

Open Government Commission
March 5, 2018
Recommendation on Rules of Order

On February 5, 2018, the Open Government Commission directed a subcommittee of members Irene Dieter and Heather Little to review the City Council Rules of Order and to recommend revisions at the commission's March 5 hearing. Those recommendations are presented in this memo.

Because the League of California Cities recommends following Rosenberg's Rules of order and the Alameda City Council already employs most of those rules, the subcommittee suggests that the Open Government Commission recommend to the city council the following:

1. Repeal the original Rules of Order resolution, No. 12567, and any resolutions amending it.
2. Introduce a new resolution adopting Rosenberg's Rules of Order except for those rules that may conflict with an express rule adopted by resolution of the city council.
3. Adopt special rules to supplement Rosenberg's Rules of Order.

These rules of order set a simple framework for the orderly conduct of meetings. Matters related to the "Order of Business" (Res. No. 14544) vary among meetings, so we recommend that they not be combined in future resolutions dealing with "Rules of Order."

For ease of reference, included below is an outline of Rosenberg's rules. The council should note that Rosenberg's basic format for an agenda item discussion calls for a motion before deliberation. The subcommittee believes this format will move matters forward in a more focused and efficient manner.

Further recommendations:

1. Ensure that one complete, updated Rules of Order document (not the resolution) is available on the city's website. Include the legislative history (e.g., Added by Res. No. __, 2018, Repealed Res. No. 14656, 2012, etc.) at the end of the document. This will codify the adopted rules into one coherent document. If edits are made in the future, consider replacing the edited resolution in its entirety.
2. Encourage or apply these rules to all boards and commissions.

Draft Rules of Order

The proceedings of city council meetings shall be governed under Parliamentary Authority by the latest edition of “Rosenberg’s Rules of Order” except for those rules that conflict with an express rule enacted by resolution of the city council.

Supplemental Rules:

1. Counting Votes. The vote count on a motion will be determined by the majority of the membership unless a greater threshold is required by law. A supermajority is two-thirds of the membership.

Note: “The vote of three members of the Council, except as otherwise provided, shall be necessary for any act of or by the Council.” (City Charter, § 3-4.) “No real property of the city shall be leased for a period in excess of one year or sold, except upon the affirmative vote of four members of the Council.” (City Charter, § 3-10.)

2. Public Comment on Agenda Items. Public comment will be allowed on all agenda items at the time each item is called. Those wishing to speak are requested to fill out a speaker slip identifying the agenda item about which they wish to address the body and submit the slip to the city clerk. Speakers shall limit comments to three (3) minutes or less, at the discretion of the chair. No speaker may cede time to another.

Currently, “Except for public hearings, and other specified situations, no one, including Councilmembers, shall speak for more than three (3) minutes. The Mayor, as Presiding Officer, may grant additional time upon determination that the information is of interest. Spokespersons may speak for up to fifteen (15) minutes at the discretion of the Mayor, as Presiding Officer. At public hearings, the Council may establish similar or longer time limits prior to commencement of the hearing as well as establish an overall time period for the hearing.” (Res. 12567, § 1.i.3; see also Ord. No. 2-91.15.)

Subcommittee comments: Ceding time from people who had no intention of speaking encourages abuse of extending 3-minute rule. It also discourages participation by more people. One long statement can be read by different speakers. Spokespersons should be on behalf of an organization/neighborhood and would have to ensure that no one else from their group would speak, which is difficult to enforce. Acceptance of this rule would require a change to the Sunshine Ordinance.

3. Public Comment on Non-agenda Matters. Any person desiring to address the body on matters not listed on the agenda, which are directly within the subject matter jurisdiction of the city, may do so under “Oral Communication, Non-agenda.” The meeting agenda shall provide up to fifteen (15) minutes for this use. After submitting a speaker slip and called upon by the chair, speakers shall limit comments to three (3) minutes or less, at the discretion of the chair. City staff or members of the body may briefly respond, but no action or discussion follows at the meeting.

4. Deliberations. Each member may speak up to three (3) times on an agenda item and no more than three (3) minutes at a time.

Currently, “no one, including Councilmembers, shall speak for more than three (3) minutes. The Mayor, as Presiding Officer, may grant additional time upon determination that the information is of interest.” (Res. No. 12567.)

5. Ceremonial Presentations and Proclamations. Ceremonial presentations and proclamations shall be limited to no more than fifteen (15) minutes. If more time is needed, the time can be extended by majority vote.

Currently, “The Council Agenda will limit ceremonial presentations and proclamations to no more than fifteen (15) minutes. If more time is needed, other arrangements should be made.” (Ord. No. 2-91.5(j).)

Subcommittee comments: The time-limit provision in this rule is rarely adhered to or the provision is skirted by treating the time in excess of 15 minutes as de facto “other arrangements.” Acceptance of this provision will require a change to the Sunshine Ordinance.

6. Consent Items. Agenda items listed under the consent calendar are considered routine and will be enacted, approved, or adopted by one blanket motion without discussion. Any member or the public may request removal of a specific item for discussion or explanation. The removed/“pulled” item will be voted on separately.

7. Referrals. Any member(s) of the body wishing to have items placed on a future agenda shall submit a written request (using council referral form) to the city clerk by 5:00 p.m. on Monday the week prior to the meeting. The written request is introduced to the body to determine whether a majority vote will place the item on a subsequent regular agenda for deliberation and action. No dispositive action is permitted.

Currently, “The Council can take any of the following actions... 3) Take dispositive action if sufficiently noticed such that the public and Council have been provided sufficient information by the published agenda, and no formal published notice of a public hearing is required.” (This rule was never adopted by resolution or ordinance.)

Subcommittee comments: The legislative intent of council referrals was to ensure that the majority of the council agrees to pursue a member’s request before staff invests resources researching and preparing a staff report on the matter for a future meeting. In other words, a referral is meant to be a stepping-stone for agendaizing issues, and it’s exactly what the public has come to expect. Allowing the city council to take dispositive action on a matter still in “referral” status circumvents the “stepping stone” intent of the policy. In fact, the option of immediate action contradicts the legislative intent of the council referral.

More specifically, the purpose of the referral process is “to create an orderly process through which Council members and staff can be clear about work that is being requested, whether the work can be done in a reasonable period of time, and whether it is consistent with Council direction [and] whether the one Councilmember is representing the interests of the entire Council....” (Staff report, City’s Priority Setting Workshop, 2007, p. 5.) “Management needs to better clarify the impact or time involved to respond to a request. The impact of a request needs to be part of the Council’s consideration of the request from a Councilmember. What are the costs in staff time, dollars, impact on other priorities, other costs?” (*Ibid.*) The city manager could place any “emergency” matter as a regular agenda item.

8. Meeting Adjournment Time. No new regular agenda items or council referrals will be heard after 11:30 p.m. unless a supermajority of the body votes otherwise.

Currently, “Meetings of public bodies shall adjourn no later than 11:00 p.m., unless the meeting is extended by a majority vote of the body. [¶] 1. If the body extends three (3) meetings in a row past 11:00 p.m., the body shall also be required, as a part of the motion to extend the meeting, to increase the number of regular meetings of the council, board or commission in order to accomplish the business before the body before 11:00 p.m. [¶] 2. No new items will begin after 10:30 p.m. unless a supermajority of the body votes to allow the items to be heard. Nominations, announcements, and Council communications may continue to be heard after 10:30 p.m. whether or not a supermajority of the body has voted to extend the meeting.” (Ord. No. 2-91.13(f).)

Subcommittee comments: Too much time is being spent discussing whether or not to extend meetings and which items should be pulled from the agenda. The council decisions are inconsistent. This recommended change of extending the time better allows for the completion of city business and sets parameters on when to end the meeting. Furthermore, the public, city staff, and consultants will have a better idea of which agenda items will likely be heard. Acceptance of this rule would require a change to the Sunshine Ordinance.

9. Suspension of the Rules. A supermajority may suspend the rules for a specific purpose. When rules are suspended, the vote to do so should state the purpose for suspending the rules.

Currently, “The City Council, by majority vote of a quorum, may waive the rules.” (Res. No. 12567.)

Subcommittee Comments: For example, “I move to suspend the rules to allow each member of the council to speak for a fourth time on the item because”

The following rules were considered but tabled. The subcommittee asks the full commission to consider.

Appeals. No member of the body shall discuss the evidence applicable to an appeal with the parties to the appeal while such matter is pending, except in open meeting of the council. Speaking time allotments are as follows:

- Appellant or appellant representative up to ten (10) minutes
- Respondent or respondent representative up to ten (10) minutes
- Appellant or appellant representative up to (3) three-minute rebuttal

Currently, “Appeals shall be presented to the Council as required by law. Persons other than parties to the appeal may speak only by permission of the Council. No member of the Council shall discuss the evidence applicable to an appeal with non-councilmembers while such matter is pending except in open meeting of the Council.”

Subcommittee comments: This provision refers to conduct outside of a meeting and may not be appropriate for the conduct at meetings *unless it contains speaking time limits*. In any event, public discussion and lobbying of councilmembers on a pending appeal, prior to or during a meeting, should be allowed rather than it being at the discretion of the council.

Written Communications by Members: Any member may submit a written abstract of their verbal statement during a meeting. “Council Communications,” which may include a report, may be included as part of the public record at any time prior to, or during, the meeting. Written communications received by the city clerk prior to the meeting will be posted online as “exhibits-correspondence.”

Currently, “Remarks of Councilmember; When Entered in Minutes. Any Councilmember may request, through the presiding officer, the privilege of having a written abstract of the member’s [verbal] statement on any subject under consideration by the Council entered in the minutes. If the Council consents thereto, such statement shall be entered in the minutes.” (Res. No. 12567.) “Before 5:00 p.m. on the Monday of the week prior to each Council meeting any City official, board, commission or other municipal body having any reports, communications or other matters for submission to the Council, shall hand the same to the City Clerk whereupon the Clerk shall arrange a list of such matters according to the order of business specified in subsection 2- 6 hereof, and furnish a typewritten copy of the list to each member of the Council.” (Ord. No. 2-1.5.)

Subcommittee comments: This provision may not be necessary to advance the orderly conduct of meetings. However, because votes are not cast under “council communications,” written communications or reports should be encouraged and could be instructive as to the civic affairs our representatives are engaged in, especially because the communications are given at the end of meetings.

Outline of Rosenberg's Rules of Order

Establishing a Quorum

- One more than half the body

The Role of the Chair

- Charged with applying the rules of conduct of the meeting
- All decisions by the chair are final unless overruled by the body itself
- Strives to be the last to speak at the discussion and debate stage.

The Basic Format for an Agenda Item Discussion

1. Announce the agenda item number and subject
2. Hear report on the item
3. Hear any technical questions of clarification from body
4. Invite public comments and announce when public input has concluded
5. Invite a motion
6. Determine if any member of the body wishes to second the motion
7. If the motion is seconded, the chair should make sure everyone understand the motion.
8. Invite discussion of the motion
9. Take a vote
10. Announce the result of the vote.

Motions in General

The chair usually initiates the motion in one of three ways:

- Invites a motion
- Suggests members make a motion
- Makes the motion

Three types of motions

- Basic motion – puts forward a decision for the body's consideration
- Motion to amend – moves to amend/change the basic motion
- Substitute motion – moves to do away with the basic motion and substitute another; there may be a "friendly amendment" to make a small change

Multiple Motions Before the Body

There can be up to three motions on the floor at the same time.

- A vote would be taken first on the third motion
- If the motion to amend passed, move to consider the main motion as amended.
- If the motion to amend failed, move to consider the main motion in its original format.

To Debate or Not to Debate

The following motions are not debatable—after a motion is seconded, a vote is called

- Motion to adjourn
- Motion to recess
- Motion to fix the time to adjourn
- Motion to table – place on hold
- Motion to limit debate – “I move/call the question”: enough debate has taken place

Majority and Super Majority Votes

Simple majority determines outcome unless a super majority (two-thirds) is required for a specific action.

The Motion to Reconsider

- Must be made at the meeting where the item was first voted upon
- May be made only by member who voted in the majority on the original motion

If the motion to reconsider passes, then the original matter is back before the body and a new original motion is in order.

Courtesy and Decorum

Speakers to be first recognized; Chair has the right to cut off discussion that is too personal, loud, or crude; Chair may limit the time allotted to speakers, including members of the body. Speakers are generally not interrupted. Exceptions are:

- **Privilege** – relates to normal comfort of the meeting
- **Appeal** – a member of body may appeal the ruling of the chair; a simple majority may reverse ruling of chair
- **Call for orders of the day** – “return to the agenda” if discussion drifts off-topic
- **Withdraw a motion** – the maker of the motion, at any time, may withdraw motion