

TO: Falmouth Town Council
FR: Karen Farber, Chair, Falmouth Town Council
SJ: Council Rules related to the reconsideration of a motion
DT: 16 December 2014

During the Council's retreat during the summer of 2014, two concerns regarding Council rules were discussed. One of these was the motion for reconsideration of a previous decision.

The following information is offered to assist the Council in determining whether it wishes to pursue a change to its rules.

Falmouth Town Charter

The Town Charter grants the Council the power to establish its own rules and makes no demands regarding the basis for these rules.

Rules of procedure; journal. The Council shall determine its own rules and order of business. It shall keep a record of its proceedings and the record shall be open to public inspection.
[Sec. 212]

The Charter specifically permits the Council to enact rules for the re-introduction of defeated ordinances. [Sec. 213]

Motion of Reconsideration: Falmouth

Within the Council Rules, Motion of Reconsideration is the only motion related to re-introduction:

“When a vote is passed, on any matter or motion, it shall be in order for any Councilor who voted in the majority, or in the negative on a tie vote, to move a reconsideration thereof at the same, or the next stated meeting, but not afterwards. This motion is subject to debate if the motion proposed to be reconsidered is also subject to debate; when a motion of reconsideration is decided, that vote shall not be reconsidered.” [Section 16.B]

The Motion of Reconsideration must be seconded; it may be amended and it may be passed by a simple majority of Councilors present. It should be noted that a Motion for Reconsideration applies to votes that have passed—not failed.

Roberts Rules of Order Newly Revised (RONR)

Under RONR, the motion to reconsider must be made within a limited time after the action on the original motion. Until the motion to reconsider is disposed of or lapses, the

effect of the original vote is suspended, and no action may be taken to implement it. This is in contrast to the motion to rescind, discussed below, which may be made at any later meeting, but until passed, has no effect on the original decision.

Within RONR, there are motions and rules to rescind, repeal, and annul something already adopted that require a two-thirds vote, a majority with previous notice, or a majority of the entire membership.

Reconsider in RONR

- A motion that brings a question again before the assembly within a specific amount of time
- Requires a second
- If the motion to be reconsidered is debatable then this motion is debatable
- May not be reconsidered
- It is not amendable
- Requires a majority

Rescind, repeal, or annul in RONR

- A motion that brings a question again before the assembly without time limit
- Requires a second
- Is debatable
- Only a negative vote may be reconsidered
- It is amendable
- Requires a majority with prior notice, two-thirds or a majority if all members are present.

The following, from <http://www.roberts-rules.com/pdf/unfortunatemisconceptions.pdf> titled “Four Unfortunate Misconceptions Promoted by Members”, may prove helpful to the Council in its contemplation of this matter:

“Misconception #1:

“If a motion to perform Task A is defeated, the association has adopted a motion to not perform Task A. If an assembly defeats a motion to support the Clay Pigeon’s habitat, it does not mean that the assembly has adopted a motion against the Clay Pigeon’s habitat. The defeat of this motion merely states that the society has expressed an opinion on this topic. The opinion is that the society is not in favor of supporting the Clay Pigeon’s habitat at this session. It is not an opinion against ever supporting the habitat.

“In conventional conversational English, when people do not decide in favor of accepting an option, they have decided against accepting that option. In parliamentary talk, the defeat of a motion does not follow the same logic. In parliamentary talk, a defeat merely means that an approval failed. The defeated motion would still be in order at a later session. Actually, the defeated motion could still be in order even at the current session. A motion that has been previously considered, and not adopted, may be reintroduced on the same session if it becomes substantially a different question because of a difference in time or circumstances in which it is proposed. RONR

(10thed.), p.325, l. 12-17.

“The difference between adopting a motion and defeating a motion can best be illustrated with what RONR allows subsequent to each of these voting results. Let us say that a motion “to purchase 3 gavels” was defeated. Let us test the possibility that a defeat of this motion means an adoption of a prohibition related to the purchase of 3 gavels. If at a later session, we choose to renew the defeated motion to purchase 3 gavels, we would be confronted with RONR’s limitations on the introduction of a motion when another motion is still in effect. RONR (10thed.), p.106, l. 30-32. If the defeated motion meant an adoption of a motion to prohibit the purchase, we would not be able to introduce the motion to purchase again since the adoption of the motion to prohibit is still in effect. But, RONR does allow the introduction of a defeated motion at a later session. So, RONR does not expect the members to perceive a defeated motion as an adoption of a prohibition of any kind. And yet, we hear members insist that once a motion to perform a particular task is defeated, the society may neither perform that task, nor move a different motion associated with the performance of that task.”

Summary

Both RONR and the Council Rules bound the Motion to Reconsider in time. This makes sense as Reconsideration would not require another introduction, another public hearing, etc. The body just picks it up again.

Though these are not contained within the Council Rules, RONR contains motions to rescind, annul or repeal a prior motion. However, these only apply to successful motions—something was enacted or decided—not failed motions.

However, both RONR and Council Rules allow for the introduction of matters—even matters that may have failed in the past. There is no prohibition in the Charter or the Rules limiting the introduction or reintroduction of a matter. In the context of Council rules, such introductions (even if generally thought to be a repeat) should be treated as a new matter with introduction, public hearing, etc.

Despite all of the above, the Council continues to have the right to change a specific rule in a given meeting for a specific purpose:

Motion to Suspend the Rules: Any Councilor may move to suspend any of the provisions of these rules. Such motion will be successful if all of the Councilors present vote in the affirmative. The rule to be suspended must be identified and the reason for suspending the rule must be stated in the motion. This motion cannot be debated or amended. [Sec. 16.F]