



Supplemental 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:	December 7, 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

PURPOSE OF SUPPLEMENTAL REPORT

At the November 2nd Rules & Legislation Committee meeting, we proposed these amendments and received feedback from the Committee and the public. This supplemental report describes changes in the legislation, which is sponsored by Council President Bas and Councilmembers Kaplan, Ramachandran and Reid. **Changes are highlighted in yellow.**

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.

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 3:30 p.m. and conclude no later than 9:30 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 **11:30 p.m.**, and by an affirmative vote of six (6) councilmembers beyond **11:30 p.m.** 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 meeting would start earlier at 3:30pm and Ceremonial Items would be expected to conform to the following guidelines.**

Each meeting would have no more than two (2) Ceremonials, which would be no more than approximately 10 minutes each, unless consent is given by the Council President (such as for the Mayor’s State of the City Address).

Larger ceremonials will be celebrated at separate public events, including those where each elected official honors someone. These Ceremonials would simply have the resolution introduced at the Council meeting by the Council author(s) and there would be a separate public ceremony at another time. The Council author(s) would be responsible for scheduling and organizing the public event for annual ceremonials such as the ones below and any others they wish to schedule.

- **February - Black History And Heritage Month**
- **May - Asian American And Pacific Islander Heritage Month**
- **September - Oakland LGBTQ Pride**
- **October - National Hispanic/Latinx Heritage Month**
- **November - Native American Heritage Month**

The Consent calendar would continue to be heard and voted upon prior to the Non-Consent Calendar.

In addition, approval of minutes and closed session resolutions would be included in the Consent Calendar. The current read out of closed session decisions would no longer be necessary with closed session resolutions 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 (3:30 pm)
2. Roll Call
3. Action on Special Orders / Presentations of the Day (Ceremonials, limited to approximately 20 minutes total for the presentations)
4. Modifications to the Agenda and Procedural Items
5. Consent Calendar
 - a. **For Regular Meetings, action on Non-Consent Items will commence at 5:00 p.m., or as soon thereafter as reasonably practicable**
 - b. All speakers cards are due 90 minutes after the start of the meeting
6. Consideration of items with statutory Public Hearing Requirements
7. Action on Other Non-Consent Items
8. Council Acknowledgements / Announcements
9. Open Forum
10. Adjournment (9:30 pm)

Additionally, we will work to ensure that each item goes through Committee review so that we can streamline our Consent Calendar with the future goal of having a Consent Calendar that is vetted by Committees and does not require public comment, similar to San Francisco. In January and February, we will implement limiting Rule 24 requests so that more items go through Committees, and we will review recurring consent items (emergency declarations on AIDS, Cannabis and Homelessness) and items that usually go straight to Council such as most Mayoral appointments and legal settlements. Our goal is to return to Council in March to amend our Rules to have a streamlined Consent calendar without public comment since these items would have been discussed at Committees. Items that do not go through Committee, would be heard at the end of the Non-consent calendar.

We recognize that to do this successfully, we would need to ensure members of the public are aware of these changes and have opportunities to participate and comment in the Council's legislative process. We will expand community engagement and education about how to participate in our Committee and Council meetings and share public comments.

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

For ceremonial items, the presiding officer may determine the allotted speaking time for Councilmembers and their honorees. (This will typically be 10 minutes total per item.)

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

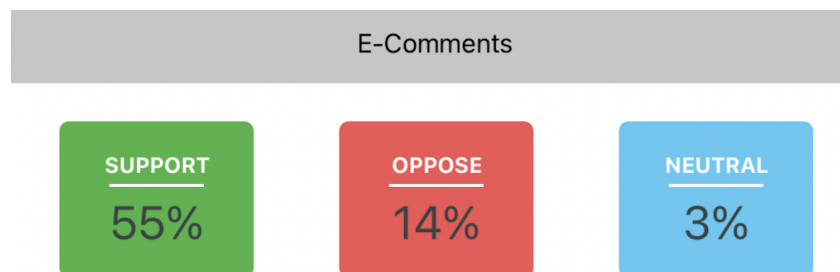
No member of the Council shall speak for more than eight (8) minutes on any Non-Consent Item without the consent of the presiding officer or a majority of the members of the Council, which consent may be granted for complex matters such as adoption of the biennial or midcycle budget. No member of the 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. Based on public feedback, the Clerk is looking into adding an additional category of “Support with Amendments.”



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 (Ceremonials), before the City Clerk begins reading the item into the record;
- (2) for Consent, before the City Clerk begins reading the first Consent item;
- (3) for all other items (including Non-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 & 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, ~~have authority to refuse the floor to any person.~~ The presiding officer may rule a member of the public speaker out of order if:

- a. ~~the person engages in Disruptive Behavior, as defined below~~the speaker is speaking beyond the allocated time limit; or
- b. ~~the speaker’s person’s public~~ remarks are not related to the agenda item or, in the case of open forum, are not related to any matter within the jurisdiction of the Council; ~~or~~
- c. ~~the manner, tone and content of the speaker’s remarks are disruptive (disturb the peace and good order of the meeting), are abusive (e.g. vulgar or obscene language), or constitute hate speech.~~

Remarks that express nothing more than hate for a person or group of people based on race, nationality, ethnicity, religion, gender, gender expression, sexual orientation, or

similar grounds are inherently unrelated to any matter within the jurisdiction of the Council and are therefore out of order.

“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 impedes another person’s 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.

In addition, we added this Resolved clause to the resolution:

FURTHER RESOLVED: Because these Rules are intended to encourage public participation and use City resources efficiently during Council and committee meetings, the Council fully uplifts and supports efforts by presiding officers and the City Administrator to maintain order in the chamber and to enforce these Rules, up to and including causing the Oakland Police Department to remove any person who, despite being warned, decides to deny, delay, or interrupt another person’s rightful turn to speak at a meeting;

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

We add “member of the public” to the list of individuals that can submit a scheduling request in the first paragraph of Rule 24 and then add 24(4) as follows:

4. The Rules and Legislation Committee shall not schedule any item proposed by a member of the public unless the member of the public submits documentation with the scheduling request demonstrating that they contacted each councilmember to request a council sponsor for their scheduling item and were refused or received no response within 48 hours.

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.

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 December 14, 2023 Rules and Legislation Committee meeting, all Council members are encouraged to attend, participate and offer their input and/or alternatives.

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 was noticed at least 10 days in advance of its initial hearing at the November 2, 2023 Rules and Legislation Committee meeting. This Supplemental Report and Legislation will be published 6 days before the December 14, 2023 meeting. Council President Bas discussed the initial proposal with the League of Women Voters, Oakland Rising and Common Cause. The Council sponsors will continue to consider EComments and public comments.

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 on the initial proposal. The four Council co-sponsors collaborated together on this amended proposal, after hearing feedback at the November 2, 2023 Rules & Legislation Committee meeting and after hearing additional feedback from the City Clerk, City Administrator and City Attorney.

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

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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

Attachments:

1. Presentation
2. Legislation