

Tammy Hodgman

From: Langsdorf, Stephen E. F. <SLangsdorf@preti.com>
Sent: Friday, February 8, 2019 11:37 AM
To: Donald H. Gerrish
Cc: Tammy Hodgman
Subject: Motion for Reconsideration

Don, you have asked me to provide an opinion regarding when a motion for reconsideration is appropriate. As I understand it there was a vote which resulted in a 3-3 tie at the Council's January 29, 2019 meeting regarding a moratorium in the rural district. Since 4 votes are required for passage, the motion failed. One of the councilors who voted no wishes to have the Council reconsider the motion at the February 12, 2019 meeting. The Council's rules of procedure do not give a clear answer to the question. Section 16 states that in cases of a tie vote a Council member who voted no may move for reconsideration "at the same, or the next regular stated meeting". The rule goes on to state that "a special meeting shall not constitute a regular meeting". I understand there was a workshop type of meeting on February 5, 2019 where no votes were taken, only discussion. This is consistent with section 1 of the Council rules of procedure which states that the meetings on the first and third Tuesdays "shall be intended as work sessions and devoted mainly to discussion items". All of the Tuesday meetings are defined as regular meetings under section 1, but there is nothing which defines a "regular stated meeting". Special meetings are defined in section 2 of the rules and both section 2 and section 16 say no reconsideration at a special meeting. When this item comes up Tuesday it is appropriate to ask the Parliamentarian to decide the question under Section 14 of the rules of procedure. That is subject to an appeal to the full Council. The specific issue which the Council will have to decide is how to interpret its own rules- there is no right or wrong answer to this question- it is up to the Council to decide what its rules mean. There are 2 possible answers. The first is that all Tuesday meetings are defined as regular meetings and therefore if the reconsideration did not happen at the February 5 meeting it cannot be reconsidered at the February 12 meeting. The rule says "regular stated meetings" which could just mean regular meetings. The other interpretation is that since business was not and usually is not conducted at the work session meetings, the first chance to reconsider is at the February 12 meeting. Of course the rule could be made more clear going forward. In either case a new motion could be brought forward at any subsequent meeting if it is different from the motion sought to be reconsidered or circumstances have changed in some way, but the process would have to start over. Although the rules of procedure say Robert's Rules of Order apply, it also states that the Council rules prevail if there is a conflict (section 30). Robert's Rules restrict reconsideration to the same meeting or the next time business is conducted if a multi-day session, so that does not offer any guidance. The bottom line is that it is up to the Council to decide what the rule means after the Parliamentarian rules first. I wish I could give you a definitive answer. Please let me know if you have questions.

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