

Memorandum #08-157

City of Yankton

REPORT TO CITY COMMISSION - Non-routine item

FROM: Doug Russell, City Manager

DATE: 8/20/08

SUBJECT: Policies and Procedures, 2nd memo

A. Introduction Summary:

This report is related to the consideration of approving a formalized set of Commission Policies and Procedures. Items and wording have been slightly modified or sections removed from the original document in the following areas to alleviate some concerns regarding implementation (page number 3, 3.3.1, 3.3.3, 3.3.8.1, 3.3.9.1, 3.4.6, 4.2.1, 4.4.2, 4.6.1, 4.7.1, 6.2.1). The remainder of the document, and this memo is the same from the previous proposal.

B. Recommended Action and Justification:

Staff recommends adopting the proposed policies and procedures to provide a formal document outlining expectations and processes as they relate to communications, meetings, decision making, and statutory roles and responsibilities. Having an adopted set of policies and procedures ensures a common and defined understanding to guide interactions between the members of the Commission, the public, and City Staff.

C. Background:

Municipal governance entails a broad spectrum of activity. Occasionally, circumstances arise that do not have a formal policy guiding the response. At times, these circumstances create confusion, unknown roles and responsibilities, and loss of productivity as entities are stuck trying to determine what to do. To overcome this, some municipalities adopt a formalized set of policies and procedures to guide operations, thus ensuring a standard base of expectations to guide operations. Typically, the formally adopted document includes but is not limited to: Agenda Setting, Commission Communications (with each other, the public, and staff), Legal Concerns, Roles and Responsibilities, and Financial Matters.

D. Alternatives:

1. Adopt the proposed set of policies and procedures.

2. Modify then adopt the proposed set of policies and procedures.
3. Do not adopt the proposed set of policies and procedures.

E. Discussion of Alternatives:

Alternative 1. Adoption of the proposed set of policies and procedures.

a. Advantages

- The proposed document is in line with State Statutes, City Code, and general municipal practice.
- The document would allow for a standardized set of expectations for selected activities of the Commission, thus facilitating effective and efficient processes.
- Adoption of formal policies provides assurance to respective parties when making decisions that are addressed in the document.
- An adopted set of policies and procedures can and should be used as the first document for newly elected City Commissioners, introducing them to the expectations of the office.

b. Disadvantages

- Formally adopted policies and procedures cannot account for all circumstances.
- Policies and Procedures are only as effective as the commitment to them. Having them in place does not guarantee adherence. (Thus, the annual review of the document)

Alternative 2. Modifying, and then adopting the recommended document.

a. Advantages

- Dependent upon the modifications.

b. Disadvantages

- Dependent upon the modifications.

Alternative 3. Electing to not adopt the recommended policies.

a. Advantages

- Some could argue the disadvantages in Alternative 1, would be advantages to not adopting a formal document.

b. Disadvantages

- Failure to adopt a formal set of policies lends itself to circumstances of differing opinions on matters that should be of a routine nature.

F. Community Input:

None

G. Budget and Staffing Impact:

No Impact on resources. Staff, however, will likely benefit with a formalized set of expectations on sometimes confusing issues.

Attachment: Policy and Procedures



City of Yankton Policy & Procedures

CHAPTER 1—FORM OF GOVERNMENT

- 1.1 Form of Government

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- 5.4 Special Meetings
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- 6.1 Compensation
- 6.2 City Council Budget and Expenses

PREAMBLE

The residents and businesses of the City of Yankton are entitled to have fair, ethical and accountable local government. Such a government requires that public officials:

- Comply with both the letter and the spirit of the laws and policies affecting operations of the government.
- Be independent, impartial and fair in their judgment and actions.
- Use their public office for the public good, not for personal gain.
- Conduct public deliberations and processes openly, unless legally confidential, in an atmosphere of respect and civility.

To this end, the City of Yankton City Commission has adopted this formal Policies and Procedures document to encourage public confidence in the integrity of local government and its fair and effective operation.

CHAPTER 1- FORM OF GOVERNMENT

The City of City of Yankton municipal government operates under a Commission-manager form of government as established by a vote of the people in 1955.

- 1.1.2 Under this form of government, the Commission provides legislative direction, sets City policy and monitors its execution by City staff. The City Manager serves as the City's chief administrative officer and is responsible for directing the day-to-day operations of the City.
- 1.1.3 The key provisions that outline the City of Yankton's Commission-Manager form of government are found in Chapter 9 of State Statutes, which outline the duties and responsibilities of the City Manager.

CHAPTER 2—COMMISSION POWERS AND RESPONSIBILITIES

2.1 City Commission Generally

- 2.1.1 The City Commission has the power, in the name of the City, to perform all acts appropriate to a municipal corporation and the general welfare of its inhabitants, which are not specifically prohibited by the constitution, the City Code or State or Federal laws.
- 2.1.2 The Commission acts as a body. Policy is established by majority vote. A decision of the majority binds the Commission to a course of action. The Commission majority may be a majority of the quorum of the Commission.
- 2.1.3 No Commission member has extraordinary powers beyond those of other members (except as may otherwise be provided in State law). All members, including the Mayor, have equal powers.
- 2.1.4 No member of the Commission is permitted to hold any other City office or City employment (except as may otherwise be provided in the City Code or State Statute).

2.2 Mayor Appointment, Power and Duties

- 2.2.1 The selection of the Mayor occurs annually at the first Commission meeting in May by majority vote of the City Commission.
- 2.2.2 The Mayor is the presiding officer of the City Commission.
- 2.2.3 The Mayor is the official head of the City for all ceremonial purposes.
- 2.2.4 The Mayor may perform such other duties consistent with the mayoral office as may be prescribed by the City Code or as may be imposed by the Commission.

2.3 Commission Actions

- 2.3.1 Legislative actions by the City Commission can be taken by means of ordinance, resolution or minute action duly made and passed by the majority (unless otherwise provided).
- 2.4.1 The City Commission may organize itself into standing and/or special/ad hoc committees of the Commission to facilitate Commission review and action regarding certain matters referred to them by the City Commission.

CHAPTER 3—LEGAL AND ETHICAL STANDARDS

3.1 Preamble

The residents and businesses of the City of Yankton are entitled to have fair, ethical and accountable local government. Such a government requires that public officials:

Comply with both the letter and the spirit of the laws and policies affecting operations of the government;

- Be independent, impartial and fair in their judgment and actions;
- Use their public office for the public good, not for personal gain; and
- Conduct public deliberations and processes openly, unless legally confidential, in an atmosphere of respect and civility.

3.2 Public Interest

- 3.2.1 Recognizing that stewardship of the public interest must be their primary concern, City Commissioners shall work for the common good of the people of the City of Yankton and not for any private or personal interest. City Commissioners must endeavor to treat all members of the public and issues before them in a fair and equitable manner.
- 3.2.2 City Commissioners shall comply with the laws of the nation, the State of South Dakota and the City of Yankton in the performance of their public duties. These laws include, but are not limited to: the United States and South Dakota constitutions; laws pertaining to conflicts of interest, election campaigns, financial disclosures, employer responsibilities and open meeting acts; and policies of the City of Yankton.

3.3 Conduct

- 3.3.1 City Commissioners shall refrain from abusive conduct toward other members of the City Commission, boards, commissions, committees, staff or the public.
- 3.3.2 Commission member duties shall be performed in accordance with the processes and rules of order established by the City Commission.

- 3.3.3 In order to best accomplish City business, City Commissioners shall inform themselves on public issues, listen attentively to public discussions before the body and focus on the business at hand.
- 3.3.4 Commission decisions shall be based upon the merits and substance of the matter at hand.
- 3.3.5 It is the responsibility of City Commissioners to publicly share substantive information that is relevant to a matter under consideration that they have received from sources outside of the public decision-making process with all other City Commissioners and the public prior to taking action on the matter.
- 3.3.6 Appropriate City staff should be involved when City Commissioners meet with officials from other agencies and jurisdictions to ensure proper staff support as needed and to keep staff informed.
- 3.3.7 City Commissioners shall not attend internal staff meetings or meetings between City staff and third parties unless invited by City staff or directed by Commission to do so.

3.3.8 Policy Role

- 3.3.8.1 City Commissioners shall respect and adhere to the Commission-Manager structure of the City of Yankton City government as provided in State law and the City Charter.
- 3.3.8.2 City Commissioners shall support the maintenance of a positive and constructive environment for residents, businesses and City employees.

3.3.9 Implementation

- 3.3.9.1 Ethics standards shall be included in the regular orientations for City Commission candidates.

3.4 Conflict of Interest

- 3.4.1 In order to assure their independence and impartiality on behalf of the public good, City Commissioners are prohibited from using their official positions to influence government decisions in which they have a financial interest or where they have an organizational responsibility or a personal relationship that would present a conflict of interest under applicable State law.
- 3.4.2 City Commissioners shall not take advantage of services or opportunities for personal gain by virtue of their public office that are not available to the public in general.
- 3.4.3 City Commissioners shall respect and preserve the confidentiality of information provided to them concerning the confidential matters of the City. They must neither disclose confidential information without proper legal authorization nor

use such information to advance the personal, financial or private interests of themselves or others.

- 3.4.4 City Commissioners should avoid any action that could be construed as, or create the appearance of, using public office for personal gain, including use of City stationery or other City resources to obtain or promote personal business.
- 3.4.5 Public resources not available to the general public (e.g., City staff time, equipment, supplies or facilities) shall not be used by City Commissioners for private gain or personal purposes.
- 3.4.6 To the best of their ability, City Commissioners shall represent the official policies and positions of the City Commission. When presenting their personal opinions or positions publicly, members shall explicitly state they do not represent the Commission or the City.

3.4.7 Appearance of Impropriety

When participation in action or decision-making as a public official does not implicate the specific statutory criteria for conflicts of interest; however, participation still does not "look" or "feel" right, that public official has probably encountered the appearance of impropriety.

For the public to have faith and confidence that government authority will be implemented in an even-handed and ethical manner, public officials may need to step aside even though no technical conflict exists. An example is where a long-term non-financial affiliation exists between the public official and an applicant or the applicant is related by blood or marriage to the official. For the good of the community, members who encounter the appearance of impropriety should step aside.

CHAPTER 4—COMMUNICATIONS

4.1 Relationship/Communications with Staff

Staff serves the City Commission as a whole, therefore:

- 4.1.2 A Commission member shall not direct staff to initiate any action, change a course of action or prepare any report, nor shall a Commission member initiate any project or study without the approval of the majority of the Commission.
- 4.1.3 City Commissioners shall not attempt to pressure or influence discussions, recommendations, workloads, schedules or department priorities absent the approval of a majority of the Commission.
- 4.1.4 Any concerns by a member of the City Commission regarding the behavior or work of a City employee should be directed to the City Manager privately to ensure the concern is resolved.
- 4.1.5 City Commissioners may direct routine information inquiries to either the City Manager or appropriate department head. Staff responses prepared to

Commission inquiries shall be distributed to all City Commissioners. If the request would involve research and/or activity taking more than 15-30 minutes, the request will be deferred to gain Commission approval for the use of staff resources in the requested manner.

4.2 Handling of Litigation and Other Confidential Information

- 4.2.1 All written materials and verbal information provided to City Commissioners on matters that are confidential under State law shall be kept in complete confidence to ensure that the City's position is not compromised.

4.3 Representing an Official City Position

- 4.3.1 City Commissioners may use their title only when conducting official City business, for information purposes, or as an indication of background and expertise, carefully considering whether they are exceeding or appearing to exceed their authority.
- 4.3.2 In most instances, the Commission will authorize the Mayor to send letters stating the City's official position to appropriate legislators.
- 4.3.3 If a member of the City Commission appears before another governmental agency organization to give a statement on an issue affecting the City, the Commission member should indicate the majority position and opinion of the Commission.

4.4 Communications with each other

- 4.4.1 Commission member meeting together as a quorum outside of a publicly announced meeting may be in jeopardy of violating respective open meeting acts. Should the occasion arise, when a quorum is gathered unexpectedly, city business should not be discussed.

4.5 Email Communication

- 4.5.1 Please be aware, email communications have in many cases been considered public documents and are requested as such under respective open record acts. As such, any relevant electronic communication should be of the nature that defines other public discussion.

4.6 Unofficial Settings

- 4.6.1 It is also appropriate that Commission member recognize that as elected officials, their conversations when out in public will be overheard. Members of the Commission should take care to be aware of what they say in public, whether in private or public conversations.

CHAPTER 5—CITY COMMISSION MEETINGS

5.1 Regular Meetings

- 5.1.1 Regular meetings of the City Commission are held on the second and fourth Monday of each month at 7:00 p.m. in the Commission Chambers of the City of Yankton, located at the Technical Education Center, 1200 W 21st Street, Room 114, unless other noted. All regular Commission meetings are open to the public.

5.2 Study Sessions

- 5.2.1 Study sessions are conducted as part of a public meeting which the Commission may set from time to time to allow for a detailed review of important matters. Study sessions may be conducted jointly with another City board, commission or committee or another governmental agency. Formal action is typically not taken at a study session unless the agenda indicates that action may be taken. All study session meetings are open to the public.

5.3 Executive Sessions

- 5.3.1 Executive Sessions are meetings that are closed to the public and the press. Permissible topics/issues for a closed session discussion include but are not limited to: labor negotiations, pending litigation, personnel actions, real estate negotiations and certain licensing and public security issues.

5.4 Special Meetings

Per City Code, section 2-32: Special meetings may be called by the mayor or by any two (2) Commissioners at any time to consider only such matters as shall be mentioned in the call for the meeting.

5.5 Commission Agenda

5.6 Placing Items on Agendas

An adopted agenda setting policy facilitates a consistent process for staff to research and provide equal and thorough information to the entire commission.

- 5.6.1 Per City Code, the Finance Officer, under the supervision of the City Manager, establishes the agenda for Commission meetings
- 5.6.2 To place an item on an agenda, a Commission member can either request that an item be introduced during the “other business” section of the regular meeting, or by contacting the City Manager’s office with the request by noon on the Wednesday preceding the meeting. The item will be placed as an action item with support work of up to one half hour by staff. If more than one half hour of work is required, then the item will be placed on the agenda to ask Commission if time should be spent preparing a full report on the proposed agenda item.

- 5.6.3 Any person may request placement of a matter on the Commission agenda by submitting a written request to the City Manager's office. If the matter is of an operational or managerial nature, staff will address the concern without placing the item on the agenda. A copy of the letter and staff response will be provided to the Commission in their agenda packet. If the item is of a policy related matter, the item will be placed on the agenda and the submitter will be notified of the date for which the item will be heard by the Commission. If the submitter fails to appear, the item will not be introduced by the Commission.
- 5.6.4 Nothing in this section prohibits or is intended to impede a member of the public from approaching the Commission during the "recognition of visitors" section as described in section 5.6.3.

5.6.5 Order of Agenda Items

Per City Code, section 2-36, the order of Commission agenda business items is as follows:

- 1- Routine business
 - a. Roll call.
 - b. Consideration of previous minutes
 - c. Recognition of visitors
 - i. Members of the public may approach the Commission at this time. In most instances, speakers will be limited to three minutes. Members of the Commission shall not engage in debate with a member of the public or respond to issues/questions raised during this portion of the meeting. Items that require follow-up or further discussion will be referred to City Staff, or placed on a future agenda at the request of the Commission.
- 2- Consent Agenda
 - a. Establish dates for hearings
 - b. Consider application for licenses
 - c. Other routine items.
- 3- Old business
- 4- New business
- 5- Other business
 - a. Items initiated for future agendas by the Commission, or requests for a staff report
 - b. Executive Session
- 6- Adjournment

The provisions outlining this section may be suspended at any meeting by the affirmative vote of two-thirds (2/3) of the commissioners present.

5.7 Rules of Procedure

- 5.7.1 In instances not addressed by adopted policy, meetings will be conducted using "The Modern Edition of Robert's Rules of Order" as a reference and/or guidance.

5.8 Decorum

- 5.8.1 While the City Commission is in session, all persons shall conduct themselves with reasonable decorum.
- 5.8.2 Any person who is so disorderly or who so persistently disrupts the business meeting so far as to interfere with the proper conduct of the business may be ordered removed from the meeting place. At such time, the Mayor may call a recess.

5.9 Agenda Packets

- 5.9.1 Agenda packets are to be made available at the City Manager's Office, the City's web site (www.cityofyankton.org) and at the Commission meeting. Commission meeting agendas and minutes are available for public review beginning the Friday evening before each Commission meeting.
- 5.9.2 Agenda packets are to be delivered to City Commissioners on the Friday prior to (Monday) Commission meetings.

CHAPTER 6—COMMISSION FINANCIAL MATTERS

6.1 Compensation

6.2 City Commission Budget and Expenses

- 6.2.1 On an annual basis, the City Commission passes a budget that includes anticipated expenditures for the upcoming year. Expenditures outside of routine expenses and budgeted items shall be pre-approved as needed by the City Commission. These expenditures may include but are not limited to: seminar and conference registrations, travel expenses, and Commission equipment purchases.