

Resolution No. 2019-17

A RESOLUTION OF THE BOROUGH OF ELIZABETHTOWN ADOPTING RULES OF DECORUM FOR PUBLIC MEETINGS

WHEREAS, the primary purpose of Borough Council meetings is to afford elected officials the opportunity to conduct Borough business; and

WHEREAS, the purpose of the following Rules of Decorum is to assure an orderly framework within which the business at hand can be conducted by setting basic ground rules for public participation and the distribution of information, and by prohibiting inappropriate behavior; and

WHEREAS, the following Rules of Decorum also establish a code of ethical behavior for elected officials of the Borough of Elizabethtown; and

WHEREAS, the authority for establishment of these rules is derived from the Borough Code, Act of June 17, 2014 (1965 P.L. 1956, No. 581) and all amendments thereto; the Sunshine Act, Act of June 30, 2011 (P.L. 388, No. 84, 65 P.S. 271 et seq., 65 Pa. C.S. §§ 701 et seq., No. 56) and all amendments thereto; and the Right-to-Know Law, Act of February 14, 2008 (P.L. 390, No. 212, 65 P.S. 66.1 et seq., 65 P.S. §§ 67.101, et seq.) and all amendments thereto; and

WHEREAS, these rules, originally adopted by Elizabethtown Borough Council on July 15, 2004 by Resolution 2004-2, amended on February 18, 2010 by Resolution 2010-2, amended on May 16, 2013 by Resolution 2013-7 are further amended herein.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED by the Borough of Elizabethtown as follows:

DEFINITIONS

Regular Council Meeting: Council is required to meet on a regular basis at least once per month and must advertise its schedule of meetings at the beginning of each year. A schedule, including day, time and location, will be established at the first ~~reorganization~~ meeting held every ~~even~~-year. The meetings are open to the public, and minutes must be kept.

Council Work Session: Council meets on a monthly basis to address issues brought before Borough Council in a work session environment. A schedule, including day, time and location, will be established at the first meeting every year. The meetings are advertised, open to the public, and minutes must be kept.

Special Council Meeting: Any meeting not included in the advertised annual schedule of meetings. Public notice of the meeting, including advertisement, must be given at least 24 hours in advance. These meetings are open to the public, and minutes must be kept.

Council Executive Session: Either an entire meeting or a portion of a regular meeting, work session, or special meeting that is called to deliberate Borough business and attended by a quorum of members, but one from which Council may legally exclude the public, provided the business to be discussed falls within the specified categories below as described under §708 of the Sunshine Act:

- Personnel Matters
- Collective Bargaining, Labor Relations, and Arbitration
- Real Estate Transactions
- Litigation
- Legally Protected Information

Since Executive Sessions are closed to the public, minutes need not be kept. Official actions taken on the basis of discussions held in Executive Session must occur at an open public meeting.

PUBLIC INFORMATION

Agenda: Paper copies or other appropriate media of the meeting agenda shall be made available for the public at the start of the meeting. Drafts of current agendas shall be posted on the Borough's website approximately 24 hours prior to the meeting.

Meeting Minutes: Meeting minutes shall be made available to the public. The minutes are not official until approved by Borough Council. Once approved, minutes shall be posted on the Borough's website. If applicable, minutes from other Board and Commission meetings, such as the Planning Commission and Zoning Hearing Board, shall also be made available to the public on the Borough's website.

PUBLIC PARTICIPATION

Every Borough Council meeting that is required by law to be open to the public shall include an opportunity for residents and taxpayers to be heard. The following rules shall apply:

Sign In: Persons entering the meeting room should sign the attendance sheet indicating their full name and address. Individuals addressing Council must state their full name and address for the purpose of accurately recording the minutes.

Groups: For groups desiring to comment, a spokesperson shall be designated for the presentation and discussion. The spokesperson shall be responsible for maintaining order and decorum of the group.

Comment Limited to Appropriate Issues: Public comment is intended to give citizens an opportunity to address items on the agenda as well as to comment on other topics related to Borough services. It is not intended to be a question and answer period. Council response to public input at a meeting is at Council's discretion.

Time Limit: It is the intent to provide each participant a fair and equal opportunity to be heard. Borough Council applies its discretion to limit the time for an individual's public comment to 5 minutes and may end the participant's comment if the comment becomes repetitive or strays from the current issue and the participant has had a fair and equal opportunity to be heard. The Council President may extend time to an individual's public comment if warranted.

Deferment of Comment: If, in the judgment of Borough Council, the period for public comment is unusually long, the atmosphere has become unruly, or the comments become repetitive, Borough Council may move to close public comment or defer all or portions of the public comment to a subsequent regular meeting or to a work session or an advertised special meeting to be held in advance of the next regular meeting.

Request to Appear on the Agenda: Residents or taxpayers who wish to address Borough Council may do so under the Public Comment section of the agenda. Community groups prepared to make a presentation on a particular topic may make a request to the Borough Manager to be included on the meeting agenda. The request must be made to the Borough Manager at least one week in advance of the meeting.

Recording of Meetings: Members of the public may record or videotape all portions of Borough Council meetings that are open to the public, provided that their actions do not disturb or interrupt the proceedings. The recording or videotaping must be conducted from the participant's seat or the area designated by the Borough for recording (located in the northwest corner of the meeting room) and must be publicly announced prior to commencing the recording.

Civility and Decorum: Borough officials and members of the public are expected to conduct themselves with civility and to accord each other a measure of dignity and respect. Shouting, personal insults, and attacks or any conduct that disrupts the flow of business is considered to be out of order. At the discretion of Borough Council, disruptive individuals shall be subject to removal from Council chambers unless they agree to maintain civility and decorum.

RULES OF CONDUCT

General Procedure: It is the policy of Borough Council not to become involved in the entanglements over "parliamentary procedure." It is the intent of Council to act consistently with the Pennsylvania Borough Code and any applicable Borough Ordinance or other legal requirement. This being said, in general, Roberts' Rules of Order shall apply to the conduct of public meetings subject to the authority of the President of Borough Council.

Authority of the Chair: The President shall act as a facilitator, assisting Council to focus on its agenda, discussions, and deliberations.

Limit Deliberations: Councilmembers will limit their comments to the subject matter, item, or motion being currently considered by Council.

Obtaining the Floor: Members of Council wishing to speak must first obtain the floor by being recognized by the Chair.

ORDER OF BUSINESS

Agenda: The Borough Manager is responsible for preparing a written agenda for each Council meeting. The agenda provides a guide for the Chair to keep the meeting on track, assures all relevant points concerning the business at hand will be discussed, and lets all participants know exactly when they will be expected to make their contributions.

President of Council: The President or other presiding officer should maintain a neutral and impartial attitude throughout the proceedings. The Borough Council President cannot make a motion on an issue. Furthermore, the President should not enter into debate until such time that all other members of Council have expressed themselves on a given issue. Only then may the President state an opinion on the merits of the question under discussion.

Motions, Resolutions & Ordinances: A motion is the normal means by which a matter is brought before Council for consideration. Most routine matters are approved by a simple motion. Resolutions need to be approved by a simple majority vote after a motion. Ordinances are approved by roll call vote after a proper motion.

Motions and Resolutions regarding administrative matters need not be submitted to the Mayor. Ordinances, such as legislative actions, shall be submitted to the Mayor for signature.

A motion requires a second, or sponsorship, by a second member of Council before it can receive consideration at a meeting. If a motion is not seconded, it is lost and no further action is taken on the matter. The President then proceeds with the next item on the agenda.

The first rule of parliamentary order is that only one matter of business can be considered at a time. That is, when one “main motion” has been properly introduced and seconded, no other main motion can be presented until the first has been disposed of. In the usual course of business, the motion is disposed of when it is either passed or defeated. However, a number of other things can happen to the motion, including:

- The motion can be amended.
- The motion can be referred to a committee for further consideration.
- Action can be postponed until a definite date.
- The motion can be tabled.

The only motions on which debate or discussion are permitted are the main motion and motions to postpone, amend, or refer. On all others, members vote yes or no.

Unanimous Consent: Action is occasionally taken without the formality of a motion, a second, and putting the question to a vote. In cases of minor importance, or in routine business where there seems to be no opposition, the Chair might ask, for instance, “Is there any objection to pursuing bids for future consideration?” The Chair might also extend the time allotted to a speaker by simply asking if there is no objection. Such action taken is said to be by “general consensus” or “unanimous consent.” It does not necessarily mean that everyone is in favor of the action, but it indicates that the matter is so routine that formal procedures are not required.

Debate: Debate is the discussion of the pros and cons of a motion that is on the floor. In reality, debate of a particular subject matter often occurs prior to a formal motion being offered. Debate is closed when it appears to the President that all who wish to debate the matter have done so. The President then puts the question to the vote of the members. Any member of Council may request that the Borough Manager or Assistant Borough Manager detail the pros and cons of an issue at any time during the discussion.

Voting: Voting is done in one of two ways—by expressing either favor or opposition or by roll call vote. In any instance where the result of expressing favor or opposition seems other than unanimous, or in the event of one or more abstentions, the President shall call for a roll call vote. Any member of Council may demand a roll call vote on any question before Council.

Pursuant to Resolution 2012-6, Council members may participate in meetings and vote via telecommunication device using speaker phones or computer terminals only after a physical quorum has been established at the meeting place and provided both Council and the public are able to hear the comments and votes of the councilmember not in physical attendance. Participation via telecommunication device is only possible for one of the following reasons: illness or disability of the Councilmember; care for the ill or newborn in the member's immediate family; an emergency; and family or business travel.

Voting by ballot is never permissible in Council meetings because of the Constitutional requirement for voice vote pursuant to the Sunshine Act. Voting by proxy is not permitted.

Conflict of Interest: In the case that a member believes that he/she has a conflict of interest in the matter being decided, he/she is required by law to abstain from voting and to so inform Council orally and in writing of the nature of the conflict. If Council would be unable to take any action on a matter because the number of members required to abstain from voting makes the majority or other legally required vote of approval unattainable, then such members shall be permitted to vote if said disclosures are made.

Abstention: All members of Council are required to vote in favor or in opposition, unless they are required to abstain on grounds of personal interest. Members are not permitted to abstain from voting because of the following:

- the desire to avoid embarrassment or alienation of one's constituents;
- the desire to let action go through without committing oneself; or
- the inability to make up one's mind because of a feeling that the Councilmember lacks full knowledge of the proposal and its effect on the Borough (the need for knowledge should be addressed in debate).

Mayor's Tie-Breaking Authority: The authority of the Mayor to cast the deciding vote applies whenever, as a result of a tie vote, Council is unable to:

- enact or pass an Ordinance, Resolution, or motion;
- declare or fill a vacancy on Council or in any other Borough office; or
- take any action on any matter lawfully brought before it.

POLICY DECISION-MAKING PROCESSES

Committees of Council: The President may, from time to time, choose to appoint ad-hoc committees to address particular tasks. Each committee shall have a chairperson. The President is an ex-officio member of all such committees.

BOROUGH REPRESENTATIVE

Councilmember Participation in Community Activities: From time to time, Councilmembers may choose to participate in community activities, committees, events, and task forces. When a Councilmember participates in these types of activities, the Councilmember is acting as an interested party rather than acting on behalf of Borough Council. Acting or participating on behalf of Borough Council, including oral and written correspondence such as speeches, letters to residents and other groups or organizations, posts on social media websites, and statements to the press, is limited to those instances when Council has formally designated the Councilmember as its representative for the matter.

Mayor to Act as Ceremonial Representative: The Mayor is delegated the responsibility to act as Council's ceremonial representative at public events and functions. In the Mayor's absence, the President assumes the responsibility. The Mayor may appoint another Councilmember to assume the responsibility in his/her absence.

GUIDELINES FOR ETHICAL CONDUCT

1. Annual ethics forms shall be submitted to the Borough Office in a timely manner.
2. Elected officials shall not disclose confidential information to which they have access by virtue of their public office or position. Unless otherwise noted, all e-mails and working draft documents shared between staff and Borough Council are considered privileged and confidential and, as such, are not intended for public dissemination or discussion.
3. Personal gifts, favors, loans, services, payments and other inducements, made either directly to the elected official or to a family member of the official where there is reason to believe such gifts, favors, or inducements are offered to influence official actions in favor of the donor should be refused. Any in-kind and/or cash gift, favor, tip, service, etc. with a value over \$20.00 shall be disclosed to the Borough Manager and/or Borough Council who may require that such item be refused or returned. Nominal token gifts including holiday food baskets, calendars, lunches, and similar items may be accepted.
4. Elected officials shall not convey to any person any information or advice not generally available to the public in any transaction, negotiation, or litigation to which the Borough is a party.

ADMINISTRATIVE SUPPORT

Letters Addressed to Mayor and/or Council: All letters addressed to the Mayor and/or Council requiring a response from staff are copied to all Councilmembers and the Mayor along with a copy of the response.

Letters Addressed to Individual Councilmembers: All letters addressed to Councilmembers requiring a response from staff are copied to all Councilmembers and the Mayor along with a copy of the response. Letters addressed to individual Councilmembers that do not require a response from staff but which provide information on Council matters are copied to the full Council and the Mayor.

Council Correspondence: All Councilmember correspondence written with Borough resources (letterhead, logos, staff support, postage, etc.) will reflect the position of the full Council, not individual Councilmember positions. All Councilmember correspondence using Borough resources will be copied to the full Council and the Mayor.

MAYOR AND COUNCIL REIMBURSEMENT

Travel Expense: Councilmembers and the Mayor will be reimbursed for expenses incurred while traveling to, from, and during attendance at Borough-related events and conferences pre-approved by Council. Reimbursement shall include mileage, meals, tuition and lodging. Expenses for lodging may be paid in advance by the Borough. All other reasonable expenses are reimbursed after submission of an itemized account of expenses.

MAYOR

Even though the Mayor possesses few statutory powers, he/she is viewed as the ceremonial head of Borough government by the public and is in a position to exercise leadership.

Oversight of the Police Department: The Mayor directs the day-to-day activities of the Police Department. Issues regarding Department ranks, including the duties of each rank; appointing, suspending, reducing in rank, or discharging officers; establishing the size of the Department; and controlling budget and finance are reserved to Borough Council.

Meetings: The Mayor presides over Council only twice during each term of office—at the reorganizational meeting of Council in even-numbered years. The Mayor has the right to attend all Council meetings and is permitted to take part in discussions.

NON-OBSERVANCE OF RULES

These rules, wholly or in part, may be amended or repealed by majority vote in any regularly scheduled meeting of Borough Council. Rules adopted to expedite and facilitate the transition of the business of Council in an orderly fashion shall be deemed to be procedural only, and the failure to strictly observe any such rules shall not affect the jurisdiction of or invalidate any action taken by Council.

ACKNOWLEDGEMENT

The Borough acknowledges the Pennsylvania State Association of Boroughs (PSAB), the Borough of Ebensburg, and the Borough of Carroll Valley for assistance provided in the preparation of these Rules of Decorum.

DULY ADOPTED this 5th day of December , 2019, by the Borough of Elizabethtown in lawful session duly assembled.

ELIZABETHTOWN BOROUGH

ATTEST: R. Reyn
Secretary

BY: J. Hershey
Council (Vice) President

[BOROUGH SEAL]