

RULES OF PROCEDURE
PROPOSED ADDITIONS OR REVISIONS
April 23, 2013

RECOMMENDATION

- | | | | |
|----|-----|---|------------------------|
| 1. | 1-6 | Reimbursable expenses | revised |
| 2. | 1-9 | Council budget process | revised |
| 3. | 2-4 | Special meetings vs. Emergency meetings | more discussion |
| 4. | 3-9 | Work sessions and workshops | new |
| 5. | 5-4 | Voting by roll call | legal opinion received |

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1-6 Reimbursable Expenses

- (a) Council members will be reimbursed for mileage to attend meetings, conferences, and training; which are directly related to representing the county or their district. Expenses to attend fundraisers, social or recreational events will not be reimbursed. Attendance at retirements or honorary banquets will not be reimbursed.
- (b) Mileage reimbursement may be submitted for travel between their starting location at home or the office to their destination; and, where applicable, the return trip. No reimbursement will be given for commuting to the administrative office for any meetings.
- (c) Mileage reimbursement will be based on the IRS rate as determined by the county.
- (d) Expenses for tolls and parking are eligible for reimbursement.
- (e) Travel reimbursement should be submitted monthly so that the county can process and issue reimbursement promptly. (see Cecil County Mileage Report in Appendix G.
- (e) The Council President will review and approve expense reimbursements submitted by council members. The County Manager will process these expenses in the financial system.
- (f) Council members can be reimbursed for attendance at the Maryland Association of Counties conference including registration and meals. Expenses beyond the meals provided will not be reimbursable. The cost of lodging is limited to only the days necessary to attend the scheduled events.
- (g) Council members who wish to attend out-of-state conferences or meetings must get Council approval for reimbursement of expenses.

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1-9 Council Budget Process

- (a) The council manager will prepare a proposed department budget annually and present to the Council for review and revisions during a work session. After the Council has approved the budget request, the council manager will submit to the administration.
- (b) The Council will adhere to county purchasing procedures. Council staff will process purchases in the financial system and the council manager will approve.
- (c) The council manager will prepare requests for a budget transfer within the Council departmental budget and present to the Council for consideration at a work session. Budget transfers will be processed in the financial system by the council manager after the Council has approved the request.
- (d) Expense reimbursement for Council members will be reviewed by the council manager and approved by the Council President. After approval, the staff will process reimbursements in the financial system.

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2-4. Emergency meetings

An emergency meeting may be called by the President, by 4 Council members, or by the County Executive. Upon notification to the Council of an emergency meeting, the notice of the emergency meeting must be posted on the County website and shall include the purpose, subject, location and time of the emergency meeting. .

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3.9 Council Work Sessions and Workshops

- (a) The Council President may schedule a Council Work Session on Tuesday morning and/or Council Workshop on Tuesday afternoon. Scheduling will be based on the needs to discuss issues and/or allow presentations from other departments, agencies and public.
- (b) The Council Work Session will begin at 9:00 a.m. and the Council Workshop will begin at 1:30 p.m. Both meetings will be held in the Elk Room so that the business can be recorded. Minutes will be taken by council staff, subject to approval by the Council.
- (c) An Agenda will be drafted by the Council President with topics for discussion. The Council President will ask for suggested topics from council members and the administration. The final Agenda will be distributed to council members on the Friday by noon, prior to the Tuesday meeting.
- (d) Public Notice will be given for the Council Work Sessions and Council Workshops in the same manner as the Legislative Sessions. The public is permitted to attend all meetings with the exception of closed sessions, as permitted by the Annotated Code of MD, State Government, Title 10, Government Procedures, Subtitle 5. Meetings, Section 10-508(a).
- (e) The Council may take no legislative actions during the Work Sessions or Workshops. They may take votes on procedural matters that are not legislative in nature.

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5-4. Voting by roll call

Voting on legislation is to be by roll call, except on procedural motions. The ayes and nays must be recorded in the Council Journal. Council members must be present during the roll call vote in order to cast their vote.

MEMORANDUM

TO: Jim Massey, Council Manager
FROM: Jason L. Allison, Esquire, County Attorney
DATE: March 11, 2013
RE: Request for Legal Opinion - Council Rules of Order/Procedure

Dear Mr. Massey:

This Memorandum is drafted in response to your recent request, on behalf of the Cecil County Council, for a legal opinion regarding the following issues:

1. May the Cecil County Council (hereinafter, the "Council") vote on issues before it at non-legislative workshop session and, if yes, then are there limitations on the type of issue that may be voted on?
2. May a Councilperson call-in to a legislative session and/or workshop of the Council and, if yes, may the Councilperson calling-in engage in discussion and/or vote on issues taken up by the Council during such session?
3. Must members of the Cecil County Citizens Budget Advisory Board (hereinafter, the "CBAB") file a financial disclosure statement in accordance with the Cecil County Ethics Code?

The following is my response to the questions presented above.

- I. The Council may vote only on non-legislative matters at workshop sessions.

The first issue presented is whether the Council may vote on issues before it at non-legislative workshop sessions. It is this writer's opinion that the Council may vote only on non-legislative matters at workshop sessions.

As a threshold matter, pursuant to § 304(c) of the Charter, a bill (e.g., a Code amendment or an ordinance), if introduced, must be introduced at a legislative session. Once a bill is introduced in accordance with § 304(c), it must then be scheduled for a public hearing in accordance with the provisions of § 304(d) of the Charter.

While the Charter is silent as to when the public hearing may be scheduled, § 302 of the Charter provides that, "except during the month of November in the year in which Council members are elected, the Council may enact legislation on the first and third Tuesdays of each month, *and on*

any additional days the Council may determine necessary."¹ (emphasis supplied). Accordingly, legislation may generally be enacted only on the first and third Tuesdays of each month, provided, however, that the Council may schedule a legislative session on another day, as the Council deems necessary. It follows then that, although the Council may not introduce or enact legislation at a workshop, it may schedule a legislative session on a workshop day, and introduce or enact legislation accordingly.²

The Charter does not appear to prohibit the Council from voting on non-legislative matters (such as, for example, a resolution), at a workshop or non-legislative session. More specifically, § 302(e) of the Charter provides that "[t]he Council may adopt and publish additional rules of legislative procedure that may be desirable and not in conflict with the Charter", however, the Charter is silent as to when such rules may be adopted. It is this writer's opinion that, although the Council must introduce and enact law at a legislative session, the same is not required for the adoption of rules of procedure or other resolution.

In conclusion, it is this writer's opinion that the Council may adopt rules of procedure and other resolutions during workshop sessions, but that it may not introduce or enact legislation (e.g., law such as Code amendments or ordinances) except at a legislative session.

II. A Councilperson may call-in to a Council workshop.

The Charter and Code of Cecil County are silent as to whether a Councilperson must, in order to participate, be physically present at a legislative session and/or workshop. For example, while § 303 of the Charter clearly provides that "[t]hree Council members shall constitute a quorum for the transaction of legislative business", § 303 does not explicitly require that the three Council members must each be physically present in order to transact such business. Although not binding, Robert's Rules of Order are useful in ascertaining whether a Councilperson can call-in to a Council session. In this respect, Robert's Rules of Order speak to a quorum, for example, as being the requisite number of members present at the meeting. Although the word "present" is not defined by Robert's Rules of Order, it can be inferred from an example cited by Robert's Rules that, to be "present" for purposes of quorum, a member must be physically present at the meeting:

"... a provision of the bylaws should specify the number of members that shall constitute a quorum, which should approximate the largest number that can be depended on to attend any meeting except in very bad weather or other extremely unfavorable conditions."

The foregoing passage refers to attendance, and references poor weather or other extreme conditions. Those references clearly suggest the requirement that in order to count toward quorum, a member must be physical present at the meeting. Moreover, particularly as regards legislative

¹When the first or third Tuesday is a legal holiday, the next succeeding Tuesday shall be a day for the enactment of legislation. See, § 302 of the Charter.

²The Council should be aware that it may not sit for more than 45 days in a calendar year for the purpose of enacting legislation. See, § 302 of the Charter.

sessions of the Council, best practice and transparency in function suggest that, where a bill is to be introduced or put to vote for enactment as law, the Councilperson be physically present in the Council chamber in order to count toward quorum and, therefore, eligible to participate in the discussion and vote.

Workshop sessions are, however, less formal than legislative sessions. This writer was unable to identify authority that would prohibit a Councilperson from calling-in to a workshop session. In fact, there will likely be workshop sessions where no vote will be taken on any subject at the workshop. And, in instances where there may be a vote called, the Council can do no more than adopt resolutions which do not carry to force of law, and/or adopt rules of procedure, at the workshop. In short, the workshop sessions of Council may be facilitated in an orderly and lawful manner without the physical presence of all Councilpersons who desire to participate in the discussion of and vote on matters on the workshop agenda. While transparency is always a concern when the Council convenes, the informal nature of the workshop and limitation on business that can be transacted at the workshop session suggest that it would be appropriate for a Councilperson who cannot physically attend to call-in so as to fully participate in the workshop session. This writer suggests, however, that in order to maintain the integrity of notions of quorum, a minimum of three Councilpersons be physically present at the workshop in order to meet Charter quorum requirements for the transaction of Council business, provided, however, that Councilperson(s) who call-in may fully participate in the discussion and vote on any matter on the agenda. Further, this writer suggests that as a matter of good practice, the Council consider limiting the number of workshop sessions that may be attended by call-in.

In conclusion, it is this writer's opinion that a Councilperson cannot call-in to a legislative session of the Council, and that a Councilperson may, if the Council adopts a provision in its rules of procedure so permitting, call-in to a Council workshop session.

III. Members of the Cecil County Citizens Budget Advisory Board must file a financial disclosure statement in accordance with the Cecil County Ethics Code.

On an annual basis the Commissioners and, now, the Council, appoint an ad hoc board identified as the Cecil County Citizens Budget Advisory Board. The CBAB is charged with reviewing the proposed County budget, and making recommendations on the budget to the Council. The CBAB is appointed pursuant to § 203 of the Charter, and is dissolved by operation of law upon adoption of the budget by the Council.

It is this writer's opinion that, as a "board" appointed by the County, the CBAB members fall within the provisions of § 39-29 of the Cecil County Ethics Code. Pursuant to § 39-29 of the Code, appointed officials, such as the CBAB, must file financial disclosure statement with the Cecil County Ethics Commission, including a retroactive gift disclosure statement (§ 39-31), advance disclosure of conflicts (§ 39-32), and retroactive disclosure of conflicts (§ 39-33). The CBAB's financial disclosure statements should be filed in due course (e.g., by April 30, 2013), as is required of other County appointed officials and employees under § 39-29.

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