

MINUTES OF THE OPEN GOVERNMENT COMMISSION MEETING  
MONDAY - - - MARCH 5, 2018 - - - 7:00 P.M.

Chair Dieter convened the meeting at 7:01 p.m.

ROLL CALL - Present: Commissioners Foreman, Henneberry, Little,  
Schwartz and Chair Dieter – 5.

Absent: None.

ORAL COMMUNICATIONS, NON-AGENDA

None.

AGENDA ITEMS

3-A. Review the Rules of Order for City Council Agendas and Meetings

Chair Dieter made brief introductory comments and provided background information.

In response to Chair Dieter's inquiry, the City Clerk agreed that staff would not provide a report and would raise questions as the Commission reviews the subcommittees proposed recommendations.

Commissioner Foreman stated the subcommittee is proposing the current rules be repealed, and Rosenberg's Rules of Order be adopted along with special rules; inquired whether or not the subcommittee went through each individual section of the current rules.

Chair Dieter responded the subcommittee went through all the resolutions and pulled out all of the existing rules and reworded them, which are the nine special rules; stated the subcommittee tabled two rules; if Commissioner Foreman found something that the subcommittee forgot, the Commission can address it.

Commissioner Foreman stated Council's charge was to review and update the rules; instead, it looks like the Commission is writing its own set of rules without specific reference to the existing rules; for instance, there are six different items under public discussion under the old rules; under the supplemental rules, there are a lot less; the same thing for Council deliberations; he has a problem with the structure; he anticipated the subcommittee would be going through each of the existing sections.

Chair Dieter stated a lot of the existing rules are already in Rosenberg's Rules of Order; the subcommittee did not want to duplicate the rule.

Vice Chair Little stated one of the subcommittee tasks was to go through the existing rules; she did a line by line comparison of the five different versions of the current rules

and Rosenberg's Rules; the only time the subcommittee added a supplemental rule was when Rosenberg's Rules were silent; the current rules of order required looking in five different resolutions; after doing the comparison, Rosenberg's Rules are much more accessible to the average person to understand; items were accounted for by identifying and adding in special rules; she feels confident, the document is complete.

Stated the adjournment time should be switched back to midnight; three meetings per month could be held, but he does not know how the 10-day advance notice could be done; if there are concerns over late meetings crimping public participation, the public can submit a letter to the City Council starting 10 days before any meeting; letters can be longer than what someone can say in three minutes; waiting until 11:00 p.m. to speak is bad; sitting through a meeting and not having the item called is worse: Richard Bangert, Alameda.

Stated Council meetings are painful; comments on matters is often not heard until 9:30 p.m.; it does not feel democratic; urged the Commission to do anything it can to guide the Council; stated items should be moved to action or delayed for more study or additional hearings; outlined her experience with an item not being heard; stated the Council should have to make motions to discuss and either approve or vote down; stated the Planning Board could also use the rules; suggested a training session be held and there be guidance regarding referrals and hearing referrals faster: Pat Lamborn, Alameda.

Chair Dieter suggested the Commission go through the nine special rules one at a time; started with Counting Votes.

Commissioner Foreman inquired where Counting Votes is in the existing rules.

Chair Dieter responded it is not in the existing rules; stated it is in the City Charter.

Commissioner Foreman inquired whether three affirmative votes are require for any action, to which the City Attorney responded in the affirmative; stated the language is straight from the Charter.

Commissioner Foreman stated abstentions were discussed at the last meeting; inquired whether abstentions count as a no vote, which cannot be changed.

Chair Dieter responded in the affirmative.

Commissioner Schwartz stated that he could not agree more with Ms. Lamborn; he is grateful to the subcommittee for coming up with the rules; making the City Council meetings run better is enormously important and would be a major accomplishment for the Commission; speaking should be limited, while preserving the public's right to be heard; it should be clear that the limit is three minutes per person; he supports not ceding time; inquired whether or not people could subvert the rules and get extra time at some other point in the proceeding.

Chair Dieter and Vice Chair Little expressed that they could not think of such an instance.

The City Clerk provided a scenario of someone speaking on the same topic under Public Comment at the closed session and again under Oral Communications Non-Agenda on the regular meeting the same night.

Chair Dieter stated the subcommittee discussed the matter; non-agenda items are only for matters not on an agenda, whether closed session or not; the subcommittee wanted to be clear.

The City Attorney provided a specific example prohibiting a speaker from commenting under non-agenda items on the regular agenda after having an opportunity to comment on the agenda item at a prior closed session meeting the same night; Council wants to hear from the Commission on the issue.

Chair Dieter stated the subcommittee's intent was to do so; questioned whether language should be added to clarify speakers can comment once on a particular night.

There was consensus to add language.

The City Attorney stated limiting speakers would not be fair if the meetings were on different nights.

Commissioner Foreman inquired whether someone wanting to comment after the closed session announcement is a legitimate non-agenda item.

Chair Dieter responded in the negative; stated the person is commenting on the closed session item, which is on the agenda.

Commissioner Foreman stated the speaker would not be given an opportunity to comment after the Closed Session action is announced.

The City Attorney stated comments are given prior to Council going into closed session; provided an example.

Commissioner Foreman stated the public having to be present to comment at the start of the closed session is fine.

Vice Chair Little stated the language should be tightened up.

Commissioner Foreman stated that he is opposed to the restriction about ceding time; he could support the Mayor getting assurance that the person ceding time is present; there are better ways to shorten meetings; inquired why public comments not being a debate has not been included.

Chair Dieter responded the matter is addressed in Rosenberg's Rules of Order.

Commissioner Foreman stated that he has not seen it.

Vice Chair Little stated Rosenberg's Rules specifically talks about public comment not being a debate.

Chair Dieter concurred; stated Rosenberg's Rules address what is debatable and not debatable.

Commissioner Foreman stated it is not included the short version.

Chair Dieter concurred; stated it is in the long version.

Vice Chair Little stated the subcommittee thought it was reasonable.

Commissioner Foreman stated that he does not read Rosenberg's Rules as relating the issue to public comment; it relates to Council discussions.

In response to Chair Dieter's inquiry, Commissioner Foreman stated language exists; he does not like the language; under non-agenda comment, a sentence says City staff or members of the body may briefly respond, but no action or discussion follows at the meeting; there is not a provision covering agenda items; public comment takes place before the motion; the language in Rosenberg's Rules relates to debate on a motion, which is not the same thing; there needs to be guidelines one way or another.

Chair Dieter stated a sentence could be added.

Commissioner Foreman suggested adding the same language under public comment non-agenda items: "staff or members of the body may briefly respond;" a clarifying question could be asked; Council typically does not respond to speakers; people want a response, not a debate; once in a while a response is appropriate.

Vice Chair Little expressed concern if 30 other people are waiting to speak.

Commissioner Foreman stated public comment is not time for a debate; a clarifying comment would be appropriate.

Vice Chair Little stated adding a sentence to clarify there is no debate during public comment would be okay.

Commissioner Foreman stated language has been included for non-agenda items; inquired why language would be included for one and not the other.

The City Attorney responded a decision cannot be made about non-agenda items because the matter has not been publically noticed; stated the rule is that the Council and staff do not respond; provided an example of the City Manager indicating someone would follow up with the speaker; questioned whether interrupting the speaker would count towards the speaker's three minutes.

Commissioner Foreman stated the situation is not easy; he is trying to make it more interactive; he does not know how it should be done.

Vice Chair Little stated the rules are to set the public's expectation; allowing response does not provide a clear expectation.

Commissioner Schwartz stated including the sentence about responding under non-agenda items opens the door for chaos without qualifying brief response; suggested making it clearer, such as a response of 60 seconds or less on logistical concerns.

Chair Dieter suggested removing the last sentence from Rule 3; stated both would match.

Commissioner Foreman stated then there would be no guidelines at all.

Chair Dieter stated City staff rarely has to interrupt; questioned why something should be written down that rarely ever happens; stated Rules 2 and 3 were addressed together.

The City Clerk clarified the first agenda section of non-agenda comment is limited to 15 minutes; stated the additional section at the end of the meeting is for further comment.

Commissioner Foreman inquired whether the second section of non-agenda comment is unlimited, to which the City Clerk responded in the affirmative; stated the Sunshine Ordinance moved non-agenda comments to the beginning of the agenda, but limited the first section to 15 minutes in order to get to business.

Chair Dieter stated that she did not know there was no time limit at the end of the meeting; stated clarifying language be added.

The City Clerk inquired whether the Commission would like to address speakers only being able to speak under one section of Oral Communications, not both.

Commissioner Foreman responded that is pretty much understood.

Commissioners Schwartz and Little expressed support for clarifying the language.

In response to Chair Dieter's inquiry, Vice Chair Little stated the question came up about speaking multiple times; someone should not speaking under both non-agenda sections on the same topic.

Chair Dieter stated that she has spoken under both sections on two different topics.

The matter was briefly discussed to clarify that a speaker could comment under each section, but not on the same topic.

The City Clerk noted the non-agenda section could be moved after Council referrals to address the concern about not getting to referrals.

Commissioners Foreman, Schwartz and Little expressed support for doing so.

The City Clerk noted the order of business of the meetings would have to be amended via resolution.

In response to Chair Dieter's inquiry, Vice Chair Little outlined the changes: 1) the last line under the Supplemental Rule 3 would be deleted, 2) language that specifies a speaker can only speak for a maximum of three minutes on one topic would be added, and 3) the second section of oral communications is considered a continuation of the first.

The City Clerk inquired whether the Commission has an interest in limiting the speaker time limit in the instances when there are many speakers.

Vice Chair Little responded the subcommittee discussed the issue.

Chair Dieter stated the subcommittee decided to leave the matter at the discretion of the Chair; the Chair should be encouraged to make the judgement call; questioned whether the Commission thinks a recommendation is needed to lower the time limit to two minutes for items with over 20 speakers.

Commissioner Foreman stated that he has seen Council vote to change the time limit.

The City Attorney stated Council can modify any of the rules; noted trying to decide to make changes during the meeting takes time; a policy might make it simpler.

Chair Dieter stated any member could make a motion to suspend the rules to lower the time limit; the Chair would be overruled if the super majority agrees.

Commissioner Schwartz stated pre-establishing guidance would do the Chair a favor.

Commissioner Henneberry stated when he was on the Planning Board, if there were multiple items with lots of speakers, the limit would be two minutes; there was not a hard and fast rule; if there was only one item with many speakers, three minutes was allowed.

In response to Commissioner Foreman's inquiry, Commissioner Henneberry stated the Planning Board would discuss the speaker time limit.

Commissioner Foreman stated that he thinks the Council should vote on the time limit.

Chair Dieter stated it can be voted on under the proposed rules.

Commissioner Foreman inquired what if the Mayor makes a decision which the rest of the Council does not like.

Chair Dieter responded the Mayor could be overruled; the super majority can suspend any rule.

Commissioner Foreman stated that he would prefer a vote be required.

Chair Dieter stated if discretion is not given to the Chair, the rules could still be suspended by super majority; the language could be deleted.

Commissioner Schwartz questioned whether the Chair's discretion is being taken away.

Commissioner Foreman stated that he could live with having to cut his comments to two minutes if four members of the Council vote on it, rather than just at the discretion of the Mayor.

Chair Dieter stated the consensus is to take out the phrase: "at the discretion of the Chair."

In response to Commissioner Schwartz's inquiry regarding the downside of limiting the speakers over a certain threshold, Chair Dieter stated as Commissioner Henneberry pointed out, an agenda might have only two items and there would be plenty of time.

Commissioner Schwartz stated the super majority could vote to increase the time.

Chair Dieter stated doing so seems more complicated; stated that she hears there is a consensus on everything except Commissioner Foreman does not like the idea about eliminating ceding time; inquired whether anyone else has a problem.

Commissioner Henneberry responded that he does not think ceding time should be allowed.

Commissioner Schwartz stated that he agrees with the proposal as written.

Chair Dieter inquired whether anyone has issues with Rule 4.

Commissioner Schwartz responded the amount of time is tremendous; he does not see why someone would need to speak three times for three minutes on one agenda item; the amount is way too much.

In response to Chair Dieter's inquiry, Commissioner Schwartz stated five minutes total is hefty.

Chair Dieter stated a Councilmember speaks for 10 minutes and the same person comments on what others have said; time has to be allotted for deliberations to go back and forth.

Commissioner Schwartz suggested the times be three minutes, two minutes and one minute.

Vice Chair Little stated meetings are the only time the Council can discuss a topic as a group; for a lot of the topics, such as rent control, the public needs to see time is being taken to delve into, engage, interact and respond to some of the comments made; the subcommittee went back and forth about the right amount of time; providing a framework will afford the opportunity to engage in conversation, but puts a limit; only giving three chances to speak would already impact the process.

Commissioner Foreman stated compared to what is in writing, a lot more time is being given; compared to what is actually happening at Council meetings, it is a lot less time; the rule is reasonable if it can be enforced.

Chair Dieter stated part of why three minutes is being suggested is because the City Clerk will have to enforce the rule.

The City Clerk inquired whether the Commission is suggesting a timing system to allow Councilmembers to see the countdown.

Commissioners Schwartz, Little and Foreman expressed support for doing so.

Commissioner Schwartz stated speaking three times for three minutes each is still a lot.

The City Clerk noted staff would be able to execute the recommendation.

Vice Chair Little inquired whether the City Clerk would keep track.

Chair Dieter responded the timekeeper would have to do it.

Vice Chair Little stated Rosenberg's Rules include a rule of decorum and agreeing to a process, so it is on the members to know and stop.

Commissioner Henneberry stated the proposal on the table is better than what is going on; sometimes progress is incremental; he supports the subcommittee's proposal.



Chair Dieter inquired whether anyone has issues with the rule on ceremonial presentations and proclamations.

Commissioner Foreman responded 15 minutes is not doable.

Vice Chair Little stated the time can be extended.

Chair Dieter stated 15 minutes is the current rule; getting through proclamations the last few meetings has taken one hour; she thinks the rule is important; inquired how proclamations are added to the agenda.

The City Clerk responded many proclamations are repeated annually; stated outside groups make requests; work is currently being done to limit proclamations to three per meeting; a suggestion has been made to only read part of the proclamation.

The City Attorney noted an excerpt could be read since the proclamations are included in the packet.

Vice Chair Little stated the following commentary often tends to go on for a long time.

Commissioner Foreman stated no matter what rule is written, it will be ignored; it is very difficult; provided an example.

Chair Dieter stated in all fairness to the City Council, she does not think people have been cognizant of the rules; this is a new starting point; she thinks there will be teamwork; the Chair is responsible for keeping the process going.

Commissioner Foreman stated that he would be more comfortable with limiting the amount of time to 10 minutes per proclamation.

Vice Chair Little stated it is up to the Chair to get through the proclamations in 15 minutes; if there are three, the Chair should explain each gets five minutes; if there is one, it can have the full 15 minutes; creative scheduling might be in order as well.

Chair Dieter stated perhaps every person being honored might not speak; recommended deleting the last clause that says the time can be extended by majority vote.

Commissioner Foreman stated that he has no problem with that.

Chair Dieter moved on to Rule 6 on consent items, which did not have any issues; inquired whether there are issues with Rule 7 regarding referrals.

Commissioner Foreman responded referrals are not in the current rules.

Chair Dieter stated referrals are not in the current rules and have never been adopted by resolution or ordinance.

Commissioner Foreman inquired whether referrals have been adopted in any way.

Chair Dieter responded referrals were adopted by motion; stated since the issue is being visited, referrals should be codified; before the meeting, the subcommittee decided to add one more element to the provision that is not included: Councilmembers would be limited to three referrals per year, which is important because some items can be done behind the scenes by working with the City Manager, City Attorney or the department head; after a little behind the scenes, the City Manager could agendize the matter if it is important.

Commissioner Foreman stated that he would go to the City Manager first if he was on the Council; questioned whether the referral process is not used unless Councilmembers cannot get cooperation.

Commissioner Henneberry inquired what are the current rules on referrals; inquired whether there is any limit.

Chair Dieter responded there are no limits.

Commissioner Henneberry inquired where the limit of three came from, to which Chair Dieter responded sticking with the three on all the rules; everything is three.

Commissioner Henneberry stated that he thinks three is too limited.

Commissioner Foreman concurred.

Chair Dieter stated three referrals per Councilmember is 15 referrals per year that would have to come back 15 more times, which is more referrals than there are meetings per year since there are 22 meetings.

Commissioner Henneberry inquired how many referrals are being made by each Councilmember.

The City Clerk responded she could do a tally; stated some do more than three.

Commissioner Henneberry stated the number would be useful; three seems low.

Commissioner Schwartz stated the rule feels distinct from everything else being done, which are explicitly about time management in meetings; limiting referrals seems far afield; the matter could be addressed separately after further investigation; he would leave the amendments to addressing number of minutes, etc.

Vice Chair Little stated a little more research might be needed.

Chair Dieter stated the start of the process has been geared toward the orderly conduct of meetings and nothing that goes on outside meetings; Commissioner Schwartz is right that the subcommittee stepped over the line a little bit.

Commissioner Foreman stated dealing with referrals altogether stepped over the line.

Chair Dieter stated not really because the public never knows what to expect from a Council referral; right now, a matter may come back or be decided on that night; the agenda title gives the impression that a decision could be made that night; provided an example; stated that she thinks Council referrals are out of hand; a lot of time is spent on the merits of an issue and whether the issue is important enough to bring back at another meeting, which was the whole impetus of Council referrals; referrals come from one person, rather than have it agenized, Council is supposed to decide if it is important and should come back with a staff report.

The City Clerk stated Council did not want to be limited and wanted to be able to take action under the Council referrals section of the agenda; the 2007 staff report, which was provided, clearly states the Council can take dispositive action if sufficiently noticed.

Commissioner Foreman inquired what is sufficient information, to which the City Clerk responded said determination is made by the City Attorney.

The City Attorney provided an example of supporting State legislation; stated Chair Dieter's examples are something that would need analysis.

The City Clerk stated the current Council adopted a new referral form and reiterated the three options at the top of the form: 1) take no action, 2) refer the matter to staff or 3) take dispositive action; the current Council just reaffirmed that they want to take dispositive action; noted the Commission would be recommending something different than the current Council has said they want.

Commissioner Schwartz suggested tabling referrals for now; stated referrals seem to do less with time management and Rosenberg's Rules; the matter could come back in a more comprehensive way.

Chair Dieter stated that she has a suggestion, which might solve the matter and allow it to be included; suggested each Councilmember indicate whether or not dispositive action is being requested; stated members of the public want to know whether the matter would return.

Commissioner Schwartz stated the issue seems more complicated than limiting time to three minutes.

Chair Dieter stated that she is fine with that; inquired whether everyone else is okay.

Commissioner Foreman responded in the affirmative.

Vice Chair Little concurred.

Chair Dieter stated the next item is meeting adjournment time.

The City Clerk inquired whether the proposal eliminates the requirement to add meetings if three meetings in a row go past 11:00 p.m.

Commissioner Foreman responded in the negative; stated the matter is in the Sunshine Ordinance.

Chair Dieter stated that she did not know whether the issue belongs in the orderly conduct of meetings and she thinks it is also a side issue.

The City Attorney stated concern was raised at the last Council meeting; the Commission does not have to make a recommendation.

The City Clerk stated having no new items heard after 11:30 p.m. goes past the 11:00 p.m. meeting deadline.

Chair Dieter stated under the proposal, a vote would not be done until 11:30 p.m.; the Council would know they are not going to address any more items and the matter would not have to be discussed; the meeting would continue smoothly until 11:30 p.m.

The City Clerk stated the Sunshine ordinance would have to be modified to do so and a decision needs to be made about the three times in a row requirement.

Chair Dieter stated the subcommittee is suggesting the current requirement be repealed and the rule be replaced.

Commissioner Foreman inquired where is the requirement about three meetings in a row, to which the City Clerk responded the Sunshine Ordinance.

Chair Dieter stated it is not currently in the rules; it is a separate ordinance.

In response to Chair Dieter's inquiry, the City Attorney stated the Sunshine Ordinance has to be amended by ordinance; the rules or order cannot modify an ordinance regulation; outlined the current ordinance; stated the requirement to add more meetings is unclear and has never been triggered; the rules of order saying there is only one vote and new items can be taken up to 11:30 p.m. modifies the ordinance; the question is if the Commission is recommending the ordinance be modified.

Chair Dieter responded that she is only recommending changing the time.

Commissioner Foreman stated the Commission was told to review the rules of order, not rewrite the Sunshine Ordinance; the Commission rewrote the Sunshine Ordinance about two years ago; they are two different things.

Chair Dieter stated not codifying the Sunshine Ordinance requirement in the rules of order was a mistake; lots of things in the Sunshine Ordinance do not apply to the rules of order.

Commissioner Foreman stated the subject is clearly covered in the Sunshine Ordinance.

Chair Dieter stated the proposed rules allow the public to review one document to see the whole rules of order.

The City Attorney stated if the Commission is not looking to modify the Sunshine Ordinance, then the rules should reflect the Sunshine Ordinance provision, which differs from what is being suggested; the Commission can suggest a modification to the ordinance.

Chair Dieter and Vice Chair Little stated that is what they are suggesting.

Chair Dieter stated the subcommittee is suggesting modifying the ordinance; the Council might not like the rule; if the Council likes the rule, the Sunshine Ordinance will have to change to reflect a different time frame.

The City Attorney inquired whether the rules of order change would delete the 10:30 p.m. and 11:00 p.m. votes and the requirement to add a meeting if three go past 11:00 p.m.

Chair Dieter responded in the negative; stated the requirement to add the meeting is not being removed; inquired whether only the first two sentences could be amended.

The City Clerk read the ordinance language; stated the idea is to combine the vote to one and keep the requirement for three meetings in a row.

Vice Chair Little responded in the affirmative.

Chair Dieter stated that she does not want any votes to happen until 11:30 p.m.

Vice Chair Little stated there is a conversation at 10:30 p.m. about whether or not to address more agenda items, which takes 15 to 20 minutes; then, at 11:00 p.m., there is another conversation about whether or not the meeting should continue; essentially 45 minutes to an hour is spent on deliberation and meetings end up continuing until 3:00 a.m.; the subcommittee's thinking was to remove the question about whether or not the meeting would continue; new items would not be taken after 11:30 p.m. without a vote to take other items, which would be decided by a supermajority vote.

The City Clerk suggested removing the language since a supermajority vote is already required to suspend the rules and the vote would just be suspending the rules.

Chair Dieter stated the subcommittee did note that acceptance of the rule would require changing the ordinance; the subcommittee was going to let staff figure out how to make the change.

The City Clerk stated that she did not know what to tell the Council because the subcommittee was silent on three meetings in a row.

Commissioner Foreman stated that he would make the matter not debatable, so the Council would just vote.

Commissioner Schwartz concurred with removing the language requiring a supermajority vote; inquired why 11:30 p.m. was selected; stated running a meeting does not have to take so long; suggested using the current time of 10:30 p.m.

Chair Dieter stated for almost two decades the rule set the time at midnight; the public knew the routine of the previous Council always voting to go past 11:00 p.m.; this Council is totally erratic; no one knows when meetings will continue; the proposal is fair to the public and Council, and is an effort to get through City business; the current problem is the Council is not getting through City business, which representatives are elected to do; she can only imagine how the City Manager feels; she thinks the proposal returns it to the way it was for two decades, which worked fine; with the accumulation of all of the changes, meetings might not go so late; the proposal prevents deliberating on the actual agenda timing for 45 minutes.

Commissioners Foreman and Little concurred.

Commissioner Foreman stated the goal is to make meetings shorter; many things can be done to shorten meetings; the time set is not going to shorten meetings; former Councilmember deHaan informed him there were never long staff presentations in the past; time was limited; staff provides a detailed description two weeks before the meeting and goes over everything again in a presentation at the meeting; he does not understand why the staff presentation cannot be limited to clarifying questions; there is no need for staff to repeat the entire staff report, which eats up all the time.

Chair Dieter stated the City Manager works at the behest of the City Council; the Council can ask the City Manager to shorten staff presentations; the rules of order just address how to run City Council meetings.

Commissioner Henneberry stated limiting the debate on adjournment should will shorten meetings; the conversation is 45 minutes and is a waste of time.

Commissioner Schwartz questioned why the proposal cannot be 10:30 p.m. instead of 11:30 p.m.

Chair Dieter responded the Council is not getting through business; stated the City Council may decide to make it 10:30 p.m.; the public has plenty of time to submit letters and write op-ed pieces on any issue; representatives should make decisions and not worry about who can remain in the audience.

Commissioner Foreman stated a very simple rule is being proposed; legal staff would have to change the ordinance.

The City Attorney inquired whether the Sunshine Ordinance should be changed to say no new items can be considered after 11:30 p.m., with the meeting continuing and not triggering a need for additional meetings.

The City Clerk inquired whether the three meetings in a row rule would be eliminated, to which Chair Dieter responded in the affirmative.

Commissioner Foreman stated the Council would not stop in the middle of addressing something.

In response to Chair Dieter's inquiry about language, the City Attorney stated there is no set adjournment time; rather the Commission is saying no new business is taken up after 11:30 p.m.

Vice Chair Little inquired whether the Commission should add if three meetings in a row go past, then additional meetings would be needed.

Chair Dieter responded said language should not be added.

Commissioner Foreman inquired whether the issue is addressed in the Brown Act, to which the City Attorney responded the matter is not a Brown Act issue.

Chair Dieter stated the more the issue is discussed, she would not require adding meetings.

The City Clerk inquired whether the language should read: "time after which no new business is heard," to which Chair Dieter responded in the affirmative.

Commissioner Foreman stated that he can live with the recommendation; an item which starts at 11:29 p.m. could continue.

Chair Dieter stated if the Council is tired and does not want to consider an item, a vote could be taken to suspend the rules.

The City Attorney stated the change will take an ordinance amendment; staff will pass the recommendation along to Council.

Commissioner Foreman inquired about the debate language.

Chair Dieter responded the language would be removed.

In response to Commissioner Foreman's inquiry, Chair Dieter stated Rosenberg's Rules includes that there is no debate on a motion to suspend the rules.

Commissioner Schwartz stated that he is the only member who thinks the time should be 10:30 p.m.

Chair Dieter stated the time has been tried for a couple of years and has not worked; the new rules might cause meetings to end earlier.

Commissioner Schwartz stated perhaps 10:30 p.m. could be used a starting point.

Chair Dieter inquired whether there are any issues with suspension of the rules.

There were none.

Chair Dieter stated the subcommittee rejected the existing rules on appeals and written communications, but wanted to address them; the focus should be on the orderly conduct of meetings and nothing outside of meetings; the appeals might be pertinent if there are time limits; anything in place should be included in the rules of order.

The City Attorney stated the various Code sections on appeals address when the matter must be heard on an agenda; there is no rule on how an item is handled at the meeting.

Chair Dieter inquired whether there is enough of an issue that a rule should be included.

The City Attorney provided an example of a recent appeal.

Chair Dieter inquired whether the Commission wishes to address the matter.

Commissioner Foreman responded the problem is there are various kinds of appeals; stated one time limit might not work for all appeals; the matter could remain under the Council's discretion; perhaps notice could be given to the parties before the meeting.

Commissioner Schwartz stated that he concurs with the proposal to table the matter.

Commissioner Foreman inquired whether there are matters, other than appeals, that are quasi-judicial and whether public hearings might qualify, to which the City Attorney responded anytime the Council gives entitlements and rights.



Commissioner Foreman stated Councilmembers are familiar with items that are quasi-judicial and know not to speak about the matter.

There was consensus to drop the matter.

Chair Dieter stated the existing rule on written communications seems to be separate.

Commissioner Schwartz stated that he agrees with the proposal to omit it.

Commissioner Foreman inquired whether the rules include things such as a Councilmembers requesting comments to be put in the record.

Vice Chair Little responded the suggestion is not to include anything.

Chair Dieter stated the matter has nothing to do with the orderly conduct of meetings.

In response to Commissioner Foreman's inquiry, Chair Dieter stated a statement that is read can be submitted to the City Clerk for the record.

The City Clerk noted it never happens.

Commissioner Foreman inquired why it should be eliminated.

Chair Dieter stated the Commission needs to decide; she is hearing a consensus to omit it.

Commissioner Henneberry inquired whether a Councilmember who wants a verbatim statement put in the record could still give it to the City Clerk, to which Chair Dieter responded in the affirmative.

Commissioner Forman inquired where the language comes from, to which Chair Dieter responded Resolution 12567.

Commissioner Schwartz moved approval of adopting the subcommittee's proposal with the amendments offered.

Commissioner Henneberry seconded the motion.

Under discussion, Chair Dieter recommended that the subcommittee incorporate the changes and provide the document to the City Clerk.

The City Clerk stated the recommendation will go back to the Council subcommittee, which requested a report back.

On the call for the question, the motion carried by the following voice vote: Ayes: Commissioners Henneberry, Little, Schwartz and Chair Dieter – 4. Abstention: Commissioner Foreman – 1.

### COMMISSIONER COMMUNICATIONS

Chair Dieter stated when a member of public writes to the public on an agenda item, sometimes the correspondence is attached and sometimes it is not; inquired how it happens and how the public knows.

The City Clerk responded if the person copies her, the correspondence is included; stated that she will also include the correspondence if staff or Councilmember forwards it to her; anything she receives she includes; if she is not included in the loop, the correspondence does not get included.

Commissioner Foreman stated sometimes it is not received in time.

The City Clerk stated that she attempts to include anything received before the meeting begins.

Chair Dieter stated the public is not aware; suggested the Councilmembers' website pages include: "Any correspondence regarding an agenda item that you would like attached to the staff report, please send to the City Clerk," or something similar.

The City Clerk stated that she would work with the City's website coordinator.

Commissioner Schwartz suggested a button be added: "To contact a Councilmember about an agenda item, click here;" then, it will go to the Council and copy the City Clerk.

Chair Dieter inquired whether the letter would remain attached if an item is continued to another meeting, to which the City Clerk responded in the affirmative.

Chair Dieter suggested the adopted rules of order be posted to the website with a link to a meeting guide with the order of business.

### ADJOURNMENT

There being no further business, Chair Dieter adjourned the meeting at 8:56 p.m.

Respectfully submitted,

Lara Weisiger  
City Clerk

The agenda for this meeting was posted in accordance with the Sunshine Ordinance.