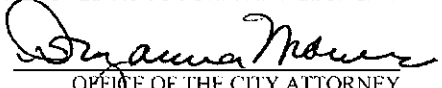


Revised at November 5, 2014 Council Meeting

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APPROVED AS TO FORM AND LEGALITY


OFFICE OF THE CITY ATTORNEY

OAKLAND CITY COUNCIL
RESOLUTION NO. 85256 C.M.S.

INTRODUCED BY COUNCILMEMBER LIBBY SCHAAF
AND CITY ATTORNEY BARBARA PARKER

THE ACCOUNTABILITY AND TRANSPARENCY IN HIGH STAKES NEGOTIATIONS POLICY RESOLUTION AMENDING RULE 25 OF THE COUNCIL'S RULES OF PROCEDURE, RESOLUTION NO. 82580 C.M.S. AND RESOLUTION NO. 84758 C.M.S., TO REQUIRE CITY COUNCILMEMBERS APPOINTED TO SERVE ON BOARDS, COMMISSIONS, AGENCIES, JOINT POWERS AUTHORITIES, ("REPRESENTATIVES") TO: (1) NOTIFY THE CITY COUNCIL AS SOON AS HIGH-STAKES NEGOTIATIONS COMMENCE; (2) PROVIDE REAL-TIME REPORTS ON HIGH-STAKES NEGOTIATIONS AND ANNUAL REPORTS ON GENERAL BUSINESS; AND (3) PARTICIPATE IN TRAINING REGARDING THEIR DUTIES AND OBLIGATIONS OF REPRESENTATION WITHIN 30 DAYS OF APPOINTMENT

WHEREAS, City Charter section 210 mandates that the Council provide by resolution for the order of business and rules of procedure for the conduct of Council meetings, and the Council has adopted Rules of Procedure Resolution for the Conduct of City Council Meetings and a Code of Ethics, among other things, to provide for in-depth study of policy proposals, for problem-solving opportunities among staff, Council members and the public and development of policy alternatives for matters to be considered by the City Council and reasonable time for public input and comment on matters before the City Council; and

WHEREAS, the Council's Rules of Procedure are codified in Resolution No. 82580 C.M.S. and Resolution No. 84758 C.M.S.; and

WHEREAS, Rule 25 of the Council's Rules of Procedure Resolution provides that Councilmembers, the Mayor and City officials who represent the Council as delegates or alternates on 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 any matter of particular controversy" and "shall provide the City Council and/or the appropriate Council committee with regular informational reports regarding the issues, activities and agenda of the body" on which they serve; and

WHEREAS, periodically such boards, commissions, agencies, joint powers authorities, etc., with delegate members of the City Council, engage in and give direction regarding “high-stakes” negotiations for leases, licenses, contracts and other transactions that have a significant economic or policy impact on the City of Oakland, or pertain to controversial issues for residents of the City; and

WHEREAS, the City Council has determined that in order for the Council to be fully and appropriately informed in a timely manner about such high-stakes transactions before the Council voted to approve, reject or amend the agreements, it is necessary to amend Rule 25 to require that Council member delegates and alternates (1) formally notify the City Council when high-stakes negotiations commence, (2) provide substantive, informative reports in real-time and annual reports on general business, and (3) participate in training regarding their duties and obligations of representation within 30 days of appointment; and

WHEREAS, the Council has determined that it is also in the City’s best interests for the City Administrator to designate staff to represent and attend meetings to remain informed of proceedings in order to brief the Council, and for the City Administrator and City Attorney to retain any appropriate professionals or experts to advise and support City representatives in high-stakes negotiations; and

WHEREAS, this policy and support of the City Administrator will significantly improve the City’s ability to assess, participate in and take informed and meaningful actions on high-stakes transactions under consideration by external bodies, boards, agencies, joint powers authorities, etc.; now, therefore, be it

RESOLVED: That this resolution shall be known as the “Accountability and Transparency in High-Stakes Negotiations Policy”; and be it

FURTHER RESOLVED: That Rule 25 of the Council’s Rules of Procedure Resolution, which is codified in No. 82580 C.M.S. and Resolution No. 84758 C.M.S., is further amended to read as follows:

Rule 25. 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 and regular informational reports regarding the issues, activities and agenda of the body on which the representative serves; (iii) work with the City Administrator or his or her designee to notify the City Council via an Informational Memorandum, Information Report to the subject matter committee, or closed session briefing when appropriate under the California Brown Act (Gov. Code Sec. 54950, et seq.) and Oakland Sunshine Ordinance (O.M.C. Chap. 2.20), 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.

~~Representatives shall provide the City Council and/or the appropriate Council committee with regular informational reports regarding the issues, activities and agenda of the body on which the representative serves.~~

“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.

FURTHER RESOLVED: That the City Council requests that the City Administrator and City Attorney develop and offer Councilmember delegates and alternates, within 30 days of appointment, training on the duties and obligations of representation; and be it

FURTHER RESOLVED: That the City Council requests that the City Administrator assign appropriate staff to attend all meetings regarding high-stakes negotiations/transactions of any form to assure that the City’s representatives are fully informed in a timely manner of developments in negotiations in order to appropriately inform the City Administrator, the City Attorney, and the Council; and be it

FURTHER RESOLVED: That the City Council requests that the City Administrator and City Attorney retain any appropriate professionals or experts to support and advise staff and delegates and the City Council regarding high stakes negotiations and transactions, matters with significant policy impacts or matters of particular controversy to ensure informed decision-making; and be it

FURTHER RESOLVED: That the City Council requests that the City Administrator provide the City Council full fiscal impact reports on High-Stakes negotiations prior to the Council voting to authorize representatives to approve leases, licenses, contacts and other High-Stakes transactions.

IN COUNCIL, OAKLAND, CALIFORNIA, NOV 05 2014

PASSED BY THE FOLLOWING VOTE:

AYES- ~~BRIDGES, GIBSON~~, GIBSON MCELHANEY, KALB, KAPLAN, SCHAAF, ~~REID~~
AND PRESIDENT KERNIGHAN - 5

NOES- 0

ABSENT- Reid, Gallo, Brooks-3

ABSTENTION- 0

ATTEST: 

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