



---

## MEMORANDUM

---

To: Douglas Downtown Development Authority

From: Rich LaBombard  
City Manager

Date: March 22, 2023

RE: Amend Holiday Lighting Motion

At the February 1, 2023, DDA meeting a motion was made to include holiday lighting on municipal structures and trees. The motion read:

Adopted Motion: I recommend that DDA consider amending the Chips Groundcover Agreement and recommend City Council support keeping the lights up in the trees year-round and to keep the tree lights and gazebo lights at Wades bayou lit year-round on a timer used for lighting in the night-time.

The sample motion provide by the City Manager was intended to focus on municipal structures. The sample motion read:

Sample Motion: I recommend the Downtown Development Authority consider amending the Chips Groundcover Agreement and recommend City Council support decorative structure lighting at City Hall, the Police Department, Beery Field bathrooms, and the gateway sign.

There was significant discussion among the DDA members about lighting trees throughout the year; however, City ordinances restrict the ability to keep lighting displays in the crown of public trees. Per the Ordinance (below), one cannot leave lights in the crown of the tree. The Tree Board (now Planning Commission) is the appeal entity that can allow lights to be left on the trunk of the tree. Moving lights from the crown of the tree to the trunk of the tree may not have the desired effect the DDA is seeking for the downtown. While the ordinance isn't specific about the reasons to restrict lighting in the crown of public trees, one can only assume lighting left in trees damages the tree, inhibits pruning, inhibits growth, could be detrimental health of the tree, and may cause damage to the lighting.

There are no ordinances that restrict holiday lighting displays other than on trees located in the right-of-way. Municipal ordinance 98.08 "Limited Lighting of Trees on Public Rights-of-Way" requires "trees located in the public street rights-of-way or otherwise on public property shall not be decorated with strings of lights placed or maintained on or within them, nor shall such trees otherwise be lighted by other types of lighting placed on or within the trees; provided, however, that during the annual holiday season lights in observance

of the season may be placed on such trees, in a manner that will not harm or damage the trees, but they shall not be placed on the trees earlier than November 1 and they shall be removed from the trees not later than the following March 31; but provided further, that such lights placed on trees in the public street rights-of-way in observance of the annual holiday season may remain on the trees after March 31 if approved by the Tree Board, subject to terms and conditions imposed by the Tree Board, and if the lights are placed only on or around the tree trunk, not the crown of the tree, and if the tree will not be harmed or damaged thereby.” Therefore, tree lighting in the right of way is not viable without permission from the Planning Commission (acting Tree Board).

With this information in mind, I recommend the DDA reference Roberts Rules of Order and Rescind or Amend Something Previously Adopted per Roberts Rules Chapter IX §35: Items 1-8

Rescind – also known as Repeal or Annul – is the motion by which a previous action or order can be canceled or countermanded. The effect of Rescind is to strike out an entire main motion, resolution, order, or rule that has been adopted at some previous time. Amend Something Previously Adopted is the motion that can be used if it is desired to change only a part of the text, or to substitute a different version. (35.1)

The motion to Rescind and Amend Something Previously Adopted takes precedence over nothing and can therefore be moved only when no other motion is pending. It can be applied to anything which has continuing force and effect, and which was made or created at any time or times as the result of the adoption of one or more main motions. Must be seconded. Are debatable; debate can go into the merits of the question which it is proposed to rescind or amend. Are amendable, by the processes of primary and secondary amendment in any of the forms...as applicable to the particular case.

Step 1: Make a motion to rescind or amend the motion

Step 2: The motion to be rescinded or amend must be seconded by a member. The chair will ask for debate on the motion to rescind or amend, and following debate, the chair will ask for a vote to adopt.

Step 3: The rescinded or amended motion is adopted following the vote

If the original vote is rescinded the motion is cancelled. If the motion is to amend, at this point, the DDA may amend the motion to add the gazebo at Wades Bayou to the list of structures.

**I recommend the Downtown Development Authority consider amending the Chips Groundcover Agreement and recommend City Council support decorative structure lighting at City Hall, the Police Department, Beery Field bathrooms, and the gateway sign.**

motion, then before the chair, Member A can quickly rise and address the chair, thus:

MEMBER A: Madam President.

CHAIR: For what purpose does the member rise?

MEMBER A: I rise for the purpose of moving ... [and so on, as in the case above].

### §35. RESCIND; AMEND SOMETHING PREVIOUSLY ADOPTED

35:1 By means of the motions to *Rescind* and to *Amend Something Previously Adopted*—which are two forms of one incidental main motion governed by identical rules—the assembly can change an action previously taken or ordered. *Rescind*—also known as *Repeal* or *Annul*—is the motion by which a previous action or order can be canceled or countermanded. The effect of *Rescind* is to strike out an entire main motion, resolution, order, or rule that has been adopted at some previous time. *Amend Something Previously Adopted* is the motion that can be used if it is desired to change only a part of the text, or to substitute a different version.

#### Standard Descriptive Characteristics

35:2 The motions to *Rescind* and to *Amend Something Previously Adopted*:

1. Take precedence over nothing, and can therefore be moved only when no other motion is pending. *Previous notice* (10:44–51) of intent to offer one of these motions at the next meeting can be given while another question is pending, however—provided that it does not interrupt a speaker (see Standard Characteristic 7). These motions yield to subsidiary, privileged, and incidental motions.
2. Can be applied to anything (e.g., bylaw, rule, policy, decision, or choice) which has continuing force and effect and which was made or created at any time or times as the result

of the *adoption* of one or more main motions. (However, see below for actions that cannot be rescinded or amended.) All of the subsidiary motions can be applied to the motions to *Rescind* and to *Amend Something Previously Adopted*.

3. Are out of order when another has the floor; but previous notice of intent to offer one of these motions at the next meeting can be given after another member has been assigned the floor, provided that he has not begun to speak.
4. Must be seconded.
5. Are debatable; debate can go into the merits of the question which it is proposed to rescind or amend.
6. Are amendable, by the processes of primary and secondary amendment in any of the forms discussed in 12, as applicable to the particular case. Thus, a motion to *Rescind* can be amended, for example, by substituting for it a motion to amend what is proposed to be rescinded. But if a motion to *Rescind* or to *Amend Something Previously Adopted* is amended so that the change proposed by the amended motion then exceeds the scope of a previous notice that was given, the effect of the previous notice is destroyed and the motion can no longer be adopted by a majority vote (see Standard Characteristic 7). When these motions *require* previous notice (as may be the case with respect to a motion to rescind or amend a provision of the bylaws or a special rule of order), such a motion cannot be amended so as to make the proposed change greater than that for which notice has been given.
7. In an assembly, except when applied to a constitution, bylaws, or special rules of order, require (a) a two-thirds vote, (b) a majority vote when notice of intent to make the motion, stating the complete substance of the proposed change, has been given at the previous meeting within a quarterly time interval or in the call of the present meeting, or (c) a vote of a majority of the entire membership—any one of which will suffice. The same vote is required for the assembly to rescind or amend an action taken by subordinate bodies,



such as some executive boards, empowered to act on behalf of the assembly. In a committee, these motions require a two-thirds vote unless all committee members who voted for the motion to be rescinded or amended are present or have received reasonable notice, in which case they require a majority vote. A motion to rescind or amend provisions of a constitution or bylaws is subject to the requirements for amendment as contained in the constitution or bylaws (see 56, 57). If the bylaws or governing instrument contains no provision relating to amendment, a motion to rescind or amend applied to a constitution or to bylaws is subject to the same voting requirement as to rescind or amend special rules of order—that is, it requires (a) previous notice as described above *and* a two-thirds vote or (b) a vote of a majority of the entire membership.

8. A negative vote on these motions can be reconsidered, but not an affirmative vote.

### Further Rules and Explanation

#### 35:3 Right of Any Member to Make the Motions, Without Time Limit.

In contrast to the case of the motion to *Reconsider*, there is no time limit on making these motions after the adoption of the measure to which they are applied, and they can be moved by any member, regardless of how he voted on the original question. When previous notice has been given, it is usual to wait for the member who gave notice of these motions to move them; but if he does not, any member can do so.

- 35:4 Proposed Amendments Beyond the Scope of the Notice. As noted in Standard Descriptive Characteristic 6 above, when previous notice is a *requirement* for the adoption of a motion to *Rescind* or *Amend Something Previously Adopted*, no subsidiary motion to *Amend* is in order that proposes a change greater than that for which notice was given. This is always the case, for example, when the bylaws of an organization require previous notice for their amendment, which they should

do (56:50–53). It will also be the case, as a practical matter, whenever a majority of the entire membership is not in attendance at the time the vote is taken on a motion to rescind or amend a provision of the constitution or bylaws, or a special rule of order. In either of the situations described above, no subsidiary motion to *Amend* is in order that proposes a change going beyond the scope of the notice which was given, for the reason that adoption of such a motion will destroy the effect of the notice, and the motion is thus tantamount to a motion to *Postpone Indefinitely*.

- 35:5 Series of Amendments to Previously Adopted Text. It is possible to offer and adopt several amendments to previously adopted text by means of a single incidental main motion to *Amend Something Previously Adopted* governed by the rules in this section and in 10. See 10:25 and 27:5 for the rules governing whether and how such a motion may be divided. (For an example, see 57:3.)

- 35:6 Actions That Cannot Be Rescinded or Amended. The motions to *Rescind* and to *Amend Something Previously Adopted* are not in order under the following circumstances:

- a) When it has previously been moved to reconsider the vote on the main motion, and the question can be reached by calling up the motion to *Reconsider* (37).
- b) When something has been done, as a result of the vote on the main motion, that is impossible to undo. (The unexecuted part of an order, however, can be rescinded or amended.)
- c) When a resignation has been acted upon, or a person has been elected to or expelled from membership or office, and the person was present or has been officially notified of the action. (The only way to reverse an expulsion is to follow whatever procedure is prescribed by the bylaws for admission or reinstatement. For the case of an election, see 62:16 regarding removal of a person from office.)