

# CITY COUNCIL COMMITTEE

## SPECIAL MEETING

### **POLICY DEVELOPMENT AND INTERNAL OPERATIONS**

Mayor Laura Hoffmeister, Chair  
Ron Leone, Committee Member

5:30 p.m.  
Thursday, July 21, 2016

Wing A, Garden Conference Room  
1950 Parkside Drive, Concord

#### **ROLL CALL**

#### **PUBLIC COMMENT PERIOD**

1. **CONSIDERATION** – Proposed Revisions to City Council Meeting Procedures including Mayoral and Vice Mayoral Rotation and discussion of City of Concord e-mail policy for council members and individualized Concord councilmember stationery. Report by Joelle Fockler, City Clerk.

#### **2. ADJOURNMENT**

In accordance with the Americans with Disabilities Act and California Law, it is the policy of the City of Concord to offer its public programs, services and meetings in a manner that is readily accessible to everyone, including those with disabilities. If you are disabled and require a copy of a public hearing notice, or an agenda and/or agenda packet in an appropriate alternative format; or if you require other accommodation, please contact the ADA Coordinator at (925) 671-3361, at least five days in advance of the meeting. Advance notification within this guideline will enable the City to make reasonable arrangements to ensure accessibility.

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Distribution: City Council  
Valerie Barone, City Manager  
Jovan Grogan, Deputy City Manager  
Susanne Brown, City Attorney  
Joelle Fockler, City Clerk



## REPORT TO COUNCIL COMMITTEE ON POLICY DEVELOPMENT AND INTERNAL OPERATIONS

**TO HONORABLE COMMITTEE MEMBERS:**

DATE: July 21, 2016

**SUBJECT: Proposed Revisions to City Council Meeting Procedures including Mayoral and Vice Mayoral Rotation and discussion of City of Concord e-mail policy for councilmembers and individualized Concord councilmember stationery**

### **Report in Brief**

At the April 14, 2016 Policy Development and Internal Operations (PD&IO) subcommittee meeting, staff was directed to amend the City Council Meeting Procedures (Concord Policy and Procedure Number 2, "Procedures") to provide a formal process to select presiding officers. Staff has also drafted proposed and clean-up amendments to the Procedures for the subcommittee's consideration. In addition to the discussion of the Procedures, staff would like subcommittee direction on an e-mail policy for Council and on individualized stationery for councilmembers.

### **Background**

At the January 26, 2016, City Council meeting, the City Council requested that the Committee on Policy Development and Internal Operations review the authority and procedure, including election procedure, to convert to an elected Mayor. The subcommittee met on April 14<sup>th</sup> and, following deliberation, directed staff to prepare an amendment to the Procedures in order to implement an alternative to a directly-elected Mayor. The alternative is a formalized rotation for both the Mayor and the Vice Mayor positions. This would be the first time the City has had a formal process to elect the presiding officers for Council meetings.

In addition, staff has been working on proposed and clean-up amendments to the Procedures, as set forth below.

### **Discussion of Proposed Procedure Changes**

Substantive changes proposed for the Procedures are summarized below and shown in redline format in Attachment 1.

1. Mayor and Vice Mayor Rotation (Section 8.2). The rotation schedule for the Mayor and Vice Mayor positions would be formalized under the revised Procedure (Section 8). As proposed by Vice Mayor Leone, the Mayoral term would remain at 2 years, and the Vice Mayor's term would expand from one year to two years. The Vice Mayor in place when the Mayor's term expires would automatically succeed to the Mayor's position. Whoever has been on the Council for the most consecutive years without being Mayor becomes the Vice Mayor. If there is a seniority tie, the Councilmember who received the most votes during the previous election will be the Vice

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Mayor. If all Councilmembers have already served as Mayor, then the Councilmember who has not been Mayor for the longest time span will automatically become Vice Mayor. The City Council could depart from this rotation policy by a 4/5 vote.

2. Delete Mayor Pro Tem Title (Section 4.5). Currently, the Procedures provide for a Mayor, Vice Mayor and Mayor Pro Tem. The Government Code refers to a Mayor and Mayor pro tem. Most cities simply refer to the Vice Mayor instead of Mayor Pro Tem. The revisions therefore delete the Mayor Pro Tem position, so that Concord will have a Mayor and Vice Mayor only.
3. Public Comment (Section 4.7). The section on public comment has been slightly rewritten to clarify different processes for public comment on agendized and non-agendized items.
4. Speaker Decorum (Section 4.42). Court cases make clear that the City cannot prohibit any remarks or conduct at its meetings, regardless of how odious, unless those remarks or conduct actually disrupt the meeting. The section on “Decorum” has been amended to make this clear.
5. Process to Set Public Hearing (Sections 5.3 and 5.4.). The City Council will no longer have to set a public hearing date at least two weeks in the future for the consideration of an ordinance or consideration of a public hearing. This voluntary policy creates unnecessary delay in agendizing public hearing items. California law already requires that -- a least ten days before the public hearing -- public hearing notices be advertised in a newspaper of general circulation and mailed to affected property owners and persons who have requested notice.
6. Public Record.
  - *Plans* (Section 5.72). The Procedures would indicate that plans submitted for consideration by a decision-making body or attached to a staff report would be subject to disclosure under the Public Records Act; similar language would be added to application forms. Plans are typically protected from disclosure under the Business and Professions Code absent architect approval. However, applicants typically submit reduced sized plans for review and consideration by decision makers in a public meeting, and those are published as part of the agenda packet. The proposed language would put project applicants and their architects on notice such documents will be treated as public records; the City would still follow the required approval process in other instances.
  - *Speaker Cards* (Section 4.3). New wording would advise that all information on the speaker card is a public record subject to disclosure under the Public Records Act. Thus, if a member of the public chooses to fill out his or her address, phone number or email, the policy decreases their expectation of privacy and so decreases potential liability for disclosing those cards in response to a Public Records Act request.
7. Ex Parte Communications and Information (Section 4.93). In order to reduce the likelihood of due process violations or allegations of improper Councilmember bias with respect to quasi-judicial matters, a new paragraph requiring disclosure of ex parte communications and information has been inserted.

Two additional proposed changes have been discussed in various contexts at public meetings:

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1. Rosenberg's Rules of Order (Potential Revisions to Section 4). City Council meetings could be conducted in accordance with Rosenberg's Rules of Order rather than Robert's Rules of Order (Section 4); a copy of Rosenberg's Rules of Order is Attachment 2 to this report. Rosenberg's Rules were created to help resolve parliamentary issues confronted by City Councils, are simpler to follow than Robert's Rules, are endorsed by the League of California Cities, and are increasingly being used by California cities. Staff would like the subcommittee to consider whether it would be advisable for Concord to switch to the Rosenberg's Rules of Order at this point.
2. Filling Council Vacancies (Potential New Section 8.4). Vacancies can arise in a variety of ways (see Government Code Section 1770); Government Code section 36512 governs the process for filling the vacancy. If there is a vacancy, the City Council has sixty days to either call a special election or fill the vacancy by appointment.
  - *Special Election.* If the City Council calls a special election, the special election must be held on the next regularly established election date not less than 114 days from the call of the special election. A person elected to fill a vacancy holds office for the unexpired term of the former incumbent. The City Council may also adopt an ordinance addressing the scope and mechanics of a special election. However, special elections can be costly.
  - *Appointment.* The appointed Councilmember typically holds office for the balance of the term, unless the vacancy occurred during the first half of a term of office and at least 130 days prior to the next general municipal election. In that case, the appointed Councilmember holds office until the next general municipal election, and the person then elected holds office for the unexpired balance of the term. The Government Code does not set forth a process for appointments, although the individual must be eligible for office, and the City Council's choice must occur after deliberation and receive a majority vote. Options include (a) appointment of the individual who received the most votes in the latest election; (b) appointment of any qualifying individual; and (c) a call for applications to be considered and voted upon by the City Council.

Should the subcommittee desire that the Procedures define the City of Concord's approach to filling Council vacancies, it can provide such direction to staff. The alternative is to proceed as has been done in the past, with no mention in the Procedures.

### **Discussion of E-mail Policy**

While the City of Concord has an Administrative Directive from the City Manager that provides guidelines for the use of e-mail and other electronic communications by City staff, the City does not have a similar policy for elected officials (the City Council and Treasurer). The City Council Meeting Procedures Policy does not reference the use of e-mail by elected officials. Staff requests direction from the Committee on the development of an e-mail policy for elected officials. If the Committee desires such a policy, staff will provide draft language at a subsequent meeting of the Committee.

Below is a sample City Council e-mail policy statement from the City of Palo Alto.

*City email is subject to disclosure under the Public Records Act and is subject to the requirements of the Brown Act. While the Brown Act does not prohibit the use of email to make*

*individual contacts between members of the Council, or the public or staff, great care should be taken to avoid the use of email to contact a majority of the Council, either individually or serially, “in a connected plan to engage in collective deliberation on public business.” - City of Palo Alto, CA*

The above sample illustrates a brief high-level policy. Some cities are more prescriptive on the use of e-mail, how long electronic communications will be retained, and specify how and when e-mails to the general City Council e-mail account will be forwarded to the full Council.

### **Discussion of Stationery for Individual Council Members**

Currently, the City provides no individualized stationery to Councilmembers. City letterhead is available for use for “official” City business such as letters being sent by the Mayor, a subcommittee, or an individual Councilmember when acting on behalf of the full Council or the subcommittee; however, letterhead has not traditionally been made available for general correspondence from an individual Councilmember to a constituent. The exception is some very old notepaper that states it is from the “Office of the Mayor, Concord, CA.” (Attachment 3)

Staff is proposing that we develop Councilmember specific notecards for use by Councilmembers in their individualized correspondence with constituents. The stationery would not be available for political activities but would support the Mayor and Councilmembers in carrying out their responsibilities as elected leaders.

### **Recommendation for Action**

It is recommended that the Committee take the following actions:

- (a) recommend adoption of the revised Procedures to the City Council,
- (b) provide direction on switching to Rosenberg’s Rules of Order and the process for filling City Council vacancies,
- (c) provide direction on a Policy for Councilmember use of the recently created, city-server hosted, individual e-mail accounts,
- (d) provide direction on the desirability of individualized stationery for Councilmembers.

  
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### **Attachments**

- Attachment 1 – Redlined Procedures
- Attachment 2 – Rosenberg’s Rules of Order
- Attachment 3 – Existing Mayor’s stationery



## CITY OF CONCORD

Number:	2
Authority:	Council Motion
Effective:	12-07-70
Revised:	10-1-13; <a href="#">X-X-16</a>
Initiating Dept.:	CM

## CITY COUNCIL MEETING PROCEDURES

**1. PURPOSE**

To provide a procedural guide for the conduct of City Council meetings, including the preparation of agendas and minutes.

**2. BACKGROUND**

The City Council convenes regular and special meetings to conduct its business in accordance with California's open meeting law (the Brown Act, Government Code Section 54950 et seq.). A range of business matters come regularly before the City Council, including items requiring public discussion or a public hearing, routine items requiring formal action, and information items. To further the public interest, the City Council determines that it must focus its time and attention on the consideration of policy items, delegating to City staff those matters of an administrative nature. The City Council therefore sets forth herein a methodology for the expeditious and proper handling of City Council meetings, and for preparation of agendas and minutes. In the event of any conflict between these local procedures and State law, the provisions of State law shall govern. Except when prohibited by law [or by a specific provision of this policy requiring a supermajority vote](#), the City Council by majority vote may waive or modify any of the procedural rules contained herein.

**3. CITY COUNCIL MEETINGS**

All meetings of the City Council shall be open to the public, except as provided by law.

- 3.1 **Regular Meetings.** Pursuant to [Concord Municipal Code](#) Section ~~2.05.0102-31 of the Concord Municipal Code~~, regular meetings of the City Council shall be held in the Farrel A. Stewart Civic Center, 1950 Parkside Drive, Concord, California [unless the meeting agenda identifies another location](#). Regular meetings shall be held on the first, second and fourth Tuesday of each month and shall convene at [or around](#) 5:00 p.m. The Council agenda shall reserve [around](#) 5:00 p.m. to 6:30 p.m. for non-hearing items, including closed sessions and study sessions. No public hearing shall commence before 6:30 p.m. No public hearing shall commence after 10:00 p.m. without a majority vote of the City Council. The City Clerk shall post an agenda, as required by Government Code Section 54954.2, ~~identifying-specifying the time and the room(s) within the Civic Center/location where-of the meeting will be conducted and the time(s) those portions of the meeting will convene.~~
- 3.2 **Special Meetings.** The ~~Mayor-presiding officer~~ or a majority of the City Council may call a special meeting at any time [in accordance with Government Code Section 54956](#).
- 3.3 **Study Sessions.** Study sessions may be conducted as part of a regular or special meeting. Study sessions may be scheduled as deemed necessary or desirable for exchanging information and providing direction to City staff prior to final action by the City Council.
- 3.4 **Closed Sessions.** The City Council may, from time to time, meet in closed session, not open to the public or the news media, to discuss litigation, real estate negotiations, personnel matters, labor relations, and other matters authorized by the Brown Act. ~~Closed sessions may be held separately or in conjunction with other business items to be considered at a regular or special meeting.~~ The City Attorney shall prepare, ~~post, and distribute an the~~ agenda [description](#) for each closed session [item](#).
- 3.5 **Emergency Meetings.** Emergency meetings may be called ~~by the Mayor or a majority of the City Council~~

without complying with the 24-hour notice requirement. ~~Emergency situations requiring expeditious action by the City Council and notice provisions are set forth in accordance with Government Code Section 54956.5 of the Government Code.~~

#### 4. MEETING CONDUCT

At the time scheduled for each regular or special meeting, the members of the City Council, the City Manager, the City Clerk, the City Attorney, and such Department Heads or others as have been requested to be present, shall meet in the Council Chamber or other meeting location as designated in the posted agenda. The business of the City Council shall be conducted in substantially the manner herein provided. In situations not expressly governed either by State law or these procedural rules, the City Council may proceed in accordance with the parliamentary rules set forth in Robert's Rules of Order (revised).

4.1 **Quorum and Voting.** Three members of the City Council shall constitute a quorum for the transaction of business. When there is no quorum, the Mayor shall adjourn the meeting, or if no member of the City Council is or will be present, the City Clerk shall adjourn the meeting. Notice of adjournment shall be posted as required by Government Code Section 54955. For the purpose of considering any item subject to vote of the City Council, when any member of the City Council is disqualified due to a conflict of interest, his/her presence shall not be considered in determining the existence of a quorum. Consideration of such items shall be deferred until a quorum of disinterested Councilmembers is present to discuss and vote on the items unless otherwise authorized by the Political Reform Act (Government Code Section 87100 et seq.) and the Fair Political Practices Commission Regulations. Except as otherwise provided by law, a majority of the Councilmembers present and voting shall be sufficient to approve an action, provided, however, that at least three votes are required for the passage of any ordinance, resolution, or orders for the payment of money pursuant to Government Code Section 36936.

#### 4.2 Rules of Debate

4.21 **Recognition.** Every member of the City Council desiring to speak shall address the Mayor and, upon recognition by the Mayor, shall confine him/herself to the question under debate.

4.22 **Rights of Mayor.** The Mayor may move, second, and debate any item before the City Council subject only to such limitations of debate as are imposed by these rules on all members of the City Council and shall not be deprived of any of the rights or privileges of a member of the City Council, including the right to vote on all motions and other actions of the City Council.

4.23 **Interruptions.** No member of the City Council, once recognized, shall be interrupted when speaking unless it is to call him/her to order or as otherwise provided herein. If a member of the City Council is called to order while speaking, s/he shall cease speaking until the question of order is determined and, if in order, shall be permitted to proceed.

4.24 **Motion to Reconsider.** A motion to reconsider any action taken by the City Council may be made only by a member of the Council who was on the prevailing side of the vote, but may be seconded by any member of the City Council and requires a majority vote of the City Council for approval. No matter shall be reconsidered more than once. Any action of the Council which cannot be reversed cannot be reconsidered.

4.241 **Timing of Motion.** A motion to reconsider may be made at any time during the meeting at which the action was taken, or any adjournment or continuance of that meeting. If the motion is not made at the above-referenced meeting, then any member of the City Council who was on the prevailing side of the vote may move for reconsideration either at the next regular City Council meeting or at any intervening special meeting of the City Council. If a request for reconsideration is communicated to the City Clerk by any member of the City Council who was on the prevailing side of the vote prior to the State law deadline for posting the City Council meeting agenda, then the request shall appear on the posted agenda. Otherwise, no City Council discussion or action on reconsideration may occur ~~at that meeting~~, except pursuant to Government Code Section 54954.2(b), ~~provided however~~

~~that in response to a request for reconsideration made by a member of the public during the public comment period, a majority of the City Council may direct that the topic of reconsideration shall be placed on the agenda of the next City Council meeting.~~ Except as provided in the preceding sentence, any motion for reconsideration must be acted upon no later than the conclusion of the next regular City Council meeting or any intervening special meeting following the meeting at which the action was taken, or any adjournment or continuance thereof.

4.242 **Effect of Approval.** Upon approval of a motion to reconsider, the prior action shall be set aside in its entirety; and the underlying matter shall be scheduled for consideration at the earliest feasible City Council meeting and shall be re-noticed pursuant to [Concord Municipal Code](#) Sections ~~2-52.05.050~~ or ~~2.05.050-53 of the Municipal Code~~ or other applicable laws.

4.243 **Rescission, Repeal or Amendment.** The reconsideration rules contained in this Policy & Procedure shall not limit the City Council's inherent authority to rescind, repeal, or amend its prior actions in situations where it is not precluded from doing so under applicable laws.

4.3 **Addressing the Council.** Each person wishing to address the City Council is requested to fill out and return to the City Clerk a speaker card containing the speaker's name, address and item on which he/she is interested in addressing the Council, and the speaker's position on the item to be addressed. [All information on the speaker card is a public record and may be subject to disclosure under the California Public Records Act.](#) The Mayor shall use the speaker's card to determine whether a time limit is necessary for the item to be discussed, to arrange the order of presentation of testimony before the City Council and to recognize speakers. The Mayor ~~may~~ shall recognize anyone desiring to address the City Council even if a speaker card has not been filled out. After having received permission from the Mayor to address the City Council, each person shall come to the microphone and give his/her name for the record before speaking. All remarks shall be addressed to the City Council as a body. No person other than a member of the City Council and the person having the floor shall enter into any discussion without permission of the Mayor. Any person following this procedure shall have the right to be heard during the public comment period or at the time the City Council considers any items of business listed on the agenda.

4.31 **Spokesperson for a Group of Persons.** Whenever any group of persons wishes to address the City Council on the same subject matter, it shall be appropriate for the Mayor to request that a spokesperson be chosen by the group to address the Council, to specify a time limit, and in case additional matters are to be presented at that time by any other member of the group, to limit the number of speakers to avoid repetition.

#### 4.4 **Decorum**

4.41 **Council.** Members of the City Council must preserve order and decorum and shall not, by conversation or otherwise, delay or interrupt the proceedings or peace of the City Council in any way, or disturb any other member of the City Council while speaking, or refuse to obey the orders of the City Council or the Mayor, except as otherwise herein provided.

4.42 **Other Persons.** No person addressing the City Council may make any unduly repetitive, irrelevant, personal, impertinent, slanderous, profane, loud, threatening, or abusive remark to any member of the City Council, City staff, or the general public, which actually disrupts, disturbs or otherwise impedes the orderly conduct of the meeting. No person may bring into the Council Chamber any device, sign or object that may cause disruption of the meeting, or obstruct others attending the meeting from participating in, hearing, or seeing the meeting proceedings. Any person who makes such remarks, or who engages in any other disorderly conduct which actually disrupts, disturbs, or otherwise impedes the orderly conduct of any City Council meeting may, at the discretion of the Mayor or the City Council majority, be barred from further comments during that meeting, or subjected to enforcement actions pursuant to Section 4.43.

4.43 **Enforcement.** The Chief of Police, or his/her authorized representative, shall be the ex-officio Sergeant-at-Arms of the Council. S/he shall carry out all orders and instructions of the Mayor for the purpose of maintaining order and decorum in the City Council meeting room. Upon instructions of the Mayor, it shall be the duty of any police officer present to remove from the City Council meeting room any person in the audience who engages in conduct prohibited pursuant to Section 4.42 at a City Council meeting, and to place under arrest any person who is violating the law.

4.5 **Duties of Mayor.** The Mayor shall assume his/her place and duties immediately following his/her election by the City Council.

4.5 **Call to Order.** At the hour appointed for the meeting, the Mayor shall call the City Council to order. The Mayor shall serve as the presiding officer for all City Council meetings. In the Mayor’s absence, the Vice Mayor shall serve as the presiding officer. In the absence of both the Mayor and Vice Mayor, the most senior Councilmember (in consecutive years served on the City Council) shall serve as the presiding officer; if there is a seniority tie, the Councilmember who received more votes during their latest elections shall serve as the presiding officer. Upon the arrival of the Mayor, the Vice Mayor shall relinquish the chair at the conclusion of the business item then before the City Council; u

4.51 ~~Upon the arrival of the Mayor or the Vice Mayor, the Mayor Pro Tempore presiding officer shall relinquish the chair at the conclusion of the business item then before the City Council.~~

4.6

4.52 **Changes to the Order of Business.** The Mayor may change the order of business as shown on the meeting agenda at any time during the meeting as deemed necessary or convenient.

4.53 **Additional Duties.**

a. ~~Duties of Mayor. The Mayor shall assume his/her place and duties immediately following his/her election by the City Council. S/he~~ The Mayor shall preserve strict order and decorum at all meetings, have the power to limit the time of any citizen speaking from the floor, state questions coming before the City Council, and announce the City Council's decision on all subjects.

b. The Mayor shall have the authority to rule on procedural matters relating to the conduct of City Council meetings. Any procedural rulings or other actions of the Mayor may be overruled by a majority vote of the City Council.

c. The Mayor shall sign all ordinances, contracts and other documents approved by the City Council, except if a conflict of interest exists or authority to execute documents has been delegated to the City Manager or another representative of the City.

a.d. The Mayor may, from time to time, announce appointments to *ad hoc* advisory committees composed solely of less than a majority of the members of the City Council. ~~T; the announcement of such appointments shall appear on the posted agenda, but shall not require City Council approval. The Mayor may also propose appointments to standing committees, subject to confirmation by a majority of the City Council. The Mayor may designate City Councilmembers to attend Council committee meetings when necessary due to the unavailability of a committee member. Any procedural rulings or other actions of the Mayor may be overruled by a majority vote of the City Council.~~

~~4.524.51 **Changes to the Order of Business.** The Mayor may change the order of business as shown on the meeting agenda at any time during the meeting as deemed necessary or convenient.~~

4.74.6 **Roll Call.** Before proceeding with the business of the City Council, the City Clerk shall call the roll of the members of the City Council, and the names of those present shall be entered in the minutes.

4.84.7 **Public Comment Period.**

**4.71 Public Comment on Non-Agenda Items.** The agenda for every regular City Council meeting shall include a public comment period. Members of the public may address the City Council during this period on any subject that is within the jurisdiction of the City Council and not listed on the agenda. Individual public comments shall be limited to three minutes, and the total duration of the public comment period shall not exceed fifteen minutes, before items scheduled on the agenda are considered, unless an increase or decrease of time is ordered by the Mayor. If public comment of longer than fifteen minutes is to be conducted, it will be taken following conclusion of the consideration of scheduled items.

**4.72 Public Comment on Agenda Items.** The agenda for every regular or special City Council meeting shall include the opportunity for members of the public to address the City Council before or during the Council's consideration of any item on the agenda, including items on the Consent Calendar. Persons addressing the Council shall be limited to three minutes, unless an increase or decrease of time is ordered by the Mayor. The Mayor may allow extra time for the applicant, appellant, or other person or entity directly involved in the decision.

**4.94.8 Adoption of Consent Calendar.** Adoption of the Consent Calendar may be made by one motion of the City Council, provided that any Councilmember, individual or organization may request removal of an item from the Consent Calendar for separate consideration. If a request for removal of an item from the Consent Calendar has been timely received, the Mayor may defer action on the particular item and place the same on the regular agenda for consideration in any order s/he deems appropriate.

#### **4.104.9 Voting.**

**4.91 Roll Call Vote.** Any Councilmember may request a roll call vote to be taken and recorded on any motion. Whenever a roll call vote of the City Council is in order, the City Clerk shall call the roll as follows:

4.911 Maker of the motion.

4.912 Secunder of the motion.

4.913 The balance of the City Council in alphabetical order except that the Mayor is called last, unless the Mayor is the maker or secunder of the motion.

**4.92 Silence Constitutes Affirmative Vote.** In all voting, unless a member of the City Council states s/he is not voting, his/her silence shall be recorded as an affirmative vote.

**4.93 Ex Parte Communications.** Whenever the City Council is sitting in a quasi-judicial capacity to weigh facts and evidence on a permit application, appeal, or other quasi-judicial matter, each Councilmember shall, once the agenda item is called, disclose for the record any ex parte communications or site visits and information received outside of the meeting, so that all Councilmembers, parties and opponents have the same information received by the Councilmember, and an opportunity to consider and/or respond to such information.

## **5. AGENDA**

**5.1 Preparation.** The City Manager shall prepare an agenda for each City Council meeting, except for Closed Session per-pursuant to Section 3.4, and shall submit the draft agenda to the City Attorney for legal review. If after the regular agenda is prepared the City Manager determines that additional items should be placed thereon, a supplemental or revised agenda shall be prepared for-posting in accordance with the provisions of Government Code Sections 54954.2 or 54956 as appropriate. The agenda shall contain a brief general description of each item of business to be transacted or discussed at the meeting.

**5.11 Notice/Posting.** At least seventy-two (72) hours before a regular meeting of the City Council an agenda shall be posted and mailed as required by law~~containing a brief general description of each~~

~~item of business to be transacted or discussed at the meeting.~~ The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public. including on the City website, pursuant to Government Code Section 54954.2.

5.12 **Non-Agenda Items.** No action or discussion shall be undertaken on any item not appearing on the posted agenda, except as expressly permitted pursuant to Government Code Section 54954.2. ~~Under that statute, City~~ Councilmembers or staff may briefly respond to statements made or questions posed by persons speaking during the public comment period. In addition, on his/her own initiative or in response to questions posed by the public, a Councilmember or staff may ask a question for clarification, make a brief announcement, or make a brief report on his or her activities. Furthermore, the City Council or an individual Councilmember with the concurrence of the Council majority may provide a reference to staff or to other resources for factual information, request staff to report back to the City Council at a subsequent meeting concerning any matter, or take action to direct staff to place a matter of business on a future agenda. Finally, the City Council may take action on items of business not appearing on the posted agenda under any of the following conditions:

5.121 Upon a determination by a majority vote of the City Council that an emergency situation exists as defined in Government Code Section 54956.5.

5.122 Upon a determination by a two-thirds (2/3) vote of the ~~City~~ Councilmembers present at the meeting, or if less than two-thirds (2/3) of the members are present, a unanimous vote of those members present, that there is a need to take immediate action and that the need to take action came to the attention of the City subsequent to the agenda being posted. For a five person City Council, the 2/3 requirement means four of five, or three of four, Councilmembers.

5.123 The item was posted in accordance with this Policy & Procedure for a prior meeting of the City Council occurring not more than five (5) calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.

5.13 **Special Meetings.** As required by Government Code Section 54956, a written ~~agenda for~~ notice of each special meeting shall be ~~prepared and mailed or personally~~ delivered to each member of the City Council, and to each local newspaper, radio, or television station that has a written request for notice on file with the City. The notice shall be delivered and posted in a location freely accessible to the public at least 24 hours before the time of the special meeting, and shall state the time and place of the special meeting and all items of business to be transacted or discussed. Only matters described in the agenda may be considered at the meeting.

5.2 **Consent Calendar.** Items which are not expected to require public discussion may be grouped together and listed under the Consent Calendar. Typically, these will consist of routine and non-controversial items.

5.3 **Ordinances.** Upon the item being called, the City Clerk or City Attorney shall read the title of the ordinance in full. Thereafter, any member of the City Council may move to waive further reading of the ordinance and either introduce or adopt the ordinance. ~~All non-urgency ordinances shall be set for public hearing. After the public hearing, each ordinance may be introduced by motion and read, unless reading is waived, in which event the title of the ordinance shall be read. Thereafter, each ordinance shall be adopted~~ pursuant to State law.

~~5.4~~ **Public Hearings and Consideration Items.**

~~5.5~~

~~5.6~~ ~~Those agenda items requiring a public hearing pursuant to law will appear on the consent calendar to be set for public hearing at least two weeks in advance of the public hearing.~~

~~5.7~~

~~5.8~~ 5.4 Legal publication, posting, and mailing will be carried out pursuant to law.

### 5.95.5 **Continuances.**

5.51 The City Council may, in its discretion, continue any item of business to a subsequent meeting.

5.52 Items that are not continued to a date certain or are continued for further hearing or action for a period longer than thirty (30) days from the City Council meeting shall be renoticed at the applicant/appellant's expense.

~~5.105.6~~ **Urgency Ordinances.** The City Council may adopt an urgency ordinance as provided by State law. Non-planning urgencies are governed by Government Code Section 36937(b). Planning urgencies are governed by Government Code Section 65858. Urgency ordinances not requiring a public hearing may be placed on an agenda for City Council action in accordance with the provisions of Government Code Section 54954.2.

~~5.115.7~~ **Written Staff Reports.** Staff reports and/or resolutions shall be prepared if directed by the City Manager or otherwise required by law. Reports of a detailed nature on an item set forth on the agenda shall be made by memorandum to the City Council. In advance of the meeting, with copies of the final versions of any such staff report or resolution shall be made available to the City Council, the news media, and interested parties. persons who have requested advance copies thereof.

5.71 **Benched Documents.** Any public records provided to the City Council subsequent to the preparation of staff reports for posting of the agenda, and changes to the staff report, resolutions, contracts, and other City materials, shall be made available upon request as provided in Government Code Section 54957.5.

5.72 **Plans.** Plans in the form provided by an applicant, appellant, and/or his/her/its representative to City staff or to the City Council in connection with an agenda item shall become a public record subject to disclosure under the Public Records Act.

~~Staff reports shall be prepared in accordance with the direction of the City Manager.~~

## 6. AGENDA DISTRIBUTION

6.1 Agendas which have been copied and distributed to the City Council will be made available to the public at the same time and at City Council meetings.

6.2 Agendas of regular and special meetings will be mailed-provided to all individuals who subscribe to an annual mailing service.

6.3 Individuals or organizations whom the City believes may be affected by an agenda item may, as a courtesy, be mailed an agenda to advise when the item is scheduled to be considered by the City Council.

6.4 The agenda shall be posted in the display case located near the Parkside Drive entrance to the Civic Center and on the City's website not less than seventy-two (72) hours in advance of each regular meeting and not less than twenty-four (24) hours prior to each special meeting of the City Council. A log shall be maintained of the time and date each agenda is posted.

6.5 Within a reasonable time~~two business days~~ after each City Council meeting, the City Clerk shall furnish each member of the City Council, the City Manager and the City Attorney with a copy of the annotated agenda for that meeting.

## 7. MINUTES

7.1 **Official Record.** The official minutes of the City Council shall be kept by the City Clerk in a minute book with a record of each particular item of business transacted. The City Clerk shall be required to make a record only of such business as was actually voted upon by the City Council and shall not be required to record any remarks of any member of the City Council or of any other person, except at the special request of

a member of the City Council during that meeting. The City Clerk shall enter into the minutes a brief summary of the reasons for dissent from or protest against any action of the Council if any member of the City Council so requests it during that meeting. Names of persons addressing the City Council, the title of the subject matter to which their remarks related, and whether they spoke in support of or in opposition to such matter shall be entered in the minutes.

7.2 **Audio Recordings.** As an aid to the preparation of minutes, the City Clerk shall arrange to have audio recordings made of all regular and special City Council meetings, except for workshops and closed sessions. The City Clerk is not required to have recordings made for meetings when no recording is needed to assist in the preparation of minutes. The recordings may be destroyed after the City Council approval of minutes in accordance with the Records Retention Schedule, unless the City Attorney requests retention of a particular recording.

7.3 **Reading Approval of Minutes.** ~~Unless the reading of the minutes of a~~The City Clerk shall attach a copy of ~~the City Council meeting minutes to the agenda for the meeting at which the minutes are proposed to be approved. is requested by a member of~~ The City Council may request minor clarification and corrections as necessary. ~~The minutes may be approved without reading if the City Clerk has previously furnished each member of the City Council with a copy thereof.~~

## 8. ORGANIZATION OF CITY COUNCIL

The City Council shall biannually reorganize, ~~s~~-choosing from amongst its members who should serve as Mayor and Vice Mayor for the coming two years.

8.1 **Term of Mayor and Vice Mayor.** The appointment of each the Mayor and Vice Mayor is for a two-year term, with public ~~af~~firmation of the continuation of the appointment at the beginning of the second year of the term.

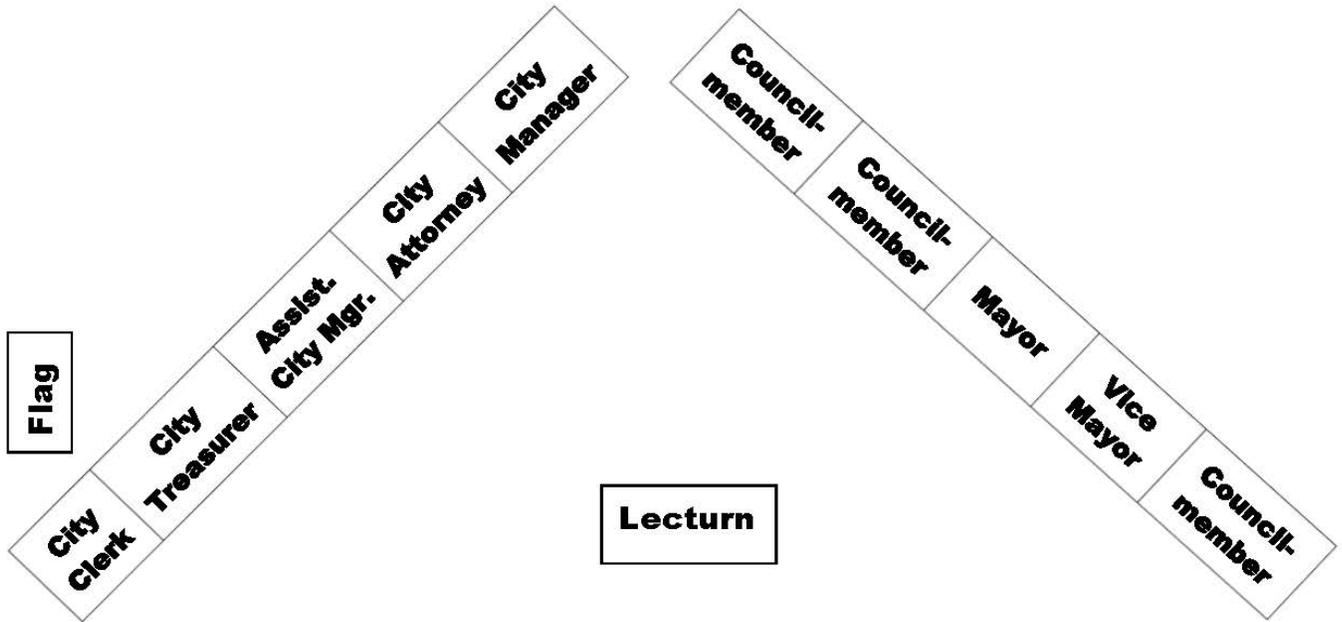
8.1.1 If the initial appointment of the Mayor or Vice Mayor for a two-year term occurs at the same meeting in which the declaration of the election results for a general municipal election is made, no affirmation of the Mayor's or Vice Mayor's (as applicable) appointment shall be required at the commencement of the second year of their term.

8.2 **Selection of Mayor and Vice Mayor.** The Vice Mayor in place when the Mayor's term expires shall succeed to the Mayor's position. The most senior Councilmember (in consecutive years) who has not yet been Mayor will automatically become the Vice Mayor. If there is a seniority tie, the Councilmember who received more votes during their latest elections shall become Vice Mayor. If all Councilmembers have already served as Mayor, then the Councilmember who has not been Mayor for the longest time span will automatically become Vice Mayor. The City Clerk shall maintain a list regarding rotation of the Mayor and Vice Mayor. The outgoing Mayor shall always drop to the bottom of the list. The City Council may depart from this rotation policy by a 4/5 vote."

~~**Term of Vice Mayor.** The appointment of the Vice Mayor is for a one year term.~~

8.3 **Seating.** For the purpose of consistency, seating at the dais will be ~~as~~-per the attached ~~d~~Diagram ~~"A"~~, or as agreed upon by the Councilmembers.

Attachment



<b>STAFF</b>
Public
Public
Public

<b>PRESS</b>
Public
Public
Public



# Rosenberg's Rules of Order

REVISED 2011

*Simple Rules of Parliamentary Procedure for the 21st Century*

*By Judge Dave Rosenberg*



## MISSION AND CORE BELIEFS

To expand and protect local control for cities through education and advocacy to enhance the quality of life for all Californians.

## VISION

To be recognized and respected as the leading advocate for the common interests of California's cities.

### About the League of California Cities

Established in 1898, the League of California Cities is a member organization that represents California's incorporated cities. The League strives to protect the local authority and autonomy of city government and help California's cities effectively serve their residents. In addition to advocating on cities' behalf at the state capitol, the League provides its members with professional development programs and information resources, conducts education conferences and research, and publishes Western City magazine.

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### ABOUT THE AUTHOR

Dave Rosenberg is a Superior Court Judge in Yolo County. He has served as presiding judge of his court, and as presiding judge of the Superior Court Appellate Division. He also has served as chair of the Trial Court Presiding Judges Advisory Committee (the committee composed of all 58 California presiding judges) and as an advisory member of the California Judicial Council. Prior to his appointment to the bench, Rosenberg was member of the Yolo County Board of Supervisors, where he served two terms as chair. Rosenberg also served on the Davis City Council, including two terms as mayor. He has served on the senior staff of two governors, and worked for 19 years in private law practice. Rosenberg has served as a member and chair of numerous state, regional and local boards. Rosenberg chaired the California State Lottery Commission, the California Victim Compensation and Government Claims Board, the Yolo-Solano Air Quality Management District, the Yolo County Economic Development Commission, and the Yolo County Criminal Justice Cabinet. For many years, he has taught classes on parliamentary procedure and has served as parliamentarian for large and small bodies.



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## INTRODUCTION

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The rules of procedure at meetings should be simple enough for most people to understand. Unfortunately, that has not always been the case. Virtually all clubs, associations, boards, councils and bodies follow a set of rules — *Robert's Rules of Order* — which are embodied in a small, but complex, book. Virtually no one I know has actually read this book cover to cover. Worse yet, the book was written for another time and for another purpose. If one is chairing or running a parliament, then *Robert's Rules of Order* is a dandy and quite useful handbook for procedure in that complex setting. On the other hand, if one is running a meeting of say, a five-member body with a few members of the public in attendance, a simplified version of the rules of parliamentary procedure is in order.

Hence, the birth of *Rosenberg's Rules of Order*.

What follows is my version of the rules of parliamentary procedure, based on my decades of experience chairing meetings in state and local government. These rules have been simplified for the smaller bodies we chair or in which we participate, slimmed down for the 21st Century, yet retaining the basic tenets of order to which we have grown accustomed. Interestingly enough, *Rosenberg's Rules* has found a welcoming audience. Hundreds of cities, counties, special districts, committees, boards, commissions, neighborhood associations and private corporations and companies have adopted *Rosenberg's Rules* in lieu of *Robert's Rules* because they have found them practical, logical, simple, easy to learn and user friendly.

This treatise on modern parliamentary procedure is built on a foundation supported by the following four pillars:

1. **Rules should establish order.** The first purpose of rules of parliamentary procedure is to establish a framework for the orderly conduct of meetings.
2. **Rules should be clear.** Simple rules lead to wider understanding and participation. Complex rules create two classes: those who understand and participate; and those who do not fully understand and do not fully participate.
3. **Rules should be user friendly.** That is, the rules must be simple enough that the public is invited into the body and feels that it has participated in the process.
4. **Rules should enforce the will of the majority while protecting the rights of the minority.** The ultimate purpose of rules of procedure is to encourage discussion and to facilitate decision making by the body. In a democracy, majority rules. The rules must enable the majority to express itself and fashion a result, while permitting the minority to also express itself, but not dominate, while fully participating in the process.

### Establishing a Quorum

The starting point for a meeting is the establishment of a quorum. A quorum is defined as the minimum number of members of the body who must be present at a meeting for business to be legally transacted. The default rule is that a quorum is one more than half the body. For example, in a five-member body a quorum is three. When the body has three members present, it can legally transact business. If the body has less than a quorum of members present, it cannot legally transact business. And even if the body has a quorum to begin the meeting, the body can lose the quorum during the meeting when a member departs (or even when a member leaves the dais). When that occurs the body loses its ability to transact business until and unless a quorum is reestablished.

The default rule, identified above, however, gives way to a specific rule of the body that establishes a quorum. For example, the rules of a particular five-member body may indicate that a quorum is four members for that particular body. The body must follow the rules it has established for its quorum. In the absence of such a specific rule, the quorum is one more than half the members of the body.

### The Role of the Chair

While all members of the body should know and understand the rules of parliamentary procedure, it is the chair of the body who is charged with applying the rules of conduct of the meeting. The chair should be well versed in those rules. For all intents and purposes, the chair makes the final ruling on the rules every time the chair states an action. In fact, all decisions by the chair are final unless overruled by the body itself.

Since the chair runs the conduct of the meeting, it is usual courtesy for the chair to play a less active role in the debate and discussion than other members of the body. This does not mean that the chair should not participate in the debate or discussion. To the contrary, as a member of the body, the chair has the full right to participate in the debate, discussion and decision-making of the body. What the chair should do, however, is strive to be the last to speak at the discussion and debate stage. The chair should not make or second a motion unless the chair is convinced that no other member of the body will do so at that point in time.

### The Basic Format for an Agenda Item Discussion

Formal meetings normally have a written, often published agenda. Informal meetings may have only an oral or understood agenda. In either case, the meeting is governed by the agenda and the agenda constitutes the body's agreed-upon roadmap for the meeting. Each agenda item can be handled by the chair in the following basic format:



**First**, the chair should clearly announce the agenda item number and should clearly state what the agenda item subject is. The chair should then announce the format (which follows) that will be followed in considering the agenda item.

**Second**, following that agenda format, the chair should invite the appropriate person or persons to report on the item, including any recommendation that they might have. The appropriate person or persons may be the chair, a member of the body, a staff person, or a committee chair charged with providing input on the agenda item.

**Third**, the chair should ask members of the body if they have any technical questions of clarification. At this point, members of the body may ask clarifying questions to the person or persons who reported on the item, and that person or persons should be given time to respond.

**Fourth**, the chair should invite public comments, or if appropriate at a formal meeting, should open the public meeting for public input. If numerous members of the public indicate a desire to speak to the subject, the chair may limit the time of public speakers. At the conclusion of the public comments, the chair should announce that public input has concluded (or the public hearing, as the case may be, is closed).

**Fifth**, the chair should invite a motion. The chair should announce the name of the member of the body who makes the motion.

**Sixth**, the chair should determine if any member of the body wishes to second the motion. The chair should announce the name of the member of the body who seconds the motion. It is normally good practice for a motion to require a second before proceeding to ensure that it is not just one member of the body who is interested in a particular approach. However, a second is not an absolute requirement, and the chair can proceed with consideration and vote on a motion even when there is no second. This is a matter left to the discretion of the chair.

**Seventh**, if the motion is made and seconded, the chair should make sure everyone understands the motion.

This is done in one of three ways:

1. The chair can ask the maker of the motion to repeat it;
2. The chair can repeat the motion; or
3. The chair can ask the secretary or the clerk of the body to repeat the motion.

**Eighth**, the chair should now invite discussion of the motion by the body. If there is no desired discussion, or after the discussion has ended, the chair should announce that the body will vote on the motion. If there has been no discussion or very brief discussion, then the vote on the motion should proceed immediately and there is no need to repeat the motion. If there has been substantial discussion, then it is normally best to make sure everyone understands the motion by repeating it.

**Ninth**, the chair takes a vote. Simply asking for the “ayes” and then asking for the “nays” normally does this. If members of the body do not vote, then they “abstain.” Unless the rules of the body provide otherwise (or unless a super majority is required as delineated later in these rules), then a simple majority (as defined in law or the rules of the body as delineated later in these rules) determines whether the motion passes or is defeated.

**Tenth**, the chair should announce the result of the vote and what action (if any) the body has taken. In announcing the result, the chair should indicate the names of the members of the body, if any, who voted in the minority on the motion. This announcement might take the following form: “The motion passes by a vote of 3-2, with Smith and Jones dissenting. We have passed the motion requiring a 10-day notice for all future meetings of this body.”

## Motions in General

Motions are the vehicles for decision making by a body. It is usually best to have a motion before the body prior to commencing discussion of an agenda item. This helps the body focus.

Motions are made in a simple two-step process. First, the chair should recognize the member of the body. Second, the member of the body makes a motion by preceding the member’s desired approach with the words “I move . . .”

A typical motion might be: “I move that we give a 10-day notice in the future for all our meetings.”

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

1. **Inviting the members of the body to make a motion**, for example, “A motion at this time would be in order.”
2. **Suggesting a motion to the members of the body**, “A motion would be in order that we give a 10-day notice in the future for all our meetings.”
3. **Making the motion**. As noted, the chair has every right as a member of the body to make a motion, but should normally do so only if the chair wishes to make a motion on an item but is convinced that no other member of the body is willing to step forward to do so at a particular time.

## The Three Basic Motions

There are three motions that are the most common and recur often at meetings:

**The basic motion.** The basic motion is the one that puts forward a decision for the body’s consideration. A basic motion might be: “I move that we create a five-member committee to plan and put on our annual fundraiser.”

**The motion to amend.** If a member wants to change a basic motion that is before the body, they would move to amend it. A motion to amend might be: “I move that we amend the motion to have a 10-member committee.” A motion to amend takes the basic motion that is before the body and seeks to change it in some way.

**The substitute motion.** If a member wants to completely do away with the basic motion that is before the body, and put a new motion before the body, they would move a substitute motion. A substitute motion might be: “I move a substitute motion that we cancel the annual fundraiser this year.”

“Motions to amend” and “substitute motions” are often confused, but they are quite different, and their effect (if passed) is quite different. A motion to amend seeks to retain the basic motion on the floor, but modify it in some way. A substitute motion seeks to throw out the basic motion on the floor, and substitute a new and different motion for it. The decision as to whether a motion is really a “motion to amend” or a “substitute motion” is left to the chair. So if a member makes what that member calls a “motion to amend,” but the chair determines that it is really a “substitute motion,” then the chair’s designation governs.

A “friendly amendment” is a practical parliamentary tool that is simple, informal, saves time and avoids bogging a meeting down with numerous formal motions. It works in the following way: In the discussion on a pending motion, it may appear that a change to the motion is desirable or may win support for the motion from some members. When that happens, a member who has the floor may simply say, “I want to suggest a friendly amendment to the motion.” The member suggests the friendly amendment, and if the maker and the person who seconded the motion pending on the floor accepts the friendly amendment, that now becomes the pending motion on the floor. If either the maker or the person who seconded rejects the proposed friendly amendment, then the proposer can formally move to amend.

### Multiple Motions Before the Body

There can be up to three motions on the floor at the same time. The chair can reject a fourth motion until the chair has dealt with the three that are on the floor and has resolved them. This rule has practical value. More than three motions on the floor at any given time is confusing and unwieldy for almost everyone, including the chair.

When there are two or three motions on the floor (after motions and seconds) at the same time, the vote should proceed *first* on the *last* motion that is made. For example, assume the first motion is a basic “motion to have a five-member committee to plan and put on our annual fundraiser.” During the discussion of this motion, a member might make a second motion to “amend the main motion to have a 10-member committee, not a five-member committee to plan and put on our annual fundraiser.” And perhaps, during that discussion, a member makes yet a third motion as a “substitute motion that we not have an annual fundraiser this year.” The proper procedure would be as follows:

**First**, the chair would deal with the *third* (the last) motion on the floor, the substitute motion. After discussion and debate, a vote would be taken first on the third motion. If the substitute motion *passed*, it would be a substitute for the basic motion and would eliminate it. The first motion would be moot, as would the second motion (which sought to amend the first motion), and the action on the agenda item would be completed on the passage by the body of the third motion (the substitute motion). No vote would be taken on the first or second motions.

**Second**, if the substitute motion *failed*, the chair would then deal with the second (now the last) motion on the floor, the motion to amend. The discussion and debate would focus strictly on the amendment (should the committee be five or 10 members). If the motion to amend *passed*, the chair would then move to consider the main motion (the first motion) as *amended*. If the motion to amend *failed*, the chair would then move to consider the main motion (the first motion) in its original format, not amended.

**Third**, the chair would now deal with the first motion that was placed on the floor. The original motion would either be in its original format (five-member committee), or if *amended*, would be in its amended format (10-member committee). The question on the floor for discussion and decision would be whether a committee should plan and put on the annual fundraiser.

### To Debate or Not to Debate

The basic rule of motions is that they are subject to discussion and debate. Accordingly, basic motions, motions to amend, and substitute motions are all eligible, each in their turn, for full discussion before and by the body. The debate can continue as long as members of the body wish to discuss an item, subject to the decision of the chair that it is time to move on and take action.

There are exceptions to the general rule of free and open debate on motions. The exceptions all apply when there is a desire of the body to move on. The following motions are not debatable (that is, when the following motions are made and seconded, the chair must immediately call for a vote of the body without debate on the motion):

**Motion to adjourn.** This motion, if passed, requires the body to immediately adjourn to its next regularly scheduled meeting. It requires a simple majority vote.

**Motion to recess.** This motion, if passed, requires the body to immediately take a recess. Normally, the chair determines the length of the recess which may be a few minutes or an hour. It requires a simple majority vote.

**Motion to fix the time to adjourn.** This motion, if passed, requires the body to adjourn the meeting at the specific time set in the motion. For example, the motion might be: “I move we adjourn this meeting at midnight.” It requires a simple majority vote.

**Motion to table.** This motion, if passed, requires discussion of the agenda item to be halted and the agenda item to be placed on “hold.” The motion can contain a specific time in which the item can come back to the body. “I move we table this item until our regular meeting in October.” Or the motion can contain no specific time for the return of the item, in which case a motion to take the item off the table and bring it back to the body will have to be taken at a future meeting. A motion to table an item (or to bring it back to the body) requires a simple majority vote.

**Motion to limit debate.** The most common form of this motion is to say, “I move the previous question” or “I move the question” or “I call the question” or sometimes someone simply shouts out “question.” As a practical matter, when a member calls out one of these phrases, the chair can expedite matters by treating it as a “request” rather than as a formal motion. The chair can simply inquire of the body, “any further discussion?” If no one wishes to have further discussion, then the chair can go right to the pending motion that is on the floor. However, if even one person wishes to discuss the pending motion further, then at that point, the chair should treat the call for the “question” as a formal motion, and proceed to it.

When a member of the body makes such a motion (“I move the previous question”), the member is really saying: “I’ve had enough debate. Let’s get on with the vote.” When such a motion is made, the chair should ask for a second, stop debate, and vote on the motion to limit debate. The motion to limit debate requires a two-thirds vote of the body.

**NOTE:** A motion to limit debate could include a time limit. For example: “I move we limit debate on this agenda item to 15 minutes.” Even in this format, the motion to limit debate requires a two-thirds vote of the body. A similar motion is a *motion to object to consideration of an item*. This motion is not debatable, and if passed, precludes the body from even considering an item on the agenda. It also requires a two-thirds vote.

## Majority and Super Majority Votes

In a democracy, a simple majority vote determines a question. A tie vote means the motion fails. So in a seven-member body, a vote of 4-3 passes the motion. A vote of 3-3 with one abstention means the motion fails. If one member is absent and the vote is 3-3, the motion still fails.

All motions require a simple majority, but there are a few exceptions. The exceptions come up when the body is taking an action which effectively cuts off the ability of a minority of the body to take an action or discuss an item. These extraordinary motions require a two-thirds majority (a super majority) to pass:

**Motion to limit debate.** Whether a member says, “I move the previous question,” or “I move the question,” or “I call the question,” or “I move to limit debate,” it all amounts to an attempt to cut off the ability of the minority to discuss an item, and it requires a two-thirds vote to pass.

**Motion to close nominations.** When choosing officers of the body (such as the chair), nominations are in order either from a nominating committee or from the floor of the body. A motion to close nominations effectively cuts off the right of the minority to nominate officers and it requires a two-thirds vote to pass.

**Motion to object to the consideration of a question.** Normally, such a motion is unnecessary since the objectionable item can be tabled or defeated straight up. However, when members of a body do not even want an item on the agenda to be considered, then such a motion is in order. It is not debatable, and it requires a two-thirds vote to pass.

**Motion to suspend the rules.** This motion is debatable, but requires a two-thirds vote to pass. If the body has its own rules of order, conduct or procedure, this motion allows the body to suspend the rules for a particular purpose. For example, the body (a private club) might have a rule prohibiting the attendance at meetings by non-club members. A motion to suspend the rules would be in order to allow a non-club member to attend a meeting of the club on a particular date or on a particular agenda item.

## Counting Votes

The matter of counting votes starts simple, but can become complicated.

Usually, it’s pretty easy to determine whether a particular motion passed or whether it was defeated. If a simple majority vote is needed to pass a motion, then one vote more than 50 percent of the body is required. For example, in a five-member body, if the vote is three in favor and two opposed, the motion passes. If it is two in favor and three opposed, the motion is defeated.

If a two-thirds majority vote is needed to pass a motion, then how many affirmative votes are required? The simple rule of thumb is to count the “no” votes and double that count to determine how many “yes” votes are needed to pass a particular motion. For example, in a seven-member body, if two members vote “no” then the “yes” vote of at least four members is required to achieve a two-thirds majority vote to pass the motion.

What about tie votes? In the event of a tie, the motion always fails since an affirmative vote is required to pass any motion. For example, in a five-member body, if the vote is two in favor and two opposed, with one member absent, the motion is defeated.

Vote counting starts to become complicated when members vote “abstain” or in the case of a written ballot, cast a blank (or unreadable) ballot. Do these votes count, and if so, how does one count them? The starting point is always to check the statutes.

In California, for example, for an action of a board of supervisors to be valid and binding, the action must be approved by a majority of the board. (California Government Code Section 25005.) Typically, this means three of the five members of the board must vote affirmatively in favor of the action. A vote of 2-1 would not be sufficient. A vote of 3-0 with two abstentions would be sufficient. In general law cities in



California, as another example, resolutions or orders for the payment of money and all ordinances require a recorded vote of the total members of the city council. (California Government Code Section 36936.) Cities with charters may prescribe their own vote requirements. Local elected officials are always well-advised to consult with their local agency counsel on how state law may affect the vote count.

After consulting state statutes, step number two is to check the rules of the body. If the rules of the body say that you count votes of “those present” then you treat abstentions one way. However, if the rules of the body say that you count the votes of those “present and voting,” then you treat abstentions a different way. And if the rules of the body are silent on the subject, then the general rule of thumb (and default rule) is that you count all votes that are “present and voting.”

Accordingly, under the “present and voting” system, you would **NOT** count abstention votes on the motion. Members who abstain are counted for purposes of determining quorum (they are “present”), but you treat the abstention votes on the motion as if they did not exist (they are not “voting”). On the other hand, if the rules of the body specifically say that you count votes of those “present” then you **DO** count abstention votes both in establishing the quorum and on the motion. In this event, the abstention votes act just like “no” votes.

*How does this work in practice?*

*Here are a few examples.*

Assume that a five-member city council is voting on a motion that requires a simple majority vote to pass, and assume further that the body has no specific rule on counting votes. Accordingly, the default rule kicks in and we count all votes of members that are “present and voting.” If the vote on the motion is 3-2, the motion passes. If the motion is 2-2 with one abstention, the motion fails.

Assume a five-member city council voting on a motion that requires a two-thirds majority vote to pass, and further assume that the body has no specific rule on counting votes. Again, the default rule applies. If the vote is 3-2, the motion fails for lack of a two-thirds majority. If the vote is 4-1, the motion passes with a clear two-thirds majority. A vote of three “yes,” one “no” and one “abstain” also results in passage of the motion. Once again, the abstention is counted only for the purpose of determining quorum, but on the actual vote on the motion, it is as if the abstention vote never existed — so an effective 3-1 vote is clearly a two-thirds majority vote.

Now, change the scenario slightly. Assume the same five-member city council voting on a motion that requires a two-thirds majority vote to pass, but now assume that the body **DOES** have a specific rule requiring a two-thirds vote of members “present.” Under this specific rule, we must count the members present not only for quorum but also for the motion. In this scenario, any abstention has the same force and effect as if it were a “no” vote. Accordingly, if the votes were three “yes,” one “no” and one “abstain,” then the motion fails. The abstention in this case is treated like a “no” vote and effective vote of 3-2 is not enough to pass two-thirds majority muster.

Now, exactly how does a member cast an “abstention” vote?

Any time a member votes “abstain” or says, “I abstain,” that is an abstention. However, if a member votes “present” that is also treated as an abstention (the member is essentially saying, “Count me for purposes of a quorum, but my vote on the issue is abstain.”) In fact, any manifestation of intention not to vote either “yes” or “no” on the pending motion may be treated by the chair as an abstention. If written ballots are cast, a blank or unreadable ballot is counted as an abstention as well.

Can a member vote “absent” or “count me as absent?” Interesting question. The ruling on this is up to the chair. The better approach is for the chair to count this as if the member had left his/her chair and is actually “absent.” That, of course, affects the quorum. However, the chair may also treat this as a vote to abstain, particularly if the person does not actually leave the dais.

## The Motion to Reconsider

There is a special and unique motion that requires a bit of explanation all by itself; the motion to reconsider. A tenet of parliamentary procedure is finality. After vigorous discussion, debate and a vote, there must be some closure to the issue. And so, after a vote is taken, the matter is deemed closed, subject only to reopening if a proper motion to consider is made and passed.

A motion to reconsider requires a majority vote to pass like other garden-variety motions, but there are two special rules that apply only to the motion to reconsider.

First, is the matter of timing. A motion to reconsider must be made at the meeting where the item was first voted upon. A motion to reconsider made at a later time is untimely. (The body, however, can always vote to suspend the rules and, by a two-thirds majority, allow a motion to reconsider to be made at another time.)

Second, a motion to reconsider may be made only by certain members of the body. Accordingly, a motion to reconsider may be made only by a member who voted in the majority on the original motion. If such a member has a change of heart, he or she may make the motion to reconsider (any other member of the body — including a member who voted in the minority on the original motion — may second the motion). If a member who voted in the minority seeks to make the motion to reconsider, it must be ruled out of order. The purpose of this rule is finality. If a member of minority could make a motion to reconsider, then the item could be brought back to the body again and again, which would defeat the purpose of finality.

If the motion to reconsider passes, then the original matter is back before the body, and a new original motion is in order. The matter may be discussed and debated as if it were on the floor for the first time.

## Courtesy and Decorum

The rules of order are meant to create an atmosphere where the members of the body and the members of the public can attend to business efficiently, fairly and with full participation. At the same time, it is up to the chair and the members of the body to maintain common courtesy and decorum. Unless the setting is very informal, it is always best for only one person at a time to have the floor, and it is always best for every speaker to be first recognized by the chair before proceeding to speak.

The chair should always ensure that debate and discussion of an agenda item focuses on the item and the policy in question, not the personalities of the members of the body. Debate on policy is healthy, debate on personalities is not. The chair has the right to cut off discussion that is too personal, is too loud, or is too crude.

Debate and discussion should be focused, but free and open. In the interest of time, the chair may, however, limit the time allotted to speakers, including members of the body.

Can a member of the body interrupt the speaker? The general rule is “no.” There are, however, exceptions. A speaker may be interrupted for the following reasons:

**Privilege.** The proper interruption would be, “point of privilege.” The chair would then ask the interrupter to “state your point.” Appropriate points of privilege relate to anything that would interfere with the normal comfort of the meeting. For example, the room may be too hot or too cold, or a blowing fan might interfere with a person’s ability to hear.

**Order.** The proper interruption would be, “point of order.” Again, the chair would ask the interrupter to “state your point.” Appropriate points of order relate to anything that would not be considered appropriate conduct of the meeting. For example, if the chair moved on to a vote on a motion that permits debate without allowing that discussion or debate.

**Appeal.** If the chair makes a ruling that a member of the body disagrees with, that member may appeal the ruling of the chair. If the motion is seconded, and after debate, if it passes by a simple majority vote, then the ruling of the chair is deemed reversed.

**Call for orders of the day.** This is simply another way of saying, “return to the agenda.” If a member believes that the body has drifted from the agreed-upon agenda, such a call may be made. It does not require a vote, and when the chair discovers that the agenda has not been followed, the chair simply reminds the body to return to the agenda item properly before them. If the chair fails to do so, the chair’s determination may be appealed.

**Withdraw a motion.** During debate and discussion of a motion, the maker of the motion on the floor, at any time, may interrupt a speaker to withdraw his or her motion from the floor. The motion is immediately deemed withdrawn, although the chair may ask the person who seconded the motion if he or she wishes to make the motion, and any other member may make the motion if properly recognized.

## Special Notes About Public Input

The rules outlined above will help make meetings very public-friendly. But in addition, and particularly for the chair, it is wise to remember three special rules that apply to each agenda item:

**Rule One:** Tell the public what the body will be doing.

**Rule Two:** Keep the public informed while the body is doing it.

**Rule Three:** When the body has acted, tell the public what the body did.



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