



City of Elkins

Rules and Ordinances Committee Meeting

June 3, 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 May 6, 2024
- 4. New business**
 - a. Proposed changes to Water Board ordinance
 - b. Proposed change to bidding rules
 - c. Discussion of changes to procedure for docketing agenda items
 - d. Private Outdoor Designated Area (PODA)
- 5. Announcements**
- 6. Adjournment**



CITY OF ELKINS AGENDA ITEM REPORT

Meeting Date:	June 3, 2024
Section:	Minutes
Category:	Action Item
Agenda Item Name:	Proposed minutes for the meeting of May 6, 2024
Recommended By:	City Clerk
Summary:	Minutes from the committee's meeting of May 6
Fiscal Impact:	n/a
Recommendation:	Consider for approval
Attachments:	1. Rules and Ordinances - 2024_05_06 - minutes_proposed

**RULES AND ORDINANCES COMMITTEE
REGULAR MEETING
MINUTES**

*401 Davis Avenue
City Hall, Council Chambers
May 6, 2024
3:30 p.m.*

Present were members: L. Severino (acting chair), A. Carroll.

Councilor C. Lowther was absent.

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

MINUTES

Carroll **MOVED APPROVAL OF THE MINUTES OF THE MEETING OF APRIL 1, 2024.** The motion carried.

NEW BUSINESS

Carroll **MOVED RECOMMENDING COUNCIL APPROVAL OF A REVISED POLICY FOR USE OF THE DOWNTOWN SOUND SYSTEM.** The motion carried.

The meeting adjourned at 3:55 p.m.

Name & Title

Signature



CITY OF ELKINS AGENDA ITEM REPORT

Meeting Date:	June 3, 2024
Section:	New business
Category:	Action Item
Agenda Item Name:	Proposed changes to Water Board ordinance
Recommended By:	City Attorney, Chief Water Operator
Summary:	Eliminates City Clerk's responsibility for records of Water Board proceedings, instead assigning it to the Chief Water Operator or his designee (similar to how the Sanitary Board is already structured)
Fiscal Impact:	n/a
Recommendation:	Recommend to council for approval
Attachments:	1. changes to Water Board ordinance

ELKINS WATER BOARD

§ 33.125 CREATED.

The Elkins Water Board (the “Water Board”) is hereby created and the management, control, and operation of the municipal public waterworks system (the “System”), as it shall exist from time to time, shall be vested in the Water Board, created and functioning as hereinafter provided.

(Ord. 281, passed 3-17-2021)

§ 33.126 COMPOSITION; APPOINTMENT.

The Water Board shall consist of five persons, one of which shall be the Mayor or the Mayor’s designee, who shall be a voting member. At least three of the Board members, including the Mayor, shall be citizens and residents of the City, and all of whom shall be residents of the State of West Virginia. With the exception of the Mayor or the Mayor’s designee, all members of the Water Board shall be appointed by the City Council and may not be Councilmembers, officers, or employees of the city.

(Ord. 281, passed 3-17-2021)

§ 33.127 TERM OF MEMBERS; VACANCIES; BYLAWS; COMPENSATION.

(A) The Mayor of the City shall notify all appointees of their appointment by City Council.

(B) Term. The terms of the members of the Water Board first appointed shall be for one, two, three and four years, respectively, from the first day of the month in which appointed. In the event of a vacancy for any reason or upon expiration of the term of office of any member of the Water Board, the member of the Water Board may be re-appointed, or a successor shall be appointed by the City Council.

(C) Vacancies. All vacancies shall be filled for the unexpired term only and all other appointments

shall be for a term of four years, to commence on the date following the expiration date of the previous term. Members of the Water Board shall continue to serve upon the expiration of their term until either re-appointed or a successor is appointed. The Water Board shall have power to adopt bylaws, rules, and regulations for its own government.

(D) Compensation. The members of the Board and the Treasurer and Secretary shall each receive compensation in such amount as determined by the City Council, from time to

time, for their services and, in addition, shall be reimbursed for any and all actual expenses incurred in the performance of duties as directed by the Water Board.

(Ord. 281, passed 3-17-2021)

§ 33.128 OFFICERS; MEETINGS; VACANCIES.

(A) Officers. The Mayor or the Mayor's designee shall serve as Chairman of the Water Board. The City Treasurer, or the City Treasurer's designee, shall serve as the Treasurer of the Water Board and shall not be considered a member of the Water Board. **The Chief Operator / Manager, or the Chief Operator's /Manager's designee shall serve as the Secretary of the Water Board and shall not be considered a member of the Water Board.** At the first meeting of the Water Board and at the first meeting of each calendar year thereafter, it shall elect a member of the Board to serve as Vice Chairman.

(B) Meetings.

(1) Presiding officer. The Chairman shall preside at all meetings when present and shall call special meetings on his or her own motion, or when requested to do so by any two members of the Board. The Vice Chairman shall preside in the absence of the Chairman.

(2) Quorum. Three members of the Board shall constitute a quorum, however, any action to be taken by the Water Board must be affirmatively approved by not less than three members of Water Board.

(3) Record of meeting. The Secretary shall keep a written record of the proceedings which shall be available for inspection as other municipal records.

(4) Funds. The Treasurer shall receive and disburse the funds of the System as directed by the Water Board.

(5) Vacancies. In the event that any member of the Water Board shall be unable to fulfill the duties of his or her office for a period of six consecutive months, a majority of the remainder of the said members of the Water Board may declare the office of such member vacant, and the City Council shall thereupon fill such vacancy as otherwise provided for herein.

(Ord. 281, passed 3-17-2021)

§ 33.129 POWERS AND DUTIES GENERALLY.

(A) The Water Board shall have full and complete authority for the supervision, management, control, and operation of the System, including the maintenance, operations, improvements, and extensions thereof, except as otherwise provided by the Code of WestVirginia.

(B) All bills for waterservice shall be collected and accounted for by the Water Board in the manner and form required by law, the Public Service Commission of West Virginia and the ordinances of the city, and all disbursements and accounts of the System shall be ordered paid out only upon approval of said Water Board; provided, however, that all such supervision, management, and control of the System and the collection and accounting for bills for water service shall be consistent and in accordance with any ordinances pursuant to which the city may have authorized and issued any bonds or notes from time to time outstanding, which by their terms are payable from and secured by any revenues of the System and/or other assets of the System.

(C) The Water Board shall have the power and authority to make all contracts and/or agreements, make such decisions and undertake and accomplish all other actions necessary or proper for the full and complete supervision, management, operation, and control of the System.

(Ord. 281, passed 3-17-2021)

§ 33.130 BUDGET AND COMPENSATION MATTERS.

The Water Board shall have power to fix and maintain a separate budget, and employ, fix the compensation of, supervise and discharge a manager and all employees of the System; provided however, that the Water Board shall employ, fix the compensation of and discharge a joint city/Water Board employee only with the approval of the City Council or a joint Sewer Board/Water Board employee only with the approval of the Sewer Board.

(Ord. 281, passed 3-17-2021)

§ 33.131 REPORTS.

The Water Board shall provide reports, at least annually, or as otherwise required by law, to the Mayor and City Council, indicating the System's financial condition. The Water Board shall also provide the City Council with minutes of all meetings of the Water Board, an annual budget for the System, and other information as may reasonably be requested.

(Ord. 281, passed 3-17-2021)

§ 33.132 SUPERVISION OF ASSETS AND LIABILITIES.

All assets and liabilities of the System, including accounts receivable and accounts payable, and all employees thereof, shall be under the supervision, management, and control of the Water Board. Personnel policies and practices, and other matters affecting employees of the Water Board shall, to the extent practicable and unless otherwise approved by the City Council, be the same as those undertaken by the city, subject to the provisions of § 33.130.

(Ord. 281, passed 3-17-2021)

§ 33.133 PROTECTION OF BONDHOLDERS; AMENDMENT.

The City Council enacts this subchapter for the assurance and protection of the citizens of the city and for the purpose of assuring the holders of the bonds of the city payable from the income and revenues of the System of an efficient supervision, operation, and maintenance thereof. No amendment or repeal of this subchapter shall be enacted unless approved by 75% of the members of the City Council. Any such amendment or repeal shall otherwise be enacted in accordance with the rules and regulations of the City Council.

(Ord. 281, passed 3-17-2021)



CITY OF ELKINS AGENDA ITEM REPORT

Meeting Date:	June 3, 2024
Section:	New business
Category:	Action Item
Agenda Item Name:	Proposed change to bidding rules
Recommended By:	City Clerk
Summary:	<p>The following language in city code imposes an onerous requirement that council preapprove the form and manner of transmitting and receiving bids. This requirement could unnecessarily delay releasing a request for bids and is difficult to comply with. Requirements concerning performance bonds are imposed elsewhere by state code and council does not have the authority to waive these anyway.</p> <p style="text-align: center;">30.21 TRANSMITTING AND RECEIVING BIDS; BONDS; SPECIFICATIONS AND THE LIKE. The form and manner of transmitting and receiving bids under the provisions of § 30.20, the amount of deposit or performance bond, if any, to accompany such bids, the terms, specifications, reservation of right to reject bids or waive irregularities therein shall be determined by the Council prior to each respective advertisement for bids and, insofar as is practical, be stated in the published notice.</p>
Fiscal Impact:	Increased agility in being able to release requests for bids without waiting for council preapproval could enable the city to take advantage of costsavings, etc.
Recommendation:	Consider for recommendation to council
Attachments:	None



CITY OF ELKINS AGENDA ITEM REPORT

Meeting Date:	June 3, 2024
Section:	New business
Category:	Action Item
Agenda Item Name:	Discussion of changes to procedure for docketing agenda items
Recommended By:	City Clerk
Summary:	<p>Current council rules allow numerous avenues for items to be placed on both the council and committees' agendas. This has the benefit of convenience, but it has downsides.</p> <p>Currently, council agenda items may be docketed by the mayor, by a committee chair, by any three members of council or by any administrative officer.</p> <p>Committee agenda items may be docketed by the mayor, any member of the committee or by any administrative officer.</p> <p>In particular, because committee chairs exercise no special authority over what is on their committee's agenda, there is nothing special about being chair. And because any admin officer can docket something, it would in theory be possible for a staff member to force the committee to discuss an item its membership wouldn't otherwise take up.</p> <p>Staff--especially the clerk's office--could also sometimes use guidance when responding to citizen requests to be placed on either committee or council agendas. There are times when staff might appreciate having less authority over this and therefore not having to judge whether to turn down such requests or risk wasting the committee's time.</p> <p>The purpose of this agenda item is to open a conversation about whether the current arrangement is best or if changes might be warranted.</p>
Fiscal Impact:	n/a
Recommendation:	Discuss and make recommendations as necessary
Attachments:	None



CITY OF ELKINS AGENDA ITEM REPORT



CITY OF ELKINS AGENDA ITEM REPORT

Meeting Date:	June 3, 2024
Section:	New business
Category:	Action Item
Agenda Item Name:	Private Outdoor Designated Area (PODA)
Recommended By:	Councilor Carroll
Summary:	At Councilor Carroll's request, the communications specialist ran an online survey to gather community feedback about the possibility of implementing a Private Outdoor Designated Area (PODA) in downtown Elkins. See attached article for explanation of PODAs. See attached email from communications summarizing survey results.
Fiscal Impact:	TBD
Recommendation:	Review presented information and make recommendations as necessary
Attachments:	<ol style="list-style-type: none"> 1. City of Elkins Launches Survey to Gauge Interest in Creating a PODA 2. PODA Survey Results

City of Elkins Launches Survey to Gauge Interest in Creating a PODA

Elkins W. Va., May 7, 2024: The City of Elkins is inviting residents, business owners, and stakeholders to participate in a survey to weigh in on the potential establishment of a Private Outdoor Designated Area (PODA) within the city.

PODAs are designated areas where patrons can carry alcoholic beverages in specially marked containers from participating bars and restaurants to other participating establishments within the PODA boundaries. This initiative, enabled by West Virginia Legislature through Senate Bill 534 in 2023, gives municipalities the ability to create these designated areas. Morgantown, Charleston, and Huntington have all implemented PODAs.

No business would be forced to participate or allow people with drinks into their store, bar, or restaurant, and PODA rules would not allow BYOB open containers. The PODA only allows consumption of beverages obtained from a participating business, in an approved PODA container.

The aim of the survey is to gather public opinion on the implementation of a PODA in Elkins and its potential impact on the community. This is the first phase to seek feedback on various aspects such as interest levels, potential benefits for businesses, preferred operating hours, and desired locations for the PODA.

No decision has currently been made to establish a PODA, and any proposal to do so must go through the normal committee/council ordinance process. If council's Rules & Ordinances Committee recommends that council take this matter up, there will be additional opportunities for public input.

The City of Elkins encourages everyone in the Elkins area to take part in the survey and share their opinion to help shape the future of the community.

Take the PODA Survey here:

<https://forms.gle/aeVXFtrZedQyV2pY7>

Links to other PODAs implemented in the area:

morgantownwv.gov/703/Private-Outdoor-Designated-Area-PODA

charlestonwv.gov/poda

cityofhuntington.com/PODA

From: [Jeremy Deighan](#)
To: [Gerry Roberts](#); [Jeremy Deighan](#); [Jerry Marco](#); [Jessie Wagler](#); [Liz Roberts](#); [Melissa Washington](#); [Melody Himes](#); [Shanna Poe](#); [Wendy Williams](#); [Mike Kesecker](#); [Rebecca Day](#); [Steve Himes](#); [Sutton Stokes](#); [Tracy Judy](#); [Travis Bennett](#); [Wes Lambert](#); [Whitney Hymes](#); [Andrew Carroll](#); [Christopher Lowther](#); [Cody Kerns](#); [Cody Thompson](#); [Dave Parker](#); [Erika Plishka](#); [Mike Hinchman](#); [Lisa Severino](#); [Nanci Bross-Fregonara](#); [Rob Chenoweth](#)
Subject: PODA Survey Results
Date: Monday, May 20, 2024 9:49:25 AM
Attachments: [image001.png](#)

Hey all,

We have been running the Private Outdoor Designated Area (PODA) survey for about 2 weeks now and I wanted to send those out for all of you to review, to help make a future decision if Elkins wants to have a PODA or not.

There have 350 responses so far.

Here is a link to review the results:

<https://docs.google.com/document/d/114uWiORmF5eMYREBBvYbsPgE3hExoYWWjEsqifFSbik/edit?usp=sharing>

So far, the main answers have been:

1. How would you describe yourself?

53.1% said that they are a “Downtown Resident”

2. Are you interested in the city pursuing the creation of a PODA

84.6% said “Yes”

3. If you own a retail business, would this encourage you to expand evening shopping hours?

43.8% said “Yes”

4. If yes, which days of the week?

74.1% said “Thursday, Friday, Saturday”

5. Which time frame would you prefer?

63.3% said “5 p.m. to 11 p.m.”

6. Which area of downtown would you like to have the PODA in?

72.8% said “The entire downtown bounded by the river, Railroad Ave, and Randolph Ave”

The answers have tapered off a little bit but I did do a radio spot recently that might draw in some more answers so we can let it run for another week or so.

There are some detailed answers that I think would provide good feedback in future meetings, so I will copy those and get them to you for the next meeting.

Also, Clarksburg just passed an Ordinance to do a PODA in their town, which you can read about here:

<https://www.wboy.com/news/harrison/clarksburg-city-council-passes-poda-ordinance/>

And I did a write up with a link to the survey and other PODAs, including Morgantown, Charleston, and Huntington, which you can view here:

<https://cityofelkinswv.com/city-of-elkins-launches-survey-to-gauge-interest-in-creating-a-poda/>

I hope this information helps you all to decide on which steps to take. Let me know if you need anything else.

Jeremy

Jeremy Deighan

Communication Specialist

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