

Those members of the public wishing to attend the workshop digitally are asked to please contact the Town Clerk Department at (970) 726 – 8081 ext. 208 or email djardee@wpgov.com for a conference call-in number and passcode.

WINTER PARK TOWN COUNCIL WORKSHOP

Winter Park Town Hall - 50 Vasquez Road

Tuesday, September 1, 2020

3:00 p.m.



WORKSHOP AGENDA

1. Short Term Rental Discussion (3:00 p.m. – 4:30 p.m.)
2. Administrative Items to Discuss (4:30 p.m. – 5:00 p.m.)
 - a. Mission Statement
 - b. Council Procedures
 - c. Board and Commission Appointments
 - d. Town Hall Use Policy
3. Other Items to Discuss (if time allows)



Mission Statement

Winter Park is a welcoming community that values sustainable growth while preserving our heritage, adventurous soul and alpine environment.

TOWN OF WINTER PARK COUNCIL HANDBOOK



ADOPTED: JULY 2009
REVISED: MAY 2012
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TOWN OF WINTER PARK MISSION STATEMENT

Winter Park is a welcoming community that values sustainable growth while preserving our heritage, adventurous soul, and alpine environment.

FOUR VISIONS

1. Our Character and Our Culture

One Winter Park: a town with diverse cultures, economic opportunities, and architectural styles that fosters a strong, unified, and forward-thinking community.

2. Our Global and Local Connectivity

Winter Park is a community linked with majestic physical attributes, connected with state-of-the-art technology, integrated with safe walkable places and diverse transportation linkages, and characterized by seamless connectivity to both the natural and technological environment.

3. Our World-Class Outdoor Recreation

A recreation-based community anchored by a national ski and mountain bike resort, that provides a wide range of unsurpassed outdoor activities for everyday enthusiasts to live, work, and play.

4. Our Healthy and Thriving Environment

An outdoor community physically linked to a healthy and thriving natural and human environment.

TOWN COUNCIL

Town Charter, Article III

Section 3.1 – The Council

The legislative affairs of the Town shall be vested in a Council consisting of seven members, all of whom shall be nominated and elected at large from the Town.

Section 3.2 – Terms of Office

The terms of office for Councilmembers shall be four years and two years: the three candidates receiving the highest number of votes shall be elected for four-year terms and the candidate receiving the fourth highest number of votes shall be elected for a two-year term. If a vacancy exists, those candidates receiving the fifth, sixth and seventh highest number of votes, depending upon the number of vacancies to be filled, shall be elected for two-year terms.

Section 3.3 – The Mayor

The Mayor shall be elected from within the Council by a majority vote at its first organizational meeting to be held within fourteen days from the election and shall serve a two-year term.

The Mayor shall preside at meetings of the Council and shall exercise such powers and perform such other duties as are or may be conferred and imposed upon the Mayor by Town Charter or by ordinance or other applicable law. The Mayor shall have all the powers, rights, and privileges of a Councilmember including the right to vote; however, the Mayor's vote shall be registered after all other votes are cast. The Mayor shall be recognized as the head of the Town government for all ceremonial and legal purposes and shall execute and authenticate legal instruments requiring a signature by such official. In the event of a vacancy in the office of Mayor, the Council shall choose a successor.

Section 3.4 – The Mayor Pro-Tem

The Mayor Pro-Tem shall be elected by a majority vote of the Council at the first organizational meeting to be held within fourteen days from the election and shall serve a two-year term. In the absence or disability of the Mayor, the Mayor Pro-Tem shall perform all duties and have all powers of the Mayor. In the event of a vacancy in the office of Mayor Pro-Tem, the Council shall choose a successor.

Section 3.5 – Powers of the Council

The Council shall be the legislative and governing body of the Town and shall exercise, except as otherwise provided in the Town Charter, all powers conferred upon or possessed by the Town and shall adopt such laws, ordinances and resolutions as it shall deem proper.

Section 3.6 – Qualifications

Each Councilmember when nominated and elected shall be a citizen of the United States; a qualified elector of the Town of Winter Park; and shall have resided in the Town or any territory thereafter annexed for one year immediately preceding such election.

Section 3.7 – Conflict of Interest

No member of the Council during their term of office shall be a compensated employee of the Town nor shall they have any material or significant financial interest direct or indirect or any apparent conflict of interest with the Town. In the event that a Councilmember or member of their family has or could potentially be construed as having such interest, said Councilmember shall declare such interest. If any Councilmember fails to declare such interest, the remaining Councilmembers shall determine by a majority vote whether said interest does in fact constitute a conflict of interest. When such conflict of interest is established, the remaining Councilmembers shall take any action they deem to be in the best interest of the Town.

Section 3.8 – Compensation

A Councilmember shall receive \$200 compensation and the Mayor \$400 compensation per meeting. The Mayor and Councilmembers may, upon order of the Council, be paid any actual and necessary expenses incurred in the performance of duties of office.

Section 3.9 – Vacancies

A Councilmember shall continue to hold office until a successor is duly qualified. A Council seat shall become vacant whenever any Councilmember is recalled, dies, becomes incapacitated, resigns, ceases to be a resident of the Town, or is convicted of a felony subsequent to election or appointment as a Councilmember. Within 30 days after a vacancy occurs, the remaining Councilmembers shall choose by majority vote a duly qualified person to fill such vacancy. That person shall serve the unexpired term so vacant until the next regular municipal election. If three or more vacancies exist simultaneously, the remaining Councilmembers shall, at the next regular meeting of Council, call a special election to fill such vacancies, provided there will not be a regular municipal election within 90 days and provided their successors have not previously been elected.

Section 3.10 – Oath of Office

Before entering upon the duties of office, every Councilmember shall take, subscribe before, and file with the Town Clerk an oath or affirmation to support the Constitution of the United States, and the Constitution of the State of Colorado, the Charter and ordinances of the Town, and will faithfully perform the duties of the office.

TOWN COUNCIL PROCEDURE

Town Charter, Article IV

Section 4.1 – Regular Meetings

The Council shall meet regularly at least monthly. The Council meets the first and third Tuesday of the month at 5:30 pm. Council Work Sessions are held from 3:00 p.m. to 5:00 p.m. prior to the Regular Meeting when possible.

Section 4.2 – Special Meetings

Special Meetings shall be called by the Town Clerk by written request of the Mayor or of any two Councilmembers on at least 24 hours written notice to each Councilmember, served personally, and posted at a public place within the Town. A Special Meeting, however, may be held on shorter notice if the majority of Councilmembers present agree to waive such requirement, provided the purpose of such meeting shall be limited to handle declared emergencies. No business shall be transacted at any Special Meeting unless it has been stated in the notice of such meeting, except upon consent of all the Councilmembers present.

Section 4.3 – Business at Special Meetings

No business shall be transacted at any special meeting of the council unless it has been stated in the notice of such meeting, except upon consent of all the members of the council present.

Section 4.4 – Quorum, Adjournment of Meeting

A majority of the Councilmembers in office at the time shall be a quorum for the transaction of business at all meetings, but in the absence of a quorum, a lesser number may adjourn any meeting to a later time or date, and in the absence of all Members the Town Clerk may adjourn any meeting for not longer than one week.

Section 4.5 – Meetings to be Public

All regular, special and emergency meetings of the Council, except executive sessions as defined by ordinance, shall be open to the public and citizens shall have reasonable opportunity to be heard under such rules and regulations as the Council may prescribe.

Section 4.6 – Council Acts

The Council shall act only by ordinance, resolution, or motion. All legislative enactments shall be in the form of ordinances and all other actions, subject to the provisions of Section 4.8 shall be in the form of resolutions or motions. A true copy of every resolution and ordinance adopted shall be numbered and recorded in the official records of the Town. Motions shall be used only as a means of calling for action on a resolution, ordinance, or matter of procedure.

Section 4.7 – Voting

The passage of every ordinance shall be determined by a roll call ‘yes’ or ‘no’ vote. Every ordinance shall require the affirmative vote of the majority of the entire Council for final passage, except as provided in Section 4.11.

Resolutions and motions shall require the affirmative vote of a majority of the members present. No member shall vote on a question in which such member has a direct personal or financial interest other than the common public interest or on any question concerning such member’s own conduct, in which case the member shall disclose such interest to the Council. If two or more Councilmembers are disqualified from voting due to such personal or financial interest, an ordinance, resolution, or motion shall require the affirmative vote of three Councilmembers for final passage. On all other questions each member who is present shall vote when that member’s name is called. Refusal to vote except when not so required by this paragraph shall, at the discretion of a majority of the Council, be considered grounds for removal from office.

Section 4.8 – Action by Ordinance Required

In addition to such acts of the Council as are required by other provision of Town Charter to be by ordinance, every act making an appropriation, creating an indebtedness, authorizing borrowing of money, levying a tax, establishing any rule or regulation for the violation of which a penalty is imposed, or placing any burden upon or limiting the use of private property, shall be by ordinance. Provided, however, that this section shall not apply to the budget adoption. All ordinances shall be confined to one subject except repealing ordinances.

Section 4.9 – Forms of Ordinance

Every ordinance shall be introduced in written or printed form. The enacting clause of all ordinances shall be: BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF WINTER PARK, COLORADO. Except as otherwise provided in this article, all ordinances shall take effect five days after publication following final passage. Every ordinance introduced shall be deemed to contain a severability clause, whether stated therein or not.

Section 4.10 – Procedure (for Enacting Ordinances)

Except for emergency ordinances, those making general codification of existing ordinances, and ordinances adopting standard codes with or without amendment, the following procedure for enact of ordinances shall be followed:

- a. The ordinance shall be introduced at any regular meeting by the Council by any member thereof.
- b. The ordinance shall be read in full or, in cases where copies of the ordinance are available to the Council and are, or have been made available to the public, by title only.
- c. After the first reading of the ordinance, it shall be approved with or without amendment or rejected by a vote of the Council.
- d. If the ordinance is approved on first reading, it shall be published once in full or in

summary at the option of the Council, unless otherwise provided herein. The Council shall set a day, hour and place at which Council shall hold a public hearing on the ordinance and notice of said day, hour and place shall be included in the first publication.

- e. The ordinance shall be introduced at Council a second time, at a meeting not earlier than four days after first publication, for final approval, rejection, or other action as may be taken by vote of the Council.
- f. Except as otherwise provided herein, an ordinance, if amended subsequent to its last publication, shall be published in full or in summary at the option of Council after final passage; but if not amended, it shall be published by title or in full as the Council determines.
- g. Whenever an ordinance is published (by reference or by title) the publication shall contain a summary of the subject matter of the ordinance and shall contain a notice to the public that copies of the proposed ordinance are available at the office of the Town Clerk. The publication of any ordinance as provided herein must set forth in full any penalty clause contained in the ordinance.

Section 4.11 – Emergency Ordinances

Emergency ordinances for the preservation of public property, health, welfare, peace, or safety, shall require five affirmative votes. The facts showing such urgency and need shall be specifically stated in the measure itself. No ordinance making a grant of any special privilege, levying taxes or fixing rates charged by any Town-owned utility shall be passed as an emergency measure.

An ordinance authorizing a municipal borrowing in accordance with Article X (Municipal Borrowing) of the Charter which merely provides for the levying of a tax or which makes covenants with respect to the levy or imposition of a tax to secure the repayment of such a borrowing shall not be deemed an ordinance levying taxes within the meaning of the preceding sentence.

An emergency ordinance shall require passage at one meeting of Council. However, neither a public hearing nor a first publication as provided in Section 4.10 shall be required. An emergency ordinance shall take effect upon final adoption. One publication in full or in summary at the option of the Council shall be required within ten days after adoption, or as soon thereafter as possible.

Section 4.12 – Adoption of Codes by Reference

Standard codes announced by the Federal government, the State, any municipality within the State, recognized trade or professional organizations, or amendments or revisions thereof, may be adopted by reference provided the publication of the ordinance adopting any said code shall advise that copies are available for inspection at the office of the Town Clerk and provided that any penalty clause in any code may be adopted only if set forth in full and published in the adopting ordinance.

Section 4.13 – Record of Ordinances

A true copy of every ordinance shall be numbered and recorded in the official records of the Town and authenticated by the signature of the Mayor or the Mayor Pro-Tem and the Town Clerk.

Section 4.14 – Public Record

All records of the Town shall be open for public inspection by any person at reasonable times except where otherwise provided by State or Federal law.

AUTHORITY OF THE PUBLIC – INITIATIVE AND REFERENDUM

Town Charter, Article V

Section 5.1 – General Authority

- a. Initiative - The electors of the Town have the power to propose any ordinance to the Council, in accordance with the provisions of this article, except budget, capital program, appropriation of any revenues, or levy of taxes, or salaries of Town officers/employees. In the event Council fails to adopt the proposed ordinance without any change in substance, such ordinance shall be submitted to the electors at a Town election for their acceptance or rejection.
- b. Referendum - The electors of the Town have the power to require reconsideration by the Council of any ordinance and, if the Council fails to repeal an ordinance so reconsidered, to approve or reject it at a Town election, in accordance with the provision of this article. However, this power of referendum shall not extend to those exceptions noted in Section 5.1.a.

TOWN COUNCIL MEETINGS

Agenda and Order of Business Rules of Order Executive Sessions Legislative v. Quasi-Judicial Proceedings

AGENDA AND ORDER OF BUSINESS

The Agenda for Regular Meetings is finalized the week preceding the meeting. If there are any items a Councilmember would like to see on the Agenda (or included in the packet that goes out to all Councilmembers the week preceding the meeting), please speak to the Town Manager before such time.

Meeting Call to Order

The Mayor calls the regular or special meeting of the Winter Park Town Council to order. Once the meeting is called to order, a Councilmember leads those present in recitation of the Pledge of Allegiance. The Mayor then conducts a roll call of those Councilmembers present.

Town Hall Meeting

The Mayor will open the Town Hall Meeting to invite the public to address the Council concerning business not otherwise on the agenda. Once all public present has addressed the Council who wishes to do so, the Mayor will close the Town Hall Meeting.

Consent Agenda

The Consent Agenda consists of any regular business items that do not require public input or discussion prior to approval and will typically include approval of the official minutes from the previous Town Council meeting. Approval of the Consent Agenda deems all of its contents as approved by the Town Council.

Action Items

Action Items are topics that require official action by the Town Council as part of the Town's regular business. These topics may attract public input with respect and may require conformance with or interpretation of the Winter Park Municipal Code.

Public Hearing Protocol for Action Items

The Town Clerk shall post an audience participation sign-up form before each regular meeting. Immediately prior to the public hearing portion of the meeting, the Town Clerk shall hand the sign-up form to the Mayor. The Mayor shall call those signed up to speak before Council in the order they have signed up.

- a. Audience participation shall be limited to three minutes per speaker.
- b. The Mayor may restrict cumulative or redundant presentations.
- c. Those attending Council meetings shall refrain from disruptive, vulgar, or abusive language, applause, heckling or other actions that interfere with the orderly function of the Council. The Mayor may take any reasonable steps to maintain the order and dignity of Council meetings.
- d. If meeting is being held electronically due to unforeseen circumstances, speakers may submit comments via email to the Town Clerk prior to meeting to be read into record or raise hand to speak via the electronic platform being used to conduct the meeting.

Town Manager Report

The Town Manager will include items such as reports or updates regarding various town issues and may be accompanied with written material in the agenda packet.

Mayor's Report

This time on the agenda is to allow the Mayor to provide an update of official activities that the Mayor may have participated in or discussions that have occurred as part of the official duties for the Town that other Councilmembers may not have participated in.

Council Items for Discussion

Councilmembers may place before the Council matters which are not included in the formal agenda. This item is generally limited to responses to Town Hall Meeting items, appointments to boards and commissions, sharing of information, and requests for advice concerning matters pending before other bodies, requests for staff work, and requests for scheduling of future agenda items. Matters requiring a formal vote are normally placed on the agenda as a separate agenda item.

Adjournment

If there are no further items for discussion, the meeting may be adjourned by a regularly adopted motion to do so.

RULES OF ORDER

The Town Council has typically adopted Robert's Rules of Order to guide and direct the official actions the Council makes during its meetings. General components of the Rules of Order include:

Making a Motion

A Councilmember after obtaining the floor makes a motion. The Councilmember may state reasons briefly before making the motion, but may argue the motion only after it has been seconded, and having spoken once may not speak again until everyone who wishes to be heard has had the opportunity to speak, except to answer questions asked by other Councilmembers. Having made a motion, a Councilmember may neither speak against it nor vote against it.

1. Main or Principal Motion – a motion made to bring before the Council for its consideration any particular subject. It takes precedence of nothing and yields to everything except another principal motion offered later. It should be in writing if complicated. It may be divided, if advisable, by a motion to divide it. It is not in order if any other motion is pending. Once decided, it cannot be taken up again at that meeting. (*e.g. appoint the time and the place for the next meeting – if introduced when no other business is pending*).
2. Subsidiary Motion – a motion applied to other motions for the purpose of most appropriately disposing of them; by means of them the original motion may be modified or action postponed. May be applied to any main motion, and by doing so supersede the main motion and must be decided before the main motion can be acted upon.
3. Incidental Motion – a motion that arises out of another question which is pending, and therefore takes precedence and must be decided before the question out of which they arise. It yields to privileged motions. It is generally not debatable except under certain appeals as outlined by Robert’s Rules of Order.
4. Privileged Motion – a motion of such importance to the Council that it must be acted on at once. It takes precedence over all other motions as due to its importance is not debatable. (*e.g. making a motion to adjourn*).

Seconding a Motion

A second Councilmember seconds the motion. All motions require a second to indicate that more than once Councilmember is interested in discussing the question. The Councilmember who seconds the motion does not, however, have to favor the motion in order to second it, and may both speak and vote against it. If there is no second, the Mayor will not recognize the motion. If there is a second, the Mayor will state the motion and ask for discussion.

General debate and discussion will follow, if desired. Councilmembers, the Town Manager, or Town Attorney, when wishing to speak should follow the rules of speaking outlined above. The Mayor will then restate the motion and ask for a vote.

Voting

Voting ultimately decides all questions. The Council may use one of the following manners of voting:

1. Voice Vote – all in favor say “aye” and all opposed say “no”. The Mayor rules on whether the “ayes” or “no’s” have the vote, and so the question is decided.
2. Raising of Hands – All in favor raise their hands, and then all opposed raise their hands. The Mayor decides which predominates and notes dissenting votes for the record.
3. Random Roll Call – The Mayor or Town Clerk calls the roll of the Councilmembers at random and each one that is present votes “aye” or “no” as each name is called. The Mayor announces the result.

Amending a Motion

A Councilmember may move to amend the motion by (add, strike out, insert, strike out and

insert, substitute, divide). A second Councilmember seconds the motion. The Mayor will state that there is a motion to amend the motion by (add, strike out, insert, strike out and insert, substitute, divide) and then state the motion as it would be changed by the amendment. The Mayor would then ask for any discussion on the amendment. If there is no discussion it can then be put to a vote.

The rules of an amendment state that:

1. it takes precedence of only the motion to which it applies.
2. it may be amended (by an amendment to an amendment).
3. it may be divided by a motion to divide it (even after debate is closed).
4. the Mayor decides propriety of amendments (subject to appeal).
5. the Mayor may demand that the amendments be in writing.
6. neither yields to nor has precedence over a motion to postpone indefinitely.
7. an amendment to an amendment cannot be amended.
8. to table, postpone, or refer an amendment to the main question is the same as tabling, postponing, or referring the main question itself; consequently the motion to table, postpone, or refer must be applied to the main question instead of to the amendment for the sake of clarity.

A Councilmember may suggest a Friendly Amendment which is any amendment to the main motion which, if acceptable to the maker of the motion and the Councilmember which seconded the motion, may be incorporated into the main motion without a vote of the Council.

Making a Substitute Motion

A Councilmember may move to make a substitute motion. A second Councilmember seconds the motion. The Mayor will note that it has been moved and seconded that a substitute motion occur (and state substitute motion), then ask whether there is any discussion on the original or substitute motion. If there is no discussion it can then be put to a vote.

The rules of a substitute motion state that:

1. it is just an amendment that changes an entire sentence or paragraph.
2. it may be amended (like any other amendment).
3. it differs from an amendment only in that the motion to substitute, if adopted, does away entirely with the original motion.

Reconsidering a Vote

A Councilmember who voted on the prevailing side in the original vote may move to reconsider (motion must occur at the same meeting the vote occurred during). A second Councilmember seconds the motion. The Mayor will note that it has been moved and seconded to reconsider the vote on the motion (and state the motion), then ask whether there is any discussion on the motion to reconsider. If there is no discussion it can then be put to a vote. Until the motion to

reconsider is disposed of, the effect of the original vote is suspended and no action may be taken to implement it.

The rules of reconsidering a vote state that:

1. it may interrupt a Councilmember who is speaking.
2. for actual consideration and voting its precedence is that of the motion to which it applies.
3. it may be applied to all motions except to adjourn, to suspend the rules, or to table.
4. it requires only majority vote in all cases.
5. it has not privilege for consideration other than that of the motion to which it applies.
6. it is not debatable if the motion to which it applies was not debatable.
7. no question can be reconsidered more than once.
8. one cannot reconsider a negative vote on a motion to postpone indefinitely.
9. one cannot reconsider a negative vote on a motion that may be renewed "after progress".

Rescinding (Repealing) a Motion

Any motion made by Council may be rescinded by a majority vote, provided notice of the motion was given at the previous meeting; or it may be rescinded without notice by a 2/3 vote. It is a main motion without any privilege and therefore can be introduced only when there is nothing else before the Council.

The rules of rescinding a vote state that:

1. it is not in order when the subject can be reached by reconsidering
2. it cannot be applied to an action that cannot be reversed

Suspending the Rules

When the Council wishes to do something that violates its own rules, and yet is not in conflict with its constitution, by-laws, or the fundamental rules of parliamentary law (*Robert's Rules of Order*), it "suspends the rules that interfere with" the proposed action. A Councilmember may move to suspend the rules which interfere with (specifying the items that are interfered with). A second Councilmember seconds the motion. The Mayor will note that it has been moved and seconded that the rules be suspended with interfere with (specifying the items interfered with by rules) and ask for a vote.

The rules of suspending a vote state that:

1. it takes precedence of the main motion and all subsidiary motions but yields to all privileged motions.
2. it requires a 2/3 vote unless otherwise specified in the constitution or bylaws.
3. rules may be suspended only when they make provision for such suspension, and then only in accordance with those provisions.
4. the motion to suspend the rules applies only to the one purpose specified in the motion.
5. cannot be debated.

6. cannot have any subsidiary motion to it.
7. cannot be reconsidered.
8. cannot be renewed later for the same purpose at the same meeting.

Postponing a Motion

1. To a Certain Day
 - a. applies only to the main motion.
 - b. takes precedence of a motion to refer, amend, or postpone indefinitely.
 - c. may be amended, but only by altering the time.
 - d. if the intent is to create a special order for the time fixed, this motion requires 2/3 vote.
 - e. the motion postponed becomes a general order for the day named and cannot be taken up sooner except by 2/3 vote unless the motion to reconsider is still in order.
 - f. debatable only as to the propriety of postponement
2. Indefinitely
 - a. takes precedence of only the main question.
 - b. opens the main question to debate.
 - c. removes the subject for the season.
 - d. applies only to the main question and questions of privilege.
 - e. does not yield to amendments.
 - f. is not subject to subsidiary motions except the motion to close debate.

Conflict and Decorum

During debate a Councilmember must confine discussion to the subject before Council and avoid personalities. It is not allowable to make accusations as to the motives of a Councilmember, but the nature or consequences of an action may be condemned in strong terms. Remember, it is not the Councilmember, but the measure that is the subject of debate.

Should a debate be judged by other Councilmembers to have become too heated, it is permissible to ask for a recess. Such an action may also be requested by the Town Manager or Town Clerk

Conflict Resolution

The key to making a decision that is acceptable to all parties involved require that:

1. all affected parties are involved or represented.
2. everyone feels that that had a chance to be heard and were understood.
3. everyone was treated respectfully and honestly.

Negotiating can be used to reduce conflict and make better decisions through:

1. separating the people from the problems – attack the problem, not the people.
2. focusing on interests or principles, not positions.

3. investing options that result in mutual gain.
4. using objective criteria to examine the issue.

EXECUTIVE SESSIONS

Allowable Situations

The Colorado Revised Statutes (C.R.S.) limit these sessions to the following situations:

1. Real and Personal Property – CRS Title 24, Section 6, Subsection 402-4(a) – to discuss the purchase, acquisition, lease, transfer, or sale of property interests, so long as the executive session is not held to conceal an official’s personal interest in the property.
2. Attorney Conferences – CRS Title 24, Section 6, Subsection 402-4(b) – for the purpose of receiving legal advice on specific legal questions.
3. Confidential Matters Under State or Federal Law – CRS Title 24, Section 6, Subsection 402-4(c) – for the purpose of discussing any topic required by state or federal law to be kept confidential. The governing body must announce the specific statutory citation or rule that requires the confidentiality of the matter to be discussed.
4. Security Arrangements or Investigations – CRS Title 24, Section 6, Subsection 402-4(d) – for the purpose of discussing specialized details of security arrangements or investigations.
5. Negotiations – CRS Title 24, Section 6, Subsection 402-4(e) – for the purpose of determining positions, strategy, or instructions to negotiators.
6. Personnel Matters – CRS Title 24, Section 6, Subsection 402-4(f) – for the purpose of discussing general personnel matters. However, if the discussion involves a specific employee, that employee may request an open meeting. If the discussion involves more than one employee, the executive session may be held unless all of the employees request an open meeting. ‘Personnel Matters’ does not include discussions of any member of a local public body, any elected official, the appointment of any person to fill a vacancy in a local public body or elected office, or discussion of personnel policies that do not require discussion of particular employees.
7. Documents Protected Under Open Records Act – CRS Title 24, Section 6, Subsection 402-4(g) – for discussions that involve consideration of documents protected by the mandatory non-disclosure provision of the Open Records Act. Discussion of documents protected under the ‘work product’ or ‘deliberative process’ privileges in the Open Records Act must occur in an open meeting unless an independent basis for an executive session concerning such documents exists.

Procedures

The following procedures are necessary to ensure compliance with C.R.S. as well as legal precedence:

1. The Council may only call an executive session at a regular or special meeting.
2. The Council must first announce the topic of discussion, including the specific citation to the Open Meetings Law that authorizes consideration of the announced topic in executive

session, as well as 'identification of the particular matter to be discussed in as much detail as possible without compromising the purpose for which the executive session is authorized'.

3. The Town Council must make an official motion to go into Executive Session (i.e. 'I move to go into Executive Session for the purpose of a conference with the Town Attorney for the purpose of receiving legal advice on specific legal questions under C.R.S. Section 24-6-402(4)(b)').
4. The Council must then vote on whether to hold the session for the purpose of discussing only the purpose announced. Two-thirds of the quorum present must vote affirmatively before the governing body can close the meeting to the public.
5. Executive Sessions must be recorded in the 'same manner and media' used to record minutes of open meetings. The recordings must be retained for at least ninety (90) days after the date of the session. A recording is not required if (in the attorney's opinion) the discussion constitutes a privileged attorney-client communication.
6. The public may seek access to the record of an Executive Session by filing an application in district court. The court will then review the record and, if it finds that the Council engaged in substation discussion of unauthorized matters, or took formal action in the Executive Session, that portion of the record will be opened for public inspection.

LEGISLATIVE V. QUASI-JUDICIAL PROCEEDINGS

Applying constitutional due process (fair hearing) requirements, state and federal courts have characterized certain governmental entity decisions as legislative and others as quasi-judicial. It is important to understand the differences between the two because the courts require that special procedures be followed for quasi-judicial matters.

Legislative Matters

Legislative matters are matters of general concern or applicability throughout a municipality or certain portions thereof. In the legislative role, the Council reviews and recommends new regulations, modifications to existing regulations, or the elimination of regulations on a town-wide basis. Legislative matters are frequently referred to as 'policy making'.

Examples: creating or amending zoning regulations, creating, or amending Resolutions or Ordinances, and annexation discussions

Town Council may freely discuss legislative matters with the general public.

Quasi-Judicial Matters

Quasi-judicial proceedings occur when a decision must be made on an issue that is rooted in the law and the Council acts in a manner similar to a judge in a court of law. In a quasi-judicial proceeding, the Council is not setting new policy (which would be a legislative matter) but is applying the policy expressed in an existing ordinance, statute, or regulation to past or present facts presented at a hearing; the Council is applying the law to the facts gathered at the hearing

to arrive at its decision. The decision is not town wide.

In quasi-judicial hearings, individual Council Member's desires or prejudices may not enter into the decision; decisions must be based on evidence presented and legal standard.

In quasi-judicial hearings the desires and prejudices of citizens may not enter into the decision unless they are applicable to the legal standard. This is often a source of confusion and frustration for many interested parties; even if the entire town does not desire a particular improvement (i.e. housing development, building, etc), the Council may not legally deny an application based on public opinion.

Quasi-judicial proceedings frequently occur in relation to zoning issues. In Colorado, landowners have specific property rights to use their land as they wish, consistent with the law. Town zoning establishes what types of uses are allowed on what pieces of land. When a landowner makes an application to improve a property, they are allowed by state law to make those changes, provided that the zoning and other applicable laws allow the improvement at the time the application is made. When these approvals are brought before the Council, a public hearing may be held and testimony taken by the applicant and any other interested parties. This testimony is evidence. The Council is then bound by law to consider the testimony provided and approve or deny the application solely by applying the governing law.

Because of the legal constraints of this process, Council Members may not discuss quasi-judicial issues outside of a hearing. Council must refrain from listening to opinions outside of the public hearing and should not form opinions until the hearing. Council may not research the issue outside of the hearing (except for a site visit for visual purposes).

Should a member of the public attempt to share views or discuss the issue, Council must explain that it is a quasi-judicial matter and you may not engage in ex-parte communication; *this also applies to discussions with the applicant*. Council direct the member of the public to speak with or provide written comments to Town Staff, but Council may not engage in discussion personally outside of the hearing.

Examples: special use permits, zoning variances, subdivision plat approvals, liquor license issuing

Generally, any matter that will appear on a Council Agenda where a Public Hearing will be held can be considered a quasi-judicial matter.

Ex-Parte Communications

Ex-Parte communication refers to information received 'outside of the record' whether the information is verbal, written, electronic, or graphic. Courts generally hold that such communication is improper and may provide legal grounds for overturning a decision. This rule promotes impartial decisions by ensuring disclosure of all evidence and arguments presented to the Council in its deliberation and decision. This rule also gives everyone involved a fair chance

to respond to all information that may affect the decision.

MISCELLANEOUS TOWN COUNCIL PROTOCOLS

Section 1.3 – Form of Government (Town Charter)

The municipal government provided by this Charter shall be a "council-manager" form of government. Pursuant to its provisions and subject only to limitations imposed by the State Constitution and by this Charter, all powers of the Town shall be vested in an elective mayor and council, hereafter referred to as the "council", which shall enact local legislation, adopt budgets, determine policies and appoint the Town manager who shall execute the laws and administer the Town government. All powers of the Town shall be exercised in the manner prescribed by this Charter or by ordinance.

Section 6.1 – Town Manager (Town Charter)

The Town manager shall be the chief executive and administrative officer of the Town. The council, by a majority vote, shall appoint a Town manager within six (6) months whenever a vacancy exists in such position. Such appointment shall be without definite term and shall be at a salary to be fixed from time to time by the council. The manager shall be appointed without regard to any consideration other than his fitness, competency, training, and experience in professional urban administration. At the time of his appointment, he need not be a resident of the Town or state. No member of the council shall be appointed manager during the term for which he shall have been elected nor within one (1) year after the expiration of his term of office.

The council, at a regular or special meeting, may, upon the vote of the majority of the entire council, remove the Town manager from office. Upon such termination the council may, in its discretion, provide termination pay.

Section 6.4 – Relationship of Council to Administrative Service (Town Charter)

Neither the council, its members, the mayor, nor any council committee shall dictate the appointment to or removal of any person from office by the Town manager except as otherwise provided in this Charter or in any way interfere with the Town manager or other Town officer to prevent him from exercising his judgment in the appointment, employment or discharge of officers and employees in the administrative service. Except for the purpose of inquiry, the council and its members, the mayor and any council committee shall deal with the administrative service solely through the Town manager and neither the council, its members, the mayor, nor any council committee thereof shall give orders to any of the subordinates of the Town manager.

Attendance and Compensation Policy (Council Protocol)

The Town Council recognizes that flexibility is necessary to accommodate varying schedules and lifestyle choices of elected officials. Town Council also recognizes the need and importance of electronic participation during unforeseen circumstances that do not allow for in person

meetings. Technology allows for greater access to elected officials beyond the Regular Meetings of the Town Council. As such, the Council hereby considers attendance to include participation via telephone, teleconference, video conferencing and other modern means to meet the broad standard established in state statute. In addition, compensation as enumerated under Section 3.8 of the Town Charter and Section 1.5.1 of the Municipal Code shall be paid monthly on the premise of an average of two meetings occurring per month while acknowledging that the Council may officially meet more or fewer times, depending on business demands. The Council also recognizes that modern technology allows for greater constituent access to elected officials and thus heightened workloads for elected officials beyond just the Regular Meetings of the Town Council.

Mayor and Mayor Pro-Tem Appointment Process (Council Protocol)

Any member of the Winter Park Town Council or person running for Town Council as part of a regular municipal election who has interest in being considered for the positions of Mayor or Mayor Pro-Tem shall deliver a letter of intent to the Town no later than sixty (60) days prior to the election. The letter(s) of intent shall be considered as part of the selection process as identified in the Town Charter (Sections 3.3 and 3.4).

Town Council Regular Meeting Date or Time Change (Council Protocol)

In the event the regular meeting date or time of the Town Council needs to be changed for any reason, all Councilors shall be provided notice via phone, e-mail or other means of communication and have a twenty-four (24) hour comment period. Any concerns expressed by Councilors with regard to the meeting changes shall be sent to all other Councilors for consideration. All possible consideration shall be given to accommodate concerns expressed during the comment period with the intent to encourage the greatest amount of participation for Councilors.

Section 13.7 – Emergency Powers (Town Charter)

In case of riot, insurrection, or extraordinary emergency, the mayor or in his absence, the Town manager, shall assume the authority to execute any action necessary for the protection of life and property. Such authority may include but not be limited to establishing regulations governing conduct and activities related to the cause of the emergency, and if the emergency situation continues, the mayor or in his absence, the Town manager shall convene the council who may take such action as it deems necessary. In the event it becomes necessary, the line of succession provided in section 13.8 shall be followed.

Section 13.8 – Continuity of Government (Town Charter)

The council shall have the power to provide for continuity of government of the Town of Winter Park in the event of natural or enemy caused disaster. Such power shall be employed in a manner which will preserve representative government in the Town of Winter Park and which will provide an orderly line of succession of officers, notwithstanding the provisions of this Charter. Such succession shall commence with the mayor and the mayor pro tem and shall then revert to the councilmen by order of seniority, and thereafter, through an orderly line of succession of the administrative department heads, commencing with the Town manager.

Emergency Management – Adoption of Incident Command System (ICS) (Council Protocol)

The Winter Park Town Council has adopted the federal Incident Command System (ICS) for use in times of emergency. ICS provides for a flexible response system to utilize resources available in response to emergencies and catastrophes. Responsibilities of Town officials (both Councilors and staff) are determined based upon resource allocation under the auspices of the Incident Commander (IC) at the time of the incident.

Section 1.7 – Master Plan (Town Charter)

The council shall adopt and maintain a comprehensive master plan of the Town. No subdivision of land, zoning change or land development significantly affecting the Town shall be approved by the council without considering the effect of such approval on the comprehensive master plan, as amended.

POLICY
PUBLIC USE OF TOWN HALL

1.0 PURPOSE

The purpose of this policy is to outline the circumstances under which groups or organizations may use Town Hall and its meeting facilities and to provide guidance to those members of the Town staff responsible for scheduling and coordinating the use of the building. Further, it is the intent of this policy to specifically limit the use of Town Hall as a general public forum in order to insure that the building remains easily accessible to residents wishing to do business with the Town and to give priority for use of meeting rooms to the Town Council and its committees, appointed Boards and Commissions, and other groups and organizations which are directly sponsored by the Town or to which the Town is a member.

2.0 POLICY

It is the general policy that Town Hall shall be made available for use by other government agencies, not-for-profit organizations, and civic organizations only when such use can be accommodated without interfering with residents wishing to transact business at Town Hall or with the needs of the Town, its Boards and Commissions, and affiliated groups and organizations. In addition, such uses must meet the following general guidelines:

- 2.1 Any meetings held, or information displayed by such organizations must be open and available to the general public or be intended, through the various media, to provide information to the general public.
- 2.2 Such meetings and information shall be non-partisan in nature.
- 2.3 Such meetings and information shall be educational in nature and shall avoid advocacy of a position in areas of public policy dispute or controversy.
- 2.4 Such meetings and information shall be non-commercial in nature.
- 2.5 Such meetings and information should be reasonably related to public interests of the Town of Winter Park and its residents.

In addition to these general principles, more specific guidelines can be found below which relate to uses of various areas or facilities of Town Hall.

3.0 TOWN COUNCIL CHAMBERS/CONFERENCE ROOMS

3.1 Priorities for use.

The priorities for the use of these rooms shall be as follows:

- 3.1.1 Town Council or Council Committee meetings
- 3.1.2 Meetings of Boards or Commissions
- 3.1.3 Meetings of groups to which the Town is a sponsor or member
- 3.1.4 Meetings of Town staff
- 3.1.5 Uses requested by agencies or officials of County, State or Federal Governments or other taxing entities.
- 3.1.6 Not for Profit and Civic Organizations where the meeting is open to the general public or which are intended, through the various media, to provide information to the general public.

3.2 Procedure and Limitations

- 3.2.1 In order to ensure available space for Town related meetings (3.1.1 through 3.1.4 above), meeting space for other uses will be scheduled on a space available basis.
- 3.2.2 For the same reason, regular meetings of such groups may not be scheduled. The use of town meeting space is intended for unusual or one-time events, and Town Hall should not be used for regularly scheduled meetings except for public meetings held by other related governments or taxing agencies. For those groups currently using Town Hall on such a basis, no further regular meetings shall be scheduled beyond those for which a commitment has already been made. The Town Manager is authorized to approve exemptions.
- 3.2.3 Town staff shall maintain a schedule for the use of the Council Chambers and Town Hall conference rooms. All requests from outside groups to use meeting space in Town Hall shall be addressed to and processed by Town Staff. The Winter Park and Fraser Chamber of Commerce shall maintain a schedule for the use of the Green Room and will address and process all requests from outside groups to use the meeting space in the Green Room.
- 3.2.5 In general, meeting space shall be provided at a cost designed to recover direct Town expenses associated with scheduling, preparing, and cleaning the room involved and comparable to charges for rental of other Town owned meeting space. The charges shall be initially set a \$25 per hour of use. Where the date and/or time of the meeting requires additional expense (e.g., outside of normal business hours where personnel must be brought in or held over) any additional expenses incurred by the Town shall be added to this charge. The Town Manager is authorized to waive the base fee where such a charge would create a hardship.

3.2.6 The possession or consumption of alcohol is prohibited in Town Hall meeting space without approval from the Town Manager or his/her designee.

4.0 RESPONSIBILITY FOR REVIEW

The Town Manager shall periodically review this policy and, when necessary, recommend changes or revisions to the Town Council.

Adopted: Reviewed: Edited:
