

Rules Committee Minutes

Honorable City Council
City of Newark, Ohio
January 31, 2018

The Rules Committee met in Council Chambers on Monday, January 29, 2018 following the Service Committee with these members present:

Jeremy Blake, Chair
Doug Marmie
Mark Fraizer

1. Discuss amending Council Rules by adding Rule 4A regarding the selection of party leadership.

Mr. Fraizer- from looking at this the political party has the first say up until the organizational meeting in and the organizational meeting happens and there is no determination the request is who is interested and if nobody is interested then it goes through Council for a vote.

Motion by Mr. Marmie to send to full Council, second by Mr. Fraizer

Mr. Lang- asked if there is one person of the political party that doesn't agree with who the party chose to be the leader if they can invoke the vote to go to Council.

Mr. Blake- I would think not

Mr. Fraizer- it is determined by your caucus how this reads

Law Director Sassen- the way I interpret the rule is that the party caucus will meet, let's take Mr. Lang's scenario, there are 5 members and they vote 4-1. At the organizational meeting the President will ask if the party has identified a leader at which point they will say we voted 4-1 in favor of said person. The person with the 1 vote could speak up and state they don't agree then at that point and time it would be the President's responsibility to gavel that person into silence because the caucus is speaking 4-1. If they are not able to come up with a name because the vote was 2-2 or they couldn't come up with someone that is when the Council voting would kick in. Under the President's authority to maintain the corium if the caucus says we voted 4-1 in favor of this person and the one wants to speak up it is the President's responsibility to quiet that person.

Mr. Cost- at one point there was a discussion if seniority would be a consideration and I don't see it stated in there and I wondering if that would be considered a factor as well?

Law Director- based on the committee comments and the historical precedence how a party caucus selects its leader is totally up to that party's caucuses internal rules. If they want to consider seniority that is up to them. If it comes to Council at that point because they were unable to agree upon one name each member of Council can vote as they

deem most appropriate. I watched the Rules Committee video and the consensus that I heard didn't mention that if there wasn't a selection from the caucus then the person with the highest seniority from that caucus would be appointed. I don't like what if's either but a very obvious what if would be what if the two senior members of that caucus were sworn in on the same day? Which one is senior? I avoided that whole thing simply by saying members of Council are going to vote and you can base your vote on whatever factors you want to base your vote on.

Motion passed by a vote of 3-0.

2. Discuss amending Council Rules by adding Rule 2A regarding when Committee Meetings shall occur.

Mr. Fraizer- my concern with this one is I don't holidays are encompassed in this rule as is. You have the first and third for committee times but we don't have the portion about if there is a holiday we go to the next Monday or to the Tuesday. Does that need to be in here?

Law Director- there is an argument that could be made that this rule is not necessary at all because quite frankly the way our current rules read the committee chair can call a meeting of that committee at any time deemed most appropriate given 24 hour notice to the necessary parties. If you want to nail this down so that we are limited to 1st and 3rd Mondays at 5:45 P.M. then I would agree with you we probably should add in there but for the Monday holidays which is easy enough to do between now and next Monday.

Mr. Fraizer- our current rule is the Tuesday is that written in or is that what we have gone by?

Law Director- first business day following Monday holiday which is usually Tuesday.

Mr. Lang- rule 1 says when a regular meeting falls on a legal holiday the meeting will be held on the following Tuesday at 7:00 P.M.

Law Director- the problem with that came up this year because the Tuesday following the Monday holiday was a holiday. Monday holiday was December 25th Tuesday was a government holiday too so we had to have the meeting on Wednesday simply because it made sense and is logical but it doesn't fit this rule.

Mr. Rath- so if we were to amend we would need to amend Rule 1A not this rule?

Law Director- I really think that we are over thinking this to be honest with you.

Mayor Hall- years ago they had committees three nights a week, it was whenever the Committee Chair called it. I'm not saying I want it that way but it was very open at one time and they obviously must have wanted it that way. You always need to consider the other side of what restrictions can do. If the committee chairs agree to have the meetings prior to Council maybe it doesn't need a rule.

Mr. Marmie- the President of Council can call a special meeting at any time. Meetings could be held on a Thursday night because we had to vote on a budget before the end of the year.

Mr. Rath- the spirit behind this whether we want to make it a rule or not the spirit behind this was to have something predictable to encourage and not confuse public

participation. I don't know if we need to have a rule but at a minimum an agreement of consistency to allow predictability and encourage public participation.

Mr. Fraizer- my thought is to work with the Law Director pass this and see if it is necessary to add the next business day clause in there in case of a holiday. We can talk about it at full Council get everybody on the same page; pass this as is to Council to see what they think.

Mr. Lang- to the Law Director do we also need to clarify when legislation comes out of committee which Council meeting it would go to? We have discussed that if the meeting was tonight it wouldn't get to full Council for 2 weeks. I don't want there to be any confusion in this rule that something that would be passed that night through the regular course would go on to Council that same night. It was always the intent that it would go on at the next subsequent full Council meeting.

Law Director- I would have to look at that in terms of the other rules with regards to the timing of legislation because I think that might cover it but I'm not certain. I could look at that before next Monday.

Mr. Marmie- I could answer that. There is a rule that says legislation has to be presented in order to get to a committee meeting by Thursday at a certain time and in order to make an agenda it has to have been heard by a committee so there is no way to make an agenda if it hasn't been heard by a committee.

Law Director- this is not a typical legislative process to amend the rules so if this particular proposal passes out of committee tonight before Monday I will add the reference to Monday holidays to correct that.

Motion by Mr. Fraizer to send to full Council, second by Mr. Marmie

Motion passed by a vote of 3-0.

3. Discuss the City appointment process

Mr. Blake- I wanted to add an item since we are discussing different rules tonight. I have had discussions with Don and several other people and Doug Sassen. It seems odd to me and this isn't against any one individual this is merely the process about when we receive our agenda for full Council there is someone's name that gets appointed to some board, there's not even a motion and a second we just do a voice vote on that person. I wanted to get people's thoughts on that process itself. I would favor more of a resolution and it to go through the normal legislative process but since we are discussing rules I wanted to get people's thoughts on this. Doug you are the longest serving member.

Mr. Marmie- it's not a piece of legislation it is an appointment to get a vote of approval. Any member of Council can ask the chair for a vote by roll call and that should probably be brought up in Caucus that you'd like to have a voice vote on whatever particular matter.

Mr. Blake- that doesn't answer my question about the process though. Typically we know who these people are but sometimes not so it would be nice to have lead time to go into that. I hear what you are saying about requesting a voice vote.

Mr. Marmie- you are saying that you want more advanced notification.

Mr. Blake- yes. Typically Don would say the name and the Mayor would say a few words about the person but really we don't know who this person is. I feel like there should be some more of a legitimate process for going through appointments.

Mr. Fraizer- the appointment process is primarily on the executive side so they are the ones who ultimately get to make the appointment. It is our duty to object if we feel like there are issues. I don't know how much more time it would take to consider the person being appointed, one week or two weeks or a month?

Mr. Blake- that's why I said the normal legislative process. If they are being appointed to the Parks Board or JEDZ Board whatever board just do a resolution and go through the normal legislative process is what I would suggest.

Mr. Rath- if the Mayor appoints somebody to a board is that a legislative process? Is that an executive process or is that an administrative process?

Mr. Blake- I will let Doug Sassen jump in here but my understanding is that when it is a City of Newark appointment it is referred to wanting Council action. The Mayor makes other appointments that we don't see.

Law Director- it is based on the founding documents of the organization to which the appointment is being made. They generally tend to fall into three categories; the appointment is made by the city which has been interpreted as the Mayor making a recommendation to Council and Council making the appointment, there are a few rare instances when the appointment is made by Council at which point the Mayor really has no say in it other than to perhaps make a suggestion to Council and Council moves forward. I am not sure if there are any of those left. The last is an appointment that is made by the Mayor and when that shows up on your agenda it is informationally only. Council doesn't have an opportunity to object, it is the Mayor saying I appointed this person.

Mr. Fraizer- I would like to see whatever you are thinking and we can assess it. I personally don't have a problem with the appointment process. I think being notified and letting the executive do their due diligence to present to Council their case.

Law Director- this is something maybe more for Don to follow up with Autumn on but when we pass ordinances and resolutions we are required to publish those and that costs money. If you do this by voice vote it is a motion to adopt, a motion to approve, it finds its way into the minutes. If you do a resolution or an ordinance to appoint someone to a committee that has to be published in the paper and that costs money. I don't know how much that is Autumn could tell us that but there is a cost associated with doing that.

Mr. Rath- we could say that any appointments that Council needs to vote on have to be presented the Council meeting prior then we would have two weeks to vote on it. The only problem is if you need to appoint someone quickly that slows the process down.

Mr. Lang- is the concern that we are not properly considering the appointments that are brought forth and we are approving them too quickly? I'm concerned with adding additional processes and slowing things down. If somebody is presented to us and we don't feel they are appropriate it is easy enough in a roll call vote to oppose as you have done on a few so if there are others that oppose it they can oppose it as well. If there

isn't enough time to vet somebody then I guess we'd oppose the appointment. I'm not sure I understand the need for additional time.

Mr. Rath- asked the Law Director if a situation came up where someone wasn't comfortable voting on an appointment if they could ask for it to be table to have additional time.

Law Director- stated that could be done.

Mr. Marmie- I just wanted to note that since Mr. Lang and I went to the laptop versus printing 68 pages of paperwork were saved this evening.

Jeremy Blake, Chair