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# SUPPLEMENTAL AGENDA MATERIAL for Supplemental Packet 1

**Meeting Date:** February 28, 2022

**Item Number:** 19

**Item Description:** Reforms to Public Comment Procedures at meetings of the Berkeley City Council

**Submitted by:** Councilmember Robinson (Author), Councilmember Susan Wengraf (Co-sponsor)

**RECOMMENDATION:**

Adopt a Resolution revising the City Council Rules of Procedure and Order: Section IV. Conduct of the Meeting and Appendix C Temporary Rules for The Conduct of City Council Meetings Through Video Conference During The Covid-19 Emergency to:

1. Consolidate ~~non-agenda public comment, public comment on the Consent Calendar, and public comment on Action Items, excluding public hearings, appeals, and/or other quasi-judicial matters,~~ into a single public comment period ~~toward at~~ the start of the ~~Council meeting Action Calendar, (consistent with the Berkeley Unified School District's public comment procedure),~~ and continue to provide for additional time for public comment at the end of meetings ~~and separate public comment periods toward the beginning of the Council meeting for the Consent Calendar and information items, and for non-agenda matters.;~~
2. ~~Adopt reasonable limits on the overall number of public speakers (consistent with rulings from the Second District Court of Appeal) with a mechanism for the City Council to extend public comment; and~~
- 3-2.          Rescind Resolution No. 70,091– N.S

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**Rationale for Recommendation**

Public comment plays a critical role in the policy-making process. However, the current system for scheduling public comment leaves significant room for improvement. Residents should be able to opine and advocate to the City Council without having to wait for many hours before the item is taken up, and ~~even~~ sometimes learning that the item will not be heard at all. In order to improve the predictability of the flow of Council meetings, members of the public should have some certainty that they will have the opportunity to advocate to their elected representatives at a reasonable hour in the evening. That can be achieved by holding public comment on Action Calendar items at a single time, immediately after the adoption of the Consent Calendar.

~~The original~~ Former Councilmember Droste’s version of this item sought to consolidate all public comment into a single comment period, as well as creating protocols for council to limit the total number of speakers. ~~This supplemental item does not recommend those proposals.~~ This supplemental does not seek to limit the ability, in any way, of the public to give public comment.

The purpose of this supplemental item is to create ~~a better~~ a more equitable system for public comment, one where residents can show up to a council meeting and reasonably expect that they will be able to address the council by 9 PM. Those who wish to continue to listen to the council’s business until the council adjourns are welcome and encouraged to do so.

Additionally, by taking public comment on action items at the start of the Action Calendar, the presiding officer may ~~be better equipped to~~ identify ~~which~~ items the council will have time to address during a given meeting. This has benefits for the public, as well as for city staff, who have at times been in the position of being on hand all evening to present on an item that is not ultimately heard.

By scheduling comments on action calendar items at the start of the Action Calendar, we can prioritize the perspectives of the public and respect both staff’s and the public’s time.

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**Current Situation and Its Effects**

City Council has occasionally tried to rebalance the City’s approach to public comment at Council meetings to create a more welcoming atmosphere, conduct the people’s business efficiently, and ensure elected officials have time to give items due consideration. Unfortunately, members of the public, applicants/appellants, and staff frequently have to wait for hours before an item is heard or unexpectedly moved to another meeting. ~~This is due to the way public comment was established prior to the tenure of any of the current Councilmembers or the Mayor.~~ This prevents many ordinary people, particularly those who have small children or work long hours, from having a reasonable opportunity to provide public comment and hear the Council deliberate. ~~It also deprives the Council of the time needed for adequate consideration of items, especially major policy efforts, and frequently pushes important items to future meetings.~~

**Background and Rationale**

Pursuant to the Brown Act, Section 54954.3, members of the public shall be afforded the opportunity to speak on any agenda item of a substantive nature providing they are first recognized by the presiding officer. City Council greatly values input and comment from a broad cross-section of the public on legislative matters. The City of Berkeley and Councilmembers appreciate and admire the dedication of the many ~~mainstays who voice their~~ opinions at public comment. Nevertheless, other community members often feel overwhelmed and intimidated by the prospect of enduring hours-long City Council meetings, not just to provide public comment but to even hear the Council’s discussions. Having to wait through ~~hours of~~

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~~public comment hours of discussion on many different action items (much of which is often duplicative) before one gets to participate at an unspecified, unpredictable time and/or hear the position of one's elected representatives is neither fair, equitable, nor good for democracy. Especially for those with young children or who work in the evenings, the unpredictable and onerous way that Action Calendar public comment currently operates is inequitable and prevents valuable community members from participating in the public process.~~

Public comment and Council procedures have undergone iterations before. Most recently, Mayor Arreguin offered an amendment to require three councilmembers to agree to pull an item from the Consent Calendar to the Action Calendar, instead of one councilmember or four public speakers. This change dramatically helped meetings run smoother and ensured that uncontroversial and broad-consensus ~~consent calendar~~ items were not subject to attempts at obstructionism or unduly long debates which extended meeting times.

Even with that positive change, the current approach to public comment ironically does not likely widen opportunities for civic engagement; but instead serves to preclude a more representative sample of participants—as political scientists from Boston University have [found](#). Currently, many residents must wait for extended periods of time in order to provide public comment on specific ~~legislation action items on Action~~, since no specific times are ~~available for when a piece of legislation will be heard assigned~~. This means that people who may care deeply about a particular issue are discouraged from participating in favor or those who have a general interest in speaking and the time to sit through the entirety of a meeting. Although their commitment and interest are commendable, such individuals are not necessarily representative of the broader public.

[The Brown Act](#) actually provides leeway for the City to consider other approaches to public comment. Under the Brown Act, the City must allow the public to comment on any agenda item; and there are certain items that require ensuring public comment from all interested parties (e.g., quasi-judicial proceedings and public hearings where due process demands allowing comment from all participants). But for most items, the Brown Act permits agencies to ~~limit the amount of time for public comment on any given item, provided that such limits are content-neutral~~ consolidate public comment. While this could entail moving all public comment into a single comment period, this ~~supplemental~~ item merely combines public comment on Action Calendar items—excluding public hearings, appeals, and/or other quasi-judicial matters—into one comment period at the beginning of the Action Calendar.

~~The current approach to public comment on the Action Calendar is inequitable and discourages participation from many community members. Consolidating Action Calendar public comment into one comment period would make the time that public comment occurs on action items far more predictable and boost the ability of community members to participate in public comment. Especially for working families and those with evening obligations, waiting potentially five hours to speak on an action item that will be taken up at an unspecified time—or may be continued to another meeting instead—is not feasible. While the time the Action Calendar is taken up would remain unspecified, the window in which it is likely to be would be far narrower and earlier in the meeting than the window during which individual items may currently be discussed or removed from the agenda. For example, for most Council items, the City Council would be permitted under the Brown Act to impose a 10-minute limit on public comment, comprising ten speakers with one minute each, with the speakers determined on a lottery or first come, first served basis. Alternatively, the City Council could also adopt a content-neutral limitation on the number of~~

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~~speakers for a general public comment period at the start of each meeting which covers all agenda and non-agenda comments—as proposed in this item.~~

In its decision in the 2018 Ribakoff v. City of Long Beach, et al. decision, the Second District Court of Appeal ruled in part:

~~*“On the other hand, having no limit on either the length of any particular presentation by a member of the public or on the number of public speakers (or on the total time for public comment) has the potential for endless discussion—given the potential that there will be a far greater number of members of the public who may wish to speak to an issue than there are staff and guests who make presentations concerning it. The number of staff and invited guests speaking on a topic will clearly be limited; the potential for public speakers is potentially extensive and needs some reasonable limitation.*”~~

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~~*We do not suggest that members of the public may not have expertise, or that their presentations would be of lesser value than those of the invited, expert staff and guest speakers, only that their number must be considered in weighing the time allotted to public participation. Indeed, this concern was a factor in shaping the text of Government Code section 54954.3 as it moved through the Legislature with amendments to the Brown Act adopted in 1986. On the one hand, the Legislature declared the importance of open governance and the public’s right to participate. On the other, it validated enactment of limits on public speakers so that the business of government could function. (Gov. Code, § 54954.3.)<sup>23</sup>[emphasis added].”*~~

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~~Members of the public would still have ample additional means of addressing their concerns to councilmembers, including in-person meetings and office hours, written correspondence, emails, telephone calls, and social media/online platforms. Although it is beyond the scope of this item, the City may also wish to explore expanding and enhancing Berkeley Considers to provide a new platform for community members to provide comments on upcoming Council items. Berkeley could potentially pioneer having a “one-stop-shop” for members of the public to provide feedback on upcoming Council items and have that feedback delivered to Council in a formalized and easily visualized format.~~

**Best Practices**

**Berkeley Unified School District**

The Berkeley Unified School District has adopted [a practice](#) that is likely more conducive to allowing a broader participation of residents in the civic process. There are two opportunities for public comment, one at the beginning and one at the end of the meeting. By allowing public comment at the beginning of the meeting, individuals do not have to wait for hours for an item with an unknown start time. And In other cities, the presiding officer can limit individual presentations, the amount of time allotted for public input, and/or limit the number of speakers with similar positions.

This ~~item supplemental~~ item simply proposes to combine public comment on the Action Calendar into one comment period, leaving public comment on the Consent Calendar and other items unchanged. This would significantly increase the predictability of when public comment on many important action items will occur while still providing a separate opportunity to comment on other items. ~~proposes to use the approach used by BUSD.~~

**Fiscal Impacts**

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De minimis costs for staff to revise local and public-facing digital copies of the City Council's Rules of Procedure and time and materials costs for any printing of physical copies.

Long-term fiscal impacts are speculative, but reduced Council and staff time for the receipt and management of in-person and virtual public comment have a strong potential to reduce City costs. The cost reductions would be highly variable depending on the number and nature of staff present at any given City Council meeting.

**Alternative Actions Considered**

Alternative Actions include but are not limited to:

- Leaving existing public comment policies and procedures unchanged.
- Adopting a limit on the number of combined public speakers, or on the number of public speakers for each item.
- Combining all public comment into a single public comment period toward the beginning of each meeting.

These options were rejected in favor of ~~the more "tried and true" approach currently used by the Berkeley Unified School District, as well as other jurisdictions and agencies across California.~~ an approach that solves the most fundamental issue with public comment procedure—the unpredictability of when individual action items will be taken up—while maximizing public participation by leaving other public comment periods unchanged.

**Contact Person**

Councilmember ~~Lori Droste (legislative aide Eric Panzer)~~ Rigel Robinson (510-981-7170)  
Sam Greenberg, Legislative Aide  
(samgreenberg@cityofberkeley.info) ~~erpanzer@cityofberkeley.info~~  
~~Phone: 510-981-7180~~

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RESOLUTION NO ##,###-N.S.

RE-ADOPTING THE CITY COUNCIL RULES OF PROCEDURE AND ORDER AND  
RESCINDING RESOLUTION NO. 70,091-N.S.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the revised sections of the City Council Rules of Procedure and Order attached hereto as Exhibit A shall replace wholesale the corresponding sections of the existing City Council Rules of Procedure and Order attached hereto as Exhibit B and incorporated by reference.

BE IT FURTHER RESOLVED that the revised City Council Rules of Procedure and Order (Exhibit B as amended by Exhibit A) shall govern all proceedings of the City Council therein described, subject to the exceptions and deviations provided for in such rules.

BE IT FURTHER RESOLVED that violation of these rules shall not be construed as a penal offense, except as provided for by the adopted Rules of Procedure and Order.

BE IT FURTHER RESOLVED that the Council shall review its Rules of Procedure and Order in March of each odd-numbered year per [April 26, 2016 City Council action](#).

BE IT FURTHER RESOLVED that Resolution No 70,091-N.S. is hereby rescinded.

Exhibits

Exhibit A: Sections of the City Council Rules of Procedure and Order to be revised

Exhibit B: Existing City Council Rules of Procedure and Order

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**Exhibit A: Sections of the City Council Rules of Procedure and Order to be Revised**

**IV. CONDUCT OF MEETING**

**A. Comments from the Public**

Public comment will be taken in the following order:

- An initial ten-minute-period of public comment on non-agenda items, ~~the consent calendar, action items (excluding public hearings, appeals, and/or other quasi-judicial matters), and information items~~, after the commencement of the meeting and immediately after Ceremonial Matters and City Manager Comments.
- Public comment on the Consent and Information Calendars.
- Public comment on the Action Calendar.
- Public comment on ~~action items, any appeals, and/or~~ public hearings, ~~and/or other quasi-judicial matters requiring extended public comment for due process purposes~~, as they are taken up under procedures set forth in the sections governing each below.
- Public comment on non-agenda items from any speakers who did not speak during the first round of non-agenda public comment at the beginning of the meeting.

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Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. A speaker wishing to yield their time shall identify themselves, shall be recognized by the chair, and announce publicly their intention to yield their time. Disabled persons shall have priority seating in the front row of the public seating area.

A member of the public may only speak once during any single at public comment period on any single item, unless called upon by the Mayor or a Councilmember to answer a specific inquiry, or unless the individual is speaking with respect to a public hearing, a quasi-judicial matter, and/or any other item requiring unrestricted public comment as a matter of due process.

~~Prior to the general public comment period, the Presiding Officer shall announce any planned changes to the order of the agenda, including any items which are being moved to the Consent Calendar and/or any items that are being removed from the agenda at the prerogative of the Presiding Officer and/or the item's sponsor(s).~~

The Presiding Officer will request that persons wishing to speak, line up at the podium, raise their hands on Zoom, or otherwise indicate their intent to speak in order to be recognized and to determine the number of persons interested in speaking at that time.

If ten or fewer persons are interested in speaking virtually or in person, each speaker may speak for two minutes at the discretion of the Presiding Officer. If there are more than ten persons interested in speaking, the Presiding Officer shall limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one another, however no one speaker shall have more than four minutes.

~~A maximum of 50 individuals shall be permitted to speak or yield time during the general public comment period. This maximum shall apply whether speakers are virtual, in person, or a combination of the two. In the event that more than 50 individuals wish to speak at a fully virtual or fully in person Council meeting, speaking opportunities shall be given on a "first come, first served" basis.~~

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~~In the event that more than 50 individuals wish to speak at a "hybrid" Council meeting (with both a virtual and in-person component), 25 in-person speakers shall be allowed to speak first, followed by 25 virtual speakers. For both the virtual and in-person queues, speakers shall be recognized in the order they lined up or provided virtual notification of their intent to speak. If the queue for either type of speaker is exhausted while speakers of the other type remain, the remaining individuals in either queue will be allowed to speak, up to the overall 50-speaker maximum.~~

~~The maximum number of speakers/yielders may be increased up to 100 total individuals by a two-thirds (2/3) vote of the City Council. Increases above 100 total individuals speaking or yielding shall require a unanimous vote of the City Council. In no case shall these limits be applied to items which require unconstrained public comment to ensure due process.~~

These procedures/limits also apply to public hearings except for those which would be precluded by the types of due process public hearings specifically provided for in Section 2, below.

**1. Public Comment on Consent Calendar and Information Items.**

~~As described above, public comment on the "Consent Calendar" will be taken as part of the general public comment period at the start of the Council meeting following Ceremonial Matters and any comments from the City Manager.~~

~~Prior to this initial general public comment period,~~ the Council will first determine whether to move items on the agenda for "Action" or "Information" to the "Consent Calendar," and/or move "Consent Calendar" items to "Action." Items that remain on the "Consent Calendar" are voted on in one motion as a group. "Information" items are not discussed or acted upon at the Council meeting unless they are moved to "Action" or "Consent."

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The Council will then take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. A speaker may only speak once during the period for public comment on Consent Calendar and Information items. ~~Following the initial period of general public comment, the three or more members of City Council may still move items from the "Consent Calendar" to "Action," but~~ no additional items can be moved onto the Consent Calendar once public comment has commenced.

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At any time during, or immediately after, ~~the initial period of general~~ public comment on Information and Consent items, the Mayor or any Councilmember may move any Information or Consent item to "Action." Three or more members of the City Council, including the Mayor, ~~may move any Consent Item to "Action."~~ Following this, the Council will vote on the items remaining on the Consent Calendar in one motion.

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For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again at the time the matter is taken up during the Action Calendar.

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**2. Public Comment on Action Items.**

After the initial ten minutes of public comment on non-agenda items, public comment on consent and information items, and adoption of the Consent Calendar, the public may comment on each remaining item listed on the agenda for action ~~as the item is taken up in a single public comment period at the beginning of the Action Calendar.~~

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The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons interested in speaking at that time.

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If ten or fewer persons are interested in speaking, each speaker may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes.

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This procedure also applies to public hearings except those types of public hearings specifically provided for in this section, below.

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**32. Appeals Appearing on Action Calendar.**

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With the exception of appeals from decisions of the Zoning Adjustments Board and Landmarks Preservation Commission, appeals from decisions of City commissions appear on the "Action" section of the Council Agenda. Council determines whether to affirm the action of the commission, set a public hearing, or remand the matter to the commission. Appeals of proposed special assessment liens shall also appear on the "Action" section of the Council Agenda. Appeals from decisions of the Zoning Adjustments Board and Landmarks Preservation Commission are automatically set for public hearing and appear on the "Public Hearings" section of the Council Agenda. The procedures for public comment on appeals from these two bodies and attendant public hearings shall be the same as described below for all other commission appeals.

Time shall be provided for public comment for persons representing both sides of the action/appeal and each side will be allocated seven minutes to present their comments on the appeal. Where the appellant is not the applicant, the appellants of a single appeal collectively shall have seven minutes to comment and the applicant shall have seven minutes to comment. If there are multiple appeals filed, each appellant or group of appellants shall have seven minutes to comment. Where the appellant is the applicant, the applicant/appellant shall have seven minutes to comment and the persons supporting the action of the board or commission on appeal shall have seven minutes to comment. In the case of an appeal of a proposed special assessment lien, the appellant shall have seven minutes to comment.

After the conclusion of the seven-minute comment periods, members of the public may comment on the appeal. Comments from members of the public regarding appeals shall be limited to one minute per speaker. Any person that addressed the Council during one of the seven-minute periods may not speak again during the public comment period on the appeal. Speakers may yield their time to one other speaker, however, no speaker shall have more than two minutes. Each side shall be informed of this public comment procedure at the time the Clerk notifies the parties of the date the appeal will appear on the Council agenda.

**43. Public Comment on Non-Agenda Matters.**

Immediately following Ceremonial Matters and the City Manager Comments and prior to the Consent Calendar, persons will be selected by lottery to address matters not on the Council agenda. If five or fewer persons submit speaker cards for the lottery, each person selected will be allotted two minutes each. If more than five persons submit speaker cards for the lottery, up to ten persons will be selected to address matters not on the Council agenda and each person selected will be allotted one minute each. Persons wishing to address the

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Council on matters not on the Council agenda during the initial ten-minute period for such comment, must submit a speaker card to the City Clerk in person at the meeting location and prior to commencement of that meeting.

~~Individuals wishing to address the Council about non-agenda matters may do so during the initial period of general public comment, and will count toward the overall limit on the number of individuals making public comment.~~

The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda. Speaker cards are not required for this second round of public comment on non-agenda matters.

Persons submitting speaker cards are not required to list their actual name, however they must list some identifying information or alternate name in order to be called to speak. For the second round of public comment on non-agenda matters, the Presiding Officer retains the authority to limit the number of speakers by subject. The Presiding Officer will generally request that persons wishing to speak, line up at the podium, raise their hand on zoom, or otherwise ~~to~~ be recognized to determine the number of persons interested in speaking at that time. Each speaker will be entitled to speak for two minutes each unless the Presiding Officer determines that one-minute is appropriate given the number of speakers.

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Pursuant to this document, no Council meeting shall continue past 11:00 p.m. unless a two-thirds majority of the Council votes to extend the meeting to discuss specified items. If any agenda item remains unfinished at 11:00 p.m. or the expiration of any extension after 11:00 p.m., it will be referred to the Agenda & Rules Committee for scheduling pursuant to Chapter II, Section F. In that event, the meeting shall be automatically extended for up to fifteen (15) minutes for public comment on non-agenda items.

54. Ralph M. Brown Act Pertaining to Public Comments.

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The Brown Act prohibits the Council from discussing or taking action on an issue raised during Public Comment, unless it is specifically listed on the agenda. However, the Council may refer a matter to the City Manager.

**APPENDIX C. TEMPORARY RULES FOR THE CONDUCT OF CITY COUNCIL MEETINGS THROUGH VIDEO CONFERENCE DURING THE COVID-19 EMERGENCY**

**Public Comment Speaking Time**

With the exception of prescribed times in the Rules of Procedure for public hearings, the amount of time for each speaker during public comment is limited to ~~two~~~~one~~ minutes maximum and that speakers can only address an agenda item once, however the Presiding Officer has the discretion to reduce speaker time if needed in order to allow the orderly conduct of the meeting, subject to the consent of a majority of the City Council. Speakers may yield their time for a maximum of four minutes per individual. If a speaker wishes to yield their time, they must indicate so when called on by the Presiding Officer and state who they are yielding their speaker time to. The Presiding Officer will keep a list with the names and amount of time yielded to individuals.

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In order to inform members of the public of their place in the speaker's queue, the Presiding Officer will call the names of 5 speakers at a time.

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Public Comment on Non-Agenda Matters ~~will~~ may be conducted in the order of hands raised on the Zoom platform or based upon a lottery or similar system, and will be limited to either the first 10 speakers during the initial round of Non-Agenda public comment, as well as all hands raised during the closing round of Non-Agenda public comment at the conclusion to the meeting, until such time that the meeting adjourns. If there are five or fewer speakers with hands raised for Public Comment on Non-Agenda Matters, each speaker will have two minutes to address the City Council. If there are more than five speakers with their hands raised then speaker time will be limited to one minute per person. The procedure for selection of Non-Agenda speakers prescribed in the Rules of Procedure by random draw is suspended for videoconference meetings where there is no physical meeting location.

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**Exhibit B:  
City Council Rules of Procedure and Order**



Lori Droste  
Councilmember, District 8

ACTION CALENDAR

March 14, 2023

*(Continued from February 28, 2023)*

**To:** Honorable Mayor Jesse Arreguín and Members of the City Council

**From:** Councilmember Lori Droste

**Subject:** Reforms to Public Comment Procedures at meetings of the Berkeley City Council

**Recommendation**

Adopt a Resolution revising the City Council Rules of Procedure and Order: Section IV. Conduct of the Meeting and Appendix C Temporary Rules for The Conduct of City Council Meetings Through Video Conference During The Covid-19 Emergency to:

1. Consolidate non-agenda public comment, public comment on the Consent Calendar, and public comment on Action Items into a single public comment period toward the start of the Council meeting (consistent with the Berkeley Unified School District's public comment procedure), and continue to provide for additional time for public comment at the end of meetings;
2. Adopt reasonable limits on the overall number of public speakers (consistent with rulings from the Second District Court of Appeal) with a mechanism for the City Council to extend public comment; and
3. Rescind Resolution No. 70,091– N.S

**POLICY COMMITTEE RECOMMENDATION**

On January 30, 2023, the Agenda and Rules Committee adopted the following action: M/S/C (Arreguin/Bartlett) to send the item to the City Council with a negative recommendation that no action be taken on the item. Vote: Ayes – Bartlett, Arreguin; Noes – None; Absent - Hahn.

**Current Situation and Its Effects**

City Council has occasionally tried to rebalance the City's approach to public comment at Council meetings to create a more welcoming atmosphere, conduct the people's business efficiently, and ensure elected officials have time to give items due consideration. Unfortunately, members of the public, applicants/appellants, and staff frequently have to wait for hours before an item is heard or unexpectedly moved to another meeting. This is due to the way public comment was established prior to the tenure of any of the current Councilmembers or the Mayor. This prevents many ordinary people, particularly those who have small children or work long hours, from having a reasonable opportunity to provide public comment and hear the Council deliberate. It also deprives the Council of the time needed for adequate consideration of items, especially major policy efforts, and frequently pushes important items to future meetings.

**Background and Rationale**

Pursuant to the Brown Act, Section 54954.3, members of the public shall be afforded the opportunity to speak on any agenda item of a substantive nature providing they are first

recognized by the presiding officer. City Council greatly values input and comment from a broad cross-section of the public on legislative matters. The City of Berkeley and Councilmembers appreciate and admire the dedication of the many mainstays at public comment. Nevertheless, other community members often feel overwhelmed and intimidated by the prospect of enduring hours-long City Council meetings, not just to provide public comment but to even hear the Council's discussions. Having to wait through hours of public comment (much of which is often duplicative) before one gets to participate and/or hear the position of one's elected representatives is neither fair, equitable, nor good for democracy.

Public comment and Council procedures have undergone iterations before. Most recently, Mayor Arreguín offered a very successful and equitable amendment to require three councilmembers to agree to pull an item from the consent calendar to the action calendar, instead of one councilmember or four public speakers. This change dramatically helped meetings run smoother and ensured that uncontroversial and broad-consensus consent calendar items were not subject to attempts at obstructionism or unduly long debates which extended meeting times.

Even with that positive change, the current approach to public comment ironically does not likely widen opportunities for civic engagement; but instead serves to preclude a more representative sample of participants—as political scientists from Boston University have [found](#). Currently, many residents must wait for extended periods of time in order to provide public comment on specific legislation, since no specific times are available for when a piece of legislation will be heard. This means that people who may care deeply about a particular issue are discouraged from participating in favor of those who have a general interest in speaking and the time to sit through the entirety of a meeting. Although their commitment and interest are commendable, such individuals are not necessarily representative of the broader public.

[The Brown Act](#) actually provides leeway for the City to consider other approaches to public comment. Under the Brown Act, the City must allow the public to comment on any agenda item; and there are certain items that require ensuring public comment from all interested parties (e.g., quasi-judicial proceedings and public hearings where due process demands allowing comment from all participants). But for most items, the Brown Act permits agencies to limit the amount of time for public comment on any given item, provided that such limits are content-neutral. For example, for most Council items, the City Council would be permitted under the Brown Act to impose a 10-minute limit on public comment, comprising ten speakers with one minute each, with the speakers determined on a lottery or first-come, first-served basis. Alternatively, the City Council could also adopt a content-neutral limitation on the number of speakers for a general public comment period at the start of each meeting which covers all agenda and non-agenda comments—as proposed in this item.

In its decision in the 2018 *Ribakoff v. City of Long Beach, et al.* decision, the Second District Court of Appeal ruled in part:

*“On the other hand, having no limit on either the length of any particular presentation by a member of the public **or on the number of public speakers (or on the total time for public comment)** has the potential for endless discussion—given the potential that there will be a far greater number of members of the public who may wish to speak to an issue than there are staff and guests who make presentations concerning it. The number of staff and invited guests speaking on a topic will clearly be limited; **the potential for public speakers is potentially extensive and needs some reasonable limitation.**”*

*We do not suggest that members of the public may not have expertise, or that their presentations would be of lesser value than those of the invited, expert staff and guest speakers, **only that their number must be considered in weighing the time allotted to public participation.** Indeed, this concern was a factor in shaping the text of Government Code section 54954.3 as it moved through the Legislature with amendments to the Brown Act adopted in 1986. On the one hand, the Legislature declared the importance of open governance and the public's right to participate. On the other, it **validated enactment of limits on public speakers so that the business of government could function.** (Gov. Code, § 54954.3.)<sup>23</sup>[emphasis added]"*

Members of the public would still have ample additional means of addressing their concerns to councilmembers, including in-person meetings and office hours, written correspondence, emails, telephone calls, and social media/online platforms. Although it is beyond the scope of this item, the City may also wish to explore expanding and enhancing Berkeley Considers to provide a new platform for community members to provide comments on upcoming Council items. Berkeley could potentially pioneer having a "one-stop shop" for members of the public to provide feedback on upcoming Council items and have that feedback delivered to Council in a formalized and easily visualized format.

### **Best Practices**

#### *Berkeley Unified School District*

The Berkeley Unified School District has adopted [a practice](#) that is likely more conducive to allowing a broader participation of residents in the civic process. There are two opportunities for public comment, one at the beginning and one at the end of the meeting. By allowing public comment at the beginning of the meeting, individuals do not have to wait for hours for an item with an unknown start time. And In other cities, the presiding officer can limit individual presentations, the amount of time allotted for public input, and/or limit the number of speakers with similar positions. This item proposes to use the approach used by BUSD.

### **Fiscal Impacts**

De minimis costs for staff to revise local and public-facing digital copies of the City Council's Rules of Procedure and time and materials costs for any printing of physical copies.

Long-term fiscal impacts are speculative, but reduced Council and staff time for the receipt and management of in-person and virtual public comment have a strong potential to reduce City costs. The cost reductions would be highly variable depending on the number and nature of staff present at any given City Council meeting.

### **Alternative Actions Considered**

Alternative Actions include but are not limited to:

- Leaving existing public comment policies and procedures unchanged.
- Adopting a limit on the number of public speakers for each item.

These options were rejected in favor of the more "tried and true" approach currently used by the Berkeley Unified School District, as well as other jurisdictions and agencies across California.

### **Contact Person**

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RESOLUTION NO ##,###-N.S.

RE-ADOPTING THE CITY COUNCIL RULES OF PROCEDURE AND ORDER AND  
RESCINDING RESOLUTION NO. 70,091–N.S.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the revised sections of the City Council Rules of Procedure and Order attached hereto as Exhibit A shall replace wholesale the corresponding sections of the existing City Council Rules of Procedure and Order attached hereto as Exhibit B and incorporated by reference.

BE IT FURTHER RESOLVED that the revised City Council Rules of Procedure and Order (Exhibit B as amended by Exhibit A) shall govern all proceedings of the City Council therein described, subject to the exceptions and deviations provided for in such rules.

BE IT FURTHER RESOLVED that violation of these rules shall not be construed as a penal offense, except as provided for by the adopted Rules of Procedure and Order.

BE IT FURTHER RESOLVED that the Council shall review its Rules of Procedure and Order in March of each odd-numbered year per [April 26, 2016 City Council action](#).

BE IT FURTHER RESOLVED that Resolution No 70,091–N.S. is hereby rescinded.

Exhibits

Exhibit A: Sections of the City Council Rules of Procedure and Order to be revised

Exhibit B: Existing City Council Rules of Procedure and Order



## Exhibit A: Sections of the City Council Rules of Procedure and Order to be Revised

### IV. CONDUCT OF MEETING

#### A. Comments from the Public

Public comment will be taken in the following order:

- An initial ~~ten-minute~~ period of public comment on non-agenda items, the consent calendar, action items (excluding public hearings, appeals, and/or other quasi-judicial matters), and information items, after the commencement of the meeting and immediately after Ceremonial Matters and City Manager Comments.
- ~~Public comment on the Consent and Information Calendars.~~
- Public comment on action items, any appeals, and/or public hearings, and/or other quasi-judicial matters requiring extended public comment for due process purposes, as they are taken up under procedures set forth in the sections governing each below.
- Public comment on non-agenda items from any speakers who did not speak during the first round of ~~non-agenda~~ public comment at the beginning of the meeting.

Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. A speaker wishing to yield their time shall identify themselves, shall be recognized by the chair, and announce publicly their intention to yield their time. Disabled persons shall have priority seating in the front row of the public seating area.

A member of the public may only speak once at public comment ~~on any single item~~, unless called upon by the Mayor or a Councilmember to answer a specific inquiry, or unless the individual is speaking with respect to a public hearing, a quasi-judicial matter, and/or any other item requiring unrestricted public comment as a matter of due process.

Prior to the general public comment period, the Presiding Officer shall announce any planned changes to the order of the agenda, including any items which are being moved to the Consent Calendar and/or any items that are being removed from the agenda at the prerogative of the Presiding Officer and/or the item's sponsor(s).

The Presiding Officer will request that persons wishing to speak, line up at the podium, raise their hands on Zoom, or otherwise indicate their intent to speak in order to be recognized and to determine the number of persons interested in speaking at that time.

If ten or fewer persons are interested in speaking virtually or in person, each speaker may speak for two minutes at the discretion of the Presiding Officer. If there are more than ten persons interested in speaking, the Presiding Officer shall limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one another, however no one speaker shall have more than four minutes.

A maximum of 50 individuals shall be permitted to speak or yield time during the general public comment period. This maximum shall apply whether speakers are virtual, in person, or a combination of the two. In the event that more than 50 individuals wish to speak at a fully virtual or fully in-person Council meeting, speaking opportunities shall be given on a "first come, first served" basis.

In the event that more than 50 individuals wish to speak at a "hybrid" Council meeting (with both a virtual and in-person component), 25 in-person speakers shall be allowed to speak first.

followed by 25 virtual speakers. For both the virtual and in-person queues, speakers shall be recognized in the order they lined up or provided virtual notification of their intent to speak. If the queue for either type of speaker is exhausted while speakers of the other type remain, the remaining individuals in either queue will be allowed to speak, up to the overall 50-speaker maximum.

The maximum number of speakers/yielders may be increased up to 100 total individuals by a two-thirds (2/3) vote of the City Council. Increases above 100 total individuals speaking or yielding shall require a unanimous vote of the City Council. In no case shall these limits be applied to items which require unconstrained public comment to ensure due process.

These procedures/limits also apply to public hearings except for those which would be precluded by the types of due process public hearings specifically provided for in Section 2, below.

### **1. Public Comment on Consent Calendar and Information Items.**

As described above, public comment on the "Consent Calendar" will be taken as part of the general public comment period at the start of the Council meeting following Ceremonial Matters and any comments from the City Manager.

Prior to this initial general public comment period, the Council will first determine whether to move items on the agenda for "Action" or "Information" to the "Consent Calendar," and/or move "Consent Calendar" items to "Action." Items that remain on the "Consent Calendar" are voted on in one motion as a group. "Information" items are not discussed or acted upon at the Council meeting unless they are moved to "Action" or "Consent."

The Council will then take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. A speaker may only speak once during the period for public comment on Consent Calendar and Information items. Following the initial period of general public comment, the three or more members of City Council may still move items from the "Consent Calendar" to "Action," but no additional items can be moved onto the Consent Calendar once public comment has commenced.

At any time during, or immediately after, the initial period of general public comment on Information and Consent items, the Mayor or any Councilmember may move any Information or Consent item to "Action." Three or more members of the City Council, including the Mayor, may move any Consent Item to "Action." Following this, the Council will vote on the items remaining on the Consent Calendar in one motion.

For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again at the time the matter is taken up during the Action Calendar.

### **2. Public Comment on Action Items.**

After the initial ten minutes of public comment on non-agenda items, public comment on consent and information items, and adoption of the Consent Calendar, the public may comment on each remaining item listed on the agenda for action as the item is taken up.

The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons interested in speaking at that time.

~~If ten or fewer persons are interested in speaking, each speaker may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes.~~

~~This procedure also applies to public hearings except those types of public hearings specifically provided for in this section, below.~~

**32. Appeals Appearing on Action Calendar.**

With the exception of appeals from decisions of the Zoning Adjustments Board and Landmarks Preservation Commission, appeals from decisions of City commissions appear on the "Action" section of the Council Agenda. Council determines whether to affirm the action of the commission, set a public hearing, or remand the matter to the commission. Appeals of proposed special assessment liens shall also appear on the "Action" section of the Council Agenda. Appeals from decisions of the Zoning Adjustments Board and Landmarks Preservation Commission are automatically set for public hearing and appear on the "Public Hearings" section of the Council Agenda. The procedures for public comment on appeals from these two bodies and attendant public hearings shall be the same as described below for all other commission appeals.

Time shall be provided for public comment for persons representing both sides of the action/appeal and each side will be allocated seven minutes to present their comments on the appeal. Where the appellant is not the applicant, the appellants of a single appeal collectively shall have seven minutes to comment and the applicant shall have seven minutes to comment. If there are multiple appeals filed, each appellant or group of appellants shall have seven minutes to comment. Where the appellant is the applicant, the applicant/appellant shall have seven minutes to comment and the persons supporting the action of the board or commission on appeal shall have seven minutes to comment. In the case of an appeal of a proposed special assessment lien, the appellant shall have seven minutes to comment.

After the conclusion of the seven-minute comment periods, members of the public may comment on the appeal. Comments from members of the public regarding appeals shall be limited to one minute per speaker. Any person that addressed the Council during one of the seven-minute periods may not speak again during the public comment period on the appeal. Speakers may yield their time to one other speaker, however, no speaker shall have more than two minutes. Each side shall be informed of this public comment procedure at the time the Clerk notifies the parties of the date the appeal will appear on the Council agenda.

**43. Public Comment on Non-Agenda Matters.**

~~Immediately following Ceremonial Matters and the City Manager Comments and prior to the Consent Calendar, persons will be selected by lottery to address matters not on the Council agenda. If five or fewer persons submit speaker cards for the lottery, each person selected will be allotted two minutes each. If more than five persons submit speaker cards for the lottery, up to ten persons will be selected to address matters not on the Council agenda and each person selected will be allotted one minute each. Persons wishing to address the Council on matters not on the Council agenda during the initial ten-minute period for such comment, must submit a speaker card to the City Clerk in person at the meeting location and prior to commencement of that meeting.~~

Individuals wishing to address the Council about non-agenda matters may do so during the initial period of general public comment, and will count toward the overall limit on the number of individuals making public comment.

The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda. Speaker cards are not required for this second round of public comment on non-agenda matters.

~~Persons submitting speaker cards are not required to list their actual name, however they must list some identifying information or alternate name in order to be called to speak.~~ For the second round of public comment on non-agenda matters, the Presiding Officer retains the authority to limit the number of speakers by subject. The Presiding Officer will generally request that persons wishing to speak, line up at the podium, raise their hand on zoom, or otherwise to be recognized to determine the number of persons interested in speaking at that time. Each speaker will be entitled to speak for two minutes each unless the Presiding Officer determines that one-minute is appropriate given the number of speakers.

Pursuant to this document, no Council meeting shall continue past 11:00 p.m. unless a two-thirds majority of the Council votes to extend the meeting to discuss specified items. If any agenda item remains unfinished at 11:00 p.m. or the expiration of any extension after 11:00 p.m., it will be referred to the Agenda & Rules Committee for scheduling pursuant to Chapter II, Section F. In that event, the meeting shall be automatically extended for up to fifteen (15) minutes for public comment on non-agenda items.

#### 54. Ralph M. Brown Act Pertaining to Public Comments.

The Brown Act prohibits the Council from discussing or taking action on an issue raised during Public Comment, unless it is specifically listed on the agenda. However, the Council may refer a matter to the City Manager.

### **APPENDIX C. TEMPORARY RULES FOR THE CONDUCT OF CITY COUNCIL MEETINGS THROUGH VIDEO CONFERENCE DURING THE COVID-19 EMERGENCY**

#### **Public Comment Speaking Time**

With the exception of prescribed times in the Rules of Procedure for public hearings, the amount of time for each speaker during public comment is limited to two one minutes maximum and ~~that speakers can only address an agenda item once, however the Presiding Officer has the discretion to reduce speaker time if needed in order to allow the orderly conduct of the meeting, subject to the consent of a majority of the City Council.~~ Speakers may yield their time for a maximum of four minutes per individual. If a speaker wishes to yield their time, they must indicate so when called on by the Presiding Officer and state who they are yielding their speaker time to. The Presiding Officer will keep a list with the names and amount of time yielded to individuals.

In order to inform members of the public of their place in the speaker's queue, the Presiding Officer will call the names of 5 speakers at a time.

Public Comment on Non-Agenda Matters ~~will~~ may be conducted in the order of hands raised on the Zoom platform or based upon a lottery or similar system, ~~and will be limited to either the first~~

~~10 speakers during the initial round of Non-Agenda public comment, as well as all hands raised during the closing round of Non-Agenda public comment at the conclusion to the meeting, until such time that the meeting adjourns. If there are five or fewer speakers with hands raised for Public Comment on Non-Agenda Matters, each speaker will have two minutes to address the City Council. If there are more than five speakers with their hands raised then speaker time will be limited to one minute per person. The procedure for selection of Non-Agenda speakers prescribed in the Rules of Procedure by random draw is suspended for videoconference meetings where there is no physical meeting location.~~

**Exhibit B:  
City Council Rules of Procedure and Order**

# The Berkeley City Council Rules of Procedure and Order

Adopted by Resolution No. 70,091–N.S.

Effective October 26, 2021

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## I. DUTIES

### A. Duties of Mayor

The Mayor shall preside at the meetings of the Council and shall preserve strict order and decorum at all regular and special meetings of the Council. The Mayor shall state every question coming before the Council, announce the decision of the Council on all subjects, and decide all questions of order, subject, however, to an appeal to the Council, in which event a majority vote of the Council shall govern and conclusively determine such question of order. In the Mayor's absence, the Vice President of the Council (hereafter referred to as the Vice-Mayor) shall preside.

### B. Duties of Councilmembers

Promptly at the hour set by law on the date of each regular meeting, the members of the Council shall take their regular stations in the Council Chambers and the business of the Council shall be taken up for consideration and disposition.

### C. Motions to be Stated by Chair

When a motion is made, it may be stated by the Chair or the City Clerk before debate.

### D. Decorum by Councilmembers

While the Council is in session, the City Council will practice civility and decorum in their discussions and debate. Councilmembers will value each other's time and will preserve order and decorum. A member shall neither, by conversation or otherwise, delay or interrupt the proceedings of the Council, use personal, impertinent or slanderous remarks, nor disturb any other member while that member is speaking or refuse to obey the orders of the presiding officer or the Council, except as otherwise provided herein.

All Councilmembers have the opportunity to speak and agree to disagree but no Councilmember shall speak twice on any given subject unless all other Councilmembers have been given the opportunity to speak. The Presiding Officer may set a limit on the speaking time allotted to Councilmembers during Council discussion.

The presiding officer has the affirmative duty to maintain order. The City Council will honor the role of the presiding officer in maintaining order. If a Councilmember believes the presiding officer is not maintaining order, the Councilmember may move that the Vice-Mayor, or another Councilmember if the Vice-Mayor is acting as the presiding officer at the time, enforce the rules of decorum and otherwise maintain order. If that motion receives a second and is approved by a majority of the Council, the Vice-Mayor, or other designated Councilmember, shall enforce the rules of decorum and maintain order.

### E. Voting Disqualification

No member of the Council who is disqualified shall vote upon the matter on which the member is disqualified. Any member shall openly state or have the presiding officer announce the fact and nature of such disqualification in open meeting, and shall not be subject to further inquiry. Where no clearly disqualifying conflict of interest appears, the matter of disqualification may, at the request of the member affected, be

decided by the other members of the Council, by motion, and such decision shall determine such member's right and obligation to vote. A member who is disqualified by conflict of interest in any matter shall not remain in the Chamber during the debate and vote on such matter, but shall request and be given the presiding officer's permission to recuse themselves. Any member having a "remote interest" in any matter as provided in Government Code shall divulge the same before voting.

**F. Requests for Technical Assistance and/or Reports**

A majority vote of the Council shall be required to direct staff to provide technical assistance, develop a report, initiate staff research, or respond to requests for information or service generated by an individual council member.

## II. MEETINGS

### A. Call to Order - Presiding Officer

The Mayor, or in the Mayor's absence, the Vice Mayor, shall take the chair precisely at the hour appointed by the meeting and shall immediately call the Council to order. Upon the arrival of the Mayor, the Vice Mayor shall immediately relinquish the chair. In the absence of the two officers specified in this section, the Councilmember present with the longest period of Council service shall preside.

### B. Roll Call

Before the Council shall proceed with the business of the Council, the City Clerk shall call the roll of the members and the names of those present shall be entered in the minutes. The later arrival of any absentee shall also be entered in the minutes.

### C. Quorum Call

During the course of the meeting, should the Chair note a Council quorum is lacking, the Chair shall call this fact to the attention of the City Clerk. The City Clerk shall issue a quorum call. If a quorum has not been restored within two minutes of a quorum call, the meeting shall be deemed automatically adjourned.

### D. Council Meeting Conduct of Business

The agenda for the regular business meetings shall include the following: Ceremonial Items (including comments from the City Auditor if requested); Comments from the City Manager; Comments from the Public; Consent Calendar; Action Calendar (Appeals, Public Hearings, Continued Business, Old Business, New Business); Information Reports; and Communication from the Public. Presentations and workshops may be included as part of the Action Calendar. The Chair will determine the order in which the item(s) will be heard with the consent of Council.

Upon request by the Mayor or any Councilmember, any item may be moved from the Consent Calendar or Information Calendar to the Action Calendar. Unless there is an objection by the Mayor or any Councilmember, the Council may also move an item from the Action Calendar to the Consent Calendar.

A public hearing that is not expected to be lengthy may be placed on the agenda for a regular business meeting. When a public hearing is expected to be contentious and lengthy and/or the Council's regular meeting schedule is heavily booked, the Agenda & Rules Committee, in conjunction with the staff, will schedule a special meeting exclusively for the public hearing. No other matters shall be placed on the agenda for the special meeting. All public comment will be considered as part of the public hearing and no separate time will be set aside for public comment not related to the public hearing at this meeting.

Except at meetings at which the budget is to be adopted, no public hearing may commence later than 10:00 p.m. unless there is a legal necessity to hold the hearing or make a decision at that meeting or the City Council determines by a two-thirds vote that there is a fiscal necessity to hold the hearing.

**E. Adjournment**

1. No Council meeting shall continue past 11:00 p.m. unless a two-thirds majority of the Council votes to extend the meeting to discuss specified items; and any motion to extend the meeting beyond 11:00 p.m. shall include a list of specific agenda items to be covered and shall specify in which order these items shall be handled.
2. Any items not completed at a regularly scheduled Council meeting may be continued to an Adjourned Regular Meeting by a two-thirds majority vote of the Council.

**F. Unfinished Business**

Any items not completed by formal action of the Council, and any items not postponed to a date certain, shall be considered Unfinished Business. All Unfinished Business shall be referred to the Agenda & Rules Committee for scheduling for a Council meeting that occurs within 60 days from the date the item last appeared on a Council agenda. The 60 day period is tolled during a Council recess.

**G. City Council Schedule and Recess Periods**

Pursuant to the Open Government Ordinance, the City Council shall hold a minimum of twenty-four (24) meetings, or the amount needed to conduct City business in a timely manner, whichever is greater, each calendar year.

Regular meetings of the City Council shall be held generally two to three Tuesdays of each month except during recess periods; the schedule to be established annually by Council resolution taking into consideration holidays and election dates.

Regular City Council meetings shall begin no later than 6:00 p.m.

A recess period is defined as a period of time longer than 21 days without a regular meeting of the Council.

When a recess period occurs, the City Manager is authorized to take such ministerial actions for matters of operational urgency as would normally be taken by the City Council during the period of recess except for those duties specifically reserved to the Council by the Charter, and including such emergency actions as are necessary for the immediate preservation of the public peace, health or safety; the authority to extend throughout the period of time established by the City Council for the period of recess.

The City Manager shall have the aforementioned authority beginning the day after the Agenda & Rules Committee meeting for the last regular meeting before a Council recess and this authority shall extend up to the date of the Agenda & Rules Committee meeting for the first regular meeting after the Council recess.

The City Manager shall make a full and complete report to the City Council at its first regularly scheduled meeting following the period of recess of actions taken by the City Manager pursuant to this section, at which time the City Council may make such findings as may be required and confirm said actions of the City Manager.

**H. Pledge of Allegiance to the Flag**

At the first meeting of each year following the August recess and at any subsequent meeting if specifically requested before the meeting by any member of the Council in order to commemorate an occasion of national significance, the first item on the Ceremonial Calendar will be the Pledge of Allegiance.

**I. Ad Hoc Subcommittees**

From time to time the Council or the Mayor may appoint several of its members but fewer than the existing quorum of the present body to serve as an ad hoc subcommittee. Only Councilmembers may be members of the ad hoc subcommittee; however, the subcommittee shall seek input and advice from residents, related commissions, and other groups, as appropriate to the charge or responsibilities of such subcommittee. Ad hoc subcommittees must be reviewed annually by the Council to determine if the subcommittee is to continue.

Upon creation of an ad hoc subcommittee, the Council shall allow it to operate with the following parameters:

1. A specific charge or outline of responsibilities shall be established by the Council.
2. A target date must be established for a report back to the Council.
3. Maximum life of the subcommittee shall be one year, with annual review and possible extension by the Council.

Subcommittees shall conduct their meetings in locations that are open to the public and meet accessibility requirements under the Americans with Disabilities Act. Meetings may be held at privately owned facilities provided that the location is open to all that wish to attend and that there is no requirement for purchase to attend. Agendas for subcommittee meetings must be posted in the same manner as the agendas for regular Council meetings except that subcommittee agendas may be posted with 24-hour notice. The public will be permitted to comment on agenda items but public comments may be limited to one minute if deemed necessary by the Committee Chair. Agendas and minutes of the meetings must be maintained and made available upon request.

Ad hoc subcommittees will be staffed by City Council legislative staff. As part of the ad hoc subcommittee process, City staff will undertake a high-level, preliminary analysis of potential legal issues, costs, timelines, and staffing demands associated with the item(s) under consideration. Staff analysis at ad hoc subcommittees is limited to the points above as the recommendation, program, or project has not yet been approved to proceed by the full Council.

Subcommittees must be comprised of at least two members. If only two members are appointed, then both must be present in order for the subcommittee meeting to be held. In other words, the quorum for a two-member subcommittee is always two.

Ad hoc subcommittees may convene a closed session meeting pursuant to the conditions and regulations imposed by the Brown Act.

### III. AGENDA

#### A. Declaration of Policy

No ordinance, resolution, or item of business shall be introduced, discussed or acted upon before the Council at its meeting without prior thereto its having been published on the agenda of the meeting and posted in accordance with Section III.D.2. Exceptions to this rule are limited to circumstances listed in Section III.D.4.b and items continued from a previous meeting and published on a revised agenda.

#### B. Definitions

For purposes of this section, the terms listed herein shall be defined as follows:

1. "Agenda Item" means an item placed on the agenda (on either the Consent Calendar or as a Report For Action) for a vote of the Council by the Mayor or any Councilmember, the City Manager, the Auditor, or any board/commission/committee created by the City Council, or any Report For Information which may be acted upon if the Mayor or a Councilmember so requests. For purposes of this section, appeals shall be considered action items. All information from the City Manager concerning any item to be acted upon by the Council shall be submitted as a report on the agenda and not as an off-agenda memorandum and shall be available for public review, except to the extent such report is privileged and thus confidential such as an attorney client communication concerning a litigation matter. Council agenda items are limited to a maximum of four Authors and Co-Sponsors, in any combination that includes at least one Author.

Authors must be listed in the original item as submitted by the Primary Author. Co-Sponsors may only be added in the following manner:

- In the original item as submitted by the Primary Author
  - In a revised item submitted by the Primary Author at the Agenda & Rules Committee
  - By verbal request of the Primary Author at the Agenda & Rules Committee
  - In a revised item submitted by the Primary Author in Supplemental Reports and Communications Packet #1 or #2
  - By verbal or written request of the Mayor or any Councilmember at the Policy Committee meeting or meeting of the full Council at which the item is considered
2. Agenda items shall contain all relevant documentation, including the information listed below:
    - a) A descriptive title that adequately informs the public of the subject matter and general nature of the item or report;
    - b) Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information;

- c) Recommendation of the report's Primary Author that describes the action to be taken on the item, if applicable;
  - d) Fiscal impacts of the recommendation;
  - e) A description of the current situation and its effects;
  - f) Background information as needed;
  - g) Rationale for recommendation;
  - h) Alternative actions considered;
  - i) For awards of contracts; the abstract of bids and the Affirmative Action Program of the low bidder in those cases where such is required (these provisions shall not apply to Mayor and Council items);
  - j) Person or persons to contact for further information, with telephone number;
  - k) Additional information and analysis as required. It is recommended that reports include the points of analysis in Appendix B - Guidelines for Developing and Writing Council Agenda Items.
3. "Author" means the Mayor or other Councilmembers who actually authored an item by contributing to the ideas, research, writing or other material elements.
4. "Primary Author" means the Mayor or Councilmember listed first on the item. The Primary Author is the sole contact for the City Manager with respect to the item. Communication with other Authors and Co-Sponsors, if any, is the responsibility of the Primary Author.
5. "Co-Sponsor" means the Mayor or other Councilmembers who wish to indicate their strong support for the item, but are not Authors, and are designated by the Primary Author to be co-sponsors of the council agenda item.
6. "Agenda" means the compilation of the descriptive titles of agenda items submitted to the City Clerk, arranged in the sequence established in Section III.E hereof.
7. "Packet" means the agenda plus all its corresponding agenda items.
8. "Emergency Matter" arises when prompt action is necessary due to the disruption or threatened disruption of public facilities and a majority of the Council determines that:
- a) A work stoppage or other activity which severely impairs public health, safety, or both;
  - b) A crippling disaster, which severely impairs public health, safety or both. Notice of the Council's proposed consideration of any such emergency



matter shall be given in the manner required by law for such an emergency pursuant to Government Code Section 54956.5.

9. "Continued Business" Items carried over from a prior agenda of a meeting occurring less than 11 days earlier.
10. "Old Business" Items carried over from a prior agenda of a meeting occurring more than 11 days earlier.

**C. Procedure for Bringing Matters Before City Council**

**1. Persons Who Can Place Matters on the Agenda.**

Matters may be placed on the agenda by the Mayor or any Councilmember, the City Manager, the Auditor, or any board/commission/committee created by the City Council. All items are subject to review, referral, and scheduling by the Agenda & Rules Committee pursuant to the rules and limitations contained herein. The Agenda & Rules Committee shall be a standing committee of the City Council.

The Agenda & Rules Committee shall meet 15 days prior to each City Council meeting and shall approve the agenda of that City Council meeting. Pursuant to BMC Section 1.04.080, if the 15<sup>th</sup> day prior to the Council meeting falls on a holiday, the Committee will meet the next business day. The Agenda & Rules Committee packet, including a draft agenda and Councilmember, Auditor, and Commission reports shall be distributed by 5:00 p.m. four days before the Agenda & Rules Committee meeting.

The Agenda & Rules Committee shall have the powers set forth below.

**a) Items Authored by the Mayor, a Councilmember, or the Auditor.**

As to items authored by the Mayor, a Councilmember, or the Auditor, the Agenda & Rules Committee shall review the item and may take the following actions:

- i. Refer the item to a commission for further analysis (Primary Author may decline and request Policy Committee assignment).
- ii. Refer the item to the City Manager for further analysis (Primary Author may decline and request Policy Committee assignment).
- iii. Refer the item back to the Primary Author for adherence to required form or for additional analysis as required in Section III.B.2 (Primary Author may decline and request Policy Committee assignment).
- iv. Refer the item to a Policy Committee.
- v. Schedule the item for the agenda under consideration or one of the next three full Council agendas.

For referrals under Chapter III.C.1.a.i, ii, or iii, the Primary Author must inform the City Clerk within 24 hours of the adjournment of the Agenda & Rules Committee meeting whether they prefer to:

- 1) re-submit the item for a future meeting with modifications as suggested by the Agenda & Rules Committee; or
- 2) pull the item completely; or
- 3) re-submit the item with revisions as requested by the Agenda & Rules Committee within 24 hours of the adjournment of the Agenda & Rules Committee meeting for the Council agenda under consideration; or
- 4) accept the referral of the Agenda & Rules Committee in sub paragraphs III.C.1.a. i, ii, or iii, or request Policy Committee assignment.

If the Primary Author requests a Policy Committee assignment, the item will appear on the next draft agenda presented to the Agenda & Rules Committee for assignment.

In the event that the City Clerk does not receive guidance from the Primary Author of the referred item within 24 hours of the Agenda & Rules Committee's adjournment, the item will appear on the next draft agenda for consideration by the Agenda & Rules Committee.

Items held for a future meeting to allow for modifications will be placed on the next available Council meeting agenda at the time that the revised version is submitted to the City Clerk.

- b) **Items Authored by the City Manager.** The Agenda & Rules Committee shall review agenda descriptions of items authored by the City Manager. The Committee can recommend that the matter be referred to a commission or back to the City Manager for adherence to required form, additional analysis as required in Section III.B.2, or suggest other appropriate action including scheduling the matter for a later meeting to allow for appropriate revisions.

If the City Manager determines that the matter should proceed notwithstanding the Agenda & Rules Committee's action, it will be placed on the agenda as directed by the Manager. All City Manager items placed on the Council agenda against the recommendation of the Agenda & Rules Committee will automatically be placed on the Action Calendar.

- c) **Items Authored by Boards and Commissions.** Council items submitted by boards and commissions are subject to City Manager review and must follow procedures and timelines for submittal of reports as described in the Commissioners' Manual. The content of commission items is not subject to review by the Agenda & Rules Committee unless referred for policy review to the Agenda & Rules Committee.
  - i) For a commission item that does not require a companion report from the City Manager, the Agenda & Rules Committee may act on an agendaized commission report in the following manner:
    1. Move a commission report from the Consent Calendar to the Action Calendar or from the Action Calendar to the Consent Calendar.
    2. Re-schedule the commission report to appear on one of the next three regular Council meeting agendas that occur after the regular meeting under consideration. Commission reports submitted in response to a Council referral shall receive higher priority for scheduling.
    3. Refer the item to a Policy Committee for review.
    4. Allow the item to proceed as submitted.
  - ii) For any commission report that requires a companion report, the Agenda & Rules Committee may schedule the item on a Council agenda. The Committee must schedule the commission item for a meeting occurring not sooner than 60 days and not later than 120 days from the date of the meeting under consideration by the Agenda & Rules Committee. A commission report submitted with a complete companion report may be scheduled pursuant to subparagraph c.i. above.
- d) The Agenda & Rules Committee shall have the authority to re-order the items on the Action Calendar regardless of the default sequence prescribed in Chapter III, Section E.

**2. Scheduling Public Hearings Mandated by State, Federal, or Local Statute.**

The City Clerk may schedule a public hearing at an available time and date in those cases where State, Federal or local statute mandates the City Council hold a public hearing.

**3. Submission of Agenda Items.**

- a) **City Manager Items.** Except for Continued Business and Old Business, as a condition to placing an item on the agenda, agenda items from departments, including agenda items from commissions, shall be furnished to the City Clerk at a time established by the City Manager.

- b) **Council and Auditor Items.** The deadline for reports submitted by the Auditor, Mayor and City Council is 5:00 p.m. on Monday, 22 days before each Council meeting.
- c) **Time Critical Items.** A Time Critical item is defined as a matter that is considered urgent by the sponsor and that has a deadline for action that is prior to the next meeting of the Council and for which a report prepared by the City Manager, Auditor, Mayor or Councilmember is received by the City Clerk after established deadlines and is not included on the Agenda & Rules Committee's published agenda.

The Primary Author of the report shall bring any reports submitted as Time Critical to the meeting of the Agenda & Rules Committee. Time Critical items must be accompanied by complete reports and statements of financial implications. If the Agenda & Rules Committee finds the matter to meet the definition of Time Critical, the Agenda & Rules Committee may place the matter on the Agenda on either the Consent or Action Calendar.

- d) The City Clerk may not accept any agenda item after the adjournment of the Agenda & Rules Committee meeting, except for items carried over by the City Council from a prior City Council meeting occurring less than 11 days earlier, which may include supplemental or revised reports, and reports concerning actions taken by boards and commissions that are required by law or ordinance to be presented to the Council within a deadline that does not permit compliance with the agenda timelines in BMC Chapter 2.06 or these rules.

#### **4. Submission of Supplemental and Revised Agenda Material.**

Berkeley Municipal Code Section 2.06.070 allows for the submission of supplemental and revised agenda material. Supplemental and revised material cannot be substantially new or only tangentially related to an agenda item. Supplemental material must be specifically related to the item in the Agenda Packet. Revised material should be presented as revised versions of the report or item printed in the Agenda Packet. Supplemental and revised material may be submitted for consideration as follows:

- a) Supplemental and revised agenda material shall be submitted to the City Clerk no later than 5:00 p.m. seven calendar days prior to the City Council meeting at which it is to be considered. Supplemental and revised items that are received by the deadline shall be distributed to Council in a supplemental reports packet and posted to the City's website no later than 5:00 p.m. five calendar days prior to the meeting. Copies of the supplemental packet shall also be made available in the office of the City Clerk and in the main branch of the Berkeley Public Library. Such material may be considered by the Council without the need for a determination that the good of the City clearly outweighs the lack of time for citizen review or City Councilmember evaluation.

- b) Supplemental and revised agenda material submitted to the City Clerk after 5:00 p.m. seven days before the meeting and no later than 12:00 p.m. one day prior to the City Council meeting at which it is to be considered shall be distributed to Council in a supplemental reports packet and posted to the City's website no later than 5:00 p.m. one day prior to the meeting. Copies of the supplemental packet shall also be made available in the office of the City Clerk and in the main branch of the Berkeley Public Library. Such material may be considered by the Council without the need for a determination that the good of the City clearly outweighs the lack of time for citizen review or City Council evaluation.
- c) After 12:00 p.m. one calendar day prior to the meeting, supplemental or revised reports may be submitted for consideration by delivering a minimum of 42 copies of the supplemental/revised material to the City Clerk for distribution at the meeting. Each copy must be accompanied by a completed supplemental/revised material cover page, using the form provided by the City Clerk. Revised reports must reflect a comparison with the original item using track changes formatting. The material may be considered only if the City Council, by a two-thirds roll call vote, makes a factual determination that the good of the City clearly outweighs the lack of time for citizen review or City Councilmember evaluation of the material. Supplemental and revised material must be distributed and a factual determination made prior to the commencement of public comment on the agenda item in order for the material to be considered.

#### **5. Submission of Late Urgency Items Pursuant to Government Code Section 54954.2(b)**

Late Urgency Items are items proposed for submission to the Council Agenda pursuant to Government Code Section 54954.2(b)

All items to be submitted for consideration for addition to an agenda as Late Urgency Items shall be accompanied by a cover sheet that includes 1) boxes to check for the Author to affirm whether the item is submitted under the Emergency or Immediate Action Rule (and a short explanation of what is required to meet each rule, as well as the vote threshold required for the item to be placed onto the agenda by the City Council); 2) a disclaimer in BOLD 14pt. CAPS stating that the item is not yet agendized and may or may not be accepted for the agenda as a Late Urgency Item, at the City Council's discretion according to Brown Act rules; 3) a prompt requiring the author to list the facts which support consideration of the item for addition to the agenda as either an Emergency or Immediate Action item; and 4) a copy of the City Attorney memo on Late Urgency Items.

Late Items must be submitted to the City Clerk no later than 12:00 p.m. (noon) the day prior to the meeting.

All complete Late Items submitted by the deadline will be distributed with Supplemental Communication Packet #2 by 5:00 p.m. the day before the Council meeting. A Late Item is not considered "complete" and will not be distributed unless submitted with the required cover sheet, filled out in a complete manner.

Very Late Urgency Items of an extremely urgent nature (e.g., earthquake, severe wildfire, pandemic) may be submitted for addition to the agenda after the deadline of 12:00 p.m. the day before the meeting to accommodate unforeseeable, extreme and unusual circumstances. A Very Late Urgency Item will be distributed at the Council meeting prior to any vote to add it to the agenda and the Presiding Officer may provide an appropriate break to allow Councilmembers and the public to review the item before voting on whether to add it to the agenda and possibly again, at the Presiding Officer's discretion, before the item is voted on.

The required cover sheet should be included with the Very Late Urgency Item unless extremely exigent circumstances underlie the Very Late Urgency Item submission and a written cover sheet could not be prepared (for example, power is out and printing or emailing is not possible), in which case the individual "walking in" the item should be ready to provide all required information verbally at the meeting before a vote is taken to add or not add the item to the Agenda.

**6. Scheduling a Presentation.**

Presentations from staff are either submitted as an Agenda Item or are requested by the City Manager. Presentations from outside agencies and the public are coordinated with the Mayor's Office. The Agenda & Rules Committee may adjust the schedule of presentations as needed to best manage the Council Agenda. The Agenda & Rules Committee may request a presentation by staff in consultation with the City Manager.

**D. Packet Preparation and Posting**

**1. Preparation of the Packet.**

Not later than the thirteenth day prior to said meeting, the City Clerk shall prepare the packet, which shall include the agenda plus all its corresponding agenda items. No item shall be considered if not included in the packet, except as provided for in Section III.C.4 and Section III.D.4.

**2. Distribution and Posting of Agenda.**

- a) The City Clerk shall post each agenda of the City Council regular meeting no later than 11 days prior to the meeting and shall post each agenda of a special meeting at least 24 hours in advance of the meeting in the official bulletin board. The City Clerk shall maintain an affidavit indicating the location, date and time of posting each agenda.
- b) The City Clerk shall also post agendas and annotated agendas of all City Council meetings and notices of public hearings on the City's website.
- c) No later than 11 days prior to a regular meeting, copies of the agenda shall be mailed by the City Clerk to any resident of the City of Berkeley who so requests in writing. Copies shall also be available free of charge in the City Clerk Department.

**3. Distribution of the Agenda Packet.**

The Agenda Packet shall consist of the Agenda and all supporting documents for agenda items. No later than 11 days prior to a regular meeting, the City Clerk shall:

- a) distribute the Agenda Packet to each member of the City Council;
- b) post the Agenda Packet to the City's website;
- c) place copies of the Agenda Packet in viewing binders in the office of the City Clerk and in the main branch of the Berkeley Public Library; and
- d) make the Agenda Packet available to members of the press.

**4. Failure to Meet Deadlines.**

- a) The City Clerk shall not accept any agenda item or revised agenda item after the deadlines established.
- b) Matters not included on the published agenda may be discussed and acted upon as otherwise authorized by State law or providing the Council finds one of the following conditions is met:
  - A majority of the Council determines that the subject meets the criteria of "Emergency" as defined in Section III.B.8.
  - Two thirds of the Council determines that there is a need to take immediate action and that the need for action came to the attention of the City subsequent to the posting of the agenda as required by law.
- c) Matters listed on the printed agenda but for which supporting materials are not received by the City Council on the eleventh day prior to said meeting as part of the agenda packet, shall not be discussed or acted upon.

**E. Agenda Sequence and Order of Business**

The Council agenda for a regular business meeting is to be arranged in the following order:

1. Preliminary Matters: (Ceremonial, Comments from the City Manager, Comments from the City Auditor, Non-Agenda Public Comment)
2. Consent Calendar
3. Action Calendar
  - a) Appeals
  - b) Public Hearings
  - c) Continued Business
  - d) Old Business
  - e) New Business

4. Information Reports
5. Non-Agenda Public Comment
6. Adjournment
7. Communications

Action items may be reordered at the discretion of the Chair with the consent of Council.

The Agenda & Rules Committee shall have the authority to re-order the items on the Action Calendar regardless of the default sequence prescribed in this section.

**F. Closed Session Documents**

This section establishes a policy for the distribution of, and access to, confidential closed session documents by the Mayor and members of the City Council.

1. Confidential closed session materials shall be kept in binders numbered from one to nine and assigned to the Mayor (#9) and each Councilmember (#1 to #8 by district). The binders will contain confidential closed session materials related to Labor Negotiations, Litigation, and Real Estate matters.
2. The binders will be maintained by City staff and retained in the Office of the City Attorney in a secure manner. City staff will bring the binders to each closed session for their use by the Mayor and Councilmembers. At other times, the binders will be available to the Mayor and Councilmembers during regular business hours for review in the City Attorney's Office. The binders may not be removed from the City Attorney's Office or the location of any closed session meeting by the Mayor or Councilmembers. City staff will collect the binders at the end of each closed session meeting and return them to the City Attorney's Office.
3. Removal of confidential materials from a binder is prohibited.
4. Duplication of the contents of a binder by any means is prohibited.
5. Confidential materials shall be retained in the binders for at least two years.
6. This policy does not prohibit the distribution of materials by staff to the Mayor and Councilmembers in advance of a closed session or otherwise as needed, but such materials shall also be included in the binders unless it is impracticable to do so.



## **G. Regulations Governing City Council Policy Committees**

### **1. Legislative Item Process**

All agenda items begin with submission to the Agenda & Rules Committee.

#### Full Council Track

Items under this category are exempt from Agenda & Rules Committee discretion to refer them to a Policy Committee. Items in this category may be submitted for the agenda of any scheduled regular meeting pursuant to established deadlines (same as existing deadlines). Types of Full Council Track items are listed below.

- a. Items submitted by the City Manager and City Auditor
- b. Items submitted by Boards and Commissions
- c. Resolutions on Legislation and Electoral Issues relating to Outside Agencies/Jurisdictions
- d. Position Letters and/or Resolutions of Support/Opposition
- e. Donations from the Mayor and Councilmember District Office Budgets
- f. Referrals to the Budget Process
- g. Proclamations
- h. Sponsorship of Events
- i. Information Reports
- j. Presentations from Outside Agencies and Organizations
- k. Ceremonial Items
- l. Committee and Regional Body Appointments

The Agenda & Rules Committee has discretion to determine if an item submitted by the Mayor or a Councilmember falls under a Full Council Track exception or if it will be processed as a Policy Committee Track item.

#### Policy Committee Track

Items submitted by the Mayor or Councilmembers with moderate to significant administrative, operational, budgetary, resource, or programmatic impacts will go first to the Agenda & Rules Committee on a draft City Council agenda.

The Agenda & Rules Committee must refer an item to a Policy Committee at the first meeting that the item appears before the Agenda & Rules Committee. The Agenda & Rules Committee may only assign the item to a single Policy Committee.

For a Policy Committee Track item, the Agenda & Rules Committee, at its discretion, may either route item directly to 1) the agenda currently under consideration, 2) one of the next three full Council Agendas (based on completeness of the item, lack of potential controversy, minimal impacts, etc.), or 3) to a Policy Committee.

### Time Critical Track

A Time Critical item is defined as a matter that is considered urgent by the sponsor and that has a deadline for action that is prior to the next meeting of the Council and for which a report prepared by the Mayor or Councilmember is received by the City Clerk after established deadlines and is not included on the Agenda & Rules Committee's published agenda.

The Agenda & Rules Committee retains final discretion to determine the time critical nature of an item.

- a) Time Critical items submitted on the Full Council Track deadlines, that would otherwise be assigned to the Policy Committee Track, may bypass Policy Committee review if determined to be time critical. If such an item is deemed not to be time critical, it may be referred to a Policy Committee.
- b) Time Critical items on the Full Council Track or Policy Committee Track that are submitted at a meeting of the Agenda & Rules Committee may go directly on a council agenda if determined to be time critical.

## **2. Council Referrals to Committees**

The full Council may refer any agenda item to a Policy Committee by majority vote.

## **3. Participation Rules for Policy Committees Pursuant to the Brown Act**

- a. The quorum of a three-member Policy Committee is always two members. A majority vote of the committee (two 'yes' votes) is required to pass a motion.
- b. Two Policy Committee members may not discuss any item that has been referred to the Policy Committee outside of an open and noticed meeting.
- c. Notwithstanding paragraph (b) above, two members of a Policy Committee may be listed as Authors or Co-Sponsors on an item provided that one of the Authors or Co-Sponsors will not serve as a committee member for consideration of the item, and shall not participate in the committee's discussion of, or action on the item. For purposes of the item, the appointed alternate, who also cannot be an Author or Co-Sponsor, will serve as a committee member in place of the non-participating Author or Co-Sponsor.
- d. All three members of a Policy Committee may not be Authors or Co-Sponsors of an item that will be heard by the committee.
- e. Only one Author or Co-Sponsor who is not a member of the Policy Committee may attend the committee meeting to participate in discussion of the item.

- f. If two or more non-committee members are present for any item or meeting, then all non-committee members may act only as observers and may not participate in discussion. If an Author who is not a member of the committee is present to participate in the discussion of their item, no other non-committee member Councilmembers, nor the Mayor, may attend as observers.
- g. An item may be considered by only one Policy Committee before it goes to the full Council.

#### **4. Functions of the Committees**

Committees shall have the following qualities/components:

- a. All committees are Brown Act bodies with noticed public meetings and public comment. Regular meeting agendas will be posted at least 72 hours in advance of the meeting.
- b. Minutes shall be available online.
- c. Committees shall adopt regular meeting schedules, generally meeting once or twice per month; special meetings may be called when necessary, in accordance with the Brown Act.
- d. Generally, meetings will be held at 2180 Milvia Street in publicly accessible meeting rooms that can accommodate the committee members, public attendees, and staff.
- e. Members are recommended by the Mayor and approved by the full Council no later than January 31 of each year. Members continue to serve until successors are appointed and approved.
- f. Chairs are elected by the Committee at the first regular meeting of the Committee after the annual approval of Committee members by the City Council. In the absence of the Chair, the committee member with the longest tenure on the Council will preside.
- g. The Chair, or a quorum of the Committee may call a meeting or cancel a meeting of the Policy Committee.
- h. Committees will review items for completeness in accordance with Section III.B.2 of the City Council Rules of Procedure and Order and alignment with Strategic Plan goals.
- i. Reports leaving a Policy Committee must adequately include budget implications, administrative feasibility, basic legal concerns, and staff resource demands in order to allow for informed consideration by the full Council.
- j. Per Brown Act regulations, any revised or supplemental materials must be direct revisions or supplements to the item that was published in the agenda packet.

Items referred to a Policy Committee from the Agenda & Rules Committee or from the City Council must be agendized for a committee meeting within 60 days of the referral date.

Within 120 days of the referral date, either (1) the committee Chair may accept the Primary Author's request, either in writing, or in person at a meeting of the committee, that the item remain in committee until a date certain (more than one extension may be requested by the Primary Author); or (2) the committee may vote to send the item to the Agenda & Rules Committee to be placed on a Council Agenda with a Committee recommendation consisting of one of the four options listed below. The Committee Chair shall report any extension granted outside of a meeting to the Committee by email or verbally at the next Committee meeting.

1. Positive Recommendation (recommending Council pass the item as proposed),
2. Qualified Positive Recommendation (recommending Council pass the item with some changes),
3. Qualified Negative Recommendation (recommending Council reject the item unless certain changes are made) or
4. Negative Recommendation (recommending the item not be approved).

The Policy Committee's recommendation will be included in a separate section of the report template for that purpose.

A Policy Committee may not refer an item under its consideration to a city board or commission.

The Primary Author of an item referred to a Policy Committee is responsible for revisions and resubmission of the item back to the full Council. Items originating from the City Manager are revised and submitted by the appropriate city staff. Items from Commissions are revised and resubmitted by the members of the Policy Committee. Items and recommendations originating from the Policy Committee are submitted to the City Clerk by the members of the committee.

If a Policy Committee does not take final action by the 120-day deadline, the item is returned to the Agenda & Rules Committee and appears on the next available Council agenda. The Agenda & Rules Committee may leave the item on the agenda under consideration or place it on the next Council agenda. Items appearing on a City Council agenda due to lack of action by a Policy Committee may not be referred to a Policy Committee and must remain on the full Council agenda for consideration.

Policy Committees may add discussion topics that are within their purview to their agenda with the concurrence of a majority of the Committee. These items are not subject to the 120-day deadline for action.

Once the item is voted out of a Policy Committee, the final item will be resubmitted to the agenda process by the Primary Author, and it will return to the Agenda & Rules Committee

on the next available agenda. The Agenda & Rules Committee may leave the item on the agenda under consideration or place it on the following Council agenda. Only items that receive a Positive Recommendation can be placed on the Consent Calendar.

The Primary Author may request expedited committee review for items referred to a committee. Criteria for expedited review is generally to meet a deadline for action (e.g. grant deadline, specific event date, etc.). If the committee agrees to the request, the deadline for final committee action is 45 days from the date the committee approves expedited review.

### **5. Number and Make-up of Committees**

Six committees are authorized, each comprised of three Councilmembers, with a fourth Councilmember appointed as an alternate. Each Councilmember and the Mayor will serve on two committees. The Mayor shall be a member of the Agenda and Rules Committee. The committees are as follows:

1. Agenda and Rules Committee
2. Budget and Finance Committee
3. Facilities, Infrastructure, Transportation, Environment, and Sustainability
4. Health, Life Enrichment, Equity, and Community
5. Land Use, Housing, and Economic Development
6. Public Safety

The Agenda & Rules Committee shall establish the Policy Committee topic groupings, and may adjust said groupings periodically thereafter in order to evenly distribute expected workloads of various committees.

All standing Policy Committees of the City Council are considered “legislative bodies” under the Brown Act and must conduct all business in accordance with the Brown Act.

### **6. Role of City Staff at Committee Meetings**

Committees will be staffed by appropriate City Departments and personnel. As part of the committee process, staff will undertake a high-level, preliminary analysis of potential legal issues, costs, timelines, and staffing demands associated with the item. Staff analysis at the Policy Committee level is limited to the points above as the recommendation, program, or project has not yet been approved to proceed by the full Council.

## IV. CONDUCT OF MEETING

### A. Comments from the Public

Public comment will be taken in the following order:

- An initial ten-minute period of public comment on non-agenda items, after the commencement of the meeting and immediately after Ceremonial Matters and City Manager Comments.
- Public comment on the Consent and Information Calendars.
- Public comment on action items, appeals and/or public hearings as they are taken up under procedures set forth in the sections governing each below.
- Public comment on non-agenda items from any speakers who did not speak during the first round of non-agenda public comment at the beginning of the meeting.

Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. A speaker wishing to yield their time shall identify themselves, shall be recognized by the chair, and announce publicly their intention to yield their time. Disabled persons shall have priority seating in the front row of the public seating area.

A member of the public may only speak once at public comment on any single item, unless called upon by the Mayor or a Councilmember to answer a specific inquiry.

#### 1. Public Comment on Consent Calendar and Information Items.

The Council will first determine whether to move items on the agenda for “Action” or “Information” to the “Consent Calendar,” or move “Consent Calendar” items to “Action.” Items that remain on the “Consent Calendar” are voted on in one motion as a group. “Information” items are not discussed or acted upon at the Council meeting unless they are moved to “Action” or “Consent.”

The Council will then take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. A speaker may only speak once during the period for public comment on Consent Calendar and Information items. No additional items can be moved onto the Consent Calendar once public comment has commenced.

At any time during, or immediately after, public comment on Information and Consent items, the Mayor or any Councilmember may move any Information or Consent item to “Action.” Following this, the Council will vote on the items remaining on the Consent Calendar in one motion.

For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again at the time the matter is taken up during the Action Calendar.

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**2. Public Comment on Action Items.**

After the initial ten minutes of public comment on non-agenda items, public comment on consent and information items, and adoption of the Consent Calendar, the public may comment on each remaining item listed on the agenda for action as the item is taken up.

The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons interested in speaking at that time.

If ten or fewer persons are interested in speaking, each speaker may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes.

This procedure also applies to public hearings except those types of public hearings specifically provided for in this section, below.

**3. Appeals Appearing on Action Calendar.**

With the exception of appeals from decisions of the Zoning Adjustments Board and Landmarks Preservation Commission, appeals from decisions of City commissions appear on the "Action" section of the Council Agenda. Council determines whether to affirm the action of the commission, set a public hearing, or remand the matter to the commission. Appeals of proposed special assessment liens shall also appear on the "Action" section of the Council Agenda. Appeals from decisions of the Zoning Adjustments Board and Landmarks Preservation Commission are automatically set for public hearing and appear on the "Public Hearings" section of the Council Agenda.

Time shall be provided for public comment for persons representing both sides of the action/appeal and each side will be allocated seven minutes to present their comments on the appeal. Where the appellant is not the applicant, the appellants of a single appeal collectively shall have seven minutes to comment and the applicant shall have seven minutes to comment. If there are multiple appeals filed, each appellant or group of appellants shall have seven minutes to comment. Where the appellant is the applicant, the applicant/appellant shall have seven minutes to comment and the persons supporting the action of the board or commission on appeal shall have seven minutes to comment. In the case of an appeal of proposed special assessment lien, the appellant shall have seven minutes to comment.

After the conclusion of the seven-minute comment periods, members of the public may comment on the appeal. Comments from members of the public regarding appeals shall be limited to one minute per speaker. Any person that addressed the Council during one of the seven-minute periods may not speak again during the public comment period on the appeal. Speakers may yield their time to one other speaker, however, no speaker shall have more than two minutes. Each side

shall be informed of this public comment procedure at the time the Clerk notifies the parties of the date the appeal will appear on the Council agenda.

#### **4. Public Comment on Non-Agenda Matters.**

Immediately following Ceremonial Matters and the City Manager Comments and prior to the Consent Calendar, persons will be selected by lottery to address matters not on the Council agenda. If five or fewer persons submit speaker cards for the lottery, each person selected will be allotted two minutes each. If more than five persons submit speaker cards for the lottery, up to ten persons will be selected to address matters not on the Council agenda and each person selected will be allotted one minute each. Persons wishing to address the Council on matters not on the Council agenda during the initial ten-minute period for such comment, must submit a speaker card to the City Clerk in person at the meeting location and prior to commencement of that meeting.

The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda. Speaker cards are not required for this second round of public comment on non-agenda matters.

Persons submitting speaker cards are not required to list their actual name, however they must list some identifying information or alternate name in order to be called to speak.

For the second round of public comment on non-agenda matters, the Presiding Officer retains the authority to limit the number of speakers by subject. The Presiding Officer will generally request that persons wishing to speak, line up at the podium to be recognized to determine the number of persons interested in speaking at that time. Each speaker will be entitled to speak for two minutes each unless the Presiding Officer determines that one-minute is appropriate given the number of speakers.

Pursuant to this document, no Council meeting shall continue past 11:00 p.m. unless a two-thirds majority of the Council votes to extend the meeting to discuss specified items. If any agenda item remains unfinished at 11:00 p.m. or the expiration of any extension after 11:00 p.m., it will be referred to the Agenda & Rules Committee for scheduling pursuant to Chapter II, Section F. In that event, the meeting shall be automatically extended for up to fifteen (15) minutes for public comment on non-agenda items.

#### **5. Ralph M. Brown Act Pertaining to Public Comments.**

The Brown Act prohibits the Council from discussing or taking action on an issue raised during Public Comment, unless it is specifically listed on the agenda. However, the Council may refer a matter to the City Manager.

#### **B. Consent Calendar**

There shall be a Consent Calendar on all regular meeting agendas on which shall be included those matters which the Mayor, Councilmembers, boards, commissions, City Auditor and City Manager deem to be of such nature that no debate or inquiry



will be necessary at the Council meetings. Ordinances for second reading may be included in the 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.

Consent Calendar items may be moved to the Action Calendar by the Council. Action items may be reordered at the discretion of the Chair with the consent of Council.

**C. Information Reports Called Up for Discussion**

Reports for Information designated for discussion at the request of the Mayor or any Councilmember shall be added to the appropriate section of the Action Calendar and may be acted upon at that meeting or carried over as pending business until discussed or withdrawn. The agenda will indicate that at the request of Mayor or any Councilmember a Report for Information may be acted upon by the Council.

**D. Written Communications**

Written communications from the public will not appear on the Council agenda as individual matters for discussion but will be distributed as part of the Council agenda packet with a cover sheet identifying the author and subject matter and will be listed under "Communications." All such communications must have been received by the City Clerk no later than 5:00 p.m. fifteen days prior to the meeting in order to be included on the agenda.

In instances where an individual forwards more than three pages of email messages not related to actionable items on the Council agenda to the Council to be reproduced in the "Communications" section of the Council packet, the City Clerk will not reproduce the entire email(s) but instead refer the public to the City's website or a hard copy of the email(s) on file in the City Clerk Department.

All communications shall be simply deemed received without any formal action by the Council. The Mayor or a Councilmember may refer a communication to the City Manager for action, if appropriate, or prepare a consent or action item for placement on a future agenda.

Communications related to an item on the agenda that are received after 5:00 p.m. fifteen days before the meeting are published as provided for in Chapter III.C.4.

**E. Public Hearings for Land Use, Zoning, Landmarks, and Public Nuisance Matters**

The City Council, in setting the time and place for a public hearing, may limit the amount of time to be devoted to public presentations. Staff shall introduce the public hearing item and present their comments.

Following any staff presentation, each member of the City Council shall verbally disclose all ex parte contacts concerning the subject of the hearing. Members shall also submit a report of such contacts in writing prior to the commencement of the hearing. Such reports shall include a brief statement describing the name, date,

place, and content of the contact. Written reports shall be available for public review in the office of the City Clerk prior to the meeting and placed in a file available for public viewing at the meeting.

This is followed by five-minute presentations each by the appellant and applicant. Where the appellant is not the applicant, the appellants of a single appeal collectively shall have five minutes to comment and the applicant shall have five minutes to comment. If there are multiple appeals filed, each appellant or group of appellants shall have five minutes to comment. Where the appellant is the applicant, the applicant/appellant shall have five minutes to comment and the persons supporting the action of the board or commission on appeal shall have five minutes to comment. In the case of a public nuisance determination, the representative(s) of the subject property shall have five minutes to present.

The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons interested in speaking at that time.

If ten or fewer persons are interested in speaking, each speaker may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Any person that addressed the Council during one of the five-minute periods may not speak again during the public comment period on the appeal. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may with the consent of persons representing both sides of an issue allocate a block of time to each side to present their issue.

#### **F. Work Sessions**

The City Council may schedule a matter for general Council discussion and direction to staff. Official/formal action on a work session item will be scheduled on a subsequent agenda under the Action portion of the Council agenda.

In general, public comment at Council work sessions will be heard after the staff presentation, for a limited amount of time to be determined by the Presiding Officer.

The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons interested in speaking at that time. If ten or fewer persons are interested in speaking, each speaker may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes.

After Council discussion, if time permits, the Presiding Officer may allow additional public comment. During this time, each speaker will receive one minute. Persons who spoke during the prior public comment time may be permitted to speak again.

**G. Protocol**

People addressing the Council may first give their name in an audible tone of voice for the record. All remarks shall be addressed to the Council as a body and not to any member thereof. No one other than the Council and the person having the floor shall be permitted to enter into any discussion, either directly or through a member of the Council, without the permission of the Presiding Officer. No question shall be asked of a Councilmember except through the Presiding Officer.

## V. PROCEDURAL MATTERS

### A. Persons Authorized to Sit at Tables

No person, except City officials, their representatives and representatives of boards and commissions shall be permitted to sit at the tables in the front of the Council Chambers without the express consent of the Council.

### B. Decorum

No person shall disrupt the orderly conduct of the Council meeting. Prohibited disruptive behavior includes but is not limited to shouting, making disruptive noises, such as boos or hisses, creating or participating in a physical disturbance, speaking out of turn or in violation of applicable rules, preventing or attempting to prevent others who have the floor from speaking, preventing others from observing the meeting, entering into or remaining in an area of the meeting room that is not open to the public, or approaching the Council Dais without consent. Any written communications addressed to the Council shall be delivered to the City Clerk for distribution to the Council.

### C. Enforcement of Decorum

When the public demonstrates a lack of order and decorum, the presiding officer shall call for order and inform the person(s) that the conduct is violating the Rules of Order and Procedure and provide a warning to the person(s) to cease the disruptive behavior. Should the person(s) fail to cease and desist the disruptive conduct, the presiding officer may call a five (5) minute recess to allow the disruptions to cease.

If the meeting cannot be continued due to continued disruptive conduct, the presiding officer may have any law enforcement officer on duty remove or place any person who violates the order and decorum of the meeting under arrest and cause that person to be prosecuted under the provisions of applicable law.

### D. Precedence of Motions

When a question or motion is before the Council, no motion shall be entertained except:

1. To adjourn;
2. To fix the hour of adjournment;
3. To lay on the table;
4. For the previous question;
5. To postpone to a certain day;
6. To refer;
7. To amend;
8. To substitute; and
9. To postpone indefinitely.

These motions shall have precedence in order indicated. Any such motion, except a motion to amend or substitute, shall be put to a vote without debate.

**E. Robert's Rules of Order**

Robert's Rules of Order have been adopted by the City Council and apply in all cases except the precedence of motions in Section V.D shall supersede.

**F. Rules of Debate****1. Presiding Officer May Debate.**

The presiding officer may debate from the chair; subject only to such limitations of debate as are by these rules imposed on all members, and shall not be deprived of any of the rights and privileges as a member of the Council by reason of that person acting as the presiding officer.

**2. Getting the Floor - Improper References to be avoided.**

Members desiring to speak shall address the Chair, and upon recognition by the presiding officer, shall confine themselves to the question under debate.

**3. Interruptions.**

A member, once recognized, shall not be interrupted when speaking unless it is to call a member to order, or as herein otherwise provided. If a member, while speaking, were called to order, that member shall cease speaking until the question of order is determined, and, if in order, the member shall be permitted to proceed.

**4. Privilege of Closing Debate.**

The Mayor or Councilmember moving the adoption of an ordinance or resolution shall have the privilege of closing the debate. When a motion to call a question is passed, the Mayor or Councilmember moving adoption of an ordinance, resolution or other action shall have three minutes to conclude the debate.

**5. Motion to Reconsider.**

A motion to reconsider any action taken by the Council may be made only during the same session such action is taken. It may be made either immediately during the same session, or at a recessed or adjourned session thereof. Such motion must be made by a member on the prevailing side, and may be made at any time and have precedence over all other motions or while a member has the floor; it shall be debatable. Nothing herein shall be construed to prevent any member of the Council from making or remaking the same or other motion at a subsequent meeting of the Council.

**6. Repeal or Amendment of Action Requiring a Vote of Two-Thirds of Council, or Greater.**

Any ordinance or resolution which is passed and which, as part of its terms, requires a vote of two-thirds of the Council or more in order to pass a motion pursuant to such an ordinance or resolution, shall require the vote of the same percent of the Council to repeal or amend the ordinance or resolution.

**G. Debate Limited**

1. Consideration of each matter coming before the Council shall be limited to 20 minutes from the time the matter is first taken up, at the end of which period consideration of such matter shall terminate and the matter shall be dropped to the foot of the agenda, immediately ahead of Information Reports; provided that either of the following two not debatable motions shall be in order:
  - a) A motion to extend consideration which, if passed, shall commence a new twenty-minute period for consideration; or
  - b) If there are one or more motions on the floor, a motion for the previous question, which, if passed by a 2/3 vote, shall require an immediate vote on pending motions.
2. The time limit set forth in subparagraph 1 hereof shall not be applicable to any public hearing, public discussion, Council discussion or other especially set matter for which a period of time has been specified (in which case such specially set time shall be the limit for consideration) or which by applicable law (e.g. hearings of appeals, etc.), the matter must proceed to its conclusion.
3. In the interest of expediting the business of the City, failure by the Chair or any Councilmember to call attention to the expiration of the time allowed for consideration of a matter, by point of order or otherwise, shall constitute unanimous consent to the continuation of consideration of the matter beyond the allowed time; provided, however, that the Chair or any Councilmember may at any time thereafter call attention to the expiration of the time allowed, in which case the Council shall proceed to the next item of business, unless one of the motions referred to in Section D hereof is made and is passed.

**H. Motion to Lay on Table**

A motion to lay on the table shall preclude all amendments or debate of the subject under consideration. If the motion shall prevail, the consideration of the subject may be resumed only upon a motion of a member voting with the majority and with consent of two-thirds of the members present.

**I. Division of Question**

If the question contains two or more propositions, which can be divided, the presiding officer may, and upon request of a member shall, divide the same.

**J. Addressing the Council**

Under the following headings of business, unless the presiding officer rules otherwise, any interested person shall have the right to address the Council in accordance with the following conditions and upon obtaining recognition by the presiding officer:

**1. Written Communications.**

Interested parties or their authorized representatives may address the Council in the form of written communications in regard to matters of concern to them by

submitting their written communications at the meeting, or prior to the meeting pursuant to the deadlines in Chapter III.C.4.

**2. Public Hearings.**

Interested persons or their authorized representatives may address the Council by reading protests, petitions, or communications relating to matters then under consideration.

**3. Public Comment.**

Interested persons may address the Council on any issue concerning City business during the period assigned to Public Comment.

**K. Addressing the Council After Motion Made**

When a motion is pending before the Council, no person other than the Mayor or a Councilmember shall address the Council without first securing the permission of the presiding officer or Council to do so.

**L. Use of Cellular Phones and Electronic Devices**

The use of cell phones during City Council meetings is discouraged for the Mayor and Councilmembers. While communications regarding Council items should be minimized, personal communications between family members and/or caregivers can be taken outside in the case of emergencies. In order to acknowledge differences in learning styles and support tactile learners, note-taking can continue to be facilitated both with a pen and paper and/or on electronic devices such as laptop computers and tablets.

The use cell phones during Closed Session Meetings is explicitly prohibited for the Mayor and Councilmembers.

## VI. FACILITIES

### A. Meeting Location Capacity

Attendance at council meetings shall be limited to the posted seating capacity of the meeting location. Entrance to the meeting location will be appropriately regulated by the City Manager on occasions when capacity is likely to be exceeded. While the Council is in session, members of the public shall not remain standing in the meeting room except to address the Council, and sitting on the floor shall not be permitted.

### B. Alternate Facilities for Council Meetings

The City Council shall approve in advance a proposal that a Council meeting be held at a facility other than the School District Board Room.

If the City Manager has reason to anticipate that the attendance for a meeting will be substantially greater than the capacity of the Board Room and insufficient time exists to secure the approval of the City Council to hold the meeting at an alternate facility, the City Manager shall make arrangements for the use of a suitable alternate facility to which such meeting may be recessed and moved, if the City Council authorizes the action.

If a suitable alternate facility is not available, the City Council may reschedule the matter to a date when a suitable alternate facility will be available.

Alternate facilities are to be selected from those facilities previously approved by the City Council as suitable for meetings away from the Board Room.

### C. Signs, Objects, and Symbolic Materials

Objects and symbolic materials such as signs which do not have sticks or poles attached or otherwise create any fire or safety hazards will be allowed within the meeting location during Council meetings.

### D. Fire Safety

Exits shall not be obstructed in any manner. Obstructions, including storage, shall not be placed in aisles or other exit ways. Hand carried items must be stored so that such items do not inhibit passage in aisles or other exit ways. Attendees are strictly prohibited from sitting in aisles and/or exit ways. Exit ways shall not be used in any way that will present a hazardous condition.

### E. Overcrowding

Admittance of persons beyond the approved capacity of a place of assembly is prohibited. When the meeting location has reached the posted maximum capacity, additional attendees shall be directed to the designated overflow area.



## APPENDIX A. POLICY FOR NAMING AND RENAMING PUBLIC FACILITIES

### Purpose

To establish a uniform policy regarding the naming and renaming of existing and future parks, streets, pathways and other public facilities.

### Objective

- A. To ensure that naming public facilities (such as parks, streets, recreation facilities, pathways, open spaces, public building, bridges or other structures) will enhance the values and heritage of the City of Berkeley and will be compatible with community interest.

### Section 1 – Lead Commission

The City Council designates the following commissions as the ‘Lead Commissions’ in overseeing, evaluating, and ultimately advising the Council in any naming or renaming of a public facility. The lead commission shall receive and coordinate comment and input from other Commissions and the public as appropriate.

#### Board of Library Trustees

Parks and Recreation Commission –Parks, recreation centers, camps, plazas and public open spaces

Public Works Commission –Public buildings (other than recreation centers), streets and bridges or other structures in the public thoroughfare.

Waterfront Commission –Public facilities within the area of the City known as the Waterfront, as described in BMC 3.36.060.B.

### Section 2 – General Policy

- A. Newly acquired or developed public facilities shall be named immediately after acquisition or development to ensure appropriate public identity.
- B. No public facility may be named for a living person, but this policy can be overridden with a 2/3 vote of the City Council.
- C. Public facilities that are renamed must follow the same criteria for naming new facilities. In addition, the historical significance and geographical reference of the established name should be considered when weighing and evaluating any name change.
- D. The City encourages the recognition of individuals for their service to the community in ways that include the naming of activities such as athletic events, cultural presentations, or annual festivals, which do not involve the naming or renaming of public facilities.
- E. Unless restricted by covenant, facilities named after an individual should not necessarily be considered a perpetual name.

### Section 3 – Criteria for Naming of Public Facilities

When considering the naming of a new public facility or an unnamed portion or feature within an already named public facility (such as a room within the facility or a feature within an established park), or, the renaming of an existing public facility the following criteria shall be applied:

- A. Public Facilities are generally easier to identify by reference to adjacent street names, distinct geographic or environmental features, or primary use activity. Therefore, the preferred practice is to give City-owned property a name of historical or geographical significance and to retain these names.
- B. No public facility may be named for a living person, but this policy can be overridden with a 2/3 vote of the City Council.
- C. The naming of a public facility or any parts thereof in recognition of an individual posthumously may only be considered if the individual had a positive effect on the community and has been deceased for more than 1 year.
- D. When a public facility provides a specific programmatic activity, it is preferred that the activity (e.g. skateboard park, baseball diamond) be included in the name of the park or facility.
- E. When public parks are located adjacent to elementary schools, a name that is the same as the adjacent school shall be considered.
- F. When considering the renaming of an existing public facility, in addition to applying criteria A-E above, proper weight should be given to the fact that: a name lends a site or property authenticity and heritage; existing names are presumed to have historic significance; and historic names give a community a sense of place and identity, continuing through time, and increases the sense of neighborhood and belonging.

#### Section 4 –Naming Standards Involving a Major Contribution

When a person, group or organization requests the naming or renaming of a public facility, all of the following conditions shall be met:

- A. An honoree will have made a major contribution towards the acquisition and/or development costs of a public facility or a major contribution to the City.
- B. The honoree has a record of outstanding service to their community
- C. Conditions of any donation that specifies that name of a public facility, as part of an agreement or deed, must be approved by the City Council, after review by and upon recommendation of the City Manager.

#### Section 5 –Procedures for Naming or Renaming of Public Facilities

- A. Any person or organization may make a written application to the City Manager requesting that a public facility or portion thereof, be named or renamed.
  - 1. Recommendations may also come directly of the City Boards or Commissions, the City Council, or City Staff.
- B. The City Manager shall refer the application to the appropriate lead commission as defined in Section 1 of the City's policy on naming of public facilities, for that commission's review, facilitation, and recommendation of disposition.
  - 1. The application shall contain the name or names of the persons or organization making the application and the reason for the requested naming or renaming.
- C. The lead commission shall review and consider the application, using the policies and criteria articulated to the City Policy on Naming and Renaming to make a recommendation to Council.
  - 1. All recommendations or suggestion will be given the same consideration without regard to the source of the nomination
- D. The lead commission shall hold a public hearing and notify the general public of any discussions regarding naming or renaming of a public facility.

1. Commission action will be taking at the meeting following any public hearing on the naming or renaming.
- E. The commission's recommendation shall be forwarded to Council for final consideration.

The City of Berkeley Policy for Naming and Renaming Public Facilities was adopted by the Berkeley City Council at the regular meeting of January 31, 2012.

## APPENDIX B. GUIDELINES FOR DEVELOPING AND WRITING COUNCIL AGENDA ITEMS

These guidelines are derived from the requirements for Agenda items listed in the Berkeley City Council Rules of Procedure and Order, Chapter III, Sections B(1) and (2), reproduced below. In addition, Chapter III Section C(1)(a) of the Rules of Procedure and Order allows the Agenda & Rules Committee to request that the Primary Author of an item provide “additional analysis” if the item as submitted evidences a “significant lack of background or supporting information” or “significant grammatical or readability issues.”

These guidelines provide a more detailed and comprehensive overview of elements of a complete Council item. While not all elements would be applicable to every type of Agenda item, they are intended to prompt Authors to consider presenting items with as much relevant information and analysis as possible.

Chapter III, Sections (B)(1) and (2) of Council Rules of Procedure and Order:

2. Agenda items shall contain all relevant documentation, including the following as Applicable:
  - a. A descriptive title that adequately informs the public of the subject matter and general nature of the item or report and action requested;
  - b. Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information;
  - c. Recommendation of the City Manager, if applicable (these provisions shall not apply to Mayor and Council items.);
  - d. Fiscal impacts of the recommendation;
  - e. A description of the current situation and its effects;
  - f. Background information as needed;
  - g. Rationale for recommendation;
  - h. Alternative actions considered;
  - i. For awards of contracts; the abstract of bids and the Affirmative Action Program of the low bidder in those cases where such is required (these provisions shall not apply to Mayor and Council items.);
  - j. Person or persons to contact for further information, with telephone number. If the Primary Author of any report believes additional background information, beyond the basic report, is necessary to Council understanding of the subject, a separate compilation of such background information may be developed and copies will be available for Council and for public review in the City Clerk Department, and the City Clerk shall provide limited distribution of such background information depending upon quantity of pages to be duplicated. In such case the agenda item distributed with the packet shall so indicate.

## Guidelines for City Council Items:

1. Title
  2. Consent/Action/Information Calendar
  3. Recommendation
  4. Summary Statement/Current situation and its effects
  5. Background
  6. Review of Existing Plans, Programs, Policies and Laws
  7. Actions/Alternatives Considered
  8. Consultation/Outreach Overview and Results
  9. Rationale for Recommendation
  10. Implementation, Administration and Enforcement
  11. Environmental Sustainability
  12. Fiscal Impacts
  13. Outcomes and Evaluation
  14. Contact Information
  15. Attachments/Supporting Materials
- 

**1. Title**

A descriptive title that adequately informs the public of the subject matter and general nature of the item or report and action requested.

**2. Consent/Action/Information Calendar**

Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information.

**3. Recommendation**

Clear, succinct statement of action(s) to be taken. Recommendations can be further detailed within the item, by specific reference.

Common action options include:

- Adopt first reading of ordinance
  - Adopt a resolution
  - Referral to the City Manager (City Manager decides if it is a short term referral or is placed on the RRV ranking list)
  - Direction to the City Manager (City Manager is directed to execute the recommendation right away, it is not placed on any referral list)
  - Referral to a Commission or to a Standing or Ad Hoc Council Committee
  - Referral to the budget process
  - Send letter of support
  - Accept, Approve, Modify or Reject a recommendation from a Commission or Committee
  - Designate members of the Council to perform some action
-

**4. Summary Statement/ “Current situation and its effects”**

A short resume of the circumstances that give rise to the need for the recommended action(s).

- Briefly state the opportunity/problem/concern that has been identified, and the proposed solution.
- Example (fictional):  
*Winter rains are lasting longer than expected. Berkeley’s winter shelters are poised to close in three weeks, but forecasts suggest rain for another two months. If they do not remain open until the end of the rainy season, hundreds of people will be left in the rain 24/7. Therefore, this item seeks authorization to keep Berkeley’s winter shelters open until the end of April, and refers to the Budget Process \$40,000 to cover costs of an additional two months of shelter operations.*

**5. Background**

A full discussion of the history, circumstances and concerns to be addressed by the item.

- For the above fictional example, Background would include *information and data about the number and needs of homeless individuals in Berkeley, the number and availability of permanent shelter beds that meet their needs, the number of winter shelter beds that would be lost with closure, the impacts of such closure on this population, the weather forecasts, etc.*

**6. Review of Existing Plans, Programs, Policies and Laws**

Review, identify and discuss relevant/applicable Plans, Programs, Policies and Laws, and how the proposed actions conform with, compliment, are supported by, differ from or run contrary to them. What gaps were found that need to be filled? What existing policies, programs, plans and laws need to be changed/supplemented/improved/repealed? What is missing altogether that needs to be addressed?

Review of all pertinent/applicable sections of:

- The City Charter
- Berkeley Municipal Code
- Administrative Regulations
- Council Resolutions
- Staff training manuals

Review of all applicable City Plans:

- The General Plan
- Area Plans
- The Climate Action Plan
- Resilience Plan
- Equity Plan

- Capital Improvements Plan
- Zero Waste Plan
- Bike Plan
- Pedestrian Plan
- Other relevant precedents and plans

Review of the City's Strategic Plan

Review of similar legislation previously introduced/passed by Council

Review of County, State and Federal laws/policies/programs/plans, if applicable

#### **7. Actions/Alternatives Considered**

- What solutions/measures have **other jurisdictions** adopted that serve as models/cautionary tales?
- What solutions/measures are recommended by **advocates, experts, organizations**?
- What is the range of actions considered, and what are some of their major pros and cons?
- Why were other solutions not as feasible/advisable?

#### **8. Consultation/Outreach Overview and Results**

- Review/list external and internal stakeholders that were consulted
  - **External:** constituents, communities, neighborhood organizations, businesses and not for profits, advocates, people with lived experience, faith organizations, industry groups, people/groups that might have concerns about the item, etc.
  - **Internal:** staff who would implement policies, the City Manager and/or deputy CM, Department Heads, City Attorney, Clerk, etc.
- What reports, articles, books, websites and other materials were consulted?
- What was learned from these sources?
- What changes or approaches did they advocate for that were accepted or rejected?

#### **9. Rationale for Recommendation**

A clear and concise statement as to whether the item proposes actions that:

- Conform to, clarify or extend existing Plans, Programs, Policies and Laws
- Change/Amend existing Plans, Programs, Policies and Laws in **minor** ways
- Change/Amend existing Plans, Programs, Policies and Laws in **major** ways
- Create an exception to existing Plans, Programs, Policies and Laws
- Reverse/go contrary to or against existing Plans, Programs, Policies and Laws

Argument/summary of argument in support of recommended actions. The argument likely has already been made via the information and analysis already presented,

but should be presented/restated/summarized. Plus, further elaboration of terms for recommendations, if any.

**10. Implementation, Administration and Enforcement**

Discuss how the recommended action(s) would be implemented, administered and enforced. What staffing (internal or via contractors/consultants) and materials/facilities are likely required for implementation?

**11. Environmental Sustainability**

Discuss the impacts of the recommended action(s), if any, on the environment and the recommendation's positive and/or negative implications with respect to the City's Climate Action, Resilience, and other sustainability goals.

**12. Fiscal Impacts**

Review the recommended action's potential to generate funds or savings for the City in the short and long-term, as well as the potential direct and indirect costs.

**13. Outcomes and Evaluation**

State the specific outcomes expected, if any (i.e., *"it is expected that 100 homeless people will be referred to housing every year"*) and what reporting or evaluation is recommended.

**14. Contact Information**

**15. Attachments/Supporting Materials**



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## **APPENDIX C. TEMPORARY RULES FOR THE CONDUCT OF CITY COUNCIL MEETINGS THROUGH VIDEO CONFERENCE DURING THE COVID-19 EMERGENCY**

### **Mayor and Councilmember Speaking Time on Agenda Items**

For the Consent Calendar, the Mayor and Councilmembers will initially have up to five minutes each to make comments. After all members of the Council have spoken (or passed) and after public comment, members will each have two additional minutes to discuss the Consent Calendar.

For non-Consent items, the Mayor and Councilmembers will have two minutes each to make initial comments on an agenda item, except for the author of an agenda item who will have five minutes to initially present the item. After every Councilmember has spoken or declined and after public comment, Councilmembers will each have another five minutes per person to address an item. Debate may be extended beyond a second round of Council comments by a majority vote (5 votes).

Time will toll during staff answers to questions; Councilmembers are urged to ask their questions of city staff before the meeting or in writing.

### **Procedure for Pulling Items from Consent or Information Calendar**

Three (3) members of the City Council must agree to pull an item from the Consent or Information Calendar for it to move to Action. Absent three members concurring, the item will stay on Consent or Information Calendar and, with respect to Consent items, the Mayor or Councilmembers will be allowed to record their aye, nay or abstain votes on individual items or the entire Consent Calendar.

Moving an item from the Action Calendar to the Consent Calendar requires the unanimous consent of the entire City Council.

### **Public Comment Speaking Time**

With the exception of prescribed times in the Rules of Procedure for public hearings, the amount of time for each speaker during public comment is limited to two minutes maximum and that speakers can only address an agenda item once, however the Presiding Officer has the discretion to reduce speaker time if needed in order to allow the orderly conduct of the meeting, subject to the consent of a majority of the City Council. Speakers may yield their time for a maximum of four minutes per individual. If a speaker wishes to yield their time, they must indicate so when called on by the Presiding Officer and state who they are yielding their speaker time to. The Presiding Officer will keep a list with the names and amount of time yielded to individuals.

In order to inform members of the public of their place in the speaker's queue, the Presiding Officer will call the names of 5 speakers at a time.

Public Comment on Non-Agenda Matters will be conducted in the order of hands raised on the Zoom platform, and will be limited to either the first 10 speakers during the initial round of Non-Agenda public comment, as well as all hands raised during the closing round of Non-Agenda public comment at the conclusion to the meeting, until such time that the

meeting adjourns. If there are five or fewer speakers with hands raised for Public Comment on Non-Agenda Matters, each speaker will have two minutes to address the City Council. If there are more than five speakers with their hands raised then speaker time will be limited to one minute per person. The procedure for selection of Non-Agenda speakers prescribed in the Rules of Procedure by random draw is suspended for videoconference meetings where there is no physical meeting location.