

Proxy Vote by City Commissioners

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TO: City Clerk
FROM: David V. Gliko, City Attorney
DATE: January 24, 1996
SUBJECT: Proxy Vote by Commissioners

By the very first Resolution 6601, passed by the City Commission in March of 1973, Roberts Rules of Order, Revised 75th Anniversary Edition was adopted to govern proceedings and practice by the Commission where not otherwise directed by State Law.

With regard to proxy voting, Roberts Rules provides that:

It (proxy vote) is unknown to a strictly deliberative assembly and is in conflict with the idea of equality of members, which is a fundamental principle of deliberative assemblies. It is allowed only when authorized by the by-laws or charter.

The resolution by the City adopting Roberts Rules of Order does not speak of or authorize vote by "proxy." Similarly, our Charter does not speak of or authorize vote by "proxy."

Even though our charter form of government may adopt its own rules, the statutory commission managed to form provides:

In municipalities having 5 commissioners, 3 commissioners shall constitute a quorum and the affirmative vote of 3 commissioners shall be necessary to adopt or reject any motion, resolution, or ordinance or to pass any measure unless a greater number is provided for in this part or part 44. Upon every vote, the ayes and nays shall be called and recorded... (7-3-4323 MCA)

While there is no direct reference to proxy voting in state statutes by the commissioners, I would interpret the aforesaid provisions of 7-3-4323 to contemplate the presence of the actual commissioners and the recording of the individual vote. Interpretation of the issue does not appear to have been passed upon by any court within the state.

Therefore, it is my conclusion that "proxy" voting is not permitted under our statutes, Charter, or in accordance with the Roberts Rules of Order which the Commission has adopted.

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