



Agenda Report



TO:	Honorable Mayor & City Council Members of the Public	FROM:	Nikki Fortunato Bas
			Council President Council District 2
SUBJECT:	Resolution Amending And Restating The Council's Rules Of Procedure	DATE:	October 19, 2023

RECOMMENDATION

I respectfully recommend that the City Council: Adopt a RESOLUTION AMENDING AND RESTATING THE COUNCIL'S RULES OF PROCEDURE IN THEIR ENTIRETY IN ORDER TO INCREASE PUBLIC ACCESS AND PARTICIPATION BY, AMONG OTHER THINGS: 1) CHANGING THE TIMES FOR COMMENCING AND ENDING CITY COUNCIL MEETINGS, 2) AMENDING PUBLIC COMMENT PROCEDURES AND TIME LIMITS, 3) AMENDING THE RULES FOR MAINTAINING ORDER DURING MEETINGS, AND 4) MAKING NON-SUBSTANTIVE, TECHNICAL EDITS

EXECUTIVE SUMMARY

City Charter Section 210 mandates Council establish Rules of Procedure for conduct of meetings and order of business. The Council Rules of Procedure (Council Rules) were updated in February 2023 following three years of conducting Council meetings on Zoom during COVID. The Council resumed in-person meetings in March 2023. Since then, we have sought ways to streamline our meetings in an orderly and efficient manner to facilitate sound City Council and public deliberation and decision making.

These amendments seek to ensure: (1) reasonable time for public input and comment on agenda items at the Committee and City Council meetings; and (2) an agenda that is managed more efficiently and effectively and for more predictable discussion times for debate regarding agenda items in order to avoid long waits by the public as the Council conducts its business in order to provide opportunity for all members of the public to engage in the deliberation of the Council's most important business.

Councilmember Janani Ramachandran proposed changes to the Council Rules to help ensure complex items are heard earlier by revising the order of the agenda, and to make meetings more efficient by streamlining public comment. I appreciate her proposals and thought partnership in these areas, specifically: Rule 7 Order of Business at Regular Council meetings and Rule 14 Time Limits for Public Speakers on Committee and Council Agenda Items.

Thank you to the Offices of the City Attorney, City Clerk and City Administrator for your input in these amendments. Thanks also to members of the public who have shared feedback. I look forward to discussion and feedback on November 2nd at the Rules & Legislation Committee meeting.

BACKGROUND / LEGISLATIVE HISTORY

City Charter Section 210 mandates Council establish Rules of Procedure for conduct of meetings and order of business. The Council Rules of Procedure (Council Rules) were last updated on February 7, 2023 with Resolution No. 89588 C.M.S.

Below are highlights of the proposed amendments:

Start and End Time

These amendments propose that Council meetings **start at 3:00 p.m. and conclude no later than 9:00 p.m.**, except that the Council may extend the time for the meeting in one-hour increments by an affirmative vote of five (5) Councilmembers up to 12:00 a.m. midnight, and by an affirmative vote of six (6) councilmembers beyond 12:00 a.m. midnight. If a motion to extend the meeting fails, the Council shall move immediately to open forum and then adjourn the meeting.

Rule 7 – Order of Business at Regular Council meetings

To help ensure that more complex issues are heard earlier in the agenda to facilitate sound City Council and public deliberation and decision making, the adoption of the Consent Calendar would be moved to after Non-Consent Items. This would be operationalized as follows:

- The Consent Calendar would be introduced before Non-Consent Items and Councilmembers would be required to ask staff questions at this time when staff is available. Staff who are attending the Council meeting solely for Consent Items would be able to leave after this opportunity for Councilmembers to ask questions.
- Public Hearings and Non-consent Items would be heard.
- The Consent Calendar would be adopted, after hearing public speakers and Councilmembers.

In addition, approval of minutes and closed session action items would be included in the Consent Calendar.

Below is the proposed order of the agenda:

Subject to the discretion of the Council President or presiding officer, the order of business for Regular Council meetings shall be as follows:

1. Call to Order by Council President
2. Roll Call
3. Action on Special Orders / Presentations of the Day
4. Modifications to the Agenda and Procedural Items
5. Introduction of items on the Consent Calendar and Councilmember questions for staff (comments from the public and from Councilmembers shall be heard following the Non-Consent Calendar).

For Regular Meetings, action on Non-Consent Items will commence at 5:00 p.m., or as soon thereafter as reasonably practicable

6. Consideration of items with statutory Public Hearing Requirements
7. Action on Other Non-Consent Items
8. Adoption of items on the Consent Calendar (after hearing public speakers and Councilmembers)
9. Council Acknowledgements / Announcements
10. Open Forum
11. Adjournment

Rule 8 — Action and Procedures at Council Meetings

A motion to move the second reading of an ordinance from the Consent Calendar to the Non-Consent Calendar must be approved by a majority of the Councilmembers present and voting.

Rule 9 — Protocol at Council Meetings

Presenters shall limit their presentations to no more than seven (7) minutes, absent the consent of the presiding officer.

Rule 11 — Speaking Time Limits for Councilmembers

Total speaking time of Councilmembers shall be limited to 8 minutes on Non-Consent Items and 2 minutes on the Consent Calendar.

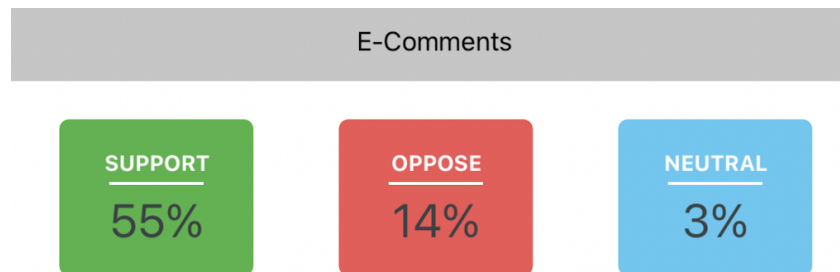
No member of the Council shall speak for more than eight (8) minutes on any Non-Consent Item without the consent of the presiding officer or a majority of the members of the Council, which consent may be granted for complex matters such as adoption of the biennial or midcycle budget. No member of the Council shall speak for more than two (2) minutes on the Consent Calendar without the consent of the presiding officer or a majority of the Council.

Rule 12 – Speaker Cards and EComments

EComments:

To encourage more public engagement, “The City Clerk shall state the number of eComments and the percentage of supporting, opposing, and neutral eComments during each Non-Consent item.”

[For an example of eComments, see the 51 comments on the FY 2023-2025 Proposed Budget here.](#) Note that the total below does not equal 100% because some people declined to state whether they support, oppose or were neutral.



Additional education about eComments is necessary to generate more use and engagement of this method of public comment, which is an official part of the public record and visible to members of the Council and the general public. .

Speaker Cards:

In order for the City Clerk and presiding officer to assess the number of public speakers, implement time limits, and facilitate meetings generally, the time for submitting speaker cards after a meeting has begun would be as follows:

City Council meetings:

- (1) for Action on Special Orders / Presentations of the Day, before the City Clerk begins reading the item into the record.
- (2) for all other items (including Non-Consent, Consent and Open Forum), within the first hour and a half after the meeting is called to order or before the Clerk begins the reading of the first Non-Consent item into the record, whichever occurs earlier.

Committee meetings:

- Within the first ten minutes after the meeting is called to order or before the City Clerk begins reading the item into the record, whichever occurs first, unless consent to speak is given by the presiding officer.

Rule 13 – Open Forum

Allotted speaking time shall be one (1) minute each to speak. The presiding officer has discretion to increase the allotted time for each open forum speaker a maximum of two (2) minutes.

Rule 14 – Time Limits for Public Speakers on Committee and Council Agenda Items

To ensure that all public speakers are treated equitably, limitations on speaking time include all time a speaker spends commenting and/or posing questions, including procedural questions.

At Committee meetings, a speaker who submits their name to speak on three (3) or more items (other than open forum) may be instructed to address all items concurrently and shall be allocated two (2) minutes per item up to a maximum of eight (8) minutes if the presiding officer states all reasons justifying the instruction, which reasons shall be based at a minimum on consideration of the time allocated or anticipated for the meeting, the number and complexity of agenda items and the number of persons wishing to address the local body. If the presiding officer reduces speaker time to one (1) minute per item, the maximum time to speak on all items shall be reduced to four (4) minutes. Ceding time to other speakers is not permitted when speaking on multiple items.

At Council meetings, speakers who submit their name to speak on three (3) or more “Other Non-Consent Items” (i.e., Non-Consent Items that do not require a public hearing) may be instructed to address all items concurrently. Speakers who are instructed to address all items concurrently shall be allotted two (2) minutes per item up to a total of eight (8) minutes if the presiding officer states all reasons justifying the instruction. At a minimum, the reasons justifying the instruction to address all items concurrently shall be based on (i) consideration of the time allocated or anticipated for the meeting, (ii) the number and complexity of agenda items and (iii) the number of persons wishing to address the local body. If the presiding officer reduces speaker time to one (1) minute per item, the maximum time to speak on all items shall be reduced to four (4) minutes. Ceding time to other speakers is not permitted when speaking on multiple items.

At Council meetings, public speakers who sign up for Consent Items will be instructed to speak on all items at once and be given one (1) minute to speak on each item up to a maximum of three (3) minutes.

At Rules & Legislation Committee meetings, public speakers who sign up to speak on the Scheduling Item will have one minute per scheduling request up to a maximum of three (3) minutes, provided that a public speaker’s total time for all items on the Rules and Legislation Committee agenda (excluding open forum) may be limited to eight (8) minutes.

Rule 15 – Presiding Officer’s Role In Maintaining Order

This section is further defined as follows:

The presiding officer shall maintain order in the chamber. The presiding officer may rule a member of the public out of order if:

- a. the person engages in Disruptive Behavior, as defined below; or
- b. the person’s public remarks are not related to the agenda item;

“Disruptive Behavior” is behavior that impedes the orderly progress of a meeting by denying, delaying, or interrupting other people’s rightful turn to speak. Disruptive Behavior includes, but is not limited to: 1) speaking beyond the time the speaker has been allotted and failing to yield; 2) speaking, yelling, or otherwise making noises that impede another person’s to right to speak or be heard; and 3) actions that physically impede another person’s right to speak or be heard.

The public has the right to criticize policies, procedures, programs or services of the City or of the actions or omissions of the legislative body or staff. But members of the public do not have the right to prevent or delay the orderly progress of meetings or the conduct of City business. Each member of the public must respect other people’s rights to speak, including other members of public, members of staff, presenters, and members of the body.

If a member of the public engages in Disruptive Behavior, the presiding officer may rule them out of order. Furthermore, a person who engages in Disruptive Behavior may be removed from a meeting at the direction of the presiding officer. Before being removed, the person must be warned: (1) that their behavior is disrupting the meeting, and (2) that continued disruption may result in their removal. The person may be so warned by the presiding officer, a member of City staff, a security guard, and/or a peace officer.

Any person who engages in dangerous activity during a meeting, including using force or making a credible threat to use force, may be removed without any direction from the presiding officer and without any warning.

Rule 24 — Rules and Legislation Committee’s Powers re Agenda Items

The ability of members of the public to propose scheduling items is removed. Members of the public may continue to seek Councilmembers to sponsor their items.

Rule 27 — Quorum for Standing Committees

The following addition is proposed:

In the event that a quorum is never established or is lost at any point during a meeting, discussion of the items noticed on the agenda may continue but no action can be taken other than adjournment. The City Clerk will prepare a record of the discussion, but the record will reflect that the meeting was canceled or adjourned due to a lack of a quorum and that no action was taken on the items discussed.

Rule 28 – Procedure to Add, Remove Agenda Items

Rule 28 requests may be approved until 1:30 p.m. the day before the agenda publication deadline.

ANALYSIS AND POLICY ALTERNATIVES

The business of the City is to be conducted in an orderly and efficient manner to facilitate sound City Council and public deliberation and decision making.

When discussing this proposal at the November 2, 2023 Rules and Legislation Committee meeting, all Council members are encouraged to attend and may consider alternatives to the changes described above and in the attached legislation.

FISCAL IMPACT

These amendments to the Council Rules can make Council meetings more efficient and in doing so may result in cost savings in staff salaries for those staff who support and participate in Council meetings.

PUBLIC OUTREACH / INTEREST

This item will be noticed at least 10 days in advance of its hearing at the November 2, 2023 Rules and Legislation Committee meeting. The Committee will take EComments and public comments at the meeting. In addition, public comments helped to inform this proposal.

COORDINATION

Since returning to in-person Council meetings in March, Council President Bas, Chief Assistant City Attorney Ryan Richardson, Senior Deputy City Attorney Amber Macaulay, and City Clerk Asha Reed have noted ways to make our meetings more orderly and efficient; and I am grateful for their collaboration. As these amendments were developed, we sought input from the Agenda Team, which consists of staff from the Offices of the City Clerk, City Administrator and City Attorney.

Councilmember Janani Ramachandran proposed changes to the Council Rules to help ensure complex items are heard earlier by revising the order of the agenda, and to make meetings more efficient by streamlining public comment. I appreciate her proposals and thought partnership in these areas, specifically: Rule 7 Order of Business at Regular Council meetings, and Rule 14 Time Limits for Public Speakers on Committee and Council Agenda Items. We sought feedback from Councilmembers Kaplan and Reid and thank them for their input.

This coordination resulted in the amendments described above and in the attached legislation. The legislation was drafted with the Office of the City Attorney (OCA) and was reviewed by the OCA.

SUSTAINABLE OPPORTUNITIES

This legislation would provide for more orderly and efficient Council meetings and would continue to promote transparency and public participation in the Council's legislative process.

Economic: Transparency and public participation in Council meetings and the legislative process can result in increasing economic opportunities for Oaklanders, including those who have been most deeply impacted.

Environmental: Transparency and public participation in Council meetings and the legislative process can result in increasing environmental sustainability for Oaklanders, including those who have been most deeply impacted.

Race & Equity: Transparency and public participation in Council meetings and the legislative process can result in increasing racial equity for Oaklanders, when those who have been most deeply impacted are able to share their experiences and opinions, and give input to legislation that affects them.

ACTION REQUESTED OF THE CITY COUNCIL

I respectfully recommend that the City Council: Adopt a RESOLUTION AMENDING AND RESTATING THE COUNCIL'S RULES OF PROCEDURE IN THEIR ENTIRETY IN ORDER TO INCREASE PUBLIC ACCESS AND PARTICIPATION BY, AMONG OTHER THINGS: 1) CHANGING THE TIMES FOR COMMENCING AND ENDING CITY COUNCIL MEETINGS, 2) AMENDING PUBLIC COMMENT PROCEDURES AND TIME LIMITS, 3) AMENDING THE RULES FOR MAINTAINING ORDER DURING MEETINGS, AND 4) MAKING NON-SUBSTANTIVE, TECHNICAL EDITS

For questions regarding this report, please contact Cinthya Munoz-Ramos, Chief of Staff to Council President Nikki Fortunato Bas, District 2 at cmunozramos@oaklandca.gov.

Respectfully submitted,



Nikki Fortunato Bas
Council President, District 2

Prepared by:
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Council President, District 2

Attachments:

1. Legislation