

Role of the Chair, Decorum, and More

By Felix Rivera

2.30.020 - Presiding Officer

- A. The *chair* of the assembly shall be the presiding officer of the assembly.
- B. The *vice-chair* of the assembly shall be the presiding officer of the assembly in the case of unavailability of the *chair*.
- C. The presiding officer shall be addressed as "*Chair*."
- D. The presiding officer shall be a member of the assembly with all of the power and duties of that office.

Section 4.04 - Presiding officer, meetings and procedures

- (a) The assembly shall elect annually from its membership a presiding officer known as "*chair*." The *chair* serves at the pleasure of the assembly.
- (b) The assembly shall meet in regular session at least twice each month. The mayor, the *chair* of the assembly, or five assembly members may call special meetings.

Robert's Rules of Order Newly Revised 11th Edition, pages 449-450

- 1. To open and call the meeting to order
- 2. To announce in proper sequence the business that come before the assembly
- 3. To recognize members who are entitled to the floor
- 4. To state and to put to vote all questions that legitimately come before the assembly
- 5. To protect the assembly from obviously dilatory motions
- 6. To enforce the rules relating to debate and those relating to order and decorum

Robert's Rules of Order Continued, pages 449-450

- 7. To expedite business in every way compatible with the rights of the members
- 8. To decide all questions of order, subject to appeal
- 9. To respond to inquiries of members relating to parliamentary procedure
- 10. To authenticate by his or her signature, when necessary, all acts
- 11. To declare the meeting adjourned

Dilatory Motions, Robert's Rules of Order pages 342-343

- A motion is dilatory if it seeks to obstruct or thwart the will of the assembly as clearly indicated by the existing parliamentary situation.
- Any main or other motion that is frivolous or absurd or that contains no rational proposition is dilatory and cannot be introduced.
- Whenever the chair becomes convinced that one or more members are repeatedly using parliamentary forms for dilatory purposes, he should either not recognize these members or he should rule that such motions are out of order...

General Rules of Decorum: 2.30.080

- Address the chair as “Chair”
- Refrain from speaking until recognized
- If two Members request recognition at the same time, it is the Chair’s discretion as to who speaks first
- Speak to the subject under debate
- Refer to any other member only in a respectful manner
- Person who makes a motion is given first opportunity to speak to the motion

General Rules of Decorum under Robert's Rules of Order, pages 391-394

- Robert's Rules of Order governs all matter not covered by Chapter 2.30 of Municipal Code
- Remarks must be confined to the merits of the pending question, and germane to it.
- Refrain from attacking a member's motives. The measure, not the member, is the subject of debate.
- Address all remarks through the chair. Members are not to address one another directly.
- Avoid the use of members' names. It is better to describe a member in some other way, as by saying, "the member who spoke last" or, "the delegate from the Downtown District 1."

General Rules of Decorum under Robert's Rules of Order, Continued

- Refraining from speaking adversely on a prior action not pending, unless a motion to reconsider, rescind, or amend it is pending, or unless he intends to conclude his remarks by making or giving notice of one of these motions.
- Refraining from speaking against one's own motion.
- Members can only speak twice on a pending question, and no member who already spoke may speak a second time on the same day for debate on the same question unless every other member has had opportunity to claim the floor for the first time or does not claim it.
- Where the Chair knows there are Members with opposing views, the Chair should alternate recognizing Members between those with opposing views as much as possible.

General Rules of Decorum under Robert's Rules of Order, Continued

- Reading from reports, quotations, etc., only without objection or with permission. If any member objects, a member has no right to read from - or to have the secretary read from - any paper or book as part of his speech, without permission of the assembly. Members are usually permitted to read short, pertinent, printed extracts in debate, however, so long as they do not abuse the privilege.
- Being seated during an interruption by the chair.
- Refraining from disturbing the assembly.

Additional Questions for Future Discussion

- What are the rules for Assembly Members addressing each other by name directly? What are the limits on personal attacks or insults?
- What is the role of the Chair in maintaining decorum?
- When is it permissible for an Assembly Member to have an expert testify during debate on legislation before the body? What are the limits on expert testimony?
- When persons testify during a public hearing, what are the rules and restrictions on Assembly members asking questions to the testifier?
- How does the Chair enforce these rules?
- What are the rules of decorum for the public? What are the rules of decorum for Assembly members towards the public?

What are the rules for Assembly Members addressing each other by name directly? What are the limits on personal attacks or insults?

- Robert's Rules advises against Members addressing each other by name. The idea is to keep the focus on issues, not individuals.
- However, per our established custom, you can address another member by name if it is done in a respectful manner.
- A member may still declare a Point of Order at any time if the Robert's Rule is not being followed, even if a member is using the established custom
- Customary practice must yield to Robert's Rules, per 3.70.770, if a Point of Order is declared

What is the role of the Chair in maintaining decorum?

- Simply put, the Chair is responsible for maintaining decorum
- The Chair may interrupt a speaker if decorum is not being observed
- A Member may declare a Point of Order to interrupt a speaker and, after getting recognized by the Chair, bring attention to another Member who is failing to observe decorum
- The Chair then directs the member to come into compliance
- If a Member fails to come into compliance, the Chair shall take back control of the floor and continue the proceedings

When is it permissible for an Assembly Member to have an expert testify during debate on legislation before the body? What are the limits on expert testimony?

- Robert's Rules does not permit subject matter experts to weigh in during deliberation
- Rather, it is an established customary practice that Assembly members may call upon subject matter experts to answer questions before voting
- For reading from reports or books as part of a Member's speech, any Member may object to a subject matter expert and majority vote of the body shall determine the outcome
- If a member raises a Point of Order, then customary practice must yield to Robert's Rules

Expert witness continued

- For adjudicatory or quasi-judicial matters, Code gives the Assembly subpoena powers
- On other legislative items, nothing in Code prevents expert witnesses
- A Point of Order should be raised if a Member feels that expert witnesses are being abused, i.e. they are not germane to the pending question, repetitive, or dilatory
- To repeat, Robert's Rules does not allow expert witnesses, but it is our customary practice

When persons testify during a public hearing, what are the rules and restrictions on Assembly members asking questions to the testifier?

- Members have wide latitude
- Questions need to be germane to the topic and to the testifier's statements
- A Point of Order can be raised by a Member if questions are of a non-relevant or dilatory nature
- Under current public hearing procedures, members should listen to testimony and normally do not answer questions or respond to comments from testifiers
- Orderly conduct of business suggests that members should refrain from asking testifiers questions that serve little purpose for the Assembly

How does the Chair enforce these rules?

- The Chair may interrupt a speaker at any time to inform them they are out of compliance
- Any rulings by the Chair are subject to an objection and majority vote of the body
- Calling a Member to Order: This is usually the first warning (and many times the second). The Chair will make a statement like the following: “The member from Downtown is out of order.” Or “The member from South Anchorage will come to order.” Or “That is not in order.”

Enforcement of Rules Continued

- “Naming” an Offender: After repeated warnings, the Chair may direct the Clerk to take down the objectionable or disorderly words used by the offending Member and enter them into the minutes
- Committees: If a Member continually fails to adhere to decorum, the Chair may consider removal from committees or committee chairpersonship (this is described as a last step before censure)
- Censure: This is not taken lightly due to the high regard for free speech rights of all members. If all the above have been used and the Member fails to follow decorum, the Assembly may move to censure, which is a formal public resolution reprimanding a Member for specified conduct. It is a motion, debate, and a majority vote

Rules of Decorum for/towards the Public

- Slide 16 addresses some of these issues (rules and restrictions on asking questions to testifiers)
- Department of Law did some additional research
 - Rules that apply to Assembly members don't apply to the public, generally the public has greater First Amendment liberties (Robert's Rules, page 648)
 - The Assembly can set some limits. Our Code has the following limits: 1) time limit (2.30.055B), 2) testifier provide their name and residence (2.30.055A), and 3) that the public comments be limited to the item at hand (2.30.055B)
 - Assembly may prohibit disruptive public conduct, including someone speaking too long, being unduly repetitious, and extended discussion on irrelevancies
 - Before ejecting someone from the meeting, they must actually disrupt the meeting
 - *Acosta v. City of Costa Mesa*: "It shall be unlawful for any person in the audience at a council meeting to do any of the following ... Engage in disorderly, disruptive, disturbing, delaying or boisterous conduct, such as, but not limited to, handclapping, stomping of feet, whistling, making noise, use of profane language or obscene gestures, yelling or similar demonstrations, which conduct substantially *interrupts, delays, or disturbs* the peace and good order of the proceedings of the council."

Decorum for/towards Public Continued

- To reiterate, Robert's Rules and Code don't provide with these rules, thus it is up to us to determine the rules of decorum for the public
- Further refine the talking point
- 2013 report from the Citizen's Task Force
- Further refine talking point:
 - “For testimony on public hearing items, please direct your comments to the Assembly or the Chair, and not to anyone personally. Personal attacks are not appropriate. For public hearing items your testimony must focus on the topic, not other items or subjects. I will, as Chair, work to maintain decorum at this meeting and ask for your assistance.”
 - Could add some additional guardrails similar to *Acosta*, but should be heavily scrutinized for First Amendment protections
 - Could also add what is meant by “work to maintain decorum”

Decorum for/towards Public Continued

- 2013 report from the Citizen's Task Force:
 - “It is recommended that Assemblymembers not use the opportunity to question those who testify to give more time to favored speakers, by saying, “Is there anything else you would like to add,” because it can appear that some speakers get more time than others.”
 - “Similarly, Assemblymembers are requested not to debate individuals who come to testify.”