



City of Elkins

Rules and Ordinances Committee Meeting

March 4, 2024
3:30 PM
401 Davis Avenue
Council Chamber, 2nd Floor

Charter Authority of the Rules & Ordinances Committee: Consider and propose to Council new and amended ordinances, rules, and policies.

AGENDA

1. **Call to order and roll call**
2. **Public comment**
3. **Minutes**
 - a. Proposed minutes for the meeting of February 5, 2024
4. **New business**
 - a. Revision of city code concerning meeting frequency for BZA and Planning Commission
 - b. Revision of city code concerning council meetings (cleanup of archaic language concerning time, method of notification, etc.)
 - c. Cats at large
5. **Announcements**
6. **Adjournment**



CITY OF ELKINS AGENDA ITEM REPORT

Meeting Date:	March 4, 2024
Section:	Minutes
Category:	Action Item
Agenda Item Name:	Proposed minutes for the meeting of February 5, 2024
Recommended By:	City Clerk
Summary:	Minutes proposed for the committee's meeting of February 5
Fiscal Impact:	n/a
Recommendation:	Consider for improval
Attachments:	1. Rules and Ordinances - 2024_02_05 - minutes_proposed

RULES AND ORDINANCES COMMITTEE REGULAR MEETING MINUTES

***401 Davis Avenue
City Hall, Council Chambers
February 5, 2024
3:30 p.m.***

Present were Committee Members: C. Lowther, L. Severino.

Also present were: Jerry Marco (mayor), Mike Kesecker (operations manager), Gerry Roberts (city attorney), Tracy Judy (treasurer), Steve Himes (fire chief), Travis Bennett (police chief), J. Deighan (communications), and Sutton Stokes (city clerk).

Councilor A. Carroll was absent.

PUBLIC COMMENT

MINUTES

Severino **MOVED APPROVAL OF THE MINUTES OF THE MEETING OF DEC. 4, 2023.** The motion carried.

NEW BUSINESS

a. *Elimination of solicitors permits*

Stokes presented information about the city's law requiring registration of door-to-door solicitors.

Lowther **MOVED RECOMMENDING TO COUNCIL THAT ELKINS CITY CODE § 112.15 BE STRUCK FROM CITY CODE.** The motion carried.

b. *Delegating authority to sign ABCA endorsements*

Severino **MOVED RECOMMENDING THAT COUNCIL DESIGNATE AUTHORITY TO ENDORSE ABCA FLOORPLAN EXTENSION OR FAIR AND FESTIVAL PERMIT APPLICATIONS.** The motion carried.

c. *Revision of downtown sound system policy*

The committee and staff discussed possible revisions to policies for use of the downtown sound system. No action was taken.

The meeting adjourned at 4:30 p.m.

The foregoing minutes were approved at the meeting of _____.

Name & Title

Signature



CITY OF ELKINS AGENDA ITEM REPORT

Meeting Date:	March 4, 2024
Section:	New business
Category:	Action Item
Agenda Item Name:	Revision of city code concerning meeting frequency for BZA and Planning Commission
Recommended By:	City Clerk
Summary:	City Code currently requires the Board of Zoning Appeals and Planning Commission to meet at least quarterly. As a result of a change in state law in 2023, this requirement exceeds a new state minimum of semiannually. The proposal is to update city code to match this less onerous language in state code. The requested change is for the Board of Zoning Appeals and the Planning Commission to meet at least semi-annually, instead of quarterly, unless there is business requiring more frequent meetings.
Fiscal Impact:	None
Recommendation:	Consider for direction to the City Attorney to prepare the necessary ordinances and refer to council
Attachments:	1. Proposed change to meeting frequency requirement for Board of Zoning Appeals 2. Proposed change to meeting frequency requirement for Planning Commission

Proposed change to meeting frequency requirement for Board of Zoning Appeals

§ 152.025 POWERS AND DUTIES OF THE BOARD OF ZONING APPEALS.

(G) The Board of Zoning Appeals shall meet ~~quarterly~~ semi-annually and may meet more frequently at the written request of the chairperson or by two or more members. Notice for a special meeting must be in writing; include the date, time, and place of the special meeting; and be sent to all members at least two days before the special meeting. Written notice of a special meeting is not required if the date, time, and place of the special meeting were set in a regular meeting. The Board of Zoning Appeals must have a quorum to conduct a meeting. A majority of the members of the Board of Zoning Appeals is a quorum. No action of a Board is official unless authorized by a majority of the members present at a regular or properly called special meeting.

Proposed change to meeting frequency requirement for Planning Commission

§ 33.036 PLANNING COMMISSION MEETINGS; QUORUM.

(A) *Regular meetings.* ~~Pursuant to W.Va. Code § 8A-2-7, the Planning Commission shall meet at least quarterly and may meet more frequently at the request of the President or by two or more members.~~ When there is business to conduct, a planning commission shall meet at least quarterly. In any event, a planning commission shall meet at least semiannually and may meet more frequently at the request of the president or by two or more members.



CITY OF ELKINS AGENDA ITEM REPORT

Meeting Date:	March 4, 2024
Section:	New business
Category:	Action Item
Agenda Item Name:	Revision of city code concerning council meetings (cleanup of archaic language concerning time, method of notification, etc.)
Recommended By:	City Clerk
Summary:	Proposed changes to city code concerning council meetings, including updating time of regular meetings to match current practice. See attached marked up text.
Fiscal Impact:	None
Recommendation:	Consider for direction to the City Attorney to prepare the necessary ordinance and refer to council
Attachments:	1. Proposed Changes to City Code Concerning Council Meetings

Proposed Changes to City Code Concerning Council Meetings

§ 31.02 MEETINGS GENERALLY.

(A) *Regular meetings.* There shall be a regular meeting of the Council on the first and third Thursday of each month, ~~at 8:00 p.m.~~ at 7 p.m.; provided, ~~that council may elect to meet at other times and may otherwise approve changes to this schedule from time to time.~~

~~when a first or third Thursday of any month falls upon a holiday, the Council may, by resolution or by motion duly put, carried and entered in the minutes, designate another day for such meeting.~~

~~—(B) *Special or adjourned meetings.* There may be a special or adjourned meeting of the Council held at any time fixed by the Council.~~

~~(C)—(B) *Special called meetings.* The Mayor or any three members of Council may call Council to meet in special session. There may be special called meetings of the Council at any time fixed by the Mayor or by any three members of the Council. Notification of the time, date, location and agenda of any special meeting shall be provided in the same manner as for regular meetings, provided that, in the event that the usual notification methods are judged insufficient, every reasonable effort will be made using alternate methods to ensure timely notification. Barring special circumstances, all members of staff who customarily attend regular meetings shall be notified of any special meeting in the same way that members of Council are notified.~~

~~; but there shall be a notice, in writing, of any such called meeting, served upon every member of the Council by the Chief of Police, at least two hours before the time at which such meeting is called; and, in such notice, it shall be clearly stated for what purpose the meeting is called; and, at such meeting, no other matter shall be considered, except by the unanimous consent of all the members present.~~

~~—(D) *Notice of special called meetings.* It shall be a part of the public duty of the Chief of Police to serve the notice required by division (C) above; but no notice shall be required to be given to any member of the Council of the time of holding any regular meeting or any meeting called by the Council or any adjourned meeting.~~

~~—(EC) *Place of meetings.* All meetings of the Council shall be held in the Council chamber at City Hall; provided, that the Council may designate another place, open to the public and within the city when, in the opinion of a majority of the members, the Council chambers would not be adequate to accommodate the number of persons expected to be present for a meeting, or when, for other good reason, the Council chamber is not deemed suitable.~~

(D) *Remote meetings.* Council may elect to meet using telephonic or electronic tools and may under special circumstances elect to allow members to join otherwise in-

person meetings using such tools, provided that the use of these tools must otherwise comply with all applicable requirements of City and State Code, especially including requirements concerning access by members of the public.

(F) *Open to public; exceptions.* All meetings of the Council shall be open to orderly members of the public; provided, that the Council may, during any meeting, ~~resolve itself into a Committee of the Whole and, thereupon, go into~~elect to enter executive session, as provided by W.Va. Code § 6-9A-4; at which time, the ~~Committee~~Council may exclude from attendance ~~all any~~ nonmembers ~~of the committee~~ whose presence is not necessary for the consideration of ~~such the~~ subject ~~as have been referred~~being considered in executive session to the Committee; and provided further, that no final decision shall be made or vote or action taken upon any matter until the meeting has been reopened to the public ~~and the Committee of the Whole has resumed its identity as the Council.~~



CITY OF ELKINS AGENDA ITEM REPORT

Meeting Date:	March 4, 2024
Section:	New business
Category:	Action Item
Agenda Item Name:	Cats at large
Recommended By:	Councilor Chenoweth, City Clerk
Summary:	The following language appears in city code. It seems possible that this language is in conflict with various practices related to Trap/Neuter/Release (TNR). To wit, if RCHS or a citizen traps a cat and brings it in for neutering, is that person then violating the law when the animal is released? Do we need any different language that better fits a community using TNR? § 90.08 ANIMALS RUNNING AT LARGE. (A) Any person who owns, keeps or harbors animal within the city shall keep such animal confined to the premises owned or occupied by him or her and shall not permit such animal to run at large; provided, that animal shall not be deemed to be at large when held on leash by and under the control of a responsible person. (B) It shall be unlawful for any owner or person in control of an animal to: (1) Knowingly or willfully allow his or her animal to defecate on private property of other persons without their consent or the consent of persons having control of the premises; and (2) Knowingly or willfully allow his or her animal to defecate on public property; except that defecation by an animal on public property shall not constitute a violation of this section if the owner of the animal immediately removes the material defecated and disposes of it in a safe and sanitary manner. (3) Knowingly or willfully fail to periodically, properly and completely collect and dispose of any and all animal fecal excrement accumulating upon the premises of such owner. Detection of odor from the animal fecal excrement which constitutes a nuisance as determined by an Enforcement Officer from any neighboring property shall be deemed to be prima facie evidence of such, animal's owner or other persons failure to abide by this section and shall be subject to penalties under this chapter. (Ord. 316, passed 7-6-2023) Penalty, see § 90.99



CITY OF ELKINS AGENDA ITEM REPORT

Fiscal Impact:	n/a
Recommendation:	For discussion and possible recommendations to staff/council
Attachments:	None