



Agenda and Rules Committee

ACTION CALENDAR  
May 7, 2024

To: Members of the City Council  
From: Agenda and Rules Committee  
Subject: Council Referral - Proposed Changes to Public Comment

RECOMMENDATION

Refer to the City Manager to review and implement recommendations by the Open Government Commission to improve public access, transparency, meeting procedures and public comment at City Council and commission meetings.

Direct the City Manager to return back to Council with amendments to the City Council Rules of Procedure and Order to implement these recommendations.

POLICY COMMITTEE RECOMMENDATION

On March 4, 2024, the Agenda and Rules Committee adopted the following action:

M/S/C (Arreguin/Hahn) that the Agenda and Rules Committee makes a Qualified Positive Recommendation on the Open Government Commission's proposal "Proposed Changes to Public Comment" with the following amendments/comments:

**A. For immediate implementation:**

**1. Continue to allow the public to participate remotely via videoconference.**

*Comment: Approve as recommended by OGC*

**2. Enable live transcription at all committee, board, and commission meetings with a videoconference component. Configure Zoom to permit saving of the transcription by the public.**

*Comment: Partially approve this recommendation with the clarification that this would only apply to all Committee, Board and Commission meetings which conduct their meetings through videoconference. Also refer to the City Manager to record all other board and commission meetings, and post recordings to the city webpage. In deploying the recording of meetings start first with quasi-judicial meetings, and then move to commissions with a specific statutory charge, followed by all others.*

**3. Limit councilmember initial comments on consent and action items to 5 minutes/person and enforce this rule.**

*Comment: Approve as recommended by OGC but also apply to consent calendar items*

**4. Start the Consent Calendar with an acknowledgement that consent items are important but should be ready to pass without prolonged discussion. Minimize discussion of items on the Consent Calendar.**

*Comment: Approve as recommended by OGC*

**5. Amend City Council Rules of Procedure Section IV Conduct of Meeting, Sub B, Consent Calendar, last paragraph to add "If three or more Councilmembers object to a Consent item by expressing their intent to abstain or vote no, the item shall be moved from Consent to Action."**

*Comment: Approve as recommended by OGC, with addition that the Mayor or Councilmember must register their abstention or no vote before the vote on the Consent Calendar.*

**6. Acknowledge and verbally summarize comments received via email.**

*Comment: Reject*

**7. Use Berkeley Considers more frequently, especially for controversial issues.**

*Comment: Approve as recommended by OGC*

**8. Endeavor to inform attendees of approximate time for high interest items, e.g. "Item 32 will not be heard before 9:30."**

*Comment: Approve as recommended by OGC*

**9. Endeavor to determine early if an item will be postponed, e.g. at 9:30 move to continue an item, instead of waiting until 10:50.**

*Comment: Approve as recommended by OGC*

**10. Require that City Manager and staff publish supporting materials for Agenda items in advance of the Agenda Committee meeting.**

*Comment: Reject*

**11. Amend City Council Rules of Procedure Section IV Conduct of Meeting, Sub B, Consent Calendar, last paragraph as follows: Consent Calendar items will be moved to the Action Calendar if requested by three or more councilmembers. ~~by the Council~~. Action items may be reordered at the discretion of the Chair ~~with the consent of the Council~~.**

*Comment: Approve as recommended by OGC*

**B. For further consideration and/or research:**

**1. Schedule more meetings with fewer items on the agenda at each meeting**

*Comment: Endeavor to schedule multiple meetings with fewer items as recommended by OGC.*

**2. Schedule separate meetings for items that are controversial or attract especially high public interest.**

*Comment: Endeavor to schedule separate meetings for items that are controversial or attract especially high public interest*

**3. Have separate meetings for City department reports and/or informational items that will take longer than 20 minutes .**

*Comment: Endeavor to meet this standard as needed*

**4. Limit to 20 minutes any City department reports included within a regular meeting.**

*Comment: Take no action*

**5. Have Special Meetings on a different day from Regular Meetings.**

**OR**

**Schedule Special Meetings to have a hard stop fifteen minutes before the posted time of a Regular Meeting.**

*Comment: For staff presentations where no action is requested, limit Council comments to 5 minutes to enable the meeting to adjourn on time. Also approve of an adjournment of 15 minutes before the posted time of a regular Council meeting, with the option to extend by a 2/3 vote.*

**6. Strongly urge that supplemental materials be submitted earlier.**

*Comment: Refer to Agenda and Rules Committee for further discussion*

**7. Change the minimum amount of time for a public comment to 90 seconds, with more time if ceded by others.**

*Comment: Reject*

**8. After the meeting, provide a webpage link for transcriptions created by the captioners for any Council, Committee, Board or Commission meetings for which captioners were employed.**

*Comment: Take no action*

**9. Provide virtual access to Board and Commission meetings which are now held in person.**

*Comment: Establish a goal and work towards making all Board and Commission meetings hybrid (in person/virtual), dependent on technology and implementation.*

*Additional Hahn recommendation:*

*To have Councilmembers submit any announcements (e.g. upcoming community events) to the Mayor the day of the meeting, to be announced by the Mayor during the Ceremonial Calendar.*

*Limit Council comment on Consent Calendar to Consent items.*

*Add an agenda item at the foot of the agenda to allow for up to 2 minutes of general comments per Mayor and Councilmember prior to adjournment.*

Vote: All Ayes.

#### FISCAL IMPACTS OF RECOMMENDATION

None.

#### CURRENT SITUATION AND ITS EFFECTS

At the March 14, 2023 City Council meeting, the Council passed a resolution to allow two periods of public comment on Action Items and voted to “Refer the suggestions regarding improvements to the meeting process to the Agenda & Rules Committee and the Open Government Commission for consideration.” The OGC reviewed the recording of this meeting, comments sent in prior to the meeting, and comments submitted by email or in person at Commission meetings and adopted the following recommendations at its September 21, 2023 meeting.

**Action:** M/S/C (Blome/O'Donnell) Motion to approve report to City Council with non-substantive edits

**Vote:** Ayes: O'Donnell, Saginor, Blome, Isselbacher, Hernandez; Noes: none; Abstain: none; Absent: Ching, Hynes.

The Agenda and Rules Committee referred the OGC item for further committee review. At its February 26, 2024 meeting, the Committee received a presentation from representatives of the OGC and engaged in a robust discussion with them on their recommendations. The Mayor prepared a motion reflecting committee comments and the Committee passed a Qualified Positive Recommendation on March 4, 2024 to recommend most of the OGC proposals with some modifications.

#### BACKGROUND

The City Council asked the Open Government Commission (OGC) to explore improvements to the way City Council meetings offer opportunities for public comment. The OGC agrees with the resolution passed by City Council on March 14, 2023 that added an opportunity for public comment at the start of the Action Calendar and also maintained the opportunity to comment at the time each Action Item is discussed as this allows the public to hear comments, questions, and proposed changes from City

Councilmembers before making public comment. In addition to this change, the OGC and Agenda and Rules Committee proposes the following:

**A. For immediate implementation:**

OGC Suggested Change	Agenda Committee Recommendation	Intended Result
1. Continue to allow the public to participate remotely via videoconference.	<i>Approve as recommended by OGC</i>	Removes barriers to participation, especially for those with disabilities.
2. Enable live transcription at all committee, board, and commission meetings with a videoconference component. Configure Zoom to permit saving of the transcription by the public.	<i>Partially approve this recommendation with the clarification that this would only apply to all Committee, Board and Commission meetings which conduct their meetings through videoconference. Also refer to the City Manager to record all other board and commission meetings, and post recordings to the city webpage. In deploying the recording of meetings start first with quasi-judicial meetings, and then move to commissions with a specific statutory charge, followed by all others.</i>	People joining remotely can better understand what is being said.
3. Limit councilmember <b>initial</b> comments on action items to 5 minutes/person and enforce this rule.	<i>Approve as recommended by OGC but also apply to consent calendar items</i>	Bring practice more into alignment with City Council Rules of Procedure, Sec. V, Procedural Matters, Sub. G, Debate Limited, limits debate on any item to 20 minutes.
4. Start the Consent Calendar with an acknowledgement that consent items are important but should be ready to pass without prolonged discussion. Minimize discussion of items on the Consent Calendar.	<i>Approve as recommended by OGC</i>	Bring practice into alignment with City Council Rules of Procedure, Sec. IV, Conduct of Meeting, Sub. B, Consent Calendar, "It is the policy of the Council that the Mayor or Councilmembers wishing to ask questions concerning Consent Calendar items should ask questions of the contact person identified prior to the Council meeting so that the need for

		discussion of consent calendar items can be minimized.”
5. Amend City Council Rules of Procedure Section IV Conduct of Meeting, Sub B, Consent Calendar, last paragraph to add “If three or more Councilmembers object to a Consent item by expressing their intent to abstain or vote no, the item shall be moved from Consent to Action.”	<i>Approve as recommended by OGC, with addition that the Mayor or Councilmember must register their abstention or no vote before the vote on the Consent Calendar.</i>	An item that is not going to pass does not fit the plain English definition of “consent.” Such items properly belong in the Action calendar where members of the public may advocate for them and where Councilmembers may discuss their views.
6. Acknowledge and verbally summarize comments received via email.	<i>Reject</i>	
7. Use Berkeley Considers more frequently, especially for controversial issues.	<i>Approve as recommended by OGC</i>	Provides transparency in gauging public opinion.
8. Endeavor to inform attendees of approximate time for high interest items, e.g. “Item 32 will not be heard before 9:30.”	<i>Approve as recommended by OGC</i>	Members of the public can determine when to join, stay, or leave in person or via zoom.
9. Endeavor to determine early if an item will be postponed, e.g. at 9:30 move to continue an item, instead of waiting until 10:50.	<i>Approve as recommended by OGC</i>	Members of the public can determine whether to stay or leave in person or via zoom.
10. Require that City Manager and staff publish supporting materials for Agenda items in advance of the Agenda Committee meeting.	<i>Reject</i>	

<p>11. Amend City Council Rules of Procedure Section IV Conduct of Meeting, Sub B, Consent Calendar, last paragraph as follows: Consent Calendar items will be moved to the Action Calendar if requested by three councilmembers. by the Council. Action items may be reordered at the discretion of the Chair with the consent of Council.</p>	<p><i>Approve as recommended by OGC</i></p>	<p>Reflect and formalize current practice. Allows councilmembers to respond to public requests for further consideration of an item.</p>
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**B. For further consideration and/or research:**

Suggested Change	Agenda Committee Recommendation	Intended Result
<p>1. Schedule more meetings with fewer items on the agenda at each meeting</p>	<p><i>Endeavor to schedule multiple meetings with fewer items as recommended by OGC.</i></p>	<p>Members of the public would wait less long to speak on an item.</p>
<p>2. Schedule separate meetings for items that are controversial or attract especially high public interest.</p>	<p><i>Endeavor to schedule separate meetings for items that are controversial or attract especially high public interest</i></p>	<p>Avoid running overtime or having to continue long items.</p>
<p>3. Have separate meetings for City department reports and/or informational items that will take longer than 20 minutes.</p>	<p><i>Endeavor to meet this standard as needed</i></p>	<p>Agenda items at these meetings would be at a prescribed time.</p>
<p>4. Limit to 20 minutes any City department reports included within a regular meeting.</p>	<p><i>Take no action</i></p>	
<p>5. Have Special Meetings on a different day from Regular Meetings. OR</p>	<p><i>For staff presentations where no action is requested, limit Council comments to 5 minutes to enable the meeting to adjourn on time. Also approve of an adjournment of 15 minutes before the posted time of a regular Council meeting, with the option to extend by a 2/3 vote.</i></p>	<p>Regular Meetings can start on time and end earlier.</p>
<p>Schedule Special Meetings to have a hard stop fifteen minutes before the posted time of a Regular Meeting.</p>		
<p>6. Strongly urge that supplemental materials be submitted earlier.</p>	<p><i>Refer to Agenda and Rules Committee for further discussion</i></p>	<p>Allows councilmembers and the public to review materials before the meeting.</p>

7. Change the minimum amount of time for a public comment to 90 seconds, with more time if ceded by others.	<i>Reject</i>	
8. After the meeting, provide a webpage link for transcriptions created by the captioners for any Council, Committee, Board or Commission meetings for which captioners were employed.	<i>Take no action</i>	Improve access for members of the public to meetings they were unable to attend. Improves access for persons with hearing disabilities and allows keyword searching of meeting content.
9. Provide virtual access to Board and Commission meetings which are now held in person.	<i>Establish a goal and work towards making all Board and Commission meetings hybrid (in person/virtual), dependent on technology and implementation.</i>	Improve public access to these meetings.
Additional Hahn Recommendation:	<p><i>To have Councilmembers submit any announcements (e.g. upcoming community events) to the Mayor the day of the meeting, to be announced by the Mayor during the Ceremonial Calendar. Limit Council comment on Consent Calendar to Consent items.</i></p> <p><i>Add an agenda item at the foot of the agenda to allow for up to 2 minutes of general comments per Mayor and Councilmember prior to adjournment.</i></p>	

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

None.

RATIONALE FOR RECOMMENDATION

The two main problems these recommendations aim to address are 1) that meetings run long, often ending late at night; and 2) long wait times make it difficult for members of the public to comment on issues being discussed, especially when substantive changes are proposed at the last minute.

The OGC plans to continue monitoring the situation to evaluate whether these changes produce the desired outcome of shorter meetings and shorter wait times for the public to speak.

The Agenda and Rules Committee is also currently engaged work around redesigning the City Council’s legislative process. This will include further review of Council meeting rules and procedures which may result in additional recommendations for Council action.

CONTACT PERSON

Jesse Arreguin, Mayor (510) 981-7100