilmember Koss stated that there was a mention that it looks like she is being isolated on council because she did not grow up in Cocoa. About twenty five percent of the population choose to live in Cocoa. Team Cocoa has to include those that are born here as well as those that choose to live here.

Mayor Blake spoke of the past and knows that Councilmember Koss has been speaking with Eastern Florida State College and pointed out that it is not what you say but how you say it.

Mayor Blake shared a detailed history of what he had to endure and live through as a child and adult as well, and what he is teaching students at school. He believes in Cocoa and loves Cocoa.

Councilmember Koss appreciates the Mayor's perspective. She pointed out that the twenty five percent is why we need to get the Collins' museum open. She is trying to follow the democratic process and to consider the diversity in their population. She felt like what he said was from the heart and they all need to be sensitive to the historic and cultural roots.

Mayor Blake further clarified his point and stated that you have to learn how to love people one way or another.

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2 Councilmember Dyal left the meeting at 2:34 p.m. and returned at 2:36 p.m.

Councilmember Dyal mentioned that there are three Cocoa High School graduates and one Rockledge High graduate here. All of his life he has seen things be taken away because of people who are not from here. He spoke about the past as well and believes that everyone should come together.

He advised that Councilmember Koss' apology helped him a lot because he does not like to be touched. This is a great workshop and things are being worked out.

Councilmember Koss spoke about what she has been doing with Eastern Florida State College and stands by that. She has met with Mr. Parker and the Board of Trustees and everything being done is to advocate for the citizens in that community.

j) I will refrain from any individual action that could compromise the integrity of the City, the City Council, or fellow City Council Members. I will delineate clearly for any audience whether I am acting or speaking as an individual citizen or I am acting or speaking in my capacity as a representative of the City Council.

Councilmember Goins believes that when out in public if someone speaks about another member of council he takes it personal. He believed if they all protect each other it would go a long way.

Mayor Blake shared that when they have a proclamation, etc. he likes to let the other members read them sometimes, so that they work as a team. It is hard to be in front of everyone. He provided the example of the item relating to Barrera Shores and that they all kept their composure and stood as a team.

Councilmember Koss thinks that the Mayor is very skilled in terms of facilitating and speaking to audiences and feels he has such a handle on processes and protocols. She would equally like to share in some of the things that other council members do, as she has never been asked to lead the Pledge. She would also like to see more deliberation, etc. in some instances.

k) I will maintain confidentiality of privileged information and will abide by the Government in the Sunshine Law, the Florida Code of Ethics for Public Officers, and the City Council Rules of Procedure in both its spirit and its intent.

Councilmember Goins asked if the definition of privileged information could be defined. In response, City Attorney Garganese explained that some stuff is deemed confidential by law and it cannot be given out. Privileged information is something that can be gained by their position and it would not be appropriate to disclose outside of the organization.

Councilmember Goins asked if an email or something was said on the dais that was privileged or confidential if the attorney would speak up. In response, City Attorney Garganese assured him in the affirmative. Local government is an open book and is accessible by the public with the exception of things that are privileged and confidential.

Councilmember Goins further asked how they know what can or cannot be talked about. In response, City Attorney Garganese provided a prime example of when they are engaged in union negotiations or a lawsuit. They are clearly advised when they are in those meetings where things cannot be talked about. Additionally, there are some development agreements that are deemed confidential.

l) I will promote constructive relations in a positive climate with all employees, consistent with my role as a Council member, as a means to enhancement of productivity and morale. I will support employment of best qualified persons for staff positions. I will recognize the achievements of staff, business partners, and others sharing the City of Cocoa's mission.

m) I will update and improve my knowledge, contributions, and value to the City by keeping abreast of current educational issues and trends through reading, continuing education and training. I will study policies and issues affecting the City of Cocoa, and attend training programs such as those offered through the National, Florida, and Space Coast League of Cities. My continuing goal will be to improve my performance as an elected City Council Member.

n) I will value and assist my fellow City Council Members by exchanging ideas, concerns and knowledge gleaned from my research or training. I will help build positive community support for the City of Cocoa's mission and the policies established by the City Council.

Councilmember Koss asked if they could send articles if they see something that would be a good read for everyone. In response, City Attorney Garganese

explained that they can share articles of interest and his recommendation would be to submit it to the City Clerk and have their office distribute it.

Mayor Blake stated that he calls Mrs. Koss "ma'am" because he is a southern gentleman. She appreciated that but she pointed out that there are times where others are introduced by their titles and she is introduced as Mrs. Koss.

o) *I will take a stand for my beliefs but will remain flexible enough to understand others' views. I recognize that I share in the responsibility for all City Council decisions and will accept the will of the majority.*

Councilmember Goins felt that with this they need to be mindful while on the dais of their body language.

p) *I will remember always that my first and greatest concern must be the citizens of Cocoa and the public health, safety, and welfare. I will seek to provide appropriate leadership that nurtures and motivates the citizens of Cocoa to be stakeholders in the affairs and achievements of the City.*

q) *I will be accountable to the City Council for violations of the Code of Conduct set forth in this Resolution.*

City Manager Whitten spoke on other issues brought forth by Council for discussion. He referenced community meetings and any protocol that they have in regards to those.

He pointed out that Council has reviewed the seventeen points in the resolution and they have confirmed that they would adhere to those.

City Manager Whitten further believes that action minutes would be a solution and Ms. Shealy could provide a sample at the next meeting and Council could compare the minutes.

Councilmember Koss advised that she had shared a sample of action minutes with the City Manager and she knows some are against them, however, she would like Council to consider them.

City Manager Whitten reiterated the role of the Council Liaison and that it is to bring back a report to the next council meeting.

Councilmember Goins mentioned staff issues and that all speakers who come before council should be given the same time. He stated that sometimes a rebuttal can extend the time and rules state they do not have to give a rebuttal. When he was a citizen he was confused by this.

Mayor Blake confirmed that the Delegations portion of a council meeting was thirty minutes and if they have more than ten cards it automatically supersedes that time. One person can submit one card and also a card to speak for a neighbor. He gets it but at the same time we are here to conduct city business, council business, and business for the citizens of the City of Cocoa. He agreed there are controversial issues but felt they were moving in the right direction.

Councilmember Goins felt that sometimes they needed to be more sensitive to things brought before them.

City Manager Whitten stated that the clarification on this is that Council is there to run the meeting.

He next reiterated community meeting protocol and advised that some have had meetings in their districts. In those instances where it is clearly a meeting that was organized by a city council member, staff needs to know what the protocol would be. There will not always be an automatic invite and there is not a requirement to invite all others. An agenda would need to be noticed, minutes should be taken and there would need to be the ability for the public to have public comment.

Councilmember Goins agreed notice had to be done and for these to be put on the calendar and possibly an email sent.

A discussion was held on media after Councilmember Goins noted that dealing with the media is something they all do. He felt that sometimes he feels targeted and that it would be good to be given a heads up to each other so they are aware of what might be coming out.

Councilmember Dyal advised that every time he has been contacted by the media he contacts Ms. Senger.

Ms. Senger agreed and assured them that they can always contact her but asked if they do speak to the media first to please let her know so that they can let everyone know.

City Manager Whitten advised that they would bring back some of these issues that they need further solutions on[3].

Connie Smith, 15 Indian River Drive, Cocoa, walks all over the city and a homeless camp was set up at the old Suntrust Bank. She sent in pictures and Councilmember Goins immediately had it cleaned up; however, the whole front area is full of garbage. She thanked him for acting so quickly and stated that everyone loves Cocoa, but the homeless is the biggest problem.

Kristin Lortie, 5524 Brilliance Circle, Cocoa, appreciated being here and felt that they did a good job and is leaving the meeting full of thoughts. She further spoke about agenda items and how items can get placed on a meeting agenda. She knows meetings are chaired by Mayor Blake and coordinated by Mr. Whitten and hoped that they have a place to make a motion so that they all get representation. She further mentioned Mayor Blake's story and was learning a lot. She commended the way minutes were done and she likes how they are done as she believes more information is more transparency.

Gregg Stoll, 2203 Salem Drive, Cocoa, does not have the history of this city as others do as he moved here in 1986 and appreciated Mayor Blake story and thought it was very enlightening. He has gotten to know a lot of staff, Councilmembers and past constituents since 1986 and hoped today was the beginning of the upswing for Cocoa.

Jennifer Kenny, 1912 Quail Ridge Court, Cocoa, was glad she came here today as she learned a lot and was glad to see a sense of cooperation.

Deputy Mayor Hearn closed out the public portion of the meeting.

Councilmember Dyal stated that at his first meeting they all met afterwards and got to know each other and feels there should be more of that. He is learning but things will get better.

Councilmember Koss appreciated everyone's perspective today and the focus on solutions. She further appreciated Mayor Blake's perspective on history and culturalism. She thanked everyone again and Deputy Mayor Hearn for suggesting this.

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[3] Mayor Blake left the meeting at 3:28 p.m. and returned at 3:30 p.m.
City Manager Whitten left the meeting at 3:29 p.m. and returned at 3:31 p.m.

Councilmember Goins thanked him as well for this and this is what it should be. Citizens depend on them. They have to be aggressive to a point but appreciated all for listening.

Deputy Mayor Hearn thanked all and felt that a lot had been accomplished and was glad that they all agreed to this meeting. A lot of differences were hashed out but they will all move forward for the good of Cocoa.

Mayor Blake thanked everyone as well for a positive workshop. He asked for Council, citizens, staff, individuals in the audience, media, and others that are listening to not take any part of statements made to use against them. He reminded all that school starts back tomorrow and to be safe and kind. He appreciates Team Cocoa as this is not the first and it will not be the last.

He thanked the City Manager, the City Attorney, and staff as they have identified some of the problems but not all of them.

The theme for today is "Rule 1: Citizens come first and Rule 2: Go back to Rule 1".

In closing, Councilmember Koss provided a benediction.

III. Adjournment:

* **MOTION by Councilmember Dyal; Seconded by Deputy Mayor Hearn, to adjourn the City Council Workshop of January 5, 2022.**

AYES: Blake, Hearn, Dyal, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (5-0)

The meeting adjourned at 3:51 p.m.

Michael C. Blake, Mayor

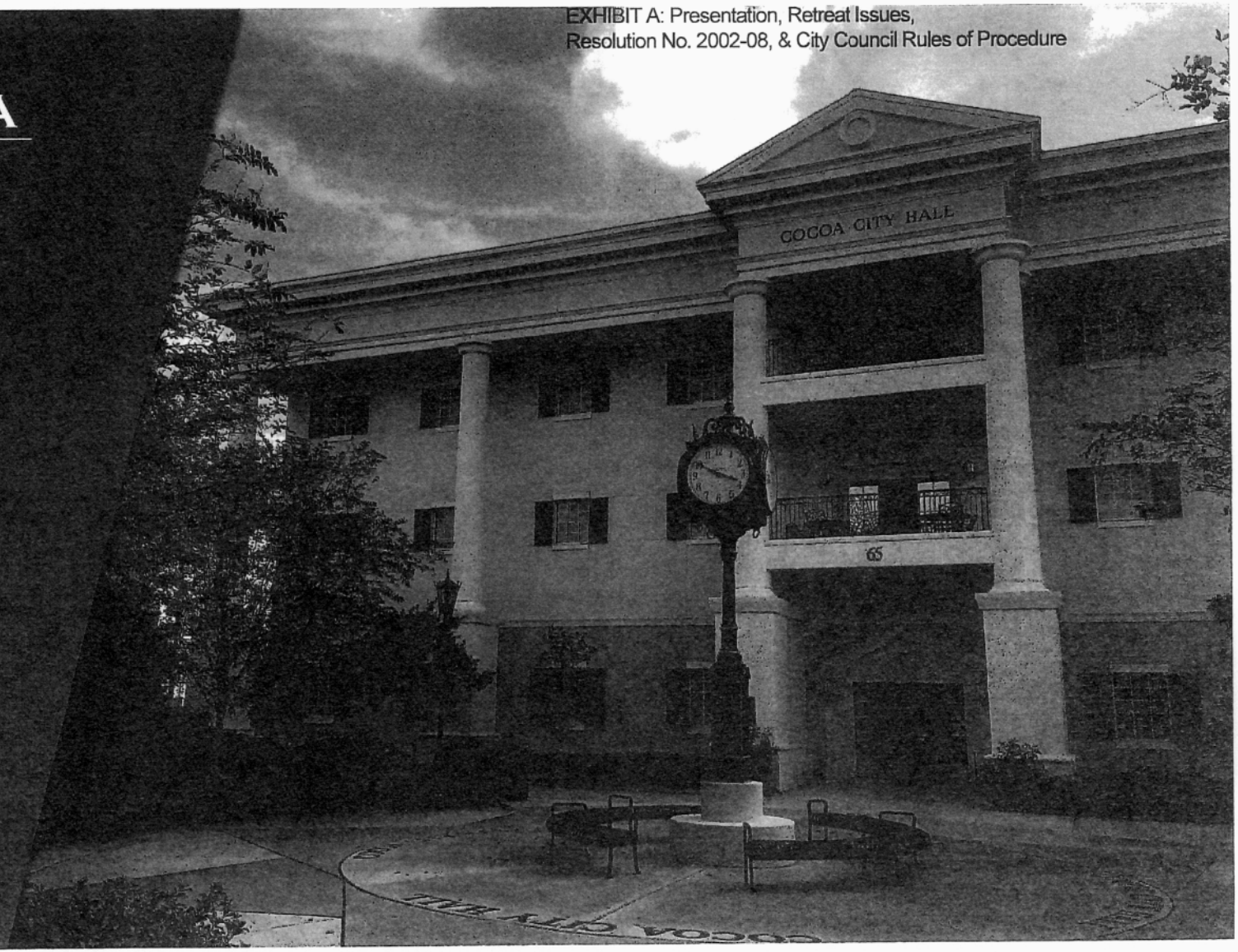
ATTEST:

Carie Shealy, MMC, City Clerk

EXHIBIT A: Presentation, Retreat Issues,
Resolution No. 2002-08, & City Council Rules of Procedure

COCOA
FLORIDA

2022 COUNCIL WORKSHOP/ RETREAT



The Elected Leadership Team



COCOA
FLORIDA

GOAL

To talk openly and honestly about Council relations/relationships

"the way in which two or more people, groups, etc., talk to, behave toward, and deal with each other"

To discuss how to act more like a collegial body

"marked by power or authority vested equally in each of a number of colleagues"

Serving our community with P.R.I.D.E!

GROUND RULES

- **Listen with respect**
  - No interrupting
  - No talking over
  - Disagree agreeably
- **Value differences**
- **Stay on Task**
- **Be candid and honest**
- **No sidebar conversations**
- **Limited yourself to the allocated time**

RULES OF CONDUCT

- Florida Statutes
- City Charter
- City Ordinances
- City Policies and Resolutions
- Personal Code of Conduct



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COUNCIL ADOPTED CODE OF CONDUCT

- Resolution 2002 – 08 (Code of Conduct)
    - 17 Tenets/Principles
    - Provision for Penalties



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COUNCIL ADOPTED CODE OF CONDUCT

1. "I affirm that the proper statutory and City Charter role of a City Council Member, as with any elected member of a legislative body, is to **act collectively not individually, to set and/or revise the City of Cocoa's governing policies** and that the City Manager and staff administer such policies.

WHAT ARE THE ISSUES/SOLUTIONS?



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COUNCIL ADOPTED CODE OF CONDUCT

2. I understand that a City Council Member **does not** manage the affairs of the City (a) by intruding into daily operations or spheres of responsibility designated by Florida Statutes and the City Charter to the City Manager as the chief executive officer or to administrators acting as City Manager designees; or (b) by undermining the City Manager's lawful authority.

WHAT ARE THE ISSUES/SOLUTIONS?



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COUNCIL ADOPTED CODE OF CONDUCT

3. "I will **represent the interests of the entire City and the District that has elected me** (excluding at-large Mayor) when making decisions and will rely upon available facts and my independent judgment. In my capacity as an elected City Council Member, I will avoid all legal conflicts of interest and avoid using my official position for personal, professional, or partisan gain."

WHAT ARE THE ISSUES/SOLUTIONS?



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COUNCIL ADOPTED CODE OF CONDUCT

4. "I will **demonstrate dignity, respect, and courtesy** toward those with whom I am in contact in my capacity as a City Council Member. I will refrain from intimidation and ridicule of fellow Council Members, City Manager, staff, and other stake-holders in the City of Cocoa"

WHAT ARE THE ISSUES/SOLUTIONS?



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COUNCIL ADOPTED CODE OF CONDUCT

5. "In my capacity as an elected City Council Member, I will **refrain from inappropriate language** including statements that are malicious, threatening, disparaging, mean-spirited, vulgar or abusive. All disagreements, concerns or criticisms shall be framed in language that is in keeping with the dignity and professionalism of an elected official and the honor of the City Council."

WHAT ARE THE ISSUES/SOLUTIONS?



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COUNCIL ADOPTED CODE OF CONDUCT

6. "I will focus on solving problems. I will maintain appropriate decorum and professional demeanor in the conduct of City business and work cooperatively and conscientiously with others as I request or receive information, examine data or weigh alternatives in the decision-making process."

WHAT ARE THE ISSUES/SOLUTIONS?



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COUNCIL ADOPTED CODE OF CONDUCT

7. "I will demonstrate patience and refrain from demanding interruptive access to staff or immediate responses or services when requesting information that requires significant staff time in research, preparation or analysis or that will result in staff neglect of more urgent duties. Such requests will be made through the City Manager for scheduling and prioritizing or through consensus of the City Council."

WHAT ARE THE ISSUES/SOLUTIONS?



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COUNCIL ADOPTED CODE OF CONDUCT

8. "I devote sufficient time for adequate preparation prior to City Council meetings and be in attendance, insofar as possible, at those meetings and all other scheduled events at which Council member participation is required. I will prepare myself through study, inquiry and thought so as to be informed thoroughly about issues to be discussed in public meetings."

WHAT ARE THE ISSUES/SOLUTIONS?



Serving our community with P.R.I.D.E!

COUNCIL ADOPTED CODE OF CONDUCT

9. "I will **respect diversity and encourage the open expression of divergent ideas and opinions** from fellow City Council Members, staff, citizens of Cocoa, and utility customers. I will listen actively and objectively to others' concerns or constructive criticims."

WHAT ARE THE ISSUES/SOLUTIONS?



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COUNCIL ADOPTED CODE OF CONDUCT

10. "I will **refrain from any individual action that could compromise the integrity** of the City, the City Council, or fellow City Council Members. I will delineate clearly for any audience whether I am acting or speaking as an individual citizen or I am acting or speaking in my capacity as a representative of the City Council."

WHAT ARE THE ISSUES/SOLUTIONS?



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COUNCIL ADOPTED CODE OF CONDUCT

11. "I will **maintain confidentiality of privileged information** and will ***abide by the Government in the Sunshine Law***, the ***Florida Code of Ethics for Public Officers***, and the ***City Council Rules of Procedure*** in both its spirit and its intent."

WHAT ARE THE ISSUES/SOLUTIONS?



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COUNCIL ADOPTED CODE OF CONDUCT

12. "I will **promote constructive relations in a positive climate** with all employees, consistent with my role as-a Council member, as a means to enhancement of productivity and morale. I will support employment of best qualified persons for staff positions. I will recognize the achievements of staff, business partners, and others sharing the City of Cocoa's mission."

WHAT ARE THE ISSUES/SOLUTIONS?



Serving our community with P.R.I.D.E!

COUNCIL ADOPTED CODE OF CONDUCT

13. "**I will update and improve my knowledge, contributions, and value to the City** by keeping abreast of current educational issues and trends through reading, continuing education and training. I will study policies and issues affecting the City of Cocoa, and attend training programs such as those offered through the National, Florida, and Space Coast League of Cities. My continuing goal will be to improve my performance as an elected City Council Member."

WHAT ARE THE ISSUES/SOLUTIONS?



Serving our community with P.R.I.D.E!

COUNCIL ADOPTED CODE OF CONDUCT

14. "I will **value and assist my fellow City Council Members** by exchanging ideas, concerns and knowledge gleaned from my research or training. I will help build positive community support for the City of Cocoa's mission and the policies established by the City Council."

WHAT ARE THE ISSUES/SOLUTIONS?



Serving our community with P.R.I.D.E!

COUNCIL ADOPTED CODE OF CONDUCT

15. "I will take a **stand for my beliefs but will remain flexible enough to understand others' views**. I recognize that I share in the responsibility for all City Council decisions and will accept the will of the majority."

WHAT ARE THE ISSUES/SOLUTIONS?



Serving our community with P.R.I.D.E!

COUNCIL ADOPTED CODE OF CONDUCT

16. "I will **remember always that my first and greatest concern must be the citizens of Cocoa** and the public health, safety, and welfare. I will seek to provide appropriate leadership that nurtures and motivates the citizens of Cocoa to be stakeholders in the affairs and achievements of the City."

WHAT ARE THE ISSUES/SOLUTIONS?



Serving our community with P.R.I.D.E!

COUNCIL ADOPTED CODE OF CONDUCT

17. "I will **be accountable to the City Council for violations of the Code of Conduct** set forth in this Resolution."

WHAT ARE THE ISSUES/SOLUTIONS?



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ADDITIONAL ISSUES/SOLUTIONS?



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Council and Staff Issues

- Council Members overstepping their authority as Advisory Board Liaisons
- Staff members siding with one council members over another in the presentation of agenda facts and/or presentation of information
- Individual citizens are weaponized against members of council and/or staff
- Minutes (Correcting the Record and Types of Minutes)
- No protocol for meetings in council districts
- No protocol for Council members communicating with the Media
- Council Members not receiving the same information
- No respect for the experience and expertise of staff
- Regularly scheduled agenda briefings
- Council members feel like they don't have adequate time at council meeting to ask questions and/or present their arguments in favor of or against
- Speakers coming before the Council being given the same time amount of speaking time
- Council members providing direction to staff other than the City Manager
- There is no trust between Council members
- Council members don't trust staff

RESOLUTION NO. 2002-08

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COCOA IN ACCORDANCE WITH ARTICLE III, §13(c) OF THE CITY CHARTER AND THE CITY OF COCOA VISIONING PLAN ESTABLISHING A CODE OF CONDUCT FOR CITY COUNCIL MEMBERS AND PRESCRIBING PENALTIES FOR VIOLATING SAID CODE AS SPECIFICALLY SET FORTH HEREUNDER; PROVIDING FOR REPEAL OF PRIOR INCONSISTENT RESOLUTIONS, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the performance of duties and responsibilities of an elected City Council Member and the manner in which such duties are performed have a direct impact on (a) the quality of services afforded to the citizens of Cocoa; (b) the morale and job performance of City employees, contractors, board members, others involved in the different facets of City government, and the other City Council Members; and (c) the City's accountability to the citizens of Cocoa; and

WHEREAS, the City Council of the City of Cocoa desires to adopt a Code of Conduct for its members for purposes of enhancing professionalism, performance, productivity, morale, accountability, and integrity of the City Council and all facets of City government; and

WHEREAS, the City Council finds that this Resolution is in the best interests of the public health, safety, and welfare of the citizens of Cocoa.

NOW, THEREFORE, be it resolved by the City Council of the City of Cocoa, Florida, as follows:

Section 1. Code of Conduct. The following Code of Conduct is hereby adopted for the City Council and the Members thereof as a public statement of expected City Council conduct and ethics, and that members of the Council shall evidence their pledge to uphold the following code tenets by affixing their signatures to this Resolution as set forth in Section 3 herein:

a. I affirm that the proper statutory and City Charter role of a City Council Member, as with any elected member of a legislative body, is to **act collectively, not individually, to set and/or revise the City of Cocoa's governing policies** and that the City Manager and staff administer such policies.

b. I understand that a City Council Member **does not** manage the affairs of the City (a) by intruding into daily operations or spheres of responsibility designated by Florida Statutes and the City Charter to the City Manager as the chief executive officer or to administrators acting as City Manager designees; or (b) by undermining the City Manager's lawful authority.

c. I will **represent the interests of the entire City and the District that has elected me** (excluding at-large Mayor) when making decisions and will rely upon available facts and my independent judgment. In my capacity as an elected City Council Member, I will avoid all legal conflicts of interest and avoid using my official position for personal, professional or partisan gain.

d. I will **demonstrate dignity, respect, and courtesy** toward those with whom I am in contact in my capacity as a City Council Member. I will refrain from intimidation and ridicule of fellow Council Members, City Manager, staff, and other stake-holders in the City of Cocoa.

e. In my capacity as an elected City Council Member, I will **refrain from inappropriate language** including statements that are malicious, threatening, disparaging, mean-spirited, vulgar or abusive. All disagreements, concerns or criticisms shall be framed in language that is in keeping with the dignity and professionalism of an elected official and the honor of the City Council.

f. I will **focus on solving problems.** I will maintain appropriate decorum and professional demeanor in the conduct of City business and work cooperatively and conscientiously with others as I request or receive information, examine data or weigh alternatives in the decision-making process.

g. I will **demonstrate patience** and refrain from demanding interruptive access to staff or immediate responses or services when requesting information that requires significant staff time in research, preparation or analysis or that will result in staff neglect of more urgent duties. Such requests will be made through the City Manager for scheduling and prioritizing or through consensus of the City Council.

h. I will **devote sufficient time for adequate preparation** prior to City Council meetings and be in attendance, insofar as possible, at those meetings and all other scheduled events at which Council member participation is required. I will prepare myself through study, inquiry and thought so as to be informed thoroughly about issues to be discussed in public meetings.

i. I will **respect diversity and encourage the open expression of divergent ideas and opinions** from fellow City Council Members, staff, citizens of Cocoa, and utility customers. I will listen actively and objectively to others' concerns or constructive criticisms.

j. I will **refrain from any individual action that could compromise the integrity** of the City, the City Council, or fellow City Council Members. I will delineate clearly for any audience whether I am acting or speaking as an individual citizen or I am acting or speaking in my capacity as a representative of the City Council.

k. I will **maintain confidentiality of privileged information** and will **abide by the *Government in the Sunshine Law,*** the ***Florida Code of Ethics for Public Officers,*** and the ***City Council Rules of Procedure*** in both its spirit and its intent.

l. I will **promote constructive relations in a positive climate** with all employees, consistent with my role as a Council member, as a means to enhancement of productivity and morale. I will support employment of best qualified persons for staff positions. I will recognize the achievements of staff, business partners, and others sharing the City of Cocoa's mission.

m. I will **update and improve my knowledge, contributions, and value to the City** by keeping abreast of current educational issues and trends through reading, continuing education and training. I will study policies and issues affecting the City of Cocoa, and attend training programs such as those offered through the National, Florida, and Space Coast League of Cities. My continuing goal will be to improve my performance as an elected City Council Member.

n. I will **value and assist my fellow City Council Members** by exchanging ideas, concerns and knowledge gleaned from my research or training. I will help build positive community support for the City of Cocoa's mission and the policies established by the City Council.

o. I will take a **stand for my beliefs but will remain flexible enough to understand others' views**. I recognize that I share in the responsibility for all City Council decisions and will accept the will of the majority.

p. I will **remember always that my first and greatest concern must be the citizens of Cocoa** and the public health, safety, and welfare. I will seek to provide appropriate leadership that nurtures and motivates the citizens of Cocoa to be stakeholders in the affairs and achievements of the City.

q. I will be **accountable to the City Council for violations of the Code of Conduct** set forth in this Resolution.

Section 2. Penalties. Based upon the gravity and frequency of the violation, the City Council, by majority vote (unless otherwise provided below), may impose any and all of the following penalties for a violation of this Resolution by any member of the City Council:

1. Required public apology;
2. Censure of Council Member (Verbal Reprimand);
3. Written Reprimand to be included within the minutes of the City Council;
4. Resolution of Reprimand (Written and published, in a newspaper and the City's FYI publication);
5. Fine not to exceed $100.00 for the first violation and not to exceed $500.00 per repeat violation (fines require 4/5 vote of Council); and
6. If the violation occurs during a City Council meeting and unduly disrupts the Council from conducting City business:
   a. Written reprimand to be included within minutes and temporary recess of Council Meeting to regain control;
   b. Upon return and a second such violation by the Council Member, the temporary ouster of the Council Member from that meeting in order to regain control of the meeting (discouraged except for the absolute necessity of conducting Council business).

Section 3. Execution by Council Members. The current Members of the City Council shall pledge to uphold the code tenets set forth herein by affixing their signatures to this Resolution. Council Members appointed or elected subsequent to the effective date of this Resolution shall be required to affix their signature to this Resolution or an addendum hereto upon taking the Oath of a City Council Member.

Section 4. Severability. In the event that any word, phrase, clause, sentence or paragraph hereof shall be held invalid by any court of competent jurisdiction, such holding shall not affect any other word, clause, sentence or paragraph hereof.

Section 5. Repealing Clause. All Resolutions or other actions of the City which are in conflict herewith are hereby repealed to the extent of such conflict or inconsistency.

Section 6. Effective Date. This Resolution shall take effect immediately upon its adoption.

DONE AND ADOPTED in regular session of the City Council of the City of Cocoa, Florida this 8 day of January, 2002.

CITY OF COCOA

Judy J. Parrish, Mayor

Attest:

Joan Clark, City Clerk

Jewel Collins, Deputy Mayor

Date: January 8, 2002

Todd Anderson, Council Member

Date: January 8, 2002

Bruce W. Tate, Council Member

Date: January 8, 2002

Brenda Warner, Council Member

Date: January 8, 2002

CITY COUNCIL SIGNATURE ADDENDUM

TO RESOLUTION NO. 2002-08

Pursuant to Section 3 of the City Council Resolution No. 2002-08, each undersigned member of the City Council, having been duly elected, hereby individually represents that they have been provided a full and complete copy of City Council Resolution No. 2002-08, and individually pledges to uphold the code tenets set forth in said Resolution by affixing their signature below:

COUNCIL MEMBER	COUNCIL POSITION	DATE EXECUTED:
Michael C. Blake	Mayor	12/11/2020
Alex Goins	District 1	12/15/20
Lavander Hearn	District 2	12-8-2020
Rip Dyal	District 3	12-8-2020
Lorraine Koss	District 4	12/10/2020

RESOLUTION NO. 2013-99

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA, ADOPTING MODIFICATIONS OF THE RULES OF PROCEDURE FOR CITY COUNCIL MEETINGS IN FURTHERANCE OF COMPLYING WITH SECTION 286.0114, FLORIDA STATUTES AND UPDATING SAID RULES FOR PURPOSES OF ENSURING EFFICIENT, EFFECTIVE AND DECOROUS MEETINGS IN ACCORDANCE WITH LAW; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT RESOLUTIONS, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City is granted the authority, under § 2(b), Art. VIII of the State Constitution, to exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, in 1988, the City Council previously adopted rules of procedure for the conduct of City Council meetings in order to provide for efficient, effective, and decorous meetings; and

WHEREAS, the Rule of Procedure were last amended in 2002 by Resolution 2002-08; and

WHEREAS, the Legislature of the State of Florida recently adopted S.B. 50, codified as Section 286.0114, *Florida Statutes*, with an effective date of October 1, 2013; and

WHEREAS, the City Council desires to modify its rules and procedures to comply with Section 286.0114, Florida Statutes, and to update said rules to address other requirements and procedures; and

WHEREAS, the City Council desires to conduct its business with order and efficiency and has found it necessary to periodically review its practices to provide guidelines for the most expedient and efficient business practices in the City; and

WHEREAS, the Eleventh Circuit Court of Appeals in *Rowe v. City of Cocoa*, 358 F.3d 800 (U.S. 11th Cir. 2004), upheld a city residency restriction permitting the governing body of the city to decline to hear argument at their meetings by persons who were not residents or taxpayers of the city; and

WHEREAS, the *Rowe* decision also affirmed the City Council's ability to establish rules of procedure for Council meetings in order to promote orderly and efficient conduct of such meetings; and

WHEREAS, the City Council further desires to establish a Campaign-Free Zone within the City Council chambers in order to facilitate orderly and efficient meetings; *Cleveland v. City of Cocoa Beach*, No. 03-16514, 2007 WL 869055 (11th Cir. Mar. 23, 2007); and

WHEREAS, the City Council deems it to be in the best interests of the public health, safety, and welfare of the citizens of Cocoa that the City Council have and maintain rules of order for the conduct of its business.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA, THAT:

Section 1. **Incorporation of Recitals.** The foregoing recitals are deemed true and correct and are hereby fully incorporated herein by this reference.

Section 2. **Modification of Council Rules of Procedure.** The City Council hereby modifies and adopts the rules of procedure attached hereto as **EXHIBIT "A."** (Underlined type denote additions and ~~strikeout~~ type denotes deletions from the existing Rule of Procedure)

Section 3. **Severability.** If any section, subsection, sentence, clause, phrase, word, or portion of this Resolution is for any reason held invalid or unconstitutional by a court of competent jurisdiction, whether for substantive or procedural reasons, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this Resolution.

Section 4. **Repeal of Prior Inconsistent Resolutions.** All prior resolutions or parts of prior resolutions in conflict herewith are hereby repealed to the extent of the conflict.

Section 5. **Effective Date.** Upon its adoption by the City Council of the City of Cocoa, Florida, this Resolution shall become effective October 1, 2013.

ADOPTED by the City Council of the City of Cocoa, Florida, in a regular meeting assembled on this 24rd day of September, 2013.

Henry U. Parrish, III, Mayor

ATTEST:

Joan Clark, City Clerk

EXHIBIT "A" TO RESOLUTION 2013-99
ARTICLE I

PREPARATION AND POSTING OF AGENDAS

A. All ordinances, resolutions, contracts and bids to be submitted to the council shall be given to the city clerk for inclusion in the agenda. The city manager shall provide each council member and the city attorney with a copy of the agenda by the end of Wednesday evening prior to a regularly scheduled meeting.

B. A copy of the agenda shall also be posted on the city hall bulletin board by 5:00 p.m. on Thursday before a regular scheduled meeting and on the City's web site as soon as practicable before said meeting.

C. Additions to the agenda shall be allowed at any time up to the time of the meeting. Additionally, the council members, the city manager, and the city attorney may raise new matters on "report". However, before any action can be taken on any item added or raised up in such manner, the council shall be polled and if any two council members have an objection to that item, then said item shall automatically be placed on the next regular meeting agenda.

D. Items shall only be placed on the agenda by a council member or the city manager.

ARTICLE II

MEETINGS

A. Regular, special and emergency meetings of the city council shall be scheduled as set forth by the city charter and ordinances.

B. Council meetings shall conclude by 11:00 p.m., unless the council votes, by majority vote, to continue past such time.

ARTICLE III

QUORUM

A. A majority of members shall constitute a quorum for any meeting of the Cocoa City Council. Although members may attend meetings telephonically or by other interactive electronic technology means due to extraordinary circumstances such as illness, only members physically present at the meeting will be considered for purposes of determining a quorum.

B. If a quorum is not present at the appointed hour of the meeting, the members present may:

1. Reschedule the meeting; or
2. Recess to determine if a quorum will be present within a short period of time; or
3. Adjourn the meeting.

C. If in the process of a meeting, it is determined that a quorum is not present, all business shall automatically stop. The council may:

1. Reschedule the meeting; or
2. Recess to determine if a quorum will be present within a short period of time; or
3. Adjourn the meeting.

D. The names of those members present and their decision shall be recorded in the minutes, stating a quorum was not present and the time set for another meeting.

ARTICLE IV

PRESIDING OFFICER

A. The presiding officer of the council shall be the mayor, who shall be elected in accordance with the city charter.

B. In addition to the duties prescribed by the city charter, the mayor shall preserve strict order and decorum at all meetings of the council. The mayor shall state every question coming before the council on all subjects and decide all questions of order; subject, however, to an appeal to the council in which event a majority vote of council shall govern and conclusively determine said question of order. The mayor shall sign all ordinances and resolutions adopted by the council during the council's presence.

C. In the event the mayor is absent, all duties of the position of presiding officer shall be vested in the deputy mayor, who shall be elected in accordance with the city charter.

D. In the event the mayor and deputy mayor are absent, all the duties of the position of presiding officer shall be vested in the senior member of the council. The senior member will be the council member with the longest

continued service. In the event of equal continued service, the individual receiving the most votes at the general election is the senior member.

ARTICLE V

CALL TO ORDER

A. The mayor of the council, or in the mayor's absence, the deputy mayor shall take the chair at the hour appointed for the meeting, or within a reasonable time after the hour, and shall immediately thereafter call the council to order. In the absence of the mayor and deputy mayor, the senior member of the council shall call the council to order.

B. If, in the absence of the mayor, the meeting is called to order by the deputy mayor or the senior council member, such interim presiding officer shall immediately relinquish the chair upon the conclusion of the business immediately before the council upon the mayor's arrival. Similarly, if, in the absence of the mayor and the deputy mayor, the meeting is called to order by the senior council member, such senior council member shall immediately relinquish the chair upon the conclusion of the business immediately before the council upon the arrival of the mayor and/or deputy mayor.

C. Except in the case of an emergency, council members shall inform the city clerk, city manager, or city attorney of a pending absence from a council meeting. Failure to do so shall constitute an unexcused absence.

ARTICLE VI

ORDER OF BUSINESS

A. All meetings of the council shall be open to the public unless otherwise provided by law. Promptly at the hour set by law on the day of each meeting, the members of the council, the city clerk, city attorney, and the city manager shall take their regular stations in the council chambers and the business of the council shall be taken up for consideration and disposition in the order of the agenda.

ARTICLE VII

MINUTES

A. All actions of the council shall be accurately recorded in the minutes.

B. The clerk to the city council shall record and prepare the minutes and shall be responsible for maintaining the official record and minutes of the council. The minutes shall include all actions of the council. The record shall include the names of the mover and seconder and the vote of the council.

C. The clerk to the council shall not be responsible for maintaining a written record of the discussion or comments made by members of the public. The clerk shall make an electronic tape recording of each meeting except for meetings deemed confidential and exempt from the Sunshine Law (e.g. collective bargaining executive sessions, security meetings, attorney-client sessions) and meetings exempted by city council.

D. A member may request to have his/her comments printed as part of the record. If there are no objections by any member of the council, the comments may be included. If there is an objection to such printing of the comments, the council shall decide the matter by majority vote. However, such member's request to have his/her comments printed as part of the record shall be noted in the minutes.

E. The responsibility for correcting and approving the minutes shall be vested only in the members of the council. Unless a reading of the minutes of the council meeting is requested by a member of the council and approved by a majority of the council, such minutes may be approved without reading.

F. Any council member may move to amend the minutes. If there are no objections by any member of the council, the minutes will be so amended. If there is an objection to such proposed amendment, the council shall decide the matter by majority vote.

ARTICLE VIII

VOTING

A. All votes shall be taken by requesting those in favor to say "aye" and those opposed to say "no".

B. A tie vote shall cause the motion to be defeated, except as set forth in Article XV(A).

C. The presiding officer shall announce the results of each matter that is decided by the council. Once the presiding officer has announced the

decision of the council, no member shall be permitted to change his/her vote as recorded.

D. Council members, who are present at the council meeting, shall be required to vote on all items presented to the council for vote pursuant to section 286.012, Florida Statutes, unless the council member is required to abstain from voting on a particular item because the vote would present a voting conflict of interest in accordance with section 112.3143, Florida Statutes.

ARTICLE IX

RULES OF DEBATE

A. The presiding officer shall have the right to vote, speak, make motions, and second motions without relinquishing the chair.

B. In the event two or more persons wish to be recognized, the order of recognition shall be:

1. Council members
2. City staff (including the city attorney)
3. All other persons.

C. A member, once recognized, shall not be interrupted when speaking unless it is to call such member to order. If a member, while speaking, is called to order, such member shall cease speaking until the question or order is determined, and if in order, such member shall be permitted to proceed.

D. All discussions shall be made through the chair.

E. In discussion, the remarks made by the council members shall be confined to the motion or matter immediately before the council. In discussion, a member may condemn the nature or likely consequences of a proposed measure in strong terms, but shall avoid attacking the motives of another member. Council members shall also abide by the City Council Rules of Conduct adopted pursuant to Resolution 2002-08, as may be amended.

ARTICLE X

ADDRESSING THE COUNCIL

A. **ORAL COMMUNICATIONS.** Any person desiring to address the council shall first secure the permission of the presiding officer and shall state his/her name and address for the record. Such person shall also complete a speaker card on a form prepared and distributed by the City Clerk. The speaker does not have to state his or her address for the record if the address is legibly written on the speaker card before speaking, unless the address is required to be stated on the record for due process purposes such as during a quasi-judicial hearing. If such person is speaking as an authorized representative, such person shall also advise the council of the name of the person, group, business, or organization being represented. All remarks shall be addressed to the council as a body and not to any member thereof, unless permission to do so is first granted by the presiding officer or the council, members of the public shall limit their discussion or comments to no more than three (3) minutes. No questions shall be asked a council member or city official except through the presiding officer.

B. **WRITTEN COMMUNICATION.** Interested persons may address the council by written communications in regard to a matter then under discussion.

C. **READING OF PROTESTS.** Interested persons may address the council by reading of protests, petitions or other communications related to matters then being considered by the council.

D. The council, by majority vote, may decline to hear any person who is not a resident or taxpayer of the City, except:

1. When the person is a user of the city's water or sewer system and wishes to be heard on a matter related to the city's sewer and/or water system.
2. When such person is a city employee who wishes to be heard on a matter relating to his/her employment;
3. When such person is serving as an authorized representative for a person who would otherwise be permitted to be heard on the subject matter before the council; or
4. When such person is speaking on a proposition under consideration by the Council for final official action, provided the person is speaking at the appropriate time authorized by these Rules.

E. **DELEGATIONS.** The council shall set aside up to thirty (30) minutes of each regular meeting for "delegations." Delegations shall immediately follow opening matters, approval of agenda and minutes, and awards and presentations. The purpose of such delegations shall be to allow any person to be heard on any item on the agenda, except the following items:

a. *Emergency items*, meaning an official act that must be taken to deal with an emergency situation affecting the public health, welfare, or safety, if compliance with Section 286.0114, Florida Statutes, would cause an unreasonable delay in the ability of the Council to act;

b. *Ministerial items*, meaning an official act involving no more than a ministerial act, including, but not limited to, approval of minutes and ceremonial proclamations. Ministerial items also include motions or questions of parliamentary procedure that do not result in a final official action of an item before the Council;

c. *Quasi-judicial items*; and

d. *Public hearing items*, where public comments are taken elsewhere on the agenda when the item is presented.

In addition, at regular meetings of the council, delegations shall also be for any resident or taxpayer of the city to make his/her views known to the city council upon any subject of general or public interest. Additionally, a city employee shall be permitted to address the council as to matters regarding his/her employment, and a user of the city's sewer or water system shall be permitted to address the council regarding matters related to the city's sewer and/or water system. Each person addressing the council during delegations shall speak for no more than five minutes, unless a lessor or greater time is accorded by a majority vote of the council.

If it appears that a matter presented by a speaker during delegations is administrative in nature, and the question or matter raised can be adequately answered or addressed by the city's administrative staff, the council may request, upon proper motion and majority vote, that the speaker refer the matter to the city manager or his designee during normal city business hours. If such a referral is made by the council, the speaker shall have no further right to present that matter at the meeting. If the speaker is not adequately satisfied by the city's administrative staff upon proper referral, the speaker shall have the right to bring the matter in question before the council during the delegations portion of any subsequent council meeting.

As provided by these Rules and section 286.0114, Florida Statutes, the council recognizes that delegations is for the purpose of allowing persons to speak on propositions on the agenda for final official action of the council, as well as for other stated purposes of legitimate inquiries and discussion by the public. Delegations is not for the purpose of advancing arguments or repetitious questions concerning matters which the council believes to be closed, which are not propositions requiring final official action of the council or which are not of general public concern. The council shall have the right at any delegations to decline to hear any person or any subject matter upon proper motion and majority vote by the council in accordance with law.

F. **PUBLIC HEARINGS IN GENERAL.** The city council shall hold a public hearing on second and final reading on every proposed ordinance that comes before the city council for adoption, as provided for in city charter Article III, Section 14, and city code Chapter 2, Section 2-55 and in accordance with Section 166.041, Florida Statutes, or any procedure of general law that supersedes those provisions.

The city council shall hold a public hearing on any resolution affecting rates and charges for potable water, reuse water, stormwater, sewer services, and garbage services.

All public hearings shall be advertised in a newspaper of general circulation one time in advance of the public hearing, stating the date, time, place, and nature of the public hearing, and the location where further information may be obtained regarding the subject matters to be considered. Advertisements shall comply with the public notice requirements of the Florida Statutes.

Further, the proposed ordinance or resolution and notice shall be posted in full at City Hall and the public library for public review in advance of each public hearing. In addition, the ordinance or resolution will be posted on the City's web site as soon as practicable before the public hearing.

At the public hearing, the city attorney shall read any ordinance or resolution by title or in full, as required by general law, for the public record, and provide general background to the item.

Members of the public speaking on public hearing items, though entitled to be heard by the council, are not entitled to an immediate response by either administrative staff members or council members once the public hearing is closed; however, council discussion may or may not include a response. No question by the public should be addressed directly to any member of the administrative staff.

Public debate by individual speakers from the audience on public hearing agenda items shall be limited to three (3) minutes. Representatives of recognized groups shall be limited to ten (10) minutes; and total debate on a single issue shall be limited to thirty (30) minutes. Only one (1) presentation per person per issue shall be allowed. The council reserves the right to adjust these time periods by majority vote in order to ensure the hearing is conducted in an orderly and efficient manner and all persons desiring to speak are afforded a reasonable opportunity to be heard.

It shall be the responsibility of any person deciding to appeal any decision made by the city council with respect to any matter considered at a public hearing under this section, to insure that a verbatim record of the proceedings is made, which record shall include the testimony and evidence upon which any such appeal is to be based.

G. **QUASI-JUDICIAL HEARINGS.** Quasi-judicial matters shall comply with the requirements of law. Interested parties shall at a minimum be permitted to be heard, present evidence, and cross examine witnesses.

Decisions made by the city council will be based on competent substantial evidence presented at the hearing and based upon the application of applicable criteria established by law. The strict rules of evidence shall not apply. The following procedure will generally be followed for hearings on quasi-judicial matters:

1. The city attorney shall read any ordinance considered by title for the public record, and provide general background to the item.
2. The administrative staff shall present a summary of the application and its findings or recommendation on that application.
3. The mayor shall declare the public hearing open, inviting any members of the audience to speak to the issue and to present any factual or expert testimony relevant to the matter being considered.
4. The applicant and any expert witness(es) to provide testimony on the matter being considered.
5. Persons presenting evidence and expert testimony may be required to take an oath and be sworn in the following manner by the city clerk or her designee.

   I (state witness name) swear or affirm to tell
   the truth, the full truth, and nothing but the truth.

6. Any other persons wishing to speak to the matter may do so and that speaker may supplement his/her presentation by presenting written documentation to the council.

7. Any documentation presented to the council in support of or in opposition to an application shall be offered into the record by submitting a copy of same to the city clerk, who shall keep the documents as part of the record of the proceeding. It shall be the responsibility of the party offering the evidence to make sure that it is received by the city clerk as part of the record. The staff report presented on any application and all applicable city codes shall be deemed part of the record in all applications considered by the council.

8. It shall be the responsibility of any person deciding to appeal any decision made by the city council with respect to any matter considered at a public hearing under this section, to insure that a verbatim record of the proceeding is made, which record shall include the testimony and evidence upon which any such appeal is to be based. It shall further be the responsibility of any such person to insure that the city clerk receives copies of any transcript or evidence.

9. All ordinances adopted by the city council regarding a zoning change shall be recorded in the public records of Brevard County. No zoning change shall become effective until said change has been duly recorded in the official zoning map, signed off by the mayor and attested to by the city clerk. (Reference Appendix A, Zoning, Article VIII, Section I(D)).

10. To the extent necessary, the council may adopt supplemental quasi-judicial rules of procedure which shall apply to quasi-judicial matters consistent with the requirements of law.

11. Ex parte communications by council members will be disclosed in accordance with Resolution 96-1 and section 286.0115, Florida Statutes.

12. By majority vote of the council, the council may continue a quasi-judicial hearing on its own initiative or the request of city staff, the applicant or any interested party in order to allow additional time to gather additional relevant evidence to be presented to the council at a subsequent meeting.

13. By majority vote of the council, the council may direct the city attorney to prepare a proposed order, which will include findings of fact and conclusions of law, for the council to consider as final council official action on a quasi-judicial matter. If such direction is given to the city attorney, the hearing will be continued to another council meeting at which the council will consider adopting the proposed order as presented or modified by council.

H. **PUBLIC COMMENTS ON PROPOSITIONS AT NON-REGULAR COUNCIL MEETINGS AND ON ITEMS NOT ON THE AGENDA.**

1. If a proposition is considered by the council at a meeting which is not listed on the agenda, and consideration shall constitute final

official council action, then the Mayor will offer the public an opportunity to speak to that item before the decision is made. However, if final official council action on the proposition will occur at a subsequent council meeting, the Mayor will offer the public an opportunity to speak to that item at the meeting at which the council takes final official action on the proposition subject to the applicable provisions of these Rules. Under this section, the term "proposition" does not include ministerial, emergency and quasi-judicial matters as more particularly described in Section E., a through c, of these Rules.

2. At special, workshop, and emergency council meetings, that do not include a delegations portion of the agenda, the Mayor will offer the public an opportunity to speak to all items on the agenda that constitute a proposition on which the council will be taking final official action. The opportunity to speak will occur either during the delegations portion of the meeting, if any, or at such time the proposition is being considered, but in either event prior to the council taking such final official action. Under this section, the term "proposition" does not include ministerial, emergency and quasi-judicial matters as more particularly described in Section E., a through c, of these Rules.

3. Council workshops are typically scheduled to consider certain items which are not ready for final official action. The public is always

welcome to attend, and is welcome to provide comments regarding workshop items to the council and staff outside a meeting. Typically workshops provide the council with an opportunity to discuss the topic of the workshop session among themselves and with city staff. Unless authorized by majority vote of council, public comment will not be heard at workshops, but public comment on workshop items will be taken at the next regular city council meeting following the workshop during delegations and/or at such time final official action is taken by the council on the workshop item.

4. Public comments will not be allowed at meetings that are not open to the public in accordance with the Florida Sunshine law such as attorney-client closed sessions, collective bargaining negotiation sessions, and security meetings.

ARTICLE XI

DECORUM

A. No person shall be allowed to make impertinent or slanderous remarks while addressing the council. Any person making impertinent or slanderous remarks or who shall become boisterous while addressing the council shall be instructed by the presiding officer to cease making such improper comments or otherwise engaging in improper conduct. If such person fails to comply with such instruction, the presiding officer may have such person removed from council chambers, unless permission to

continue and/or remain in council chambers is granted by a 4/5 majority vote of the council.

B. The chief of police, or such member of members of the police department as may be designated by the chief of police, shall serve as sergeant-at-arms for the council meetings. The sergeant-at-arms shall carry out all orders and instructions given by the presiding officer for the purpose of maintaining order and decorum at the council meeting. Upon instructions of the presiding officer, and/or by 4/5 vote of the council, it shall be the duty of the sergeant-at-arms to remove any person from council chambers and take such other action against such person as is lawful and appropriate.

ARTICLE XII

APPOINTMENTS AND REPORTS OF COMMITTEES AND/OR BOARDS

A. Unless otherwise provided by ordinance or resolution, the council shall make committee or board appointments in the following manner:

1. The presiding officer shall announce that nominations are open for the appointment of persons to such committee and/or board.
2. Each council member shall be afforded the opportunity to make nominations. After each council member has been afforded such opportunity, the presiding officer shall announce that nominations are closed.
3. The council shall then vote on each nominee. (The nominees shall be presented for vote in alphabetical order.) No council member

shall be allowed to cast more than one "aye" vote for any single position. When two or more nominations occur for the same position, the individual receiving the affirmative vote of at least three (3) members of council shall be seated.

4. In the event that no nominee receives the affirmative vote of at least three (3) members of the council, the appointment will be deferred to the next regular meeting at which time all council members shall be allowed to submit old or new nominations. This procedure will continue until a nominee receives the affirmative vote of at least three (3) members of the council.

B. Committees/Boards may present their reports to the council in writing or verbally, as may be requested by the council. The council may also receive minority reports.

ARTICLE XIII

COUNCIL LIAISONS

The council may appoint such council member liaisons to the various city boards and committees as it deems appropriate. The purpose of the council member liaisons is to make a report on their activities at the next regular council meeting.

ARTICLE XIV

MOTIONS

A. **MAIN MOTION.** A main motion shall be a motion whose introduction brings business before the council. A second is required. (A second made by any member shall imply that the member wishes the matter to be

discussed, but it does not necessarily mean that the member is for or against the motion.) A main motion requires approval by a majority vote, unless otherwise provided by higher law or unless otherwise provided herein.

B. **MOTION TO AMEND.** A member may seek to have the main motion amended in one of the following two ways:

1. **BY CONSENT OF THE MEMBERS.** If the presiding officer requests but receives no objections to the proposed amendment, the main motion will stand as changed (amended). No new second is required. If there is an objection from any council member, a second to the amendment shall be required and a vote taken. There may be discussion to the amendment at that time and a majority vote shall be required to pass the amendment.

2. **BY FORMAL MOTION TO AMEND.** If a council member makes a formal motion to amend the main motion, a second shall be required and discussion shall follow on the amendment. If an amendment passes, the main motion shall be the motion as amended. If the motion to amend fails, the motion shall be the motion as it was before the amendment was presented. All amendments shall be germane to the main motion.

C. **MOTION TO REFER.** If the council feels that adequate information has not been given, a council member may move to refer the subject matter to a certain persons(s), committee, or board for more information. A time

certain may be included in the motion or it may be open-ended. A motion to refer is only debatable as to whether or not such motion should be referred. A motion to refer requires a second and approval by a majority vote. If the motion to refer fails, the motion shall be the motion on the floor prior to the motion to refer.

D. **MOTION TO DEFER TO A TIME CERTAIN. (commonly referred to as a motion to table).** A motion to defer to a time certain may be used if the council feels that the motion before them should be considered at a later time or date. Such motion shall not be used to postpone the council's consideration of a matter indefinitely. A motion to defer is only debatable as to whether or not such motion should be deferred, and if so, the length of such deferral. A motion to defer requires a second and approval by majority vote. If the motion to defer fails, the motion shall be the motion on the floor prior to the motion to defer.

E. **MOTION TO LIMIT DISCUSSION.** If a council member feels that a set period of time for discussion of a motion should be limited, the member may move to "limit discussion". Such motion is not debatable, but does require a second. A vote of 4/5 shall be required to pass a motion to limit discussion. Should only four members of the council be present, a unanimous vote shall be required.

F. **CALL THE QUESTION.** A council member may "call the question" when such member believes that further discussion is unnecessary. No discussion may be allowed. If there is an objection to calling the question,

a vote of 4/5 shall be required to call the question. Should only four members of the council be present, a unanimous vote shall be required.

G. **MOTION TO RECONSIDER.** If, in the same meeting, new information or changed circumstances make it appear that a different result might reflect the will of the council, a member may move to reconsider the vote. A motion to reconsider may be applied to a vote that was either affirmative or negative and shall propose no specific change in a decision, but simply propose that the motion be reopened for discussion and re-vote. A motion to reconsider may be made by any member, regardless of how such member vote on the original motion. Discussion on a motion to reconsider shall be limited to whether or not the council's prior action should be reconsidered. A motion to reconsider requires a second and approval by majority vote.

H. **MOTION TO RESCIND/AMEND PREVIOUSLY ADOPTED ACTION.** If a council member wishes to rescind and/or amend an action taken at a previous meeting, a motion to rescind or motion to amend previous adopted action may be used. Discussion of such motion shall be limited to whether or not the council should rescind or amend its prior action. A motion to rescind/motion to amend previously adopted action shall require a second and approval by a majority vote. Such motion shall be out of order if action has been taken as a result of the prior council vote.

ARTICLE XV

INCIDENTAL MOTIONS

A. **POINT OF ORDER.** A council member may call for a point of order if such council member believes that the presiding officer has failed to notice a breach in the rules. The presiding officer shall make a ruling on the point of order raised. If a council member believes that the presiding officer has improperly ruled on the point of order, the council member may appeal the presiding officer's decision to the entire council. Such appeal requires a second and is debatable after the presiding officer has been given the opportunity to explain the ruling. A tie vote shall sustain the decision of the presiding officer.

B. **MOTION TO DIVIDE.** If a motion presented contains two or more parts capable of standing as separate questions, a council member may move to "divide the motion". Discussion on a motion to divide should be limited as to why the prior motion should be divided. A motion to divide requires a second and approval by majority vote.

C. **WITHDRAWAL OF MOTION.** Once a motion has been moved and seconded, it belongs to the entire council and not to the maker of the motion. Therefore, a council member may only have his/her motion withdrawn as follows:

1. The council member may advise the presiding officer that such council member wishes to have the motion withdrawn. The presiding officer shall ask the council if there are any objections to the motion being withdrawn. If there are no objections, the motion shall be withdrawn. (A seconder does not need to withdraw the second to the motion.) If there is

an objection to the withdrawal of the motion, then an official vote shall be taken or a member may move to withdraw the motion. Brief discussion on the desire to withdraw the motion shall be permitted. If the motion to withdraw is approved by majority vote, the prior motion shall be withdrawn. If the motion to withdraw fails, the prior motion shall remain on the floor. Once a motion is withdrawn, either by general consent or by vote, such motion shall be struck from the record and shall not be recorded in the official minutes.

D. **MOTION TO ADJOURN.** A motion to adjourn is not debatable except to the extent that such motion shall contain a time to hear any non-completed items on the agenda. A motion to adjourn requires a second and approval by majority vote.

E. **MOTION OF PRIVILEGE.** If any matters occur such as to impede a council member not to be able to attend to the business before the council, i.e., excessive noise, non-functioning microphones, uncomfortable room temperature, etc., such council member may state to the presiding officer that he/she has a question of privilege. Such question of privilege shall be addressed before the pending business of the council continues. No vote is required unless a motion arises out of the question of privilege.

F. **RECESS.** A recess may be taken as it appears on the agenda, at the request of the presiding officer if there are no objections, or by majority vote of the council. A motion for recess requires a second, and is debatable.

ARTICLE XVI

PRIORITY OF MOTIONS

A. Motions shall take precedence in the order in which they are listed below:

1. MAIN MOTIONS (Motions to reconsider, rescind, and amend previously adopted action shall have the same rank as a main motion.
2. AMEND
3. REFER
4. DEFER TO A TIME CERTAIN
5. CALL THE QUESTION
6. RECESS
7. FIX A TIME CERTAIN
8. ADJOURN

B. The following incidental motions shall be decided immediately before business shall proceed:

1. POINT OF ORDER (and any appeal from a presiding officer's ruling thereon).
2. MOTION TO DIVIDE MOTION
3. MOTION TO WITHDRAW
4. MOTIONS OF PRIVILEGE

ARTICLE XVII

AMENDMENT TO RULES

The rules may be amended by a 4/5 vote of the council at a regular meeting or special meeting, provided notice of such proposed amendments has been given to each council person prior to such meeting.

ARTICLE XVIII

SUSPENSION OF THE RULES OF PROCEDURE

These rules may be temporarily suspended at any time by 4/5 vote of the council. No action taken by the council shall be deemed void or invalid by reason of the failure to adhere to these rules.

ARTICLE XIX

CAMPAIGN-FREE ZONE

The City Council chamber is hereby declared a campaign-free zone and visible campaign materials and speeches shall be prohibited in the chamber during City Council meetings. Standard size (approximately 2 inches by 4 inches) candidate name badges are permitted.

ARTICLE XX

SAVINGS CLAUSE

The failure of the City Council or Mayor to abide by any of the Rules of Procedure contained herein shall not have any adverse effect on any final decision made by a majority vote of the City Council.