City of Detroit

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To: The Honorable City Council

From: David Whitaker, Director
Research and Analysis Division

Date: April 24, 2009

Re: Quorum Requirement

At the City Council Public Hearing on the 2009-2010 Budget yesterday, the question of the necessity of having a quorum present to hold the meeting arose once again. In response, the Research and Analysis Division (RAD) is once again circulating our writing dated March 2, 2009, *City Council Questions Concerning Quorum Requirements*. This requirement applies to any meeting of the City Council.

City of Detroit

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TO: The Honorable City Council

FROM: David Whitaker, Director
Research and Analyses Division

DATE: March 2, 2009

RE: **CITY COUNCIL QUESTIONS CONCERNING QUORUM REQUIREMENTS**

The issue of quorum requirements was raised at the Detroit City Council's Formal Session on February 24, 2009. The issue arose as a result of recent difficulties in attaining a quorum for meetings of the Committee of the Whole. The Research and Analysis Division (RAD) was subsequently directed to explore the possibility of changing the number of Council Members who must be present at a Committee of the Whole meeting before it can commence.

The 1997 Detroit City Charter, as amended, defines *quorum* as follows:

> *"Section 4-107. Quorum.*
> *A majority of city council members serving constitutes a quorum..."*

There are presently eight Council Members serving on the Council.[1] Five members thus constitute a quorum according to the Charter.

RAD also looked into the meaning of the term 'meeting.' The Charter does not define what determines a meeting so we turned to the governing state law. Michigan's Open Meetings Act, Public Act 267 of 1976, which governs the meeting of all public bodies defines a *meeting* as follows:

[1] Council President Kenneth V. Cockrel, Jr. is temporarily serving as acting Mayor following the September, 2008 resignation of former Mayor Kwame Kilpatrick.

> *"'Meeting' means the convening of a public body at which a quorum is present for the purpose of deliberating toward or rendering a decision on a public policy."*

The next logical question one would ask is what constitutes *deliberating*? While the Open Meetings Act does not define deliberation, the Michigan Court of Appeals has defined *deliberations* as:

> *"...exchanging affirmative or opposing views, debating a matter or engaging in discussion about a matter"*[2]

According to the Act, the term *deliberations* would therefore apply to any discussions or conversations conducted among Council Members during a Committee of the Whole meeting and prior to their actual vote on an issue.

The Open Meetings Act does, however, define the term *decision*.

> *"'Decision' means a determination, action, vote or disposition upon a motion, proposal, recommendation, resolution, order, ordinance, bill or measure on which a vote by members of a public body is required and by which a public body effectuates or formulates public policy."*

Finally, Ms. Eleanor Siewert, professional registered parliamentarian and a member of the National Association of Parliamentarians, was contacted and opined on the issue of the necessity of a quorum and stated: "the [Michigan] Open Meetings Act says 'deliberating toward a decision' should take place with a quorum." Former Corporation Counsel Kathleen Leavey was also questioned on this matter and opined in response to an email sent earlier on this same issue: "There cannot be a Committee of the Whole Meeting without a quorum".

In view of the above, the Research & Analysis Division has determined that there cannot be a rule change to reduce the number of Council Members constituting a quorum. To do so would violate both the City Charter and the Michigan Open Meetings Act. Therefore a City Council Committee of the Whole meeting cannot convene with anything less than five members. Please advise if there are further concerns on this matter.

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[2] Ryan v Cleveland Township, 239 Mich. App 430 (2000)