



**RIVER FALLS CITY COUNCIL SPECIAL MEETING**  
**August 18, 2020, 6:30 p.m.**  
**Council Chambers/Virtual, City Hall, 222 Lewis Street, River Falls, WI 54022**

**City Council Members Present:** Mayor Dan Toland, Todd Bjerstedt, Sean Downing, Scott Morrisette, Diane Odeen, Ben Plunkett, Hal Watson

**City Council Members Absent:** Chris Gagne

**City Staff Present:** City Administrator Scot Simpson; City Attorney Chris Gierhart; IT Technician Jon Smits; IT Manager Mike Reardon; Assistant City Administrator Jason Stroud; others

The workshop was called to order at 6:30. The pledge of allegiance was said. The Mayor asked City Administrator Simpson to speak.

Simpson had a PowerPoint. Two topics to be discussed are virtual meetings and Council Bylaws and ethics. The primary result of this meeting is for staff to have guidance on next steps related to these two items. Simpson noted the Council was provided the bylaws and PowerPoint prior to the meeting. There is no action tonight by Council.

**Review of Council Satisfaction with Current Virtual Meetings – Ideas for improvement**

Simpson wants to understand current satisfaction with virtual meetings. He began with technology. Feedback he has received in Council 1 on 1s is that Council was pretty satisfied. He was aware that some Councilors were using other technology in addition to the City issued iPad.

Since going to WebEx, he understands that people are satisfied with it. He talked about the ability to hear/see others and also public interaction. He asked for Council feedback on technology.

Alderson Downing said not all Councilors are heard on the YouTube videos. He felt Council needs to do better so the public knows how everyone voted. He talked about using Council feedback in regard to the public.

Alderson Bjerstedt asked how the Councilors appeared for the public while watching in the Council Chambers. Simpson thought it was the “tile” view and believed that everyone could be seen. Simpson provided details. Bjerstedt was concerned and wanted to make sure everyone could be seen. Alderson Odeen asked if it appeared like “Hollywood Squares”. Simpson said yes; it rotates squares depending on who talked last.

IT Technician Jon Smits said in the Chambers, it appears in the grid form. The YouTube stream is a different view. It highlights the speaker and possibly a couple of others on the side of the screen.

Alderson Morrisette asked about online polling. Simpson didn’t think when it was used in a previous meeting that it was very successful. It isn’t necessarily a voting system, but it could be used if the Council prefers it. Simpson suggested that when Deputy Clerk McKahan is reading the vote, all Councilors open their mics but remain quiet until called, and then turn their mic off when the voting is over. Simpson

talked about controlling mics and keeping background noise out. The Mayor asked if Smits could mute/unmute everyone. Smits said yes. He also explained that online polling opens it up for everyone that is online. He said voting could also be done on paper, but he will look at polling.

Aldersperson Odeen felt it would be simplest for everyone to unmute themselves and have the clerk read the results of the vote. Morrissette agreed but had thought polling may speed up the process if everyone could be disciplined enough to unmute when the vote is called and to mute when done. He agreed with Odeen on summarizing the vote.

The Mayor asked the Council's opinion on the voting. Watson agreed with Morrissette. Simpson talked about wearing headphones when unmuted to prevent an echo and asked if Councilors were comfortable wearing headphones. Aldersperson Plunkett preferred not to wear headphones. Simpson thought if one or two Councilors didn't wear headphones, it would probably be okay. Simpson suggested trying it. Downing wanted the vote to include both in favor and against.

Simpson asked if any of the Council wanted a second device. Plunkett said yes, if it provided internet. He talked about running off a router at home with sometimes not reliable internet. Simpson talked about drafting a policy if the Council was interested in hot spots.

Aldersperson Watson suggested Councilors could go to City Hall and use the internet in one of the meeting rooms. He talked about using the app on this phone to connect to the meeting. Plunkett talked about losing connectivity during a meeting. Simpson noted that would be another thing to discuss.

#### Public Participation

Simpson wanted to talk about the "4 p.m. rule". We want to ensure that people who want to participate in a public comment, which is not required by law, but also for public hearings, which we do have to provide reasonable access, we thought a deadline of 4 p.m. the day of the meeting was adequate for staff. Simpson talked about a scenario of people finding out after 4 p.m. and wanting to comment.

Watson talked about acknowledging people to speak and having people speak once instead of coming back for just one more comment. Watson suggested using the poll for online commentators. Simpson talked about Zoom bombing and being cautious. Smits can bring people into the meeting. He talked about being unsure of who the person truly is. Smits will look more into polling.

Morrissette believes public comment is vital, and we should make every accommodation for people to speak.

Odeen thinks what we have works. People are able to come down to the Chambers to make a public comment. She asked about the possibility of an email and people could have something brief read into the record. She agrees that public comment is important, but it doesn't need to be entirely convenient for any one type of comment.

The Mayor asked Smits if staff had received any complaints about getting comments in. Smits said it happened once when people were too late. The Mayor doesn't want to make a complicated situation more complicated.

Downing talked about the ability to communicate effectively diminishes with age so he suggested the possibility of having an option for people who can't go virtual to call in with a verified account and leave a 60 second message prior to the meeting.

Aldersperson Plunkett asked about closed captioning for the meetings and meeting other needs of the public. Simpson said the City Clerk has not received a formal request for accommodations. He talked about Facebook comments regarding closed captioning for the Mayor's video and interest from a couple of Councilors about closed captioning for the live Council meeting. We are looking into it and think it maybe an option. He talked about closed captioning for live versus recorded meetings. Simpson talked accommodations being done by request to comply with federal law. He said the 4 p.m. rule is based in that tradition, and it will take some time for us to make that accommodation.

Simpson said there's a mayor/council email so anyone can comment anytime. A shared voicemail box could be set up if that was something the Council was interested in. He cautioned Council to think about the reading of comments. Simpson said it would be easy to send a derogatory comment and people would think it would be read. We would have to put rules in place. Simpson said the Council meeting is a business meeting to get things done. The public has lots of opportunity to contact Council outside of the meeting.

Watson does not support the reading of emails nor does he support the playing of phone messages during public comment. He feels if people want to comment, they need to show up in person or virtually. He feels it is a slippery slope we will regret.

Odeen feels the process we have now is workable. People can participate remotely, they can show up and talk, and can contact Council either by email or phone.

#### Council Chamber vs. Training Room Use

Simpson asked if there was a strong sentiment by Council that only the Council Chambers (with the exception of elections) would be used by the public to have as their main room or if they would be willing to consider the Training Room as a regular place for the virtual meetings. He said the Training Room was easy to set up, the sound was better, and there is a larger screen. The Mayor asked clarifying questions.

Plunkett felt due to Covid-19, he would like to have it in the safest, largest space. Odeen said it is also about ventilation but if it was easier for people to see and hear in the Training Room, she was okay with it. Morrisette agreed with Odeen. He didn't think there was any mystic or old school sentiment about having it in that room. Simpson said that was the information he was looking for. He wasn't sure if one room was better than the other. Downing asked if the Training Room met the 'Crushing Covid' plan. Simpson said yes and provided more details. Watson was flexible and didn't have a problem using that room.

Simpson provided a summary of his understanding on the topics discussed for far:

- Council technology is working pretty well, internet may be a question or use an alternate place at City Hall for internet access or using the client on individual's phones
- There is some interest in clarifying the voting process by using a technology tool or some different way to read and collect votes
- Some concern about restricting public comment related to 4 p.m. rule but Council is more inclined to restrict virtual attendees and not in person attendees
- Looking into a voicemail box and publicizing the Mayor/Council email address

Simpson asked about having a formal rule for connectivity issues. The Mayor noted we have waited if someone has an issue but usually it has been resolved within a few minutes. Watson said five minutes was reasonable but didn't think the meeting should be held for longer.

### Council Bylaws

Simpson said the bylaws which were adopted in 2011. The bylaws are reviewed at the organizational meeting. He talked about open meetings during Covid-19, and said we have the ability to do it for some time. Simpson also talked about public access.

Simpson talked about the coordination of the agenda by the City Administrator. He asked if the electronic distribution of the agenda/packet by 5 p.m. on Thursday before the meeting was still adequate.

Morrisette, Odeen, and Bjerstedt all said yes. Watson said 5 p.m. was adequate for him but felt it was difficult for the public. Downing agreed with Watson. He talked about getting the minutes a day or two earlier. The Mayor asked about the agenda being in the newspaper on Wednesday. Simpson said the agenda is out earlier. He provided more details and said that most action items have quite a bit of lead time and have had previous action at a committee. Occasionally, it does happen where the item comes out on Thursday and is acted upon on Tuesday. He talked about the possibility of some items needing prenotification or discussion before they happen.

Watson said the Administrator's Report has helped. He asked that the same type of report be included for Plan Commission meetings so we can give people a head's up. He would like to give more lead time to the citizens.

Odeen knows that we want to give citizens as much notice as possible and is hoping the online newsletter is helping, but by law, we only required to give 24 hours' notice and we are already doing better than that.

Morrisette said for most major actions we take it requires two readings which provides a two-meeting notice. He agrees with Odeen and feels we are complying with the law and what is reasonable. Plunkett talked about a calendar being on the website listing all City meetings. Simpson said there is a calendar out there but doesn't know if it is as successful as it could be.

Simpson understood that Thursday by 5 p.m. worked for Council but we may want to take an inventory of the items and the public notice. Plunkett asked about agenda setting.

Downing asked about getting the minutes earlier. He talked about being able to communicate better. Simpson said it is possible but wanted to be careful about giving the Council any idea that they have individual editing authority on the minutes. He said the best practice is the clerk takes the minutes as best as she is able to reflect them. If there is a technical issue, certainly a Councilor could let us know if something was spelled wrong, somebody was not there, or the vote was wrong. If it is actually how the minutes are taken, the best practice is the Councilmember trying to amend the minutes at the meeting. Watson agreed.

Simpson returned to agenda setting. As he understands it, general agenda items for regular meeting are up to the City Administrator or Mayor. The City Administrator works on the Council's behalf so for items that he believes there is a consensus or significant level of support, it doesn't make sense not to put something on the agenda. The tough part is when there is one, two, or three members are interested, the item isn't on the strategic initiatives list, it isn't triggered by the Plan Commission so there we sit. What

Simpson has been doing it that if the Mayor isn't in favor of it, he doesn't put it on. Simpson thinks that has created a de facto system where there's not a clear path for general Council items, the Council is interested in using the special meeting agenda setting which is in the bylaws and ordinance that two alderpersons have to file a written request. Simpson talked about the legal construction of the wording which says, "may be called" not "shall be called." He asked the City Attorney how this would be interpreted. Simpson said there isn't anything compelling the City Administrator to do something. Simpson provided an example of the mask ordinance and the process that occurred. He cited that Wis. Stats 62.11 is the only thing that can compel a meeting – and that's the Mayor. The Council needs to decide if they want to change what they have. Simpson provided further details. Right now, there isn't anything in the charter ordinance, the state statutes, or the bylaws which gives any Councilmember independent authority to put something on the agenda.

Plunkett felt there was a conflict with Robert's Rules of Order. We seem to be following Robert's Rules of Order and one of the processes in there allows an agenda change which is a conflict of the Wisconsin Open Meetings law. Since we are using Robert's Rules of Order as a guideline, to remove that ability of Council or Councilmembers to bring up an item for discussion through other means is very limiting on the duties of an elected official. Plunkett would be interested in a procedure.

Odeen said Robert's Rules of Order is a reference tool. It is the lowest common denominator. Either our ordinances, our operating rules, or state statutes take precedence. It is a useful tool. Odeen said our current situation relies on ability to work together and persuade each other that an idea has enough support to talk about and that isn't necessarily bad, but she can see where having something formal might be a good idea.

Downing thought it made a lot of sense to allow two Councilmembers working with the City Administrator, who as the person who sets the agenda understands the volume and what is realistic to put items on the agenda – or a Councilmember and the Mayor.

Morrisette remembers only once during his time on Council that two Councilors got together to put something on the agenda. He is pointing that out because it has been used very judiciously – very limited in its scope. The reason is because there are other mechanisms that go to build the agenda. There's a CIP, Administrator's Work Plan, there's the budget. If we have situations where two Councilmembers are throwing stuff on the agenda, dragging staff off task with different items on a whim, we are not going to accomplish the things that we, as a group, are our priorities. The agenda setting has to come up prior to that planning process and helps us set future agendas. It doesn't mean if something comes up and we need to make a quick movement, that we don't do it. Morrisette doesn't want to start using two Councilmembers as mechanism to start throwing things on the agenda and dragging staff through the process of preparing information and getting that stuff done. As Odeen said, he really wants to see the Council, working together with the Mayor and City Administrator, to come to some consensus to say this is important enough that we need to ask for this to be put on the agenda. He feels it is important for the innerworkings of the Council and to be effective as the electorate as put us in a position to do.

Watson thought it was a hard question. He would like some clarity on it. What he understood was the two Council person rule. When there is a conflict with the Mayor, that's where we put Simpson in the squeeze and the Mayor prevails. As a Councilperson, he doesn't necessarily like that but agrees with Morrisette. He doesn't want stuff tossed on the agenda without it being part of a bigger plan. He would like more research on this but doesn't dislike the idea what Simpson said about once a month, we vote on agenda

ideas. He sees the benefit of keeping a lid on it, but it can be frustrating if you are a Councilor trying to make something happen.

Downing felt there should be a process for representatives to express what they feel the City needs. He agrees that we need to take things into consideration and that's why he trusts Simpson to figure out if this is appropriate to be on the agenda now, but he also wants Simpson to work with the Mayor and Council to get the best result.

Plunkett sees a lot of conflict of interest going on particularly regarding some actions the Council may or may not take in the future. Where we have people, that are members of a business organization, and have gone before it saying they would take action to oppose any action by members of the Council and then have followed through with that by having it removed from the agenda that were in opposition to their position before that business committee. He finds it problematic. He thinks Council were elected by the public, we have a right to discuss business matters affecting the community, and by using the process that has been used to remove agenda items, it calls into question some clear and present ethical considerations. He is troubled by this.

Watson asked if the special meeting rule was outlet for this. Simpson thought it was intended to be that, but it really isn't. It doesn't give the City Administrator an easy out. It is saying any two alderpersons can file a written request, but it is not compelling him to do it. He still has to use judgment.

Watson feels the best move forward would be to take away Simpson's discretion in that particular case. For two Councilors to call for a special meeting, it's got to be something serious or substantial. It's not going to interrupt the regular meeting procedures or the priorities of the of the City Administrator or Mayor. But it does give an opportunity for elected officials to bring things of high concern and let the rest of the Council and act if necessary.

Simpson summarized what he heard:

- When it comes to general agenda setting, a concern by some that they are unable to get a partner and bring any item they think is important up
- There is also a sentiment that we have work plans and strategic initiatives/objectives, and we don't want to be bouncing every two weeks to different things

Those are the extremes. It sounds like Councilors are a bit scattered on it. You are interested in some research on making it a little easier. Simpson didn't hear a consensus that a single Councilor should be able to put something on an agenda but did hear a consensus that is willing to discuss having a threshold that it is not just the Mayor or Administrator setting the agenda. Simpson thought the discussion was related to the regular meetings and the special meeting thing is probably misplaced. He didn't believe that the Council wanted any Councilor to use the special meeting provision to get an item on the agenda.

Simpson talked about how the process could be weaponized. An example would be that two members file a request, an agenda is put out, and the rest don't show up and there is no quorum. You want to have a process that people will buy into it. Simpson will look at special meeting language and then Council can debate. Simpson spoke further about having clarity in the bylaws, changes being researched, how Councilors can put something on the regular agenda. Simpson noted in Wisconsin the Mayor's position has independent authority and extra authority.

Odeen would be in favor of having a pretty high threshold for Councilors calling a special meeting but a lower threshold for getting items on the agenda. She is not interested in having a lot of special meetings.

#### Public Communications by Council

Simpson said the current bylaws say statements by Councilors on behalf of the City, Mayor or Council, are discouraged. Councilors are discouraged from submitting letters to the editor. Simpson said this issue has come up quite a bit and provided background. Councilors are reminded that they shouldn't be speaking on behalf of the City. Simpson talked about how Council should be thoughtful that they are always seen as "Councilors" by the public even in their private lives.

Simpson talked about social media accounts. Council needs to be aware of Open Meetings Law but there isn't any specifically outlined information on personal social media accounts. Simpson said Councilors cannot go back and forth on a Facebook post in regard to Open Meetings law. He talked about not promising action by the entire Council. Simpson asked Council if they wanted any changes in public communications.

Downing suggested a policy with the City's newspaper with the understanding that a Councilor is speaking on her/his own behalf and not the City's. Simpson said the Council cannot direct the press on how they report on us - that is protected speech. We need to have agreement among us. Simpson provided further details.

Downing isn't suggesting that we edit what a Councilor says in the newspaper but that when we submit things that we actually show and display the rules of how we agree on our ethics that no one of us speaks for the Council as whole. It's just something that we put in there so people understand.

Odeen said it our responsibility and not the press' responsibility. It is our job. She agrees with Simpson. Their job is to report what they see and hear. It's our job to be clear on our ethics when speaking.

The Mayor said the Council has done a good job realizing that when a media person comes up to them, there is a Communications Director and City Administrator who we are supposed to direct all questions to. They are there to answer questions.

Morrisette talked about the transition to a regional newspaper making the letters to the editor less effective. He wanted to see research on individual social media accounts and what we should be doing there. Morrisette said any time you are approached by the media, you have to assume that you are on record and be thoughtful about what you say.

Plunkett said some use social media accounts to discuss issues; others use business meetings or organizations that they are a member of. He would no more presume to walk into a Chamber of Commerce meeting and tell people what they can or cannot discuss, or a business meeting with Mr. Morrisette and tell him what he can or cannot discuss. He thinks other members shouldn't have the presumption of telling him or other Councilors what they can or cannot discuss. He thinks this is an attempt to exert power over members because they don't like the content of what is being discussed. The feeling is mutual, but he respects the right of that discussion.

The Mayor doesn't feel anyone is trying to tell others what they can and cannot say. It is to remind people that what they do say as Councilors carries weight. We have to be cognizant of how we say it and the way

we say it. He would not tell anyone what they can or cannot talk about. It is just a reminder that we represent the City. No matter what we say, people will assume what you are saying is what the City's stance is.

Morrisette felt Plunkett was insinuating that he has done something wrong and he didn't appreciate it. The Mayor felt Morrisette was better than that and moved on.

Simpson talked about bylaws regarding speaking on behalf of Council would apply only to the Council and not the Mayor. He wanted to recognize that distinction.

#### Ethics

Simpson reminded the Council that the City Attorney provided Council with information on ethics. He provided further information including on where the information is located and who the Council can speak with if they are concerned about a violation.

The Mayor asked for further comments. There was none. **At 8:35 p.m., MS Bjerstedt/Odeen to adjourn special meeting. The roll call vote to adjourn passed 6-0 with all voting in favor except for Watson who did not vote as he had technical difficulty during the vote.**

Respectfully submitted,

Kristi McKahan, Deputy Clerk