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April 9, 2020

RE: The Submission of Policy Orders that the Council has acted on earlier in the Legislative term

Dear City Council,

The following memorandum is in response to a question from the Council that arose during the Regular Meeting on April 6, 2020.

Please note that I am submitting this memorandum to you as the Council's parliamentarian and that this does not constitute legal advice. If you wish to obtain a legal opinion on this matter, please direct any such request to the City Solicitor.

Question presented:

Under what authority does the Council reject Policy Orders submitted by Councillors because the Policy Order is substantially similar to a Policy Order disposed of by the body earlier in the term.

Summary of Findings:

Rule 38 of Robert's Rules, *Renewal of Motions*, states, in brief, "No motion can be renewed during the same session... except where its renewal is permitted by a specific rule; and such a rule always implies circumstances under which the motion has in some respect become a different question." The City Council has not adopted a specific rule to allow motions to be renewed. The word "session" can mean one or multiple meetings. It has been the practice of the City Council, for at least the past 20 years, to reject Policy Orders which are substantially similar to Policy Orders previously considered during its two-year legislative term.

Findings:

The Rules of the City Council, adopted at the beginning of each legislative term, does not contain a rule prohibiting the submission of substantially similar Policy Orders. However, Rule 37 of the City Council Rules states, "The City Council shall be governed by Roberts' Rules of Order in all questions of parliamentary practice not provided for by these rules." Robert's Rules

does contain guidance on the submission of substantially similar motions. In the language of Robert's Rules a Policy Order is a "Main Motion" and would therefore be governed by this rule. Rule 38 of Robert's Rules provides two general principles governing what it calls "Renewal Motions":

1. No motion can be renewed during the same session in which it has already been before the assembly, except where its renewal is permitted by a specific rule; and such a rule always implied circumstances under which the motion has in some respect become a different question.
2. Any motion that is still applicable can be renewed at any later session, except where a specific rule prevents its renewal; and such an impediment to renewal at a later session normally can exist only when the first motion goes over to that session as not finally disposed of; in which case the question can be reached through the first motion.

The Rules of the City Council do not contain a specific rule permitting the renewal of motions. Therefore, following the two principles articulated above, no motion previously acted upon by the City Council can be renewed during the same session. The word "session" is defined by rule 8 of Robert's Rules, as follows:

A session of an assembly, unless otherwise defined by the bylaws or governing rules of the particular organization or body, is a meeting or series of connected meetings devoted to a single order of business, program, agenda, or announced purpose, in which – when there is more than one meeting – each succeeding meeting is scheduled with a view to continuing business at the point where it was left off at the previous meeting.

Rule 9 of Robert's Rules provided further guidance. Stating that for "regular meetings" of permanent societies, meaning periodic business meetings held weekly, monthly, quarterly, etc. Each regular meeting *normally* completes a separate session. "Normally" in this context does not mean definitive. For example, the Rules of the Massachusetts Senate, the Rules of the Massachusetts House of Representatives and the Joint Rules of the Massachusetts General Court all use the word "session" hundreds of times in different contexts, each context denoting a different period of time: "session", "formal session", "informal session", "annual session", "executive session", "open session", "legislative session" and so on.

Does Cambridge follow the *normal* meaning of "session"? The Rules of the City Council do not define the word "session". The word is used once in the City Council Rules, in rule 20, which states, "Any ordinance, order or resolution may be passed through all its stages of legislation at one **session**, provided that no member of the City Council objects thereto; but if any member of the City Council objects, the measure shall be postponed for that meeting." (emphasis added). This usage would indicate that the word "session" has an equivalent meaning with meeting. However, mere usage is not always a clear indication of meaning. Especially, in this case where the rule is verbatim copy of state law.

The final piece of evidence for review is the past practice of the City Council. Donna Lopez, City Clerk for the City of Cambridge from 2012 to 2019 and Deputy City Clerk from 1996 to

2012, confirmed that it had been the practice of the City Council during her tenure as both City Clerk and Deputy City Clerk to reject any Policy Order that was substantially similar to other Policy Orders previously acted upon by the City Council during the current legislative term. The legislative term beginning in January when the sitting City Council is inaugurated and ending in January, two-years later, when a subsequent City Council is inaugurated. It has further been confirmed that this rule has been invoked repeatedly through years and discussed with several members of the City Council to explain why particular Policy Orders could not be put before the body.

Conclusion

For the reasons discussed above, most specifically the long-standing practice and knowledge of the Council, it is clear the City Council for Cambridge has defined the word “session” to mean the entire legislative session of the Council. It should be noted that these rules are entirely within the purview and control of the City Council. The City Council may amend the rules as they see fit to more efficiently conduct the business of the body.

Sincerely,

Anthony Ivan Wilson
City Clerk