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# AGENDA REPORT

**TO:** Members of the City Council

**FROM:** Council President Larry Reid,  
Vice Mayor Annie Campbell  
Washington and Councilmember  
Lynette Gibson McElhaney

**SUBJECT:** Amending Rules 4 and 7.6 of the  
Council Rules of Procedure

**DATE:** January 25, 2018

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## **RECOMMENDATION**

Council President Larry Reid, Vice Mayor Annie Campbell Washington and Councilmember Lynette Gibson McElhaney recommend adoption of a resolution amending and superseding the Council's Rules of Procedure currently set forth in Resolution No. 86034 C.M.S., as amended by Resolution No. 86862 C.M.S., to amend: 1) Rule 4 to authorize the Council President to establish committee membership and committee chair assignments, and 2) Rule 7.6 to provide that any items pulled from the consent calendar are moved to the non-consent calendar and allow the item to be heard the same evening, subject to the discretion of the Council President to determine the order of agenda items.

## **EXECUTIVE SUMMARY**

The modernization provisions of the attached Resolution are intended to improve efficiency of Council proceedings and provide the public with certainty with respect to the items agendaized for action.

The Council Rules of Procedure Rule 4 currently establishes that the Council President appoints committee members and chairs by resolution at the beginning of each term. This dual process of approval is out of sync with other larger California cities. This amendment clarifies the President's appointment authority and allows for the orderly transition of leadership when such need arises.

The City Council Rules of Procedure Rule 7.6 allows two Councilmembers to pull an item from the consent calendar to be heard on the non-consent Calendar of the next Council meeting. This provision creates uncertainty and may result in a costly delay that causes members of the public and City staff to return to the City Council for an additional meeting. This resolution streamlines Council process by changing this practice by stipulating that 'pulled' items be heard during the non-consent calendar of the same Council meeting.

## **BACKGROUND / LEGISLATIVE HISTORY**

The City Charter mandates that the City Council shall order the rules of procedure and order of the agenda for Council meetings by resolution. The current iteration of the Council Rules of

Item: \_\_\_\_\_  
City Council  
February 6, 2018

Procedure was established by Resolution No. 86034 C.M.S., passed March 1, 2016, and Rule 19 was further amended by Resolution No. 86862 C.M.S., passed July 18, 2017, to revise provisions regarding appointments to boards, commissions and other bodies.

Rule 4 of the Rules of procedures lays out the process for the President of the Council to appoint the membership and chairs of the standing committees by resolution every two years in conjunction with each new City Council term:

“The President of the Council shall appoint all committees subject to confirmation by Council resolution and provided that a majority of the members of the Council may direct the appointment of a committee by the President of the Council. Committee chairs shall be appointed by the President of the Council and confirmed by City Council resolution for a two-year term beginning in January with each new City Council term.” (Resolution 86862 C.M.S)

Rule 7 subsection 6 of the Rules of Procedure enables, by a simple motion and second, for two Councilmembers to pull an item from the consent calendar and automatically schedule it to the non-consent portion of the next regular Council meeting:

“During “Modifications to the Agenda” any Council member may request a change in the order of the agenda, which shall be changed with the consent of the presiding officer. **Any Councilmember by motion that is seconded by another Councilmember, may pull a consent item from the Consent Item Calendar and place the item on the next City Council meeting agenda as a non-consent item;** provided however that the Consent Items Calendar may not be moved to a time later than 6:30 p.m. and no item agendized for consideration after 6:30 p.m. may be moved to a time earlier than 6:30 p.m. A Councilmember is entitled to pull a consent item from the Consent Item Calendar if another Councilmember seconds his/her motion; it is not necessary that the Council vote on or pass the motion.” (Resolution 86862 C.M.S, emphasis added).

## **ANALYSIS AND POLICY ALTERNATIVES**

Under the current Rule the Council President’s authority to appoint the membership and chairs of standing committees is subject to a redundant vote of the Council – a practice that is out of sync with the current practice of many other large cities in California (see Attachment A). This practice also conflicts with the Council’s desire to streamline its internal processes. This resolution amends the current practice to mirror that of San Francisco, Los Angeles, and San Jose to allow the Council President to appoint committee members and chairs at any time during their term by notifying the City Clerk.

The City of Oakland’s Rules of Procedure also allow for two Councilmembers to require additional debate on any item originally scheduled to be adopted as part of the Consent Calendar. Consent Items are typically non-controversial items that a committee unanimously

recommended to Council for approval and which are not anticipated to elicit additional questions or debate from either the public or other Councilmembers.<sup>1</sup>

It is important to allow for a minority of Councilmembers to have the power to require additional debate on any item. The current rule, however, arbitrarily mandates a delay in the debate at a cost to the public when the matter may be fully considered on the same agenda. This provision may compel the Council to pass matters on consent without permitting debate if the members of the Council feel the delay would be burdensome to the matter. Additionally, residents who have devoted time and energy to travel to City Hall to participate in the public legislative process are then required to make an additional and unnecessary trip back for the next meeting.

This practice is highly unusual among other cities in California (see Attachment A). Following the practice of other surveyed Cities, this resolution would maintain the current ability of any Councilmember by motion and a successful second to remove an item from the consent calendar for additional debate on the non-consent calendar. However, this resolution changes Rule 7.6 so that the item is heard during the non-consent calendar of the same meeting instead of the next regularly scheduled meeting. The resolution also clarifies that residents may comment on the item during either the consent or non-consent portion of the agenda to further reduce any potential obstacles to public participation.

#### **FISCAL IMPACT**

This resolution reduces the need for City staff to attend multiple City Council meetings for the same item thereby reducing staff costs.

#### **COORDINATION**

This item has been reviewed by the Oakland City Attorney.

#### **SUSTAINABLE OPPORTUNITIES**

***Economic:*** The information presented in this report presents no economic impact.

***Environmental:*** There are no environmental opportunities identified in this report.

***Social Equity:*** The adoption of this ordinance improves equitable access to the functioning of the City's democratic process by ensuring that residents must only make arrangements to attend one meeting in order to have their voice heard on a particular agenda item.

#### **ACTION REQUESTED OF THE CITY COUNCIL**

Adopt A Resolution Amending And Superseding The Council's Rules Of Procedure Currently Set Forth In Resolution No. 86034 C.M.S, As Amended By Resolution No. 86862 C.M.S., to

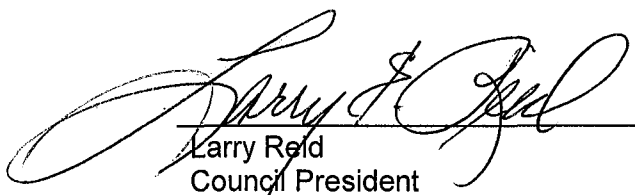
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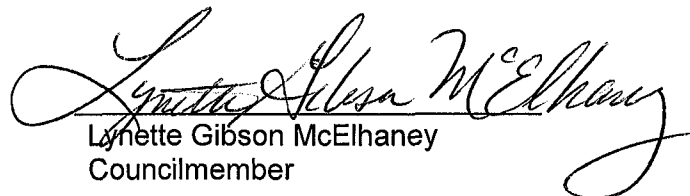
<sup>1</sup> The Rules of Procedure defines consent items as "any action or informational item that a subject matter Committee has forwarded to the full Council with unanimous recommendation for approval, except any item having a high level of public interest or controversy as determined by the Rules Committee".


Amend: 1) Rule 4 To Authorize The Council President To Change Committee Membership And Committee Chair Assignments, and 2) Rule 7.6 To Provide That Any Items Pulled From The Consent Calendar Are Moved To The Non-Consent Calendar And Will Be Heard The Same Evening, Subject To The Discretion Of The Council President To Determine The Order Of Agenda Items.

For questions regarding this report, please contact Alex Marqusee, Sr. Legislative Analyst, at 510-238-7031.

Respectfully submitted,

  
Larry Reid  
Council President

  
Lynette Gibson McElhaney  
Councilmember

  
Annie Campbell Washington  
Vice Mayor

Prepared by:

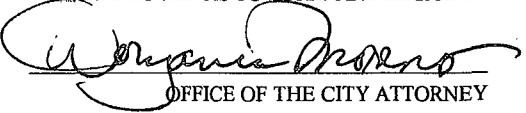
Alex Marqusee, Sr Legislative Analyst  
Office of Councilmember McElhaney

Daryel R. Dunston, Sr. Policy Advisor  
Office of Vice Mayor Campbell Washington

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18 JAN 25 PM 4:52

APPROVED AS TO FORM AND LEGALITY

  
OFFICE OF THE CITY ATTORNEY

## OAKLAND CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_ C.M.S.

INTRODUCED BY COUNCILMEMBER MCELHANEY, VICE MAYOR  
CAMPBELL WASHINGTON AND COUNCIL PRESIDENT REID

**RESOLUTION AMENDING AND SUPERSEDING THE COUNCIL'S RULES OF PROCEDURE CURRENTLY SET FORTH IN RESOLUTION NO. 86034 C.M.S, AS AMENDED BY RESOLUTION NO. 86862 C.M.S., TO AMEND: 1) RULE 4 TO AUTHORIZE THE COUNCIL PRESIDENT TO CHANGE COMMITTEE MEMBERSHIP AND COMMITTEE CHAIR ASSIGNMENTS, AND 2) RULE 7.6 TO PROVIDE THAT ANY ITEMS PULLED FROM THE CONSENT CALENDAR ARE MOVED TO THE BEGINNING OF THE NON-CONSENT CALENDAR AND WILL BE HEARD THE SAME EVENING, SUBJECT TO THE DISCRETION OF THE COUNCIL PRESIDENT TO DETERMINE THE ORDER OF AGENDA ITEMS**

**WHEREAS**, the Council of the City of Oakland hereby declares that 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; and

**WHEREAS**, the City Council hereby declares that the proper operation of democratic government requires that public officials are bound to observe, in their official acts, the highest standards of performance and to discharge faithfully the duties of their office, regardless of personal considerations. Recognizing that the public's interest must be their primary concern, their conduct in both their official and private affairs should be above reproach; and

**WHEREAS**, the following Rules of Procedure seek to provide for: (1) reasonable time for public input and comment on agenda items at the Committee and City Council meetings; (2) in-depth study of policy proposals, for problem-solving opportunities among staff, Council members and the public and development of policy alternatives at the committee level; (3) more focused (and fewer) City Council agenda items by limiting items to those a Committee has had the opportunity to discuss and as to which a Committee has developed recommendations; and (4) an agenda that is managed more efficiently and effectively and for predictable discussion times for debate regarding agenda items in order to avoid long waits by the public as the Council considers procedural, ceremonial and consent items (as defined herein); and

**WHEREAS**, in recognition of these goals, the City Council desires to establish Rules of Procedure for the Conduct of City Council Meetings and a Code of Ethics; and

WHEREAS, City Charter section 210 mandates that the Council provide by resolution for the order of business and the rules of procedure for the conduct of Council meetings; and

WHEREAS, the Brown Act (Government Code section 54950, et seq.) authorizes the Council to prescribe reasonable rules and regulations for public speakers; and

WHEREAS, Resolution No. 86034 C.M.S., passed March 1, 2016, sets forth the current Council Rules of Procedure Rule except for Rule 19, which was amended by Resolution No. 86862 C.M.S., passed July 18, 2017, to revise procedures for Rules Committee review of certain appointments to boards, commissions and other bodies; and

WHEREAS, Council Rule of Procedure 4 provides, among other things, that the President of the Council appoints council standing committees and committee chairs for two years subject to confirmation by Council resolution; and

WHEREAS, the City Council wishes to amend Rule 4 to provide the Council President independent authority to appoint council standing committees and committee chairs; and

WHEREAS, Council Rule of Procedure 7.6 provides, among other things, that during modifications to the agenda “[a]ny Councilmember by motion that is seconded by another Councilmember, may pull a consent item from the Consent Item Calendar and place the item on the next City Council meeting agenda as a non-consent item” and does not permit consent calendar items to be moved to the non-consent calendar and heard the same night; and

WHEREAS, the City Council wishes to amend Rule 7.6 to provide that items pulled from the Consent Calendar by a Councilmember by motion that is seconded by another Councilmember be moved to the Non-consent Calendar portion of the agenda and heard that same evening; now therefore be it

**RESOLVED:** That Resolution No. 86034 C.M.S., as amended by Resolution No. 86862 C.M.S., (Rules of Procedure) is amended and superseded by this Resolution which sets forth the Council’s Rules of Procedure in their entirety; and be it

**FURTHER RESOLVED:** That in accordance with Section 208 of the Charter of the City of Oakland, the time and place of Council meetings is hereby determined to be the following: The Council shall meet in regular session on the first and third Tuesdays of the month, commencing at 5:30 p.m. in the Chambers of City Hall, One City Hall Plaza, 3rd Floor, Oakland, California. Meetings shall conclude no later than 12:00 midnight, unless extended by majority vote of the members of the Council in attendance at the Council meeting.

**FURTHER RESOLVED:** That in accordance with Section 210 of the Charter, the following is established as the order of business for Council meetings:

1. Call to Order by Council President and Pledge of Allegiance

2. Roll Call
3. Open Forum
4. Action on Special Orders/Presentations of the Day (with accompanying agenda materials as required by Sunshine Ordinance)
  - i. Ceremonial presentations, including proclamations, individual recognitions, etc.;
  - ii. Reports/presentations from the Mayor; and
  - iii. Council Acknowledgements/ Announcements
5. Approval of Council minutes
6. Modifications to the Agenda and Procedural Items, including but not limited to
  - a. Requests from Councilmembers to pull an item from consent items calendar and reschedule as non-consent calendar item on the next City Council meeting agenda.
  - b. Requests by Councilmembers to speak on a Consent Calendar Item or to register a No Vote or Abstention on an Item.
  - c. Requests by Councilmembers to change the order of the items on the Consent Calendar or the Non-Consent Calendar, or to defer items or make other modifications to the agenda.
  - d. Announcements by the Presiding Officer of changes in the order of the agenda, deletion or deferral of items or other modifications to the agenda
  - e. Motion for Members' Requests for Reconsideration of Action the Council took at Immediately Preceding Meeting (In order to make motion, Member must have voted on "prevailing side".)
  - f. Members' Requests for Scheduling of Items considered by Committee but not forwarded to Council to be scheduled to the next City Council meeting.
7. Adoption of Consent Calendar Items (after hearing public speakers and Councilmembers)
8. Oral Report of Final Decisions in Closed Session by City Attorney and disclosure of non confidential closed session discussion pursuant to Sunshine Ordinance, Oakland Municipal Code section 2.20.130.

**Commencing at 6:30 p.m., or as soon as reasonably practicable thereafter, action on Non-Consent Calendar Items**

9. Consideration of items with statutory Public Hearing Requirements
10. Action on Other Non-Consent Items

11. Continuation of Open Forum (if all public speakers who signed up for open forum did not speak at open forum at the beginning of the meeting.
12. Adjournment – 12 midnight unless Council passes a motion to extend the time for the meeting; and be it

**Commencing at 6:30 p.m., or as soon as reasonably practicable thereafter, action on Non-Consent Calendar Items**

13. Consideration of items with statutory Public Hearing Requirements
14. Action on Other Non-Consent Items
15. Continuation of Open Forum (if all public speakers who signed up for open forum did not speak at open forum at the beginning of the meeting.
16. Adjournment – 12 midnight unless Council passes a motion to extend the time for the meeting; and be it

**FURTHER RESOLVED:** That in accordance with Section 210 of the Charter, the following are established as the Rules of Procedure for the conduct of Council meetings:

- Rule 1.**            **Roberts Rules of Order Applies Except as Modified by these Rules -**  
The business of the Council and its standing committees shall be conducted, so far as it is practicable, in accordance with parliamentary rules as contained in Roberts Rules of Order Revised, except as modified by these rules and in accordance with state open meeting laws and local sunshine ordinance. The City Attorney, or such other person as may be designated by the presiding officer upon approval of the Council, shall serve as the official parliamentarian for meetings of the Council.
- Rule 2.**            **Seating of Councilmembers, Voting Order -** When in session, the Councilmembers shall occupy assigned seats in the Council Chambers in alphabetical order according to their surnames, commencing to the left of the President of the Council, and shall vote in said alphabetical order, with the President of the Council or other presiding officer voting last, except when utilizing the automated simultaneous voting system.
- Rule 3.**            **Definition of Terms:**
- i. ***Action Item*** shall mean any resolution, ordinance, public hearing, motion or recommendation requiring official vote and approval of the City Council to be effective.
  - ii. ***Consent Item*** shall mean, for the purposes of the City Council agenda, any action or informational item that a subject matter Committee has forwarded to the full Council with unanimous recommendation for



approval, except any item having a high level of public interest or controversy as determined by the Rules Committee, or any action item that the Rules Committee has placed on the consent calendar, unless otherwise ineligible by law as a Consent Item.

- iii. *Non-Consent Item* shall mean, for the purposes of the City Council agenda, any action or informational item that a subject-matter Committee has forwarded to the full Council without unanimous recommendation for approval or having a high level of public interest or controversy as determined by the Rules Committee or that is otherwise ineligible by law as a Consent Item.
- iv. *Informational Item* shall mean an item of the agenda consisting only of informational report that does not require or permit Council action.
- v. *Regularly-Scheduled Meeting* shall mean a meeting occurring on a recurring basis and at a regular, established time for which all required public notice requirements for a regular meeting have been met.
- vi. *Subject Matter Standing Committees* shall mean the Community and Economic Development Committee, the Finance and Administration Committee, the Public Safety Committee, the Life Enrichment Committee, the Public Works Committee, the Rules and Legislation Committee and such other subject matter committees as the Council may establish.

Rule 4. Standing Committees - Subject matter standing committees of the Council shall consist of the following and are entitled as follows:

Community and Economic Development  
Public Works  
Life Enrichment  
Finance and Management  
Public Safety  
Rules and Legislation

The President of the Council shall appoint all committees ~~subject to confirmation by Council resolution and,~~ provided that a majority of the members of the Council may direct the appointment of a committee by the President of the Council. Committee chairs also shall be appointed by the President of the Council ~~and confirmed by City Council resolution for a two-year term beginning in January with each new City Council term. The President shall appoint committees by filing written notice with the City Clerk of their membership and their chairpersons.~~ The Council may establish such other ad hoc or standing committees as it deems appropriate by Council resolution (e.g., City/Port Liaison Committee and the Education Partnership Committee).

With the exception of the Rules Committee, subject matter standing Council Committees shall meet on the second and fourth Tuesdays of each

month. Rules shall meet weekly on Thursdays. They shall meet at the times set forth, or such other time as recommended by the Rules Committee and approved by the Council. With the exception of special meetings, all Council meetings on non-consent items shall take place in the afternoons and evenings to maximize citizen participation. Meetings of committees may be noticed as Special Meetings of the Council if a majority of the members of the Council plan to attend and participate as a part of the committee.

The standing committees of the Council are authorized and directed to ascertain, study and analyze all facts relating to any subjects or matters within their jurisdiction, or as may be assigned by the Rules Committee, and shall report to and submit recommendations to the City Council for action.

**Rule 5. Action by Subject Matter Committees -**

The assigned subject matter committee shall have initial jurisdiction over any item assigned to it by the Rules Committee and may take any of the following actions with respect to the assigned item:

1. The Committee Chair shall develop with staff the schedule to hear items to be confirmed by a majority of the Committee.
2. The Committee may, by a vote of the majority of the members present, decide to postpone, continue or table an item on the agenda.
3. On any item on an agenda, the Committee Chair may allow for an informational presentation by City staff relating to the item.
4. With respect to an action item, and after discussion and consideration of the item, committee may take one of the following actions:
  - a. Vote by majority of those present to approve the recommendation of staff or the originator of the proposed action item and forward the recommendation onto the full Council. The Committee may, as a condition of approval, request additional information to be presented for consideration when the full Council hears the item.
  - b. Fail to approve any recommended action, in which case the item shall **not** be forwarded to the full City Council; provided that when the item is urgent, the Rules Committee shall have jurisdiction to place the item on the supplemental agenda for a regular City Council meeting, or on the agenda for a special Council meeting in accordance with the requirements of the Sunshine Ordinance if no action was taken on the item (1) due to the cancellation of a committee meeting or (2) due to lack of a quorum, or (3) because the committee ran out of time, or (4) because the committee was not able to approve

any recommended action and the Committee passes a motion by the affirmative votes of the majority of the members who are present requesting that the Rules committee schedule the item for a Council meeting. (See Rule 24(6).) Any such action will be recorded in the minutes and may be subject to consideration if pulled by a Councilmember at the appropriate Council meeting.

- c. Propose by a majority vote of those present one or more alternative recommendation(s) be forwarded to the full City Council for consideration and final action. The Committee may request additional information to be presented for consideration when the full Council hears the item.
  - d. Reject by a majority vote of those present, jurisdiction over the action item and refer the action item back to the Rules Committee with a recommendation for reassignment to another appropriate subject-matter committee.
  - e. Request, by majority vote of those present, additional, specified information from staff or the originator of the proposed action item. The action item may be continued or rescheduled for further consideration at the soonest feasible date available, allowing time for appropriate notice pursuant to the Sunshine Ordinance and Brown Act.
  - f. With respect to items that the Committee forwards to the Council pursuant to subparts a. or c., above, the Committee or the Committee chair may designate such items as Consent or Non-Consent items, provided that the Rules Committee has authority to make the final determination as Consent or Non-Consent items under Rule 24(5).
5. With respect to an informational item, following discussion and consideration, committee shall take one of the following actions:
- a. Receive the informational report by majority vote of those present without forwarding the report to the full City Council;
  - b. Receive the informational report and forward the report onto the full City Council by majority vote of those present;
  - c. Request by motion and second more specific information from staff or the originator of the proposed informational item. The item may be continued or rescheduled for further consideration at the soonest feasible date available, allowing time for appropriate notice pursuant to the Sunshine Ordinance.

6. Each Committee shall review the minutes of its previous meeting, make corrections to mistakes, if any, and approve the minutes by majority vote of the members present.

**Rule 6.**

**Election of Council President; President's Powers/Duties -** At the first Council meeting in January the Council shall elect the President of the Council for a two-year term by resolution. The President of the Council shall serve as the presiding officer of the City Council and shall perform the following duties:

- Chair regular and special meetings of the City Council;
- Manage the Office of the City Council and present the budget of the Office of the City Council for adoption;
- Appoint Council committee members and chairpersons of committees in accordance with Rule 4 of these Rules of Procedure;
- Except for those appointments reserved for the Mayor pursuant to the City Charter or other enabling legislation, the President of the Council shall recommend appointments to regional and local boards and agencies, as appropriate, subject to confirmation by Council resolution.

The President of the Council, subject to confirmation by Council resolution, shall designate a Councilmember(s) to serve as "President Pro tempore" for a two-year term beginning in January with each new City Council term. In the absence or unavailability of the President of the Council, the President Pro tempore shall perform the duties of the President of the Council.

**Rule 7.**

**Action and Procedures at Council Meetings**

1. The regularly scheduled meetings of the City Council shall take place on the first and third Tuesdays of each month, and shall begin at 5:30p.m. All non-consent items shall be heard and discussed no earlier than 6:30 p.m. The fifth Tuesdays will be utilized for special meetings and workshops.
2. The City Council may consider and act upon those items assigned by Rules Committee directly to City Council, or approved and forwarded by a subject matter committee, or, as provided in Item 8 of this Rule, pulled at the immediately preceding Council meeting by a Councilmember for discussion, or as provided by Rules 5(4)(b) and 24(6).
3. For each action item and informational item, the agenda shall list the following:

- a. A summary description of the item pursuant to the Brown Act and the Sunshine Ordinance;
  - b. The recommendation, alternatives and/or direction recommended by the subject matter Committee, including the voting record of Committee members on the item; and
  - c. For each action item referred directly by the Rules Committee, a brief statement of the Rules Committee's reason for referring item to Council directly without subject-matter committee consideration.
4. For each action item and informational item on the agenda, the agenda package shall include the following information:
    - a. Staff or informational reports submitted to Committee, including but not limited to:
      - i. any additional information requested to be included by the subject matter committee
      - ii. a listing of all funding sources to fund the action or recommendation being taken, an indication that no funding sources are identified, or an indication that no funding is necessary
      - iii. a list of the organization/stakeholders contacted regarding the item, if any
      - iv. information and comment on the Sustainable Economic, Environmental and Social Equity Opportunities afforded by the recommended action.
  5. During "Approval of Council Minutes", the City Council shall approve the minutes of the preceding Council meeting (but not of the Committee meetings), after corrections to any errors that may have occurred during recordation of the proceedings of the meeting. The City Council shall not discuss, consider, or debate the substance of any matter recorded in the minutes, unless such items are specifically included as an Action or Information Item on the posted agenda.
  6. During "Modifications to the Agenda" any Council member may request a change in the order of the agenda, which shall be changed with the consent of the presiding officer. Any Councilmember by motion that is seconded by another Councilmember, may pull a consent item from the Consent Item Calendar and place the item at the beginning of the Non-Consent Calendar of the agenda on the next City Council meeting agenda as a non-consent item, subject to the discretion of the Council President to determine the order of agenda items and to place the item later in the Non-Consent Calendar agenda, and allowing for public comment on the item to occur either during the consent portion or non-consent portion of the agenda; provided, however, that, excluding consent calendar items moved in the

foregoing manner, the Consent Items *Calendar* may not be moved to a time later than 6:30 p.m. and no item agendized for consideration after 6:30 p.m. may be moved to a time earlier than 6:30 p.m. A Councilmember is entitled to pull a consent item from the Consent Item Calendar if another Councilmember seconds his/her motion; it is not necessary that the Council vote on or pass the motion.

7. During “Members’ Request for Reconsideration.” Council Member who voted on the prevailing side of a motion or other action taken at the immediately preceding Council meeting may move that item for reconsideration. If the motion is seconded and at least five Council members vote in favor of the motion, the item shall be placed on the agenda for the next-succeeding City Council meeting as a “non-consent” item. This section is not intended and shall not be construed to preclude a Council member, who voted on the prevailing side of a motion or other action taken at a Council meeting, from moving for reconsideration of the item at the same meeting; nor shall this section be interpreted to preclude the Council from reconsidering the item at the same meeting if the motion to reconsider passes.
8. During “Members’ Requests for Scheduling of Items Considered by Committee but not forwarded to Council”, any Council member by motion that is seconded by another Councilmember, may place on the agenda of the next City Council meeting (subject to compliance with Sunshine Ordinance and Brown Act) any action item that has been considered in a subject matter Committee, but not forwarded by the Committee to the City Council; it is not necessary that the Council vote on or pass the motion.
9. On any action item, the City Council may, by the requisite number of votes:
  - a. Approve the Committee’s recommendation, select one of the Committee’s suggested alternatives or approve an alternative recommendation proposed at the full Council in compliance with the Brown Act and Sunshine Ordinance;
  - b. By a majority of the Council members present, continue the item to the next regular Council meeting if permitted by Sunshine Ordinance and Brown Act;
  - c. By a majority of the Council members present, refer the item to any subject-matter Committee for reconsideration; or
  - d. With respect to an item that the Rules Committee referred directly to Council, the Council may take any action subject to the Brown Action and the Sunshine Ordinance.
10. On any agendized informational report, the City council may receive

the report either by oral presentation by staff or as written.

**Rule 8.**        Protocol at Council Meetings -        Every member of the Council, before speaking, shall address the presiding officer, and no member shall speak except while seated at or standing in the immediate vicinity of, his or her desk. When items on the agenda relate to a specific Council District, the presiding officer shall recognize the Council representative of the District first, and the Councilmember-at-Large secondly, prior to recognizing other Councilmembers.

**Rule 9.**        Announcements by Councilmembers -        Each member of the Council shall have the right to make brief announcements via the City operated station, KTOP, or at the appropriate time on the agenda, without a previous motion, upon matters which are Council sponsored or relate to the welfare and condition of the City. He or she shall, at the commencement of his/her announcements, state the subject matter on which he or she desires to speak. Individual announcements shall not exceed two minutes unless additional time is authorized.

**Rule 10.**       Motions -        If any member of the Council makes a motion, such motion shall not be debated, or further discussed or considered, or voted upon, until after a second to such motion is made by a member of the Council.

**Rule 11.**       Speaking Time Limits for Councilmembers -        No member of the Council shall speak for more than ten (10) minutes on any matter without the consent of the presiding officer or a majority of the Council.

**Rule 12.**       Speakers' Cards -        The City Clerk shall facilitate the process for public speakers and shall provide the public with information on how to appropriately address the Council. Members of the public wishing to speak must submit their name and the item on the agenda they wish to discuss, if any, to the City Clerk before being recognized by the presiding officer.

Persons wishing to speak must complete a speaker card for each agenda item he/she wishes to speak on. Multiple agenda items cannot be listed on one speaker card.

Speakers' cards must be received by the City Clerk (1) prior to Council action on Modifications to the Agenda for items agendized from 5:30 to 6:30 p.m., and (2) by 8:00 p.m. for items agendized for 6:30 p.m. or thereafter, unless consent to speak is given by the presiding officer or a majority of the Council.

Multiple speakers representing an organization or position on an item are encouraged to organize their presentations before the Council. Designated spokesperson(s) representing the position of multiple speakers on an item

will be allotted an appropriate allocation of time to address the Council on behalf of all of the speakers.

**Rule 13.** Open Forum - Open Forum prior to Modifications to the Agenda shall be limited to a total of 15 minutes. If all public speakers who submitted speaker cards for open forum pursuant to Rule 12 are not heard within the 15 minute time frame, open forum will be continued at the end of the agenda prior to adjournment.

Public Speakers submitting their names to speak under open forum shall be allotted a minimum of one (1) minute each to speak and a maximum of three (3) minutes. A speaker may speak only once under open forum during any one meeting, subject to the discretion of the presiding officer. Speakers during open forum may address the City Council regarding any items of public interest that are not on the meeting agenda. Open Forum speaker cards are to be numbered by the City Clerk in the order received.

The City Clerk shall advise the public that the Council cannot take any action under Open Forum unless it is deemed an emergency or urgency matter by a vote of the Council, as defined in the Sunshine Ordinance and Brown Act.

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

1. Any member of the public who has submitted a speaker card pursuant to Rule 12 on an agenda item, other than open forum shall be allotted a minimum of two (2) minutes to speak prior to any vote or action by the Council, subject to the regulations provided under this Rule 14. The President, presiding officer or Committee chair may reduce each speaker's allotted time to one (1) minute if he or she publicly states all reasons justifying any reduction in speaker time, which reasons shall be based at least 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, and whether there will be sufficient time available during the meeting to consider all agenda items if all speakers are allowed two minutes to speak.
2. Subject to the provisions of this Rule that apply to public speakers who submit multiple speaker's cards, all speakers on any one item shall be allotted the same amount of speaking time on that item, unless given pre-approved ceded or organized time pursuant to these Rules, or unless more time must be given to comply with due process or other legal requirements or in circumstances where the Council is acting in a quasi-judicatory capacity.



3. **Speakers Submitting Speaker's Cards on Multiple Items at Standing Committees.** Subject to Rule 14(7) and the discretion of the presiding officer, which discretion must be exercised in accordance with Rule 14(1) and (2), a speaker who submits his or her name to speak on four or more items (other than open forum) will be instructed to address all items concurrently and shall be allotted 2 minutes per item up to a maximum of 10 minutes; if the presiding officer exercises his/her discretion under Rule 14(1) and (2) to reduce each speaker's time to one (1) minute, speakers who submit four or more speaker's cards shall be allotted one (1) minute per item up to a maximum of 5 minutes.
4. **Speakers Submitting Speaker's Cards for Multiple Items on Non Consent Calendar at Council Meetings.** Subject to the discretion of the president or presiding officer, which discretion must be exercised in accordance with Rule 14(1) and (2), if 20 or more speaker's cards are submitted for the non consent calendar portion of the City Council meeting, which is scheduled to commence at 6:30 p.m., a speaker submitting his or her name to speak on four or more items on that portion of the agenda will be instructed to address all items concurrently and shall be allotted two minutes per item up to a total of ten (10) minutes.
5. **Speakers Submitting Speaker's Cards for Multiple Items on Agenda Items that Appear before the 6:30 p.m. Non-Consent Calendar for Council Meetings.** Subject to the discretion of the presiding officer, which discretion must be exercised in accordance with rule 14(1) and (2), public speakers who sign up for multiple items will be instructed to speak on all items at once and be given two (2) minutes to speak on each item up to a maximum of six (6) minutes.
6. **Ceding Time.** In case the allotted time for each speaker is less than two (2) minutes on an agendized item, a speaker may extend his or her speaking time if other speakers who have submitted their names to speak agree to cede their time to the recipient speaker. The recipient speaker will receive one (1) minute speaking time from each ceding speaker, up to a maximum of five (5) minutes. At the President's or presiding officer's discretion, a speaker may be allotted more than five (5) minutes based on ceded time. The recipient speaker must submit the ceding speakers' speaking cards, and the ceding speakers must be present at the time the recipient speaker speaks.
7. **Public Speakers on Scheduling Item at Rules and Legislation Committee.** Subject to the discretion of the presiding officer, which discretion must be exercised in accordance with Rule 14(1) and (2), public speakers who sign up to speak on the Scheduling Item at the

Rules Committee will have one minute per scheduling request up to a maximum of 5 minutes, provide that a public speaker's total time for all items on the Rules agenda (excluding open forum) shall not exceed 10 minutes. (See Rule 14(3).)

**Rule 15.**     Presiding Officer's Role re Public Speakers - The presiding officer shall maintain order in the chamber, have authority to refuse the floor to any person. The presiding officer may rule a public speaker out of order if:

- (a)     the speaker is speaking beyond the allocated time limit;
- (b)     if the speaker's remarks are not relevant to the agenda item or are repetitious; or
- (c)     if the manner, tone and content of the speaker's remarks are disruptive (disturb the peace and good order of the meeting), maliciously attack the character of individuals or are abusive (e.g. vulgar or obscene language).

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.

**Rule 16.**     Public Speaker Procedures - Persons addressing the Council shall state their name. They shall confine their remarks to the agenda item under discussion, unless they are speaking during the Open Forum portion of the Agenda.

**Rule 17**     Attendance of Staff at Council Meetings - The City Administrator shall designate appropriate staff to attend the Council meetings to answer questions and provide assistance to the public on issues. Prior to the commencement of the Council meeting, the City Clerk shall advise the public that a representative of the City is available to meet with members of the public to assist them with their concern(s).

**Rule 18.**     Ballot Measures - A vote of a majority of the Council is required for endorsing or opposing any proposition submitted to the electorate on any national, state, county, or local ballot, and for propositions placed upon the ballot on the Council's own motion

**Rule 19.**     Appointments to Boards, Commissions and Other Bodies - The Mayor shall submit to the members of the Council, at least one week in advance of the date action thereon is to be taken, the names of those persons to be appointed by the Mayor to any commission or board. The President of the Council shall submit to the members of the Council, at least one week in advance of the date action thereon is to be taken, the names of those

persons recommended to be appointed by the President of the Council to those bodies and committees that are within the President's appointment authority. An affirmative vote of five (5) members of the Council is required for confirmation of such appointments.

Appointments by the Mayor to the Planning Commission, the Port Commission, the Housing, Residential Rent & Relocation Board, and the Police Commission shall first be scheduled to and considered by the Rules and Legislation Committee before being scheduled to the full Council. If the Rules and Legislation Committee to which an appointment has been scheduled is canceled, the appointment may be scheduled to the following week's regular Council agenda (i.e., to the 72-hour supplemental agenda) under the non-consent portion of the agenda, or to a special council meeting the following week, listed under non-consent if the special meeting agenda lists "consent" and "non-consent" items, if subject to and approved via Rule 28.

**Rule 20.**        **Council's Annual Recess** - The City Council shall recess for the period of August 1 through 31 of each year, or until the first meeting in September as set by the Rules Committee, which shall be known as the "annual recess." During the annual recess the City Council may be convened for special Council meetings as provided for by the City Charter.

**Rule 21.**        **Actions During Council Recess** - The Mayor is authorized to take such actions as would normally be taken by the City Council during the period of the annual recess except for those matters specifically set forth herein. The Mayor is further authorized to convene emergency meeting(s) of the Council to take such emergency actions as may be necessary, for the immediate preservation of the public peace, health or safety. All matters approved by the Mayor during the Council recess must clearly set forth the reason(s) why approval cannot be deferred for Council approval following the recess. The Mayor's contract approvals must conform with and be limited to the requirements of the City's purchasing requirements as set forth in Chapter 2 of the Oakland Municipal Code. The Mayor is not authorized to take any actions for which the adoption of an ordinance is required. Further, the Mayor's approvals shall be limited to authorizations within previous adopted budgeted amounts. The Mayor is not authorized to appropriate funds without prior Council authorization and approval. The Mayor is further directed to make a full and complete report to the City Council, at its first regularly scheduled meeting in October, of actions taken by the Mayor pursuant to this Resolution, at which time the City Council may

make such findings and confirm said actions of the Mayor, as may be required.

Action(s) taken by the Mayor during the annual recess shall be implemented in a manner to provide public notice and an opportunity for public comment and input on matters to be approved. In keeping with the intent of the Sunshine Ordinance (OMC §§ 2.20.010 et seq.) the Mayor will cause a two-week agenda to be posted at regular posting locations. The Mayor, through the City Clerk, shall facilitate the receipt of written comments by the public on any matter presented to the Mayor for consideration. The Mayor shall review and consider all written comments in making his/her decision on the matter. A record of the final action of the Mayor shall be filed with the City Clerk along with any supporting legislation, reports and comments received on that matter. A summary of final action taken shall be posted at the regular agenda posting locations.

**Rule 22.**        **Proclamations** - Individual Councilmembers may issue proclamation(s) for the purpose of commendation, recognition or congratulation of any person, group, organization or event, or for the purpose of expressing sympathy, regret or sorrow on the death of any person. Such a proclamation shall be known as a "Member Proclamation" and shall be in a form, which clearly identifies the Councilmember who has sponsored the proclamation. City Council approval is not required for the issuance of a Member proclamation.

**Rule 23.**        **Rules and Legislation Committee's Jurisdiction** - The Committee on Rules and Legislation shall serve as the procedural committee of the Council and shall have responsibilities including, but not limited to, the following:

Make recommendations to the Council regarding endorsing or opposing propositions submitted to the electorate on any national, state, county, or local ballot, and for propositions placed upon the ballot on the Council's own motion.

Monitor pertinent state, federal and local legislative activities, and recommend action related thereto to the full Council. The Committee shall also submit to the Council, an annual legislative agenda.

To provide general oversight for the offices of the City Administrator, City Attorney, City Clerk and shall have policy jurisdiction on Public Information, Constituent Services, Community Governance, Strategic Planning, Public Ethics Commission and the State and Federal legislative agenda, intergovernmental relations and operational oversight of the

Office of the City Council. It shall, in addition, monitor and assign issues pertaining to the Port Department, the Oakland-Alameda County Coliseum Authority, and other governmental agencies, as appropriate, and make referrals to appropriate standing committees as required.

To recommend the setting of special meetings of the Council, standing committees, and such other ad hoc committees as may be established by the Council.

To assign proposed Council resolutions and ordinances to the Council or committee agendas.

To define the jurisdiction and responsibilities of Council standing committees, subject to Council approval.

To make studies and recommendations designed to promote, improve and expedite the business and procedures of the Council and of the committees thereof, and to propose to the City Council any amendments to the Rules deemed necessary to accomplish such purposes.

**Rule 24.**

**Rules and Legislation Committee's Powers re Agenda Items** - Except as provided in item 8 of Rule 7, the Rules Committee shall have jurisdiction to assign all proposed agenda items to committees and/or full Council for consideration and action as follows:

1. One or more members of the City Council, a committee of the City Council, the Mayor, the City Administrator, City Attorney, City Auditor and any member of the public may propose an agenda item for Council consideration to the Rules and Legislation Committee for assignment and scheduling through procedures established by the Rules and Legislation Committee.
2. Rules and Legislation Committee shall have the following options to assign and schedule any and all proposed resolutions and ordinances of the City Council:
  - a. to a subject-matter committee, or
  - b. to staff for review and report back to the requestor, or
  - c. directly to City Council pursuant to "3" below.
3. Rules and Legislation Committee shall not refer any action item directly to the full City Council unless the Committee determines by a majority vote of those present that the item should proceed directly to the City Council for a specified reason.

4. Rules and Legislation Committee shall assign and schedule any informational item for consideration and acceptance either by a committee or directly by the full Council.
5. The Rules and Legislation Committee shall have sole authority in establishing specific agenda items to be placed on the agenda. Rules and Legislation Committee shall establish the consent and non-consent agenda items of the City Council agenda.
6. Notwithstanding any other provision of these Rules of Procedure, the Rules and Legislation Committee shall have the power to place an item that is urgent on the supplemental agenda for a regular Council meeting or on a special Council meeting agenda, in accordance with the requirements of the Sunshine Ordinance, if no action was taken on the item (1) due to the cancellation of a committee meeting, (2) due to lack of a quorum, (3) because the committee ran out of time, or (4) because the committee was not able to approve any recommended action and the Committee passes a motion by the affirmative votes of the majority of the members who are present requesting that the Rules Committee schedule the item for a Council meeting.

**Rule 25.**

**Accountability and Transparency in High-Stakes Negotiations Policy: Voting by Delegates and Alternates to Boards, Commissions and Other Bodies** - City Councilmembers, the Mayor or City officials who represent the City as a delegate or alternate before any board, agency, authority, joint powers authority, commission, etc. shall receive City Council authorization from a majority of the Council prior to casting vote(s) on behalf of the City on any matter which could have a significant economic or policy impact on the City, or on any matter of particular controversy. Should time be of the essence, resulting in the representative's inability to obtain prior City Council authorization, the representative shall obtain approval from the appropriate City Council committee (e.g., the committee which has subject matter jurisdiction over the issue in question). Thereafter, the representative shall report back to the full Council, at the next regularly scheduled meeting of the Council, the action taken.

City Council delegates and alternates shall: (i) within 30 days of appointment to represent the City on such bodies, participate in training provided by the City Administrator or designee on the duties and obligations of representation; (ii) provide the City Council and/or the appropriate Council committee with an annual report or briefing on general business regarding the issues, activities and agenda of the body on which the representative serves; (iii) notify the City Council as soon as high-stakes negotiations or transactions commence; (iv) provide the City Council real-time reports on high-stakes negotiations or transactions.

In the event that a representative determines that casting a vote as directed by the Council would not be in the best interest of the City because of changed circumstances or new information that was not available at the time authorization was granted, the representative may change his/her vote(s). The representative shall, however, attempt to carry forth the general intent of the Council when casting a changed vote. Thereafter, the representative shall report back to the full Council, the action taken and the basis upon which the vote was changed.

“High-Stakes” negotiations/transactions shall be defined as any negotiations or transactions by a board, commission, agency, joint powers authority, etc. with Council appointed Councilmember, Mayor or City official delegates or alternates involving: (i) licenses, leases, contracts or other transactions that could or will have an economic impact of \$1,000,000.00 or higher on the City of Oakland or a significant policy impact or a matter of particular controversy.

**Rule 26.**

**Procedure for Councilmember to Place Items on Agenda -**

Councilmembers should thoroughly investigate policy issues prior to submitting proposals to a committee or the Council for action. On matters pending before a committee or Council, Councilmembers should, when feasible and in compliance with City Charter and open meeting requirements, study and obtain information relative to an issue prior to the meeting where action is to be taken. Requests for formal informational and status reports must be approved by the Rules Committee and should be minimized. Committees may direct that items appropriately pending before the committee be scheduled for future committee agendas. New items and issues brought before a committee shall be referred to the Rules Committee for scheduling. The Rules Committee shall provide general oversight of the implementation of this Rule to insure compliance.

Before filing agenda materials in the packet, non-ceremonial resolutions and ordinances that would create new agenda items must be submitted to the City Attorney for review. The sponsor of the non-ceremonial resolution or ordinance must file a memorandum or report no later than the deadline for filing the non-ceremonial resolution or ordinance in the agenda packet.

**Rule 27.**

**Quorum for Standing Committees** - A quorum for the conduct of

meetings of standing committees, which have a membership of four, shall be three (3) members. A quorum for the conduct of meetings of the Education Partnership and City/Port Liaison Committees shall be a majority of the seats designated for each body. If the Council seat of a member of a standing committee becomes vacant, the quorum for that committee shall not be reduced. A quorum for all other established committees shall be a majority of the duly appointed members. In the

event that a quorum is not established within fifteen (15) minutes of the noticed start time of the meeting, the meeting may be declared canceled. However, discussion of the items noticed on the agenda may continue but no formal action can be taken. The City Clerk will prepare a record of the discussion, but the record will reflect that the meeting was canceled due to a lack of a quorum and that no final action was taken on the items discussed. In determining whether a meeting should be canceled, the Committee Chairperson should consider factors such as whether the delay is caused by conflicting meeting schedules; if prior notice from the member was given that he or she would be late; or if there is a need to take official action on important item(s) of business once a quorum has been established.

The City Clerk shall keep a record of Committee members' attendance. The attendance record shall reflect absences and tardiness (arrival after the fifteen (15) minute scheduled start time) and shall indicate whether the absence or tardy was excused or unexcused. If during the calendar year a Committee member accumulates three (3) unexcused absences ad/or late arrivals the City Clerk shall so advise the President of the Council and the President of the Council may, in his or her discretion, remove the member from the Committee. If removed, the member can be considered for reappointment by the President of the Council, as appropriate.

**Rule 28.**

**Procedure to Add, Remove Agenda Items -**

A. For Council items, anyone wishing to add or remove a Council agenda item after the Rules Committee has met, but before the agenda is printed, must get authorization from the Chair of the Rules Committee, the Mayor and/ or City Administrator, and the President of the Council. If any one of these persons objects, or if addition or removal of such item is contrary to the Sunshine Ordinance or the Brown Act, the subject agenda as approved by the Rules Committee will not be changed. If authorization is obtained, the City Administrator is responsible for notifying the City Clerk prior to the affected Council meeting, to amend the agenda to reflect the approved change. Once the agenda is printed, an item may only be removed at the next Rules and Legislation Committee meeting if there is an intervening Rules Committee meeting prior to the City Council meeting for which the item is agendaized or upon a duly adopted motion of the City Council at the meeting for which the item is agendaized, if there is no intervening Rules and Legislation Committee meeting.

B. For Committee items, anyone wishing to add or remove a Committee agenda item after the Rules and Legislation Committee has met, but before the agenda is printed, must get authorization from the Chair of the Rules and Legislation Committee, the President of the Council, the Mayor and/or City Administrator, and the respective Committee Chair. If any one of



these persons objects, or if addition or deletion of such item is contrary to the Sunshine Ordinance or Brown Act, the subject agenda as approved by the Rules Committee will not be changed. If authorization is obtained, the City Administrator is responsible for notifying the City Clerk of the authorized change prior to the affected Committee meeting to amend the agenda to reflect the approved change. Once the agenda is printed, an item may only be removed at the next Rules and Legislation Committee meeting if there is an intervening Rules and Legislation Committee meeting prior to the Committee meeting for which the item is agendized or upon a duly adopted motion of the Committee at the meeting for which the item is agendized, if there is no intervening Rules and Legislation Committee meeting.

C. Within 2 business days of any approved Rule 28 decision, the City Administrator shall notify the City Council of the decision via e-mail.

**Rule 29.**

**Tie-Breaking Votes by Mayor** - In the event that the members of the Council are evenly divided in their vote on an item (by motion, resolution or ordinance) the item will automatically be continued to its next regularly scheduled meeting solely for the purpose of allowing the Mayor to cast a vote; provided that if the Mayor so chooses, he/she may cast a vote at the meeting at which the tie vote occurs. The City Clerk shall provide the Mayor with all supporting documentation, reports and legislation relating to the item and a copy of the videotape of the discussion, if available. Council and public discussion is permitted on the item to be voted on by the Mayor; however, Council members cannot change their vote unless the item has been properly noticed for reconsideration. The Mayor must appear at the Council meeting to cast his/her vote.

**Rule 30.**

**Resolution or Ordinance Required to Approve Contracts** - Notwithstanding City Charter section 210 which permits the City Council to take action by ordinance or resolution or motion, the Council shall approve and authorize contracts by resolution unless an ordinance is required; and be it

**FURTHER RESOLVED:** That the City Council hereby adopts the following Censure Policy and Procedure and Code of Conduct for each member of the City Council:

## **OAKLAND CITY COUNCIL CENSURE POLICY AND PROCEDURES**

### **BACKGROUND:**

The City of Oakland and the City Council have a strong commitment to the Oakland Charter, legislation, ethical and council policies and procedures. The City Council has the power to censure one of its members for violations of these laws, policies and procedures. The

Council's Code of Conduct, which is part of the Council's Rules of Procedure, states that the City Council may censure any member "who willfully violates the rules of conduct contained in this Code of Ethics." (City Council Resolution No.82580, Code of Conduct No. 12, see also, Sunshine Ordinance, Oakland Municipal Code section 2.20.170 (censure for release of confidential information).) Moreover, censure is an inherent power of a legislative body that follows Robert's Rules of Order. (*Roberts*, p. 627-28, Section 61.) In order to be able to censure a Council member, the City Council must adopt a fair policy and procedure for the process.

#### PURPOSE:

This Policy and Procedure is intended to provide the process by which the City Council acting as a whole can censure any of its members who violate state or federal laws, City ordinances or policies.

#### COUNCIL CODE OF CONDUCT:

The Council's Code of Conduct, which is part of the Council's Rules of Procedure codified in Resolution No. 82580 C.M.S., provides as follows:

"Each member of the City Council has a duty to:

1. Respect and adhere to the American ideals of government, the rule of law, the principles of public administration and high ethical conduct in the performance of public duties.
2. Represent and work for the common good of the City and not for any private interest.
3. Refrain from accepting gifts or favors or promises for future benefits which might compromise or tend to impair independence of judgment or action.
4. Provide fair and equal treatment for all persons and matters coming before the Council.
5. Learn and study the background and purposes of important items of business before voting.
6. Faithfully perform all duties of office.
7. Refrain from disclosing any information received confidentially concerning the business of the City, or received during any closed session of the Council held pursuant to state law.
8. Decline any employment incompatible with public duty

9. Refrain from abusive conduct, personal charges or verbal attacks upon the character, motives, ethics or morals of other members of the Council, staff or public, or other personal comments not germane to the issues before the Council.
10. Listen courteously and attentively to all public discussions at Council meetings and avoid interrupting other speakers, including other Council members, except as may be permitted by established Rules of Order.
11. Faithfully attend all sessions of the Council unless to do so because of disability or some other compelling reason.
12. Maintain the highest standard of public conduct by refusing to condone breaches of public trust or improper attempts to influence legislation, and by being willing to censure any member who negligently, willfully or intentionally violates the rules of conduct contained in this Code of Ethics."

#### **CENSURE POLICY:**

It is the Policy of the City Council that all its members shall abide by federal and state law, the City Charter, City legislation and City Council policies. Violation of such law or policy can subject the City to liability, affect the City's budget, resources, plans and timelines, injures the good name of the City and undermines the effectiveness of the City Council as a whole. Such conduct is deemed to be subject to City Council Censure.

Censure is a formal resolution of the City Council officially reprimanding one of its members. Censure serves to formally put a censured councilmember on notice of the Council's disapprobation of conduct that has violated laws or policies, but carries no fine or suspension of the rights of the member as an elected official. Censure is an appropriate punitive measure when the violation of law or policy is deemed by the City Council to be a serious offense.

In order to protect the overriding principle of freedom of speech, the City Council shall not impose "censure" on any of its members for the exercise of his or her First Amendment rights no matter how distasteful the expression was to the Council, officials, employees or public. However, nothing herein shall be construed to prohibit the City Council from collectively expressing their strong disapproval of such remarks.

The City Council shall not impose "censure" on any of its members for the violation of any law while criminal charges are pending. However, when the criminal proceedings are final, the City Council need not be bound by the conclusion of the Court and may hold a "censure" hearing.

#### **PROCEDURE:**

1. A request to schedule a "censure" hearing must be submitted to the Rules Committee in writing by a member of the Council.

- a. The scheduling request must contain a brief description of the specific charges on which the proposed censure is based in the title of the item.
  - b. A censure resolution setting forth specific charges and grounds for censure must be submitted to the City Clerk with the scheduling request at least forty eight (48) hours prior to the Rules Committee meeting at which it will be considered for scheduling.
  - c. The City Clerk shall serve copies of the scheduling request and the censure resolution on the accused councilmember at least twenty-four (24) hours prior to the Rules Committee meeting at which it will be considered for scheduling. The City Clerk shall deliver the scheduling request and censure resolution to the council office of the accused member, subject to execution of a proof of service. Service shall be accomplished by electronic mail or in person, as determined by the City Clerk.
2. The Rules Committee shall:
- a. Schedule the matter for public hearing; or
  - b. Refer the matter to the City Administrator for further investigation by an independent investigator, in consultation with the City Attorney, prior to scheduling the matter; or
  - c. Not schedule the matter for public hearing.
3. Censure matters set for public hearing must be scheduled at least 10 calendar days in advance of the hearing date to give the accused member adequate time to prepare a defense.
4. The councilmember seeking censure of another councilmember is responsible for preparing and submitting to the City Clerk a censure resolution and report supporting censure in time for publication with the 10-day agenda packet for the meeting at which the matter will be heard. The City Clerk shall, at least 10 calendar days before the hearing, deliver copies of the resolution, report and other agenda materials to the council office of the accused member, subject to execution of a proof of service.
5. The accused member is responsible for preparing and submitting to the City Clerk for the agenda packet, reports, documents or other information opposing censure in time for the three (3) day supplemental agenda.
6. At the hearing, the member of the Council subject to the censure proceeding shall have the opportunity to rebut the allegations in the censure resolution and to question any known accusers if they agree to be questioned. Notwithstanding the foregoing, identities of persons who provided statements or information in

confidence shall remain confidential. This includes, but is not limited to, persons who provided statements or information through a whistleblower program of the federal or state government or City of Oakland. The member subject to the charges may be represented and may have the representative speak or question on his or her behalf.

7. A decision to censure must be made by resolution and based on conduct found to have been negligent, willful or intentional. A decision to censure requires five (5) votes of the Council adopting a resolution: 1) finding there is substantial evidence in the record to support the specific charges alleged, 2) finding that the conduct supporting the censure was negligent, willful or intentional, and 3) approving censure.

2303123v1

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES-            BROOKS, CAMPBELL WASHINGTON, GALLO, GIBSON MCELHANEY,  
                      GUILLEN, KALB, KAPLAN AND PRESIDENT REID

NOES-

ABSENT-

ABSTENTION-

ATTEST: \_\_\_\_\_

LATONDA SIMMONS  
City Clerk and Clerk of the Council  
of the City of Oakland, California