

**TO: HONORABLE CITY COUNCIL**

**ATTN: POLICY AND SERVICES COMMITTEE**

**FROM: CITY MANAGER DEPARTMENT: CITY MANAGER'S OFFICE**

**DATE: SEPTEMBER 10, 2009 CMR: 367:09**

**SUBJECT: Recommendation for Approval of Changes to Council Procedures Related to the Council Meeting Agenda Order and Category Titles**

**RECOMMENDATION**

Staff recommends that the Policy and Services Committee recommend to the City Council approval of changes to the Council Procedures related to Council meeting agenda order and categories of items on the agenda, thereby simplifying the agenda for ease of public understanding.

**DISCUSSION**

Staff from the City Manager's Office, City Clerk's Office and City Attorney's Office have been reviewing the current agenda structure and format in an effort to simplify the agenda for ease of public use and to allow for arrangement of items on the agenda to accommodate public comment. This item brings forth one recommended change that requires an amendment to the City Council procedures. The proposed change would collapse the number of agenda categories currently listed in the procedures.

Section II of the City Council procedures outlines the guidelines related to Council meetings and agendas. Page II-4 of that section outlines the agenda order and agenda categories (Attachment A). The current agenda order for regular meetings is as follows:

- 1) Roll Call
- 2) Special Orders of the Day
- 2a) City Manager Comments
- 3) Oral Communications
- 4) Approval of Minutes
- 5) Consent Calendar
- 6) Agenda Changes, Additions and Deletions
- 7) Unfinished Business

- 8) Public Hearings
- 9) Reports of Committees/Commissions
- 10) Ordinances and Resolutions
- 11) Reports of Officials
- 12) Council Matters
- 13) Council Member Questions, Comments and Announcements
- 14) Closed Sessions
- 15) Special Closed Sessions (can be scheduled before, during or after regular or special Council meetings)
- 16) Adjournment

The proposed agenda order and categories would be as follows:

- 1) Roll Call
- 2) Special Orders of the Day
- 2a) City Manager Comments
- 3) Oral Communications
- 4) Approval of Minutes
- 5) Consent Calendar
- 6) Agenda Changes, Additions and Deletions
- 7) Unfinished Business
- 8) Action Items (to include the former categories of Public Hearings, Reports of Committees/Commissions, Ordinances and Resolutions, Reports of Officials and Council Matters)
- 9) Council Member Questions, Comments and Announcements
- 10) Closed Sessions
- 11) Special Closed Sessions (can be scheduled before, during or after regular or special Council meetings)
- 12) Adjournment

By structuring the agenda order and categories as currently detailed in the Council procedures, staff is limited in the ability to place items on the agenda in a manner that would facilitate public comment. For example, members of the public have recently complained that many items with significant public comment are not discussed by the Council until very late in the evening. While this proposed change will not be a panacea, it will provide staff with the flexibility to rearrange items on the agenda based more on the potential for Council and public discussion as opposed to a proscribed agenda order. It would also help to simplify the agenda for both staff and members of the public. Many people do not understand the difference between a public hearing and a report of officials but they do understand an action item.

While this is not a major change to the agenda, it is one step of many that staff are evaluating to improve public accessibility to Council meeting agendas and information. Staff are also looking at the layout and format of City Manager Reports in the hopes of making some changes to these in the near term. This type of change would not require Council approval but will change the appearance of the Council agenda packets.

After review and recommendation by the Policy & Services Committee, staff will prepare a red-line strike out version of the procedures and a resolution for adoption by the Council.

**RESOURCE IMPACT**

There are no resource impacts associated with the recommendations in this report.

**POLICY IMPLICATIONS**

This recommendation helps to support the Council's top 3 priority of Civic Engagement for the Common Good by simplifying the Council agenda in a manner that allows for better public understanding.

**ENVIRONMENTAL REVIEW**

This report is not a project requiring review under the California Environmental Quality Act (CEQA).

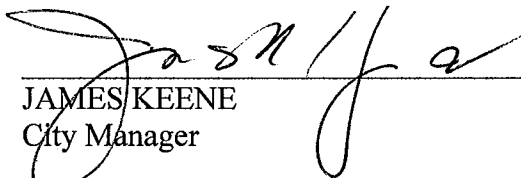
**ATTACHMENTS**

Attachment A: Excerpt from City Council Procedures (pp. II-4 to II-10)

**PREPARED BY:**

  
\_\_\_\_\_  
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**CITY MANAGER APPROVAL:**

  
\_\_\_\_\_  
JAMES KEENE  
City Manager



b. The Council Member is responsible for posting the Council agenda in the remote location, or having the agenda posted by somebody at the location and confirming that posting has occurred. The City Clerk will assist, if necessary, by faxing or mailing the agenda to whatever address or fax number the Council Member requests; however, it is the Council Member's responsibility to ensure that the agenda arrives and is posted. If the Council Member will need the assistance of the City Clerk in delivery of the agenda, the fax number or address must be included in the one-week advance written notice above.

c. The Council Member must ensure that the location will be publicly accessible while the meeting is in progress.

d. The Council Member must state at the beginning of the Council meeting that the 72-hour posting requirement was met at the location and that the location is publicly accessible, and must describe the location.

e. Furthermore, the City Clerk will provide Council with a quarterly report detailing the telephone charges associated with teleconferenced meetings.

b) Items considered after 10:30 p.m. The City Council makes every effort to end its meetings before 11:00 p.m. The Council also generally does not take up new matters after 10:30 p.m. Before 10:00 p.m. the Council will decide and announce whether it will begin consideration of any agenda items after 10:30 and, if so, which specific items will be taken up.

c) Agenda Order. City Council agendas will be prepared by the City Clerk and presented to the City Council in the order described below. It is the Council's policy to hear the major items of business first at each meeting, to the extent possible. The City Manager, with prior approval of the Mayor, is authorized to designate upon the agenda of the Council, and the City Clerk shall publish in the agenda digest, items that shall be taken up first or at a specific time during the course of the meeting.<sup>v</sup> The City Council may take matters up out of order upon approval by a majority vote of those present:

- 1) Roll call;



- 2) Special orders of the day;
- 2a) City Manager Comments;
- 3) Oral communications, including oral communications related to any study session that began immediately before the regular meeting;
- 4) Approval of minutes;
- 5) Consent calendar. Items may be placed upon the consent calendar by any council-appointed officer whenever, in such officer's judgment, such items are expected to be routinely approved without discussion or debate. The consent calendar shall be voted upon as one item.

(a) Council Comment. No discussion or debate shall be permitted upon items upon the consent calendar; however, any Council Member may request that his or her vote be recorded as a "no" or "not participating" due to a specified conflict of interest on any individual item. Council Members may also explain their "no" votes at the end of the Consent Calendar, with a 3 minute time limit for each Council Member. Council Members may also submit statements in writing to the City Clerk before action is taken. The City Clerk shall preserve and make available such written statements in a manner consistent with the Brown Act and shall assure that the minutes of the meeting make reference to the existence and location of such written statements.

(b) Public Comment. If members of the public wish to speak to items on the Consent Calendar, the Mayor will have the option of allowing the testimony prior to adoption of the Consent Calendar, or removing the item from the consent calendar and hearing the public comment at a later time, prior to the vote on the item.

(c) Council Requests to Remove Item. Any Council Member may request that an item be removed from the consent calendar; if the request is seconded, the item will be removed from the consent calendar. The City Manager's office should



be advised, in writing, of a request for removal no later than noon the day of the meeting.

(d) Hearing of Removed Items. Removed items will be heard either later in the meeting or agendized for a discussion at a subsequent meeting, depending upon the number of speakers and the anticipated length of the items that have been officially scheduled for discussion on a particular evening. The Mayor will decide when during the meeting any removed items will be heard.

(e) Consent calendar categories. The consent calendar shall be presented in 5 categories in the following order:

(1) Ordinances and resolutions. The Mayor shall read the titles of each ordinance and resolution before Council action. The Council may by majority vote request that the ordinance be read in full. The following ordinances and resolutions may appear on a consent calendar:

(i) Second Reading (passage and adoption) of Ordinances.

(ii) a resolution which are ceremonial in nature.

(iii) Ordinances or resolutions that implement a prior Council policy direction in the manner contemplated by the Council's previous actions, in the Adopted Budget (including the Capital Improvement Program and especially in the department key plans); and the Council Top Priority Workplan, among other sources.

(iv) Budget amendment ordinances that accept funding such as grants or gifts, provided Council has previously approved the activity or program.

(v) Resolutions approving funding applications, such as grants or loans, provided that the program or activity has been previously approved by Council.

(2) Administrative matters including contracts, appointments, approval of applications, and any other matter. The titles of administrative matters need not be read. An administrative matter may be placed on the consent calendar if it is:



- (a) An action that is merely the administrative execution of previous Council direction. The Council direction and vote will be quoted in the staff report accompanying the item.
  - (b) A contracts for which the subject or scope of work has been previously reviewed by the City Council.
  - (c) A contract for goods, general services, professional services, public works projects, dark fiber licensing contracts or wholesale commodities, purchases, as outlined in the Purchasing Ordinance, provided such contracts represent the customary and usual business of the department as included in the Adopted Budget. Examples include: routine maintenance contracts, annual audit agreement; software and hardware support agreements, janitorial services, copier agreements or postage machine agreements.
  - (d) Rejection of bids.
  - (e) Designation of heritage trees.
  - (f) Designation of historic building at the request of the property owner if there are no unusual policy ramifications.
  - (g) Approval of funding applications, such as grants or loans, provided that Council has previously approved the general program or activity.
  - (h) Formal initiation, for consideration at a later date, of a zoning code amendment or review process, such as preliminary review.
  - (i) Status report required by law for fee administration.
  - (j) Cancellation of meetings or scheduling of special meeting.
- (3) Request to refer items to any Council Standing Committee, committee, board, commission or Council Appointed Officer. The consent calendar includes matters for which staff is merely seeking Council approval of a



referral to a Council standing committee or other City official, advisory board or commission. This does not preclude staff from making referrals to the standing committees. Staff uses such referrals in order to expedite the business of the full Council, since its agenda is so full. Discussion of a complex issue by another body, provides an opportunity for public input and extended discussion by the members of the body. The full Council is then able to benefit from the minutes of that discussion when the item comes back to the Council for final approval. This practice also allows the City/School Liaison Committee to consider items of interest to both agencies without having to go through the formality of a Council agenda referral.

(4) Items recommended for approval if the Committee unanimously recommends placement on the consent calendar, by a majority of a Council Committee.

(5) Items recommended for approval, and for placement on the consent calendar, by any council-appointed boards and commissions, provided that other public hearing requirements are not in effect.

6) Agenda changes, additions, and deletions;

7) Unfinished business;

8) Public hearings;

9) Reports of committees/commissions;

10) Ordinances and Resolutions;

11) Reports of officials;

12) Council matters;

(a) Any two Council Members may bring forward a colleague memo on any topic to be considered by the entire Council. Two Council Members are required to place such a memo on the agenda, reflective of the Council procedure requiring a motion and a second for consideration of a motion by the Council. Up to four Council Members may sign a colleague memo. The City Attorney recommends that the colleague memo be limited to three Council Members in order to avoid the potential of a Brown Act issue. Prior to preparing a colleague memo, Council Members



will consult with the City Manager to determine whether he/she is or is willing and able to address the issues as part of his/her operational authority and within current budgeted resources. Council Members are encouraged to share a draft of the proposed colleague memo with the City Manager or appropriate senior staff prior to finalization. Completed Council colleague memos shall be provided to the City Clerk's staff by noon on the Wednesday prior to the Council meeting that the memo is intended to be agendized, to provide time for the City Clerk to process for the Council packet.

The City Council will not take action on the night that a colleague memo is introduced if it has any implications for staff resources or current work priorities which are not addressed in the memo. The Council will discuss the colleague memo and then direct the City Manager to agendize the matter for Council action within two meetings, allowing City staff time to prepare a summary of staffing and resource impacts. Action may be taken immediately by the Council on colleague memos where there are no resource or staffing implications or where these are fully outlined in the colleagues memo. The Brown Act requires that the public be fully informed of the potential action by the Council via the Agenda 72 hours before a scheduled Council meeting. In order to satisfy the Brown Act requirements, the Council should consult with the City Attorney to ensure that the proposed title to the colleague memo contains all actions that the Council Members want completed on the night of the Council review.

13) Council member Questions, Comments and Announcements. The purpose of this agenda item is to allow Council to question staff briefly on matters upon which Council has taken action or given direction, make general comments as a reference to staff on factual matters of community concern, or make brief announcements in a manner consistent with Government Code section 54952.2. New assignments will not be given nor will major policy issues be discussed or considered. To the extent possible, Council will confer with staff before raising matters under this agenda item. This agenda item will generally be limited to 15 minutes in length and the public may not speak to matters discussed.

14) Closed Sessions.

15) Special closed sessions will be scheduled before or after regular or special Council meetings to the extent possible and



appropriate. Closed sessions may be scheduled during a regular or special Council meeting, but this is discouraged by Council.

16) Adjournment.

d) Unfinished and Continued Business. When the Council is unable to complete its agenda the remaining business will generally be rescheduled as follows. Nothing in this section shall be deemed to supersede or conflict with state law.

(1) Meeting adjourned *sine die*. When a regular meeting is adjourned *sine die* (without a day), all unfinished items will be listed under unfinished business on the next regular Council meeting agenda; except, that where deemed necessary, the City Clerk, with the City Manager's concurrence, may place those business items in a different order on the agenda.

(2) Meeting adjourned to date certain. When a regular meeting is adjourned to another regular meeting night, all unfinished items will be listed in their original order after roll call on the agenda of such designated regular meeting.

(3) Continued items. When an item on the agenda is continued to a subsequent meeting, such item will be listed under unfinished business on such agenda unless the Council by majority vote chooses to place such item in a different location on such agenda or unless the City Clerk, with the City Manager's concurrence, deems it necessary to place such item at a different location on such agenda.

e) Adding New Items to the Agenda. No matters other than those on the agenda shall be finally acted upon by the Council. However, emergency actions (as defined in Government Code section 54956.5) and matters upon which there is a lawful need to take immediate action (as defined in Government Code section 54954.2) may, with the consent of two-thirds, or all members present if less than two-thirds are present, be considered and acted upon by the Council.

2. Special Meetings. Special meetings may be called by the Mayor or City Council by providing a minimum of 24-hours posted notice in the manner required by state law. To the greatest extent possible, special meetings called for other than regular meeting days should be scheduled by a majority of the Council present and voting at a regular meeting.<sup>vi</sup> Unlike