



Memo

To: Mayor & City Council
From: Gary J. Riedner, City Supervisor *GJR/lml*
Date: June 21, 2011
Re: Inquiry Raised by Tom Hansen regarding Council Action

On May 25, 2011, Moscow citizen Tom Hansen requested information relating to the City Council's actions occurring at the Council's regular meeting on May 16, 2011, wherein a motion was placed before the Council by Councilmember Walter Steed. The motion followed a presentation by the City Supervisor, reporting on a public meeting regarding over-legal loads which could potentially be permitted to travel through Moscow. The public meeting in question was held on May 11, 2011 at the Hamilton Indoor Recreation Center and was moderated by Mayor Chaney.

Mr. Hansen's inquiry was stated as follows: "Under what authority did Council Member Walter Steed move, or resolve, that a position in favor of the megaloads be adopted by the city council?"

In the time since the inquiry was made, I requested Randy Fife, City Attorney, to assist in researching this issue. In addition to Randy's own research, he assigned his legal extern to conduct research. The legal extern's research has been provided to me for my review. The treatise utilized in examining the conduct of the meeting is *Robert's Rules of Order Newly Revised 10th Edition 2000*, authored by Henry M. Robert III, William J. Evans, Daniel H. Honemann and Thomas J. Balch, published by De Capo Press. The City generally follows Robert's Rules of Order as a way to conduct public meetings.

The analysis begins with whether or not Walter Steed was out of order in making his motion. A review of the record reveals that after the presentation by the City Supervisor, Mayor Chaney asked the Council if they had questions or comments. Walter Steed raised his hand and said "Madam Mayor". He was recognized by Mayor Chaney, who said, "Yes, Walter".

The conclusion is that Walter Steed duly and correctly sought and was granted the floor by Mayor Chaney. No other motion or business was pending on the floor at the time Walter Steed was recognized.

The next inquiry was whether Walter Steed's motion was appropriate under the circumstances of the meeting? When assigned the floor, a member may use it for any proper purpose, or a combination of purposes; for example, although a member may have begun by debating a pending motion, he (or she) may conclude by moving any secondary motion that is in order at the time. *RONR (10th ed.) p. 365 l. 33-35, p. 366 l 1-3.*

To make a main motion, a member must obtain the floor, when no other question is pending and when business of the kind represented by the motion is in order. *RONR (10th ed.) p.32, l 1-4*. For more important or complex questions, or when greater formality is desired, the member presents his motion in the form of a resolution. *RONR (10th ed.) p. 32, l 6-10*.

After the motion was made, a second was obtained, provided by Councilmember Tim Brown. A second merely implies that the seconder agrees that the motion should come before the meeting, and not that he necessarily favors the motion. *RONR (10th ed.) p 34, l 27-29*. The requirement of a second is for the chair's guidance as to whether he should state the question on the motion, thus placing it before the assembly. Its purpose is to prevent time from being consumed by the assembly's having to dispose of a motion that only one person wants to see introduced. *RONR (10th ed.) p 35, l 13-17*.

The motion was discussed at length and was voted upon, resulting in passage 4-0 of present members of the City Council (with one abstention).

At the Council meeting, the City Supervisor was asked if the motion made by Councilmember Steed was appropriate. Citing Robert's Rules of Order "Motions Growing Out of Reports or Communications *RONR (10th ed.) p 26, l 8-35*, I stated that the motion appeared to be allowed. The specific language cited was: "After the presentation of a report of an officer, a board or committee, one or more motions to carry out the recommendations contained in the report may be introduced. Motion may also grow out of the presentation of a written communication of the assembly."

In retrospect, it is now my opinion that although the section was correct, the germane language follows the given cite: The reading of a communication does not itself formally bring a question before the assembly. After the reading, or at a time provided by the order of business, a motion can be offered proposing appropriate action. If no member feels that anything needs to be done, the matter is dropped without a motion. *RONR (10th ed.) p 27, l 30-35*.

It is my conclusion, based upon and supported by research conducted by the City Attorney's office, that Councilmember Walter Steed's motion was properly placed before the Council and voted upon.

I would note that one of Tom Hansen's apparent concerns was whether a motion could be made in reference to a written report. In this case, the report was oral and, additionally, because the City does not follow all of the features of Robert's Rules of Order to the letter (and as explained above), my opinion regarding these events does not change.

In closing, it has been the custom of the Moscow City Council to conduct its meetings within an informal application of Robert's Rules of Order. It has also been the practice of the City Council to refer matters to either the Public Works & Finance Committee or Administrative Committee for consideration prior to bringing matters before the full Council deliberation and action. In the instant case, the report of the public meeting held for the over-legal load issue was intended to be a report, without Council action. The placing of the motion before the Council for consideration, while appropriate and allowed under Robert's Rules of Order, was out of the normal "practice" of the City Council in the conduct of its business.