

TO: Urbana City Council
FROM: Mayor Diane Wolfe Marlin
RE: Amending City Code Chapter 2: Public Comment During Electronic Virtual Public Meetings and Rules for Deliberation
DATE: October 5, 2020

Early this spring, in response to the COVID-19 pandemic, Governor Pritzker issued Emergency Order 2020-07 that suspended the provision under the Open Meetings Act that public bodies are required to meet in person. Subsequently, the Open Meetings Act was amended to allow for public bodies to continue meeting remotely during a disaster, including the pandemic, as long as at least one member of the public body, chief administrative officer, or chief legal counsel is physically present at the regular meeting location during each meeting.

Out of consideration for the health and safety of the general public, city staff, council members, and volunteer members of boards and commissions, all City of Urbana public meetings currently are being held remotely using Zoom Webinar. This is expected to continue until the Governor's Emergency Orders are lifted.

The attached Ordinance recognizes the unique challenges associated with remote meetings and proposes to add a new Section 2-5 to Urbana City Code to specifically address Public Comment procedures during Electronic Virtual Public Meetings. The Ordinance also clarifies Rules for Deliberation related to Motion to Defer. This new language will provide guidance for consistent meeting procedures, allow adequate time for deliberation and action on agenda items, and help promote a productive and welcoming virtual meeting environment.

Section 2-5 includes the following provisions for Public Comment:

- The public body will accept written (including email) or verbal comments from the public on any topic.
- Instructions for submitting written or verbal comments will be posted with the public notice for each meeting. Written comments shall be included in the record of public input for the meeting upon request of the sender, provided such comments are received prior to the closing of the meeting record.
- Speakers must state their first and last name for the meeting record.
- Persons may speak for no more than three minutes each, and the public input portion of the meeting shall total no more than one hour, unless extended by two-thirds vote of the public body members present.
- Persons may speak only once during a meeting, may not cede time to another person, or split their time if public comment is held more than one time during the meeting.
- The presiding officer may give priority to persons wishing to address specific action items on the agenda.
- To ensure a productive and welcoming meeting environment, the presiding officer shall have the authority to provide a verbal warning to any speaker who uses abusive, harassing,

threatening, or defamatory language or otherwise engages in disorderly conduct that disrupts, disturbs, or impedes the orderly conduct of the meeting. If the speaker refuses to cease the conduct or remarks after being warned, the presiding officer has the authority to mute the speaker's microphone and advise the speaker to send the remainder of their remarks via email to the public body.

- Persons invited by the presiding officer to present information on a specific topic shall be limited to no more than ten (10) minutes for the presentation, unless otherwise shortened or lengthened by majority vote of the public body members present. Council members who wish to schedule a presentation to the public body must submit a request to the presiding officer (mayor, committee of the whole chair, board or commission chair.) The presiding officer must contact the City Administrator (city council items) or staff liaison (board or commission items) to schedule the presentation and add it to an agenda.
- City Council agenda items may be deferred to the next regular City Council meeting with a motion and second by Council members. No discussion is allowed. The City Council may defer the item a second time with an affirmative vote by three-fourths of the Council members present to a special City Council meeting. This special meeting must be held before the next regular Council meeting. Committee of the whole items may be deferred by a majority vote to keep the items in committee.
- Separate rules will govern the conduct of quasi-judicial meetings as required by law or otherwise provided for in the Code.

I respectfully request your approval of Ordinance Amending City Code Chapter 2, Addition of Section 2-5 Electronic Virtual Public Meetings.

ORDINANCE NO. 2020-09-049

**AN ORDINANCE AMENDING CITY CODE CHAPTER 2,
ADDITION OF SECTION 2-5 Electronic Virtual Public Meetings**

(Public Comment During Public Meetings)

WHEREAS, the City of Urbana (“City”) is a home rule unit of local government pursuant to Article VII, Section 6, of the Illinois Constitution, 1970, and may exercise any power and perform any function pertaining to its government and affairs, including the power to regulate for the protection of the public health, safety, and welfare; and

WHEREAS, the Section 2.06(g) of the Open Meetings Act (5 ILCS 120/2.06(g)) provides: “Any person shall be permitted an opportunity to address public officials under the rules established and recorded by the public body”; and

WHEREAS, the City Council believes that it is important to receive public comment and input during public meetings of the City Council, the City Council’s Committee of the Whole, City boards and commissions, and other City-sponsored public bodies (hereinafter, collectively, “Public Meetings”) regarding matters of public business whether or not a specific matter of public business appears on a Public Meeting’s particular agenda; and

WHEREAS, the First Amendment protects the rights of persons who provide public comment and input at designated portions of public meetings conducted by the City; and

WHEREAS, the City has the legal right to provide time, place, and manner restrictions, including those pertaining to civility, on public comment and input during public meetings that are consistent with the First Amendment so long as such restrictions are content neutral (*Milestone v. City of Monroe, Wisconsin*, 665 F.3d 774 (7th Cir. 2011); *Vega v. Chicago Board of Education*, 338 F.Supp.3d 806 (D.C. N.D. 2018); *I.A. Rana Enterprises, Inc. v. City of Aurora*, 630 F.Supp.2d 912 (D.C. N.D. 2009); and

WHEREAS, consistent with the First Amendment, the City has the lawful authority to bar from public comment and input abusive, threatening, harassing, or defamatory language or behavior; and

WHEREAS, Urbana City Code Chapter 2, Sections 2-4 and 2-27 establish the City’s rules for the public to address City officials including members of the City Council, the City Council’s Committee of the Whole, City boards and commissions, and other City-sponsored public bodies during public meetings; and

WHEREAS, the City Council has, from time to time, amended Urbana City Code Chapter 2, Sections 2-4 and 2-27; and

WHEREAS, Urbana City Code Section 2-4 was originally drafted to govern public input for in-person public meetings; and

WHEREAS, Illinois Governor J. B. Pritzker issued Executive Order No. 2020-07 that suspended the requirement under the Open Meetings Act that otherwise requires public body meetings be held in-person, which order was extended on April 1, 2020 by Executive Order No. 2020-18; and

WHEREAS, on June 12, 2020, Public Act 101-0640 became effective, which amended the Open Meetings Act to allow for public body meetings to continue remotely during periods of a disaster, including the COVID-19 pandemic, so long as at least one member of the public body, chief administrative officer, or chief legal counsel is present in the City Council chambers during each meeting; and

WHEREAS, the City Council deems it appropriate to amend UCC Chapter 2 to provide rules and proceeds for conducting Public Meetings remotely during periods of a disaster, including the COVID-19 pandemic.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Urbana, Champaign County, Illinois, as follows:

Section 1.

Urbana City Code Chapter 2, “Administration”; Article I, “In General”; Section 2-4, “Public meetings”; shall be and hereby is amended as follows with underlined language signifying inclusions set forth hereinafter.

Sec. 2-4. - In-Person Public meetings.

Section 2.

Urbana City Code Chapter 2, "Administration"; Article I, "In General"; shall be and hereby is amended as follows by adding a new Section 2-5 set forth hereinafter.

Sec. 2-5. - Electronic virtual public meetings.

- (a) For purposes of this section 2-5, the following definitions shall apply.

Presiding officer means the person who chairs a given meeting of a public body.

Public body means the city council, including its committee of the whole, and city-created and sponsored boards, commissions, committees, and task forces.

- (b) Any member of the public who seeks to address the members of a public body at any public meeting conducted on a video and/or audio electronic platform will be permitted to provide input on any matter listed on the agenda or on any other matter of public concern, subject to the following provisions:

- (1) Verbal public comments.

a. The agenda for the meeting shall designate a time during the meeting per Sec. 2-27 Rules for deliberations at which the public may address the members for verbal comment.

b. Prior to speaking, each person must be recognized by the presiding officer and must state their first and last name for the meeting record.

c. Public comment shall be limited to no more than three (3) minutes per person and the public input portion of the meeting shall total no more than one (1) hour, unless otherwise shortened or extended by two-thirds (2/3) vote of the public body members present. The presiding officer, the city clerk, or their designee, shall monitor each speaker's use of time and shall notify the speaker when the allotted time has expired. Since public comment is the time when the public body members listen to the public, all public comments should be addressed to the public body as a whole. A person may provide public input once during a meeting and may not cede time to another person or split their time if public comment is held at two or more different times during a meeting. The presiding officer may give priority to those persons who indicate they wish to speak on an agenda item upon which a vote will be taken.

D. In order to maintain reasonable decorum at a meeting, the presiding officer of the meeting shall have the authority to provide a verbal warning to a speaker who uses abusive, harassing, threatening, or defamatory language, or who engages in disorderly conduct that disrupts, disturbs, or otherwise impedes the orderly conduct of a

meeting. If the speaker refuses to cease such remarks or conduct after being warned by the presiding officer, the presiding officer shall have the authority to mute the speaker's microphone and/or video presence at the meeting. The speaker may send the remainder of their remarks via email to the public body.

(2) Written public comments.

a. Any member of the public may submit their comments addressed to members of the public body in writing (including via e-mail). If a person wishes their written comments to be included in the record of public input for the meeting, the writing should so state. Comments must be received prior to closing of the meeting record. The meeting record will close at the time of adjournment unless otherwise stated in the public notice for the meeting.

b. Specific instructions for verbal or written public comments shall be posted with the public notice for each meeting.

(3) Invited presentation.

a. Persons invited to address the members of a public body on a specific topic and properly noticed on the agenda shall be limited to no more than ten (10) minutes by the presiding officer at the time the invitation is extended unless otherwise shortened or extended by a majority vote of the public body members present at the virtual meeting to which the person is invited to speak.

b. Members of the public body who wish to schedule a presentation to the public body must make a request to the presiding officer. The presiding officer must schedule the requested presentation with the city administrator for city council items or staff liaison for board and commission items.

c. If the invited speaker wishes to present material using screen sharing or a similar means, they shall email the material to the City Clerk before 3 pm on the day of the meeting.

(4) Separate rules, as required by law or as otherwise provided in this Code, will govern the conduct of quasi-judicial hearings.

(c) The city clerk shall post the provisions of subsection (b) on the city's website.

Section 3.

Urbana City Code Chapter 2, "Administration"; Article I, "In General"; shall be and hereby is amended as follows with underlined language signifying inclusions and with strike-through language signifying deletions as set forth hereinafter.

Secs. 2-56 - 2-16. - Reserved.

Section 4.

Urbana City Code Chapter 2, “Administration”; Article II, “Elected Officials”; Division 2, “City Council”; Section 2-27, “Rules for deliberations” shall be and hereby are amended as follows with underlined language signifying inclusions and with strike-through language signifying deletions as set forth hereinafter.

Sec. 2-27. - Rules for deliberations.

The following rules for the government of the deliberations of the city council are hereby adopted:

(1) The city council shall determine its own rules of proceeding, which rules must be adopted and approved by a two-thirds ($\frac{2}{3}$) vote of all the members of the council, and no such rule may be repealed, annulled, amended, abridged, modified or suspended except by a two-thirds ($\frac{2}{3}$) vote of all the members of the council. On all points of order not otherwise specifically provided for in such rules of proceeding, “Robert's Rules of Order,” as may from time-to-time be revised, is adopted and made the law governing the deliberations of the city council.

(2) The order of business of all regular meetings of the city council shall be as follows:

- a. Call to order and roll call.
- b. Approval of minutes of the proceedings of regular and special meetings.
- c. Additions to agenda.
- d. Presentations and public input
- e. Unfinished business.
- f. Reports of standing committees.
 1. Consent agenda.
 2. Regular agenda.
- g. Reports of special committees.
- h. Reports of officers.
- i. New business.
- j. Adjournment.

The above order of business for any meeting may be altered by a majority vote of the city council members in attendance at the meeting.

(3) Whenever it shall become necessary for a number smaller than a majority of the city council to compel the attendance of absentee members in order to constitute a quorum to do business, a fine of two hundred dollars (\$200.00) may be imposed upon any such absentee member for failure to so attend.

~~(4) At any meeting of the city council, upon the making of and second to a motion to defer (whether phrased as a "motion to defer" or otherwise), the effect of which would be to postpone consideration of any agenda item to the next regular meeting of the council. Such agenda item is then before the city council for the first time by motion made and seconded, any such agenda item shall be automatically deferred for final action thereon to the next regular meeting of the city council, unless upon the making of and second to a subsequent motion, three-fourths (3/4) of those aldermen/alderwomen present vote to consider such deferred item at a special meeting to be called and held before the date of the next regular meeting.~~ At any meeting of the city council (except the committee of the whole), any item on that meeting agenda may be deferred to the next regularly scheduled city council meeting upon a city council member making and another city council member seconding a motion to defer the said item. At the meeting to which the said agenda item was deferred and upon the affirmative vote of three-fourths (3/4) of those city council members present, the city council may defer the said agenda item a second time to a special city council meeting that must be scheduled for a date before the next regularly scheduled city council meeting. At any committee of the whole meeting, an item may be deferred by a majority vote to keep the item in committee.

Section 5.

Those sections, paragraphs, and provisions of the Urbana City Code that are not expressly amended or repealed by this Ordinance are hereby re-enacted, and it is expressly declared to be the intention of this Ordinance not to repeal or amend any portions of the Urbana City Code other than those expressly set forth as amended or repealed in this Ordinance. The invalidity of any section or provision of this Ordinance hereby passed and approved shall not invalidate other sections or provisions thereof.

Section 6.

This Ordinance shall not be construed to affect any suit or proceeding pending in any court, or any rights acquired, or a liability incurred, or any cause or causes of action acquired or existing prior to the effective date of this Ordinance; nor shall any right or remedy of any character be lost, impaired, or affected by this Ordinance.

Section 7.

The City Clerk is directed to publish this Ordinance in pamphlet form by authority of the corporate authorities, and this Ordinance shall be in full force and effect from and after its passage and publication in accordance with Section 1-2-4 of the Illinois Municipal Code.

This Ordinance is hereby passed by the affirmative vote, the “ayes” and “nays” being called, of a majority of the members of the Council of the City of Urbana, Illinois, at a meeting of said Council.

PASSED BY THE CITY COUNCIL this ____ day of _____, _____.

AYES:

NAYS:

ABSTENTIONS:

Phyllis D. Clark, City Clerk

APPROVED BY THE MAYOR this ____ day of _____, _____.

Diane Wolfe Marlin, Mayor