

Deb Little

From: Ben Martig
Sent: Friday, September 01, 2017 3:41 PM
To: David DeLong
Cc: Deb Little; Chris Hood; Rhonda Pownell
Subject: RE: There may be a problem with assessment vote

Importance: High

SUMMARY OF ACTIONS FROM LAST MEETING (in consultation with City Clerk & City Attorney)

Related to the amendment last meeting, It is correct that an amendment would pass with a simple majority of those present. Not the four votes that the resolution required. However, in this instance last meeting the Council continued on as if the amendment had failed. Objections could have been raised at the time. The Mayor ruled and there were no objections to the ruling, so the ruling stands. In addition, the vote on the amendment was 3-2. As it stood, there were not the required four votes to pass an amended resolution. It was made clear several times by the Mayor that the Council was voting on Resolution 2017-068 as submitted by staff and included in the electronic packet. No objection was raised. Based on this, the resolution that passed on a 4-1 vote was the original resolution, not an amended resolution.

Legally, nothing needs to be done at the time. However, if there is a desire to do something the following is suggested:

1. From City Council Rules of Business (approved 3/21/2017):

There are two ways a Councilor can request an item be placed on a future Council agenda:

a. Submit a request for consideration to the Mayor or City Administrator. (Charter 3.7); or b. Request by two or more Councilors that an item be placed on an upcoming Council agenda. In either case, the Councilor's request for an item to be placed on a Council agenda should be in writing, with some background information provided, and submitted a minimum of 11 calendar days prior to the meeting. Request the item to be added to the agenda (requires 2 councilmembers).

At this time, the Mayor and I are in agreement not to include this on the agenda going forward on our own actions based on the facts previously described and details of the meeting. The September 19 would be the next meeting to make a request with another council member.

2. If placed on the agenda, members could use the rescind or amend something previously adopted provisions in Roberts Rules of Order as follows.

Rescind - also known as Repeal or Annul - is the motion by which a previous action or order can be canceled or countermanded. The effort of Rescind is to strike out an entire main motion, resolution, etc. that has been adopted at some previous time. Amend Something Previously Adopted is the motion that can be used if it is desired to change only a part of the text, or to substitute a different version. Both are governed by identical rules paraphrased below:

Motion to Rescind (Repeal or Annul) or Amend something previously adopted

- No time limit
- Motions require a second; are debatable and amendable
- Treated as main motions – different from others in vote needed to adopt
- May propose to rescind the previous action
- May propose to amend the previous action
- May make either motion regardless of vote on original motion
- If no previous notice given of intent to make one of these motions adoption requires:

Two-thirds vote (5) (excluding blanks or abstentions) (unless there is a greater majority required by the item); or

Abstentions have effect of no vote

- If previous notice is given, a majority vote (4) is all that required for adoption (unless there is a greater majority required by the item).
- Previous notice of a motion is given either:
 - By announcing an intent to make such a motion (indicating exact content) at the meeting immediately preceding the meeting at which the motion to be made; or
 - By having the notice of that intent (indicating exact content) distributed to members in advance of the meeting.

There are actions that cannot be rescinded or amended such as:

- a) When it has previously been moved to reconsider the vote on the main motion, and the question can be reached by calling up the motion to Reconsider.
- b) When something has been done, as a result of the vote on the main motion, that is impossible to undo.
- c) When a resignation has been acted upon, or a person has been elected to or expelled from membership or office and the person was present or has been officially notified of the action.

MY THOUGHTS

A. If you choose to move forward and get another councilor request, I would suggest the "motion to amend" alternative based on the fact an assessment roll ultimately needs to be passed.

B. Staff's starting point would be to support the action taken at the meeting, at least as a starting point.

C. Ultimately, there would have needed 4 votes to pass a final assessment resolution and we do need an assessment roll adopted. We had a 4-1 vote last meeting so even though 2 were gone one other of the 4 besides yourself would have to change their position.

D. I think you should disclose these details to any councilor you are requesting to have added to the agenda. I'd be happy to share these thoughts from my end with anyone if you request (same content in this email). I would advise against just a forward to all as it could be a serial meeting/discussion related to open meeting laws.

Other questions let me know. Thanks for your patience.

Ben Martig
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-----Original Message-----

From: David DeLong
Sent: Friday, August 25, 2017 10:47 AM
To: Rhonda Pownell <Rhonda.Pownell@ci.northfield.mn.us>; Ben Martig <Ben.Martig@ci.northfield.mn.us>
Cc: Deb Little <Deb.Little@ci.northfield.mn.us>; Chris Hood <cmhood@flaherty-hood.com>
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The vote on my amendment to the main motion was 3 yes votes (Pownell, DeLong and Ness) and 2 no votes. The Mayor had stated earlier that we would need 4 votes, a majority of all council members for the Resolution to pass. When we voted on the amendment I think people thought it needed 4 votes also. So we went on with further discussion and truly failed amendment votes.

Therefore the main resolution to adopting the assessment which was passed included my amendment which had passed, not failed as every one assumed.

Is this a problem, is there a fix?

Dave

Sent from my iPad