

*Wilmington, Delaware
Louis L. Redding
City/County Building
November 1, 2019*

City Council met in **special** session on the above date at 4:00 p.m.,
President Hanifa Shabazz presiding.

The opening prayer was done by Andrea Queen, Deputy Clerk.

The Pledge of Allegiance was recited by City Council.

ROLL CALL

The following members responded to the Call of the Roll: Council Members Gray, Congo, Oliver, Harlee, Turner*, McCoy, Johnson, Freel, Adams and Dixon and Guy, and Council President Shabazz. Total, twelve. Absent with leave, Council Member Walsh. Total, one.

LEGISLATIVE BUSINESS

President Shabazz: Council Member Gray, legislation this evening?

Council Member Gray: Yes, Madam President. Madam President, I have a Resolution to present.

Council Member Gray presented Resolution No. 19-066 (Agenda #4727) as follows:

WHEREAS, the 107th Session of Wilmington City Council believes openness, transparency, and accountability are important policies; and

WHEREAS, Wilmington City Council believes the public should have the opportunity to comment on legislation (ordinance or resolution) when legislation is being considered; and

WHEREAS, the President, the presiding member of Wilmington City Council has started roll call votes prior to members of Wilmington City Council having an opportunity to debate in accordance with the rules; and

WHEREAS, when members of Wilmington City Council conclude debate regarding legislation (ordinance or resolution) the public should be allowed to comment in three-minute increments followed by a final round of debate by members of Wilmington City Council pursuant to the procedures used for the first round of debate; and

WHEREAS, including receipt of quarterly and bimonthly COWBAC Reports on the Agenda will ensure accurate information regarding the composition of City of Wilmington Boards and Commissions will be available to the public and media; and

WHEREAS, Council deems it appropriate to amend its Rules.
NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WILMINGTON, that the Rules of the Council of the City of Wilmington are amended to require that “I) Legislative Business:” will read as follows:

“This portion of the meeting shall be for the consideration of resolutions with legislative effect and ordinances only.

Each member is entitled to speak twice to any matter subject to debate for periods not to exceed five minutes each time, including any time yielded to other members. No member shall exceed these limits except by leave granted by a two-thirds vote of the members present, without debate. No member shall speak twice to a matter until every other member choosing to speak has been recognized. The member on whose motion the matter was brought before Council is first entitled to the floor, and also to close the debate, but not until every other member has had an opportunity to speak for a second time.

After the close of debate on an item of legislative business, but before a vote is started, there shall be an opportunity for public comment in three-minute increments.

After the close of public comment each member is entitled to speak twice to any matter subject to debate for periods not to exceed five minutes each time, including any time yielded to other members. No member shall exceed these limits except by leave granted by a two-thirds vote of the members present, without debate. No member shall speak twice to a matter until every other member choosing to speak has been recognized. The member on whose motion the matter was brought before Council is first entitled to the floor, and also to close the debate, but not until every other member has had an opportunity to speak for a second time.”

Upon a motion of Council Member Gray, seconded by Council Members Dixon and Freel, the Resolution was before the Council for its consideration. Motion prevailed. Council Member Gray spoke on the purpose of the Resolution and made comments. Council Member Congo raised a question and Council Member Gray responded. Council Member Harlee made comments. Council Member Johnson made comments. Council Member Oliver made comments. Council Member Adams made comments. Council Member Guy made comments. Council Member Harlee made additional comments. Council Member Oliver made additional comments. Council Member Congo made comments and requested to be added as a co-sponsor.

**Note: At this time, Council Member Turner was recognized and marked present, and reflected in the minutes herein (Roll Call).*

Council Member Freel made comments. Council Member Guy made additional comments. Council Member Turner made comments and requested to be added as a co-sponsor. Council Member Johnson made additional comments. Council Member McCoy made comments. Council Member Dixon made comments. Council Member Gray made closing comments.

President Shabazz: Clerk will call the roll.

The above-Resolution was received, adopted as read and directed to be recorded and filed by the following Yea and Nay Roll Call Vote: Yeas, Council Members Gray, Congo, Turner, McCoy, Adams, Dixon, Guy. Total, seven. Nays, Council Members Oliver, Johnson, Freel, and Council President Shabazz. Total, four. Present, Council Member Harlee. Total, one. Absent, Council Member Walsh. Total, one.

President Shabazz: Declare it adopted. Council Member McCoy.

Council Member McCoy: Yes, thank you Madam President. Madam President, I have I would like to make a motion on the floor amendment at this time as such.

Mrs. Seijo (City Clerk): You have to present your Resolution first.

Council Member McCoy: Ok, I'm sorry. I have a Resolution to present.

Council Member McCoy presented Resolution No. 19-067 (Agenda #4728) as follows:

WHEREAS, the 107th Session of Wilmington City Council believes openness, transparency, and accountability are important policies; and

WHEREAS, Wilmington City Council desires to expand the opportunity during the Committee of the Whole meetings for members of the public to use their three minutes to address council on any topic.

WHEREAS, the Wilmington City Council believes that public comment should not be limited to items on the agenda; and

WHEREAS, Federal Communications Commission restrictions applicable to a government channel apply; and

WHEREAS, Council deems it appropriate to amend its Rules.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WILMINGTON, that the Rules of the Council of the City of Wilmington are amended to require that "Rule 3" will include the following paragraph between the existing 1st and 2nd paragraphs:

"During the Committee of the Whole meeting members of the public may use their three minutes to address council on any topic. Public comment is not limited to items on the agenda. Federal Communications Commission restrictions applicable to a government channel apply".

Upon a motion of Council Member McCoy, seconded by Council Member Freel, the Resolution was before the Council for its consideration. Motion prevailed.

Council Member McCoy: I do apologize. I've never actually had to amend my own piece of legislation. I would like to make a motion from the floor to amend at this time as such:

In the 2nd Whereas clause, second line after Committee of the Whole:

- Add the words "*and Standing Committees*" so that the text now reads:
- Whereas, Wilmington City Council desires to expand the opportunity during the Committee of the Whole and Standing Committees meetings for members of the public to use their three minutes to address Council on any topic.

In the Now, Therefore clause, which is the last paragraph, fifth line after Committee of the Whole:

- Add the words "*and Standing Committees*" so that the text now reads:
- "During the Committee of the Whole and Standing Committee meetings members of the public may use their three minutes to address Council on any topic. Public comment is not limited to items on the agenda. Federal Communications Commission restrictions applicable to a government channel apply".

And, the Synopsis, second line after Committee of the Whole:

- Add the words "*and Standing Committees*"

Council Member Turner: Second.

President Shabazz: It's been moved and second that the amendment as presented by Council Member McCoy be applied to the legislation as written. All those in favor signify by saying "Aye" any Opposed. Amendment, um, amendment adopted.

Council Member McCoy spoke on the purpose of the Resolution and made comments. Council Member Freel made comments. Council Member Johnson made comments. Council Member Gray made comments. Council Member Turner made comments. Council Member Guy made comments. Council Member Harlee made comments. Council Member Congo made comments. Council Member Johnson made additional comments. Council Member Dixon made comments. Council Member Gray made additional comments. Council Member Guy made additional comments.

Council Member Congo: Based on Councilman Guy just talked about that if we have on the agenda, public comment, inviting the public to come and comment on whatever they want to talk about, is our City Solicitor, able to give his opinion on, our parliamentarian, able to give his opinion the legality of it just to clear up some of the concerns of the Councilman – Councilmembers?

President Shabazz: What is your question now?

Council Member Congo: Some Councilmembers have concern about the legality of this. So, are we able ...?

President Shabazz: Legality of what?

Council Member Congo: Of us opening up the floor and people being able to come to speak on whatever they want to talk about. They said it might violate FOIA. So, are we able to get an opinion based on what Councilman Guy just said because we have on the agenda, if we have public comment, because we're not voting on something, it's just a discussion, how would we be violating FOIA? Just to clear up some of those concerns.

Mr. Robert Goff: If you want me to address – I have to have your permission.

President Shabazz: You have the permission.

Mr. Robert Goff: Good evening Councilman, um, I haven't um, pretty much only have sort of informal discussion um, about the implication of FOIA with regard to this. Um, so, I really can't give you a definitely viewpoint. The viewpoint that was expressed by Councilman Johnson, um, is one that has been brought to my attention. Um, I would generally think that FOIA probably applies mostly to members of a body and not to the members of the public. I think the risk that would come into play, wouldn't be so much from the comments of the public, ah, speaking, ah with regards to subject that aren't on the agenda. The risk would be the nature tendency of Councilmembers to then to respond and discuss issues which are not on the agenda itself. And, that discussion of matters of public interest, ah, which would be done by the Councilmembers on the committee.

If it isn't on the agenda and noticed pursuant to FOIA, that discussion, it would be my view, would violate FOIA. But simple members of the public coming forth and discussing, you know, for example, at a Public Safety meeting where there is no legislation on gun violence but discussing the shootings, ah, and it's not on the agenda, I don't think that would be a violation. But I also cannot imagine that Councilmembers wouldn't respond to it and discuss it and that would be a problem. It's my off the cuff thoughts concerning it. It doesn't constitute an official opinion. If you want that, you should write me an email and I'll give you something a little more thoughtful and not off the cuff. Ok?

Council Member Congo: Thank you and thank you Councilman Guy for bringing up that excellent point.

Council Member Oliver made comments. Council Member Turner made additional comments.

President Shabazz: Councilwoman McCoy, closing remarks.

Council Member McCoy: Thank you Madam President. So, I just want to make my colleagues aware that ah it – that was a concern, that it was brought up about the legality of it and also, um, I did get a chance to speak to Councilman Freel about the fact that I'm not a Chair of a committee and the Chair actually does handle the agenda. And, I stated that, you know what, if you would like to do a friendly amendment, you know, to talk about, you know, the Chair having the discretion to do that, you know, that would be fine, we can vote on it because I, I don't want to dictate someone else's committee because it's not mine. But I just wanted to make Council aware that um, we have more than once given out basically the wrong information to our um – to residents here in the City. You know, they come to this floor, they may not, they've either gotten a chance to come up and we're like this is not the place, you should have been at a committee meeting or they never got a chance to speak initially and we're like oh, come on to the committee meeting. And, then these people get there and then they're told that they cannot speak to any – even though they find the right standing committee, they are told that they cannot speak to anything but what's actually on the agenda.

I'm not stating that we're going to have this over flow – a flood of people who are actually now racing to the committee meetings because they are still at five and um, you know, basically if it's not something that they're really – ah, that's on the agenda that they really want to talk about, they may not come. But if they are actually been misinformed or just felt as though they needed to make certain Council was aware of what was going on in their neighborhood, I did not want to feel like because of FOIA they were not allowed to give their say. Give them their 3-minutes. Ah Councilman, I'm sorry, Councilwoman Harlee, I actually like the idea of, you know, making certain that we deal with our agenda that we – ah when it comes to the presentations that people are making, they are presenting, you know, everyone is on a timeline and we are definitely going to make certain that we are careful of their time. But as a person who actually made their business to come to the City/County Building and they wanted their 3-minutes, they're more than happy, I'm more than happy to listen to their 3-minutes if I have to just so they can state this is what I never got a chance to let y'all know what's going on. And, that was the intent. It was never to um, you know, to ah, bully anybody or break any laws or anything.

I just feel as though we do a disservice and we always keep telling them, no you can't speak, this is not the time. Everyone is not truly informed on the workings of Council and how things are going and I'm definitely, I'm trying to ah, I'm definitely trying to make certain that we do some educating, send out some information, hoping that a work, you know, that we can redo like a video or something to inform the people of the City on how Council works. Until then, we are just making people angry by telling them that they cannot speak when they've finally made their way to get here. And was basically the intent of this legislation. And when it comes – before I close, when it comes to the legality, I will look to Mr. Goff to go over with this and he will make us aware on whether or not this – this is legal. If it is not, there was still something else that I was trying to get ah, you know, to bring up as well but we couldn't get it together before ah, before this meeting.

President Shabazz: Clerk will call the roll.

The above-referenced Resolution was received, **defeated** as read and directed to be recorded and filed by the following Yea and Nay Roll Call Vote: Yeas, Council Members Gray, Congo, Harlee, Turner, McCoy, Dixon and Guy. Total, seven. Nays, Council Members Oliver, Johnson, Freel and Adams, and Council President Shabazz. Total, five. Absent, Council Member Walsh. Total, one.

President Shabazz: Pursuant to Rule 23, um, this is defeated.

Council Member Turner: Rule 23?

President Shabazz: Rule 23 of City Council Rules. This is defeated.

Councilperson (?): Why?

President Shabazz: I will, I will give the City Solicitor the floor to – Rule 23 of City Council Rules.

Mr. Goff: Ok, um, so, what happens is by Charter Council is allowed to promulgate its own rules as it's stated in the Resolution here. Rule 23 provides the general rule that Council may change its rules or amend its rules when – with just a majority of a quorum present. So, but now there's um, there's twelve people present and that would normally be seven. However, there's an exception under Rule 23, which states, um, no rule may be suspended or amended in derogation of an existing right or privilege of any member, except by a two-thirds vote of all the members of Council. In this particular case, um, as the Charter indicates, President of Council presides over Council. Under Rule 3 of Council's Rules, as it now exists the President has a right to establish and enforce rules for speakers to ensure proper decorum including, but not limited to, enforcing the three-minute time limit for each speaker and prohibiting the use of obscene and profane language. Decorum is not defined in our rules; but I would say that when something is not defined in our rules you look to Robert's Rules. Robert's Rules defines decorum at Pages 391 through 394 as a number of different things. And, one of those things is confining your remarks to the merits of the pending question.

It also mentions with regard to public comment for public bodies, um, that the presiding officer, on Page 96 to 97 (Robert's Rule), public bodies may invite nonmembers to express their views, but this is done under the control of the presiding officer subject to any relevant rules adopted by the body and subject to appeal by a member. Often, by rule or practice, time limits are placed on speakers and relevance is closely monitored. By a Resolution allowing a member to speak on any topic ah, is so board that any, um, ability for um, the President to maintain decorum and order by for example, keeping to some sort of matter of public interest is so board that it is in derogation for – that's the word that they will use, but, if you look up the word derogation it means it takes away or it denigrates, it makes less, um, a privilege away. The current rules, enacted on January 3, 2017 at the Charter mandated organizational meeting, um, give the President right to enforce order ah, and establish decorum, which

as I said, includes an element of relevance to ah to that. So, this is a Resolution, which takes away that right or denigrates or derogates that right. And, as a result, it reads, a two-thirds vote of all the members of Council for it to pass. That's what it says in the plain language of the rule. Two-thirds of all of Council is nine persons. It's not two-thirds of all of Council present, but I don't think it would matter too much here, um, it's two-thirds of all Council, that's nine votes and that is the reason why this is defeated pursuant to Rule 23.

President Shabazz: Councilman Guy, your legislation.

Council Member Guy: Yes, now, procedurally, I guess as a point of order, I want the sponsor to particularly note that the question that he responded to and the way he responded, means that he was plotting in advance to come up with a way to destroy your legislation, but he's supposed to be the City Solicitor representing all of us. And, he's also supposed to be the person there giving the parliamentary answers. Right, I just – I just need to put a light on that. I know you're sitting here seeing it. The other thing is that he didn't say anything about looking up whether City Council has the authority to change the number of votes necessary to pass a Resolution because essentially he's saying that your Resolution, which the Charter says needs seven votes, he's saying that bump the Charter, City Council can vote to make it be nine votes and then City Council can't change its mind and just make a decision on seven votes. So, he needs to bring you a case because if that's the case, we could have voted that the Rules of Council can't be changed unless there's a unanimous number of votes. Right? So, what I'm saying to you is that -

President Shabazz: Your point of order. Your point of order is what Mr. Guy?

Council Member Guy: I motion to strike all of what he said, and we need to pass it and then he wants to come back and sign his name on a legal opinion saying that we can't do it, then we'll honor that, right? But, right now today...

President Shabazz: But also, clarity for your point of order Mr. Guy.

Council Member Guy: Huh?

President Shabazz: I said also for clarity on your point of order. Council Member McCoy, did you send your legislation to the Law Department for review?

Council Member McCoy: Yes.

President Shabazz: Was you consulted?

Council Member McCoy: I did get a chance to someone. Like I said the concern did come up. They made me aware.

Council Member Guy: Of nine votes?

Council Member McCoy: No, not of nine votes.

President Shabazz: Are you all aware, are you all aware...

Council Member Turner: Let her speak. He asked her a question. Let her speak.

President Shabazz: Well, you – he cut across you to say something about her. Point of order Councilman Turner. Point of order Councilman Turner.

Council Member Turner: That's fine.

Council Member Guy: Nine votes – about the nine votes.

Council Member McCoy: So, um, no - -

President Shabazz: You didn't - - did you ask about the number of votes that was necessary?

Council Member McCoy: No, I did not ask about the number of votes that were necessary, but if I may state that um, I actually I read that if we were actually not taking away a right or anything that we actually – you only needed nine votes to take away a right. We were actually given something, so, I didn't think that we needed nine votes for that.

Mr. Goff: Did you want me...

President Shabazz: Yes please.

Mr. Goff: Um, first off, I was asked a legal opinion and prepared it ahead of time on this. So, I did have my thoughts collected. Um, the way in which, the way in which a right is taken away, it says, that if a privilege or right of a member of Council is taken away by a Resolution then it needs two-thirds vote. Ah, and, by Charter and Code, and also by Rule, President of Council is a member of Council, she has the authority to preside over these proceedings, maintain order and decorum, and this limits her ability to do that. Theatrically, if someone were to say just come and talk about, you know, read from some book that has nothing to do with, um, that has nothing to do with public business, that would be a matter of any topic. Ah, because that's what the broadness of your – of your Resolution is. It says any topic whatsoever. If it had something of public interest or a matter of public concern to this committee or to the Council, that probably, I mean, I don't know for sure, but that probably would have been fine. Um, but this is anything. And, so, that means that anyone could say anything, and she has no control over whether it has anything to do with it. They can come up and complain about, you know, her family or whatever and that's really not appropriate. She should be able to

control it and yet, it's any topic. So, this is in derogation of her right to control as presiding officer the proceedings. Ah, and that's how that comes about. The Council has a right as Mr. Guy has indicated to make its own rules – by Charter it can make its own rules. Um, but it's bound to some extent by its own rules. And, because this session started out, the session is for four-years, the session started in January 2017, it sets the ground rules for Council and put in place in these rules, is this rule that establishes – supposed to be stability – it's supposed to create stability in Council. And, so that, you know, seven people – a quorum of seven could get together otherwise and then four of those people could change the rules out from underneath it.

So, in order to maintain stability that is in this rule and its recognized under Robert's Rule as well. At the end of this session when you get a new Council comes in – in 2021 – in January 2021, they get to make their own rules again. And, those rules are – should be, unless you say otherwise, they can say, you could say in those, um, unanimous, you need a unanimous decision of this Council to change all those rules during that session, during that four-years. What is not permitted under Robert's Rules is for you to bind another session in that fashion. So, that's where it comes from. There's no plot. There's just a question was asked. Everyone gets to ask me questions. Council Member Gray has asked me questions. Everyone does and I don't talk to other people about the questions that people ask me. So, I'm not plotting. I'm giving the best answer I could. This time I could prepare because someone asked me that question.

President Shabazz: I also like to reiterate I think that Councilman Freel also stated that he would support it if he didn't have a Standing Committee because also our rules the Chair the ability to conduct his meeting that way he would want to and he said because of that and Rule 23, which derogates the Chair's power as well, then that's his – his, I believe his statement that's why he did not support it. So, based on the rules and I want all the public know, every Councilmember has a copy of the rules and they're supposed to be knowledgeable of the rules and the operation of this – of this – of this, um, this body. And, pursuant upon Rule 23 as the City Solicitor reconfirmed that's why it was defeated. I'd like to move on with the agenda. Councilman Guy, your Resolution please.

Council Member Guy: Yes.

Council Member Gray: I have a comment.

President Shabazz: Councilman Guy, your Resolution please.

Council Member Gray: My hand was up before but go ahead.

Council Member Guy: Ok, Madam President, I have a Resolution to present agenda item 4729.

Council Member Guy presented Resolution No. 19-068 (Agenda #4729) as follows:

WHEREAS, on January 3, 2017, the 107th Session of the Wilmington City Council adopted Resolution 17-001, which established the permanent rules of the legislative body; and

WHEREAS, there is interest among member of Council to amend the rule regarding standing committees to include a Personnel Committee; and

WHEREAS, the Personnel Committee will consider City Council personnel matters, review and recommend to Council on matters relating to personnel employed by the City of Wilmington and topics such as labor relations, the merit system, non-union employees, the Human Resources Director and Department, pensions, and other employee- related concerns. This includes but is not limited to: hiring, dismissal, policies, performance, duty changes, benefits (including health insurance), wages, recruitment and retention strategies, effective employee relations management, employee benefits and wellness administration, compensation and classification analysis, safety and risk management, labor relations, employee training and development opportunities, application and recruitment process, apprenticeships, Equal Employment Opportunity, employee discipline, performance evaluations, reports on compliance with federal labor laws, status updates on arbitration cases, and workers' compensation issues.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WILMINGTON, that Rule 10 of the Rules of the Council of the City of Wilmington, "Standing Committees of Council", is hereby amended to add "Personnel Committee" to the list of Standing Committees, with the President Pro Tempore serving as the Chair. The President of City Council is a member. Five additional members are to be appointed by the President Pro Tempore. Three members constitute a quorum.

Upon a motion of Council Member Guy, seconded by Council Member Dixon, the Resolution was before the Council for its consideration. Motion prevailed. Council Member Guy made comments and spoke on the purpose of the Resolution. Council Member Gray made comments. Council Member Johnson made comments. Council Member Oliver made comments. Council Member Turner made comments. Council Member Oliver made a point of order on comments stated by Council Member Turner. President Shabazz responded to Council Member Turner's comments for clarity.

Council Member Turner: If you're in debate you have to – you have to get off your chair....

President Shabazz: I'm not in debate. I am making a statement.

Council Member Turner: Ok, so I still have five-minutes. Let me continue my five-minutes.

Council Member Guy: Can the parliamentary rule on whether you can debate from the chair?

President Shabazz: I'm not debating. I'm clarity – I'm giving clarity. I'm not debating, I'm giving clarity (inaudible) facts.

Council Member Guy: Can we get a ruling from the parliamentarian?

President Shabazz: No, I'm talking right now, ok?

Council Member Guy: No, point of order...

President Shabazz: Point of order Mr. – Mr. Guy. I did not give you the order of the floor.

Council Member Guy: Point of order.

President Shabazz: I'm having point of order with Councilman Turner.

Council Member Turner: No one called point of order.

President Shabazz: I'm saying point of order to you Mr. Turner. I mean, I really wish we hadn't...

Mr. Goff: I think Councilwoman Harlee is trying to be recognized.

President Shabazz: Thank you. Yes, Councilwoman Harlee.

Council Member Harlee made a comment but interrupted.

Council Member Turner: Point of order. Point of order. Point of order. Do I still have my five-minutes because you were ruling on the point of order? There's a ruling and then you just gave five-minutes up. So, do I still have a...

President Shabazz: You have a five-minutes whenever we come back to you. You have another five-minutes, yes.

Council Member Turner: I'm, I'm still on my first one.

President Shabazz: You had finished your conversation.

Council Member Turner: You, you, you jumped – you jumped in and said you were doing a point of order.

President Shabazz: Oh Jesus, finish your conversation Mr. Turner.

Council Member Turner: Are you going to rule on your point of order?

President Shabazz: No sir. I withdraw my point of order. Continue your five-minutes.

Council Member Turner: So, parliamentarian, parliamentarian, is she allowed to debate from the chair?

Someone from public (?): Answer.

President Shabazz: Excuse me. Quiet in the gallery please.

Mr. Goff: I don't know.

Council Member Turner: You don't know?

Mr. Goff: Not off the top of my head, no.

President Shabazz: Your five-minutes Mr. Turner.

Council Member Turner: I'm completed. Our parliamentarian doesn't – off the top of his head can't even say what the ruling is if you debated from – from the chair. I mean that's – that's simple. That's simple.

Mr. Goff: She's allowed to participate in debate.

Council Member Turner: Not, not debate. She has to get off the chair.

President Shabazz: Councilman Turner, you finished Mr. Turner, your five-minutes?

Council Member Turner: No, I'm not done. I'm not finished.

President Shabazz: How much time does he have left? You have two-minutes left sir.

Council Member Turner: Thank you.

Council Member Turner choose not to make additional comments. Council Member Harlee made comments and raised a question. President Shabazz responded. Council Member Guy asked a question. President Shabazz responded. Council Member Congo made comments. Council Member Freel made comments. Council Member Gray made additional comments. Council Member Adams made comments and Council Member Guy made additional comments and raised a question to the parliamentarian.

Council Member Guy: Do you recall reading somewhere in the Charter, that there's thirteen members of Council and the President is giving the power to preside?

Mr. Goff: That is correct. That's in the Charter.

Council Member Guy made additional comments.

President Shabazz made points of clarity of comments made and called for the roll.

Council Member Guy: Madam, your violating the rules. The person who sponsors the legislation gets to speak last.

President Shabazz: You just spoke last.

Council Member Guy: I didn't speak last. You decided to speak.

President Shabazz: I gave some points of clarity sir.

Council Member Guy: You spoke...

Council Member Oliver: Maribel.

Council Member Guy: ...let's go to the rules.

President Shabazz: Clerk, Clerk will the roll please.

The above-referenced Resolution was received, **defeated** as read and directed to be recorded and filed by the following Yea and Nay Roll Call Vote: Yes, Council Members Gray, Congo, Harlee, Turner, McCoy, Dixon and Guy. Total, seven. Nays, Council Members Oliver, Freel and Adams, and Council President Shabazz. Total, four. Present, Council Member Johnson. Total, one. Absent, Council Member Walsh. Total, one.

President Shabazz: Again, this is declared defeated based on Rule 23.

Council Member Guy: You have to state the numbers.

President Shabazz: Based on Rule 23...

Council Member Guy: You have to state the number for the vote.

Council Member Oliver: She just...

Mrs. Seijo (City Clerk): I did.

President Shabazz: She just did.

Council Member Guy: How many yes?

Mrs. Seijo (City Clerk): Seven yeas...

President Shabazz: You require nine votes – it is was declared per Rule 23, it requires nine votes, two-thirds of the Council and therefore, it is defeated.

Council Member Guy: Did you declare the vote yet, the President?

President Shabazz: There were only seven Yeas, five Nays – with that, pursuant to Rule 23, which requires a super majority of nine members of Council. It is defeated.

Council Member Oliver: Madam President, may I be excused?

President Shabazz: We have one more piece.

Council Member Oliver: Oh.

President Shabazz: Your next piece of legislation Mr. Guy.

Council Member Guy: Yes, Madam President, I have a Resolution to present agenda item 4730.

Council Member Guy presented Resolution No. 19-069 (Agenda #4730) as follows:

WHEREAS, pursuant to Section 2-104 of the City Charter, the City Council is authorized to employ and fix the salaries of such persons as may be necessary to discharge the business of the City Council. Professional services contracts circumvent this provision.

WHEREAS, City Council will make all decisions regarding hiring, firing, pay rates, disciplining staff, and professional services contracts.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WILMINGTON, that no Member of City Council, including the President, has the authority to hire, fire, change the pay rate or discipline City Council staff without the approval of seven (7) members of City Council, by written Resolution, during a Regular or Special Meeting. Approval of seven (7) members of City Council, by written Resolution, during a Regular or Special Meeting of City Council, is required in connection with all professional services contracts.

Upon a motion of Council Member Guy, seconded by Council Member Dixon, the Resolution was before the Council for its consideration. Motion prevailed. Council Member Guy made comments.

Council Member Gray: My question, does this require a two-thirds vote before we waste any more time?

Council Member Guy: We're not wasting time.

Council Member Gray: But I want to know.

President Shabazz: Are you familiar with Rule 23?

Council Member Gray: I am now that's the reason why I'm asking the question. We have a parliamentarian and we have you. I'm asking a question. Does this require a two-thirds vote?

President Shabazz: Under, under Rule 23, if it does derogate the authority of any member of Council, then it would require a two-thirds vote.

Council Member Gray: I make a motion that we change the two-thirds vote. Can I get a second?

Council Member Turner: Second.

Council Member Oliver: You can't change that now.

Council Member Gray: I made the motion, it's second.

Council Member Guy: Second.

Council Member Turner: You already got it.

President Shabazz: It's not on the agenda.

Council Member Gray: So, what. I made the motion. I can make a motion any time...

President Shabazz: But your motion – but we're are doing the business that's on the agenda.

Council Member Gray: The business is his legislation, which may take a two-third vote and since I can't get a straight answer, yes or now, I made a motion that we change the rule about the two-thirds vote on Rule 23, it's been second.

President Shabazz: The Rule 23, the subject of Rule 23 is not part of the agenda.

Council Member Gray: But you've brought it up several times.

President Shabazz: I'm just using the Rule 23, as all of you should be as aware of rules as I am because you got the rules the same way I did.

Council Member Gray: And I have them and I've read them and I'm making a motion to suspend it. It has been seconded, you need to move on. Now, we can argue here; or I can argue legally later.

President Shabazz: Councilwoman Gray, you're out of order.

Council Member Gray: I make a motion to suspend that rule ...

President Shabazz: You're out of order Council Member Gray.

Council Member Gray: What rule am I out of order of?

Council Member Guy: Second.

President Shabazz: Because you're trying to supplement something (inaudible) ...

Council Member Gray: That motion was just seconded ...

President Shabazz: Councilwoman Gray, please.

Council Member Gray: That was just seconded.

President Shabazz: You're out of order Councilwoman Gray.

Council Member Gray: I just make motion (inaudible) ...

President Shabazz: You're out of order Councilwoman Gray.

Council Member Gray: We'll see.

President Shabazz: You're out of order Councilwoman Gray.

Council Member Gray: I heard you.

Council Member Guy: Point of order.

President Shabazz: Then, why you still talking?

Council Member Gray: Because ...

President Shabazz: Because I as President on this floor have not giving permission to continue talking. Please cease talking.

Council Member Guy: Point of order.

Council Member Gray: When you give the rule that I'm violating, I will cease talking. I asked for the rule ...

President Shabazz: The rule is that I did not give you the floor.

Council Member Gray: What rule is that?

President Shabazz: That is per Robert's Rule order that you give the floor by, when the President give you – that's the proper decorum, is you speak when you are giving permission to speak from the presiding officer.

Council Member Gray: And occurring to Robert's Rule (inaudible)

President Shabazz: Council Member Gray, you're out of order. You will not – Councilwoman Gray, you're out of order. As I stated, the amendment of Rule 23 is not on the agenda and therefore will not be considered this evening.

Council Member Guy: Point of order.

President Shabazz: Point of order Mr. Gray. I mean Guy.

Council Member Guy: Yeah, that rule, nine vote rule ...

President Guy: Your point of order is what Mr. Guy?

Council Member Guy: That we don't have to regard that when we vote. If we pass it and later you determine that that's true, fine, but we get to vote on this as it's written.

President Shabazz: Yeah, point, point taken and we're moving forward with the vote.

Council Member Guy: Well, I get to speak last. Don't ever forget that.

President Shabazz: How can I. Any other members of Council? Councilman Congo.

Council Member Congo made comments. Council Member Johnson made comments. Council Member Adams made comments. Council Member Turner made comments. Council Member Dixon made comments. Council Member Harlee made comments. Council Member Freel made a point of clarity on the subject matter at hand. Council Member Congo made additional comments. Council Member Gray made additional comments. Council Member Harlee made additional comments. Council Member McCoy made a comment. Council Member Guy made additional comments and raised a question to the parliamentarian.

Council Member Guy: Where in the rules does City Council, is there somewhere in there that says that the President has been delegated the authority to hire and fire? So, can he answer that?

President Shabazz: What was your question again?

Council Member Guy: Is there somewhere in the rules where we delegated the authority to the President to hire and fire? Because they said, they're the ones who said Rule 23. So, where does it say that?

Mr. Goff: Well ...

Council Member Guy: In the rules. I'm only asking about the rules.

Mr. Goff: I'm not on – being cross examined. I'm going to give you my answer. Um ...

Council Member Guy: Here we go with (inaudible) ...

Mr. Goff: And, so, if you want me to speak Mr. Guy, I'll speak.

Council Member Guy: No, I want you to tell us first what the rule says.

President Shabazz: Mr. Guy, please allow the parliamentarian to answer.

Mr. Goff: In Resolution 17-002, which was the second Resolution when you had your organizational meeting, pursuant to Charter Sec. 2-104, um, you indicated at that time that Council deems it desirable to retain individuals who shall serve at the pleasure of the City Council President. Um, that rule was established in the authority of the President to hire and fire. Um, so, that happened at that time. The City Council um, Charter or the Charter of the City says, Council shall determine its own rules and order of business. Provide for such committees as it deems necessary and define the duties of City Clerk and employees. That's in 201 dealing with organization of Council; officers; rules; employees. You did so in January 3, 2017 in doing so you passed a rule that says if you take away from or derogate the existing rules of a member of Council, President of Council, is a member of Council under the Charter, then you must, when you change that rule, during the session, before a new session starts, pass it by having a two-thirds majority of all the members of Council.

That is a rule whether you read it or not, um, that you passed, and you are bound by until the session is over. When the session is over, you can make other rules and you can decide who can hire and fire and all that. But this is what the rule you created. In addition to that, have within the rules itself ah, provision Rule 6 talking about President's authority to determine the duties of each member of staff employees. That's also in the rules. You additionally have a provision dealing with ah salary increases in the rules. So, the rules themselves are both parliamentary and organizational. Um, they were passed pursuant to a mandated organizational meeting and they're not intended to be

changed unless you have a super majority vote. That theory or rationalization exist under our rules and it exist also under Robert's Rules. So, um, that's the reason why the super majority applies to this as well.

Council Member Guy: So, now, as I'm saying, what I'm saying is this here - everything that he said was us making a decision to let certain things be handled. We have the authority to change what we decided to do. He still has not brought to us any authority that allows us to change the number of votes to pass an ordinance or a resolution. I'm tell you how silly this sounds. That's like us at City Council sitting here

...

President Shabazz: Thirty-seconds Mr. Guy.

Council Member Guy: ... and we vote to say that it takes nine votes to pass an ordinance. That's like us saying we're changing the Charter to say it takes seven votes to pass – it takes nine votes to pass a resolution. He got to provide more than him, he's on their team. So, please don't go for this okey-doke. If he's got something that he wants to bring later that's for real, then he can bring it and if he's right, so be it. But please go ahead and vote for the changes we need to have

President Shabazz: Your time Mr. Guy.

Council Member Guy: ... then we can see what happens after that but don't be believe the hype. Don't believe it.

President Shabazz: Clerk will call the roll.

The above-referenced Resolution was received, **defeated** as read and directed to be recorded and filed by the following Yea and Nay Roll Call Vote: Yes, Council Members Gray, Congo, Harlee, Turner, McCoy, Dixon and Guy. Total, seven. Nays, Council Members Oliver, Johnson, Freel and Adams, and Council President Shabazz. Total, five. Absent, Council Member Walsh. Total, one.

President Shabazz: Pursuant to Rule 23 the seven Yeas is not sufficient to um, pass this and therefore it's defeated with the required nine votes. Declare it defeated. I accept a motion to adjourn.

ADJOURNMENT

Upon a motion of Council Member Freel, seconded by Council Members McCoy and Dixon, Council adjourned at 6:40 p.m. Motion prevailed.

Attest: 
Maribel Seijo, City Clerk