



City of Arts & Innovation

Inclusiveness, Community Engagement & Governmental Processes Committee

TO: INCLUSIVENESS, COMMUNITY ENGAGEMENT, AND GOVERNMENTAL PROCESSES COMMITTEE **DATE: OCTOBER 4, 2023**

FROM: CITY MANAGER'S OFFICE **WARDS: ALL**

SUBJECT: REVIEW CITY COUNCIL RULES OF PROCEDURE AND ORDER OF BUSINESS – VIOLATION OF RULES, MEETINGS, AGENDA, AND STANDING COMMITTEES

ISSUE:

The issue for the Inclusiveness, Community Engagement, and Governmental Processes Committee is to give direction to staff relating to the existing and proposed City Council Rules of Procedure and Order of Business related to violation of rules, meetings, agenda, and Standing Committees.

RECOMMENDATIONS:

That the Inclusiveness, Community Engagement, and Governmental Processes Committee:

1. Provide any recommendations deemed necessary to the current and/or proposed City Council Rules of Procedure and Order of Business related to violation of rules, meetings, agenda, and Standing Committees; and
2. Request staff bring forth any specific language recommendations along with a corresponding resolution to the full City Council for discussion.

BACKGROUND:

The intent of Resolution No. 23976 is to establish Rules of Procedure and Order of Business for the City Council to conduct its business in an orderly and fair manner. According to Section XVI, A – Administration, “The City Council will review and revise the City Council norms and procedures as needed or every two (2) years.”

On January 5, 2022, the Inclusiveness, Community Engagement, and Governmental Processes Committee (ICGC) received and discussed a schedule to review nine Rules of Procedure and Order of Business items. Through discussion, the Committee added three additional items for review to the schedule and requested the discussion item be presented to Council for input.

On February 15, 2022, City Council received and discussed a schedule to review twelve Rules of Procedure and Order of Business items. Through discussion, the Council added additional items for review.

On April 6, 2022, ICGC received and discussed City Council Rules of Procedure and Order of Business related to the process and authorities associated with adding items to the agenda, a formalized agenda item referral process.

On May 4, 2022, ICGC received and discussed City Council Rules of Procedure and Order of Business related to the development and distribution of agenda packets, reviewed Public Comment and proclamation timelines.

On June 1, 2022, ICGC received and discussed City Council Rules of Procedure and Order of Business related to Board and Commission vacancies.

On July 6, 2022, ICGC received and discussed City Council Rules of Procedure and Order of Business related to the number and roll of Boards and Commissions. Through discussion the Committee requested the item be continued for further review and discussion. Additionally, the Committee added review of Section VII, D – City Council Meeting Schedule as it relates to City Council Meetings that occur following a holiday.

On September 7, 2022, ICGC received and discussed an update to City Council Rules of Procedure and Order of Business related to the number and role of boards and commissions. Through discussion the Committee directed staff to bring the recommendation to add a Commission of the Deaf to City Council for discussion and review the number and role of Boards and Commissions outside of Resolution No. 23976.

On October 5, 2022, ICGC received and discussed an update to proclamation language and request process, partial terms of board and commission seats, and the emergency order processes.

On April 11, 2023, the City Council received and discussed recommendations associated with Section IX, Item F – Agenda Sequencing and Order of Business related to Oral Communications. The City Council motioned to accept the recommendations from the Committee, repeal Resolution No. 23618, and adopt Resolution No. 23976.

On May 3, 2023, ICGC received and discussed parliamentary procedures. Through discussion, the Committee recommended Robert's Rules of Order be used to provide parliamentary framework for City Council, Committee, and Board and Commission meetings.

On July 5, 2023, ICGC received and discussed Mayor/Mayor Pro Tempore duties, use of electronics, and voting disqualification. Through discussion, the Committee recommended to maintain the existing Mayor Pro Tempore six-month schedule, permit limited use of electronics on the dais, and align voting disqualification with Robert's Rules of Order framework.

DISCUSSION:

All proposed changes to City Council Rules of Procedure and Order of Business will be reviewed by ICGC in monthly sessions and forwarded to City Council for discussion. A comprehensive report of committee recommendations and Resolution is anticipated to go to City Council at a later date.

The review process format will consist of four stages:

1. A review of current processes and practices used.
2. Identification of advantages and disadvantages to existing processes.
3. Review of other cities' similar processes/practices.
4. Proposed recommendations to processes/practices.

October 4, 2023, review items include:

1. Violation of Rules
2. Section VIII, B. Roll Call (Meeting Attendance)
3. Section VIII, D. City Council Meeting Schedule
4. Section VIII, G - Closed Sessions
5. Section IX, B Definitions, 5. Items Carried Over
6. Section IX, E Consent Calendar
7. Section XIII, B – Referral of Matters to City Council Standing Committees

1. Violation of Rules

Review of Current Processes and Practices Used:

Resolution 23976 references violation of the rules on page one as follows:

Violation of these rules shall not be construed as a penal offense, excepting that breach of the peace or willful failure to comply with the lawful orders of the City Council or its presiding officer shall be punishable as misdemeanors under applicable law.

Identification of Advantages and Disadvantages to Existing Process:

Advantages to Current Process:

- Through identifying a violation of the rules shall be punishable as misdemeanors under applicable law, the resolution does not specify particular laws that may be violated and as a result remains flexible to legislative changes.

Disadvantages of Current Practice:

- Without a defined pathway identified, the impact of rule violation is subject to interpretation impacting meeting efficiencies.
- Through establishing a recognized action associated with rule violation(s), the City Council is afforded the ability to conduct business with a clear understanding of process and procedure.

Review of Other Cities Similar Processes/Practices:

Ten California cities similar in size and demographics were selected for review. The selected cities include Anaheim, Bakersfield, Chula Vista, Fresno, Irvine, Long Beach, Oakland,

Sacramento, Santa Ana, and Stockton. Significant findings associated with violation of City Council rules and procedure include:

- The City of Anaheim identified failure to comply with provisions or terms of Council rules or policies shall not be deemed a violation of any law or a basis for any legal action against the City, any City officer or employee, or any other person or entity.
- Rule enforcement related to the City of Chula Vista rules and procedure focused on decorum.
- Rule enforcement associated with the City of Sacramento focused on sharing information related to closed session items and identified a violation of the rule may be subject to censure.

Proposed Recommendations to Processes/Practices:

Recommendations for consideration include updating Resolution language to include:

Violation of these rules shall not be construed as a penal offense, excepting that breach of the peace or willful failure to comply with the lawful orders of the City Council or its presiding officer shall be punishable as misdemeanors under applicable law. **City Council retains the authority to take appropriate action to enforce these rules amongst its members including, but not limited to, the inherent power of censure.**

2. Section VIII, B - Roll Call (Meeting Attendance)

Review of Current Processes and Practices Used:

Section VIII, B – Roll Call, reads:

Before the City Council shall proceed with the business before it, the City Clerk shall enter into the minutes the names of the Mayor and those Councilmembers present. The later arrival of any absentee shall also be entered into the minutes.

The City Clerk's Office documents City Council attendance and meeting participation through the use of an action minute. The process documents the conclusions of discussions and the actions that need to be taken. Related to attendance, roll call is completed at the beginning of the meeting and the Clerk ensures quorum is maintained through the duration of the meeting. In the event a vote is taken and an attending member was not present at the time, the meeting minutes document the vote results and note the absence of said member.

Identification of Advantages and Disadvantages to Existing Process:

Advantages to Current Process:

- The language included in the Resolution identifies clear direction it relates to documenting meeting participants at the beginning of the meeting and late arrivals.

Disadvantages of Current Practice:

- The existing language does not provide direction related to a Councilmember's early departure from the meeting.

Review of Other Cities Similar Processes/Practices:

N/A

Proposed Recommendations to Process/Practices:

Recommendations for consideration include:

Updating language in Section VIII, B as follows:

Section VIII, B – ~~Roll Call Meeting Attendance~~:

Before the City Council shall proceed with the business before it, the City Clerk shall enter into the minutes the names of the Mayor and those Councilmembers present. The later arrival of any absentee shall also be entered into the minutes. ~~The time of departure and time of return of any member during the meeting shall be entered into the minutes.~~

3. Section VIII, D. City Council Meeting Schedule

Review of Current Processes and Practices Used:

Section VIII, D – City Council Meeting Schedule currently reads:

Regular meetings of the City Council shall be held in the Art Pick Council Chamber, 3900 Main Street, Riverside, California, on the first four Tuesdays of each month, taking into consideration any legal holidays which may occur. There shall be no meeting on the fifth Tuesday of the month. For the months of July, August and September, meetings shall occur on the first and third Tuesdays of the month.

The Mayor or a majority of The City Council may call a special meeting as identified in Section VIII, F – Special Meetings. This option has been exercised during the months of July, August, and September to assist the City Council in meeting operational demands.

Riverside Municipal Code Section 408 – Meetings, identifies, “at any time any regular meeting falls on a holiday such regular meeting shall be held on the next business day.”

Identification of Advantages and Disadvantages to Existing Process:

Advantages to Current Process:

- The language included in the Resolution identifies a set meeting schedule for the months of July, August, and September when staff and Councilmembers may be out of the office for vacations.

Disadvantages to Current Practice:

- The Resolution does not provide direction as it relates to holidays that occur on or around the first four Tuesdays of the month.

Review of Other Cities Similar Processes/Practices:

Significant findings associated with holiday calendars from other cities include:

- Six of the ten cities adopt an annual meeting schedule.
- It is the general policy of the City of Chula Vista to cancel any meetings in the last week of June and the first week of July, the week of Thanksgiving, the week following Easter, the Tuesday following Labor Day, and the week of Christmas and New Year's. The meetings may be reinstituted by a majority of the Council.
- The City of Oakland exercises an annual meeting schedule for both City Council and Standing Committees. The schedule is approved and may be amended by Council resolution. The schedule takes into consideration City holidays, Council recesses, the 5th Tuesday of the month, and deadlines for submitting agenda materials.
- Fresno adopts an annual calendar of regular meetings in December for the following 12-month period. The calendar may be amended by Council minute resolution. It should be noted that the Fresno City Council meets on Thursday mornings.
- The cities of Long Beach and Stockton bump meetings that occur on a holiday to the next business day following the holiday.
- Santa Ana makes the approved annual meeting schedule available on the City's website.
- The Mayor of Stockton is responsible for providing the annual meeting schedule for City Council.

Proposed Recommendations to Process/Practices:

Recommendations for consideration include two options:

Option One – follow a similar path of Chula Vista resulting in the following language updates:

Section VIII, D – City Council Meeting Schedule

Regular meetings of the City Council shall be held in the Art Pick Council Chamber, 3900 Main Street, Riverside, California, on the first four Tuesdays of each month. ~~taking into consideration any legal holidays which may occur.~~ There shall be no meeting on the fifth Tuesday of the month. ~~As general policy, cancel any meetings the Tuesday following Memorial Day, the last week of June and first week of July,~~

the week of Thanksgiving, the Tuesday following Labor Day, and the week of Christmas and New Year's.

For the months of July, August and September, meetings shall occur on the first and third Tuesdays of the month.

Option Two – allow the City Council to be prescriptive to a holiday meeting schedule annually through the adoption of an annual meeting schedule. Possible language update could include:

Section VIII, D – City Council Meeting Schedule

Regular meetings of the City Council shall be held in the Art Pick Council Chamber, 3900 Main Street, Riverside, California, on the first four Tuesdays of each month. ~~taking into consideration any legal holidays which may occur.~~ There shall be no meeting on the fifth Tuesday of the month.

~~Taking into consideration any legal holidays which may occur, the City Council will adopt an annual meeting schedule the first Council meeting in March every calendar year. For the months of July, August and September, meetings shall occur on the first and third Tuesdays of the month.~~

4. Section VIII, G - Closed Sessions

Review of Current Processes and Practices Used:

As outlined in Section VIII, G, the City Clerk or designee records topics discussed and decisions made at the meeting in a minute book. Minutes taken during closed session are action minutes and are available to only members of the legislative body.

Identification of Advantages and Disadvantages to Existing Process:

Advantages to Current Process:

- The current process provides a record of Closed Session actions.

Disadvantages of Current Practice:

- The action minute record keeping format does not dictate closed session discussions.

Review of Other Cities Similar Processes/Practices:

N/A

Proposed Recommendations to Process/Practices:

Staff recommend updating Resolution language to replace minute book with minute log/audio in alignment with the action minute recording format used during closed session.

Language recommendations are as follows:

G. CLOSED SESSIONS

The City Clerk or his/her designee shall attend each closed session of the City Council and keep and enter in a minute ~~book~~ log/audio a record of topics discussed and decisions made at the meeting. In the event of a closed session concerning personnel matters conducted in conformance with *California Government Code* section 54957, the Mayor Pro Tempore or his/her designee shall enter in a minute ~~book~~ log/audio a record of the topics discussed and decisions made at the meeting. The minute ~~book~~ log/audio is not a public record subject to inspection pursuant to the California Public Records Act (*California Government Code* section 6250 *et seq.*), and shall be kept confidential. The minute ~~book~~ log/audio shall be available only to members of the legislative body or, if a violation of *California Government Code* sections 54950 through 54962 is alleged to have occurred at a closed session, to a court of general jurisdiction wherein the local agency lies.

5. **Section IX, B Definitions, Item 5. Items Carried Over**

Review of Current Processes and Practices Used:

Section IX, B – Definitions, Item 5. Items Carried Over reads:

“Items Carried Over” means items uncompleted from a prior agenda of a City Council meeting.

Section IX, C – Procedure for bringing matters before City Council, Item 3 – Submission of Agenda Items does not require carried over items to be submitted again. Items carried over are reviewed during the agenda setting conference are included on the future agenda.

Identification of Advantages and Disadvantages to Existing Process:

Advantages to Current Process:

- The language included in the Resolution identifies the pathway for items that are carried over from one meeting to another.
- The Resolution allows any Councilmember to request an item be carried over.

Disadvantages of Current Practice:

- The existing language, “items carried over” may not clearly define the action being taken during the meeting.

Review of Other Cities Similar Processes/Practices:

Significant findings associated with carrying over items include:

- The City of Fresno refers to the process of carrying over an item as continuing an item. Continuing an item requires a motion to withdrawal an item from the agenda. The motion must also identify whether the item will be postponed indefinitely or to a certain time and/or date of a later meeting. A motion to continue is debatable and requires a simple majority vote.
- The City of Santa Ana has assigns a time restriction on a continued item of five days.

Proposed Recommendations to Process/Practices:

Recommendations for consideration include:

Updating language in Section IX, B – Definitions, Item 5. Items Carried Over as follows:

~~“Items Carried Over Continued Items”~~ means items uncompleted from a prior agenda of a City Council meeting.

6. Section IX, E – Consent Calendar

Review of Current Processes and Practices Used:

Section IX, E – Consent Calendar identifies the items placed under consent shall include matters which the Mayor, City Councilmembers, and City Manager deem to be routine in nature and not likely to be subject to debate or inquiry. In an effort to minimize discussion of consent calendar items, City Councilmembers may direct questions concerning items to the City Manager or staff person who submitted the report prior to the City Council meeting.

Section IX, F – Agenda Sequence and Order of Business Item 1) i, allows items to be removed from the consent calendar by one motion. Items removed from the consent calendar are to be discussed immediately after the Discussion Calendar.

Section IX, D – Agenda-Setting Meeting, Item 5 permits a City Councilmember to refer an item to the agenda. The referral will include a timeline and specify if the item requested is an action or discussion item.

Section X, Conduct of Meeting – B. Consent Calendar Items Called up for Discussion requires the presiding officer or City Clerk reads into the record each item on the consent calendar that has been removed.

Identification of Advantages and Disadvantages to Existing Process:

Advantages to Current Process:

- The process equips Councilmembers with the ability to remove an item from the consent calendar and captures the action into the record.
- The process requires the item to be discussed immediately in the same meeting.

Disadvantages of Current Practice:

- Requiring the immediate discussion of the item may not allow for effective staff responses to questions or Councilmember inquiries.
- The current process does not identify if the item should be continued at a later time.

Review of Other Cities Similar Processes/Practices:

Significant findings associated with carrying over items include:

- Both Irvine and Santa Ana allows Councilmembers to remove item(s) from the consent calendar.
- The City of Bakersfield only allows City Councilmembers to remove an item from the consent calendar.
- The City of Fresno allows a Councilmember to “pull” a specific item from the consent calendar for separate discussion and also affords Councilmembers the ability to record a no or abstention in advance of the consent calendar vote.
- In the event an item is removed from the consent calendar for separate action in the City of Long Beach, the removal shall be heard as the first item on the agenda.
- The cities of Oakland and Sacramento follow a similar process, discussing pulled items immediately after the adoption of the balance of the consent calendar.

Proposed Recommendations to Process/Practices:

Staff have no recommendations to change the existing practice at this time.

7. Section XIII, B – Referral of Matters to City Council Standing Committees

Review of Current Processes and Practices Used:

Section XIII, B – Referral of Matters to City Council Standing Committees identifies, generally, all items agendized for City Council Standing Committees must first be referred by the City Council for review and a recommendation to the City Council within 120 days, subject to the exceptions specific to Public Utilities Development Committee items. With the concurrence of the Committee Chairperson and the City Manager, an item may be sent directly to a Council committee without a Council referral. The Resolution also includes a table that identifies the Standing Committee and types of times that may be referred to said committee.

Identification of Advantages and Disadvantages to Existing Process:

Advantages to Current Process:

- Through providing an option for the Committee Chair and City Manager to send an item directly to the Standing Committee, the current process reduces the number City Council agenda items and allows the Standing Committee to start item discussions.
- The process requiring any proposed Standing Committee item be referred by the City Council ensures the discussion of the item is supported by the majority of the Council.
- The table identifying Standing Committee guidelines is helpful to ensure items are directed to the appropriate committee.

Disadvantages of Current Practice:

- Requiring City Council refer items to Standing Committees could increase the number of items on the Council agenda and delay the discussion at the Committee level impacting Council's ability to take action.
- The table identifying types of items referred to committee does not include the purview or purpose of the Standing Committee.
- The current process does not identify the role of Boards and Commissions in the discussion process.

Review of Other Cities Similar Processes/Practices:

Significant findings associated with referring items to committee include:

- Chula Vista refers items to committee by motion for the purpose of investigating or studying a proposal and reporting back to Council. If the motion fails, discussion or vote on the question resumes.
- The City of Fresno defines a standing committee as a committee with continuing subject matter jurisdiction that has authority to consider a specific subject matter on an ongoing basis.

Proposed Recommendations to Process/Practices:

Recommendations for consideration include:

- Include the purview of the Standing Committee in the list of committees and guidelines.
- Update Resolution language to include:

B. REFERRAL OF MATTERS TO CITY COUNCIL STANDING COMMITTEES

1. Generally, ~~all~~ items agendized for City Council Standing Committees ~~must~~ shall first be referred by the City Council for review and a recommendation to the City Council within 120 days, subject to the exceptions set forth below or as otherwise modified by the City Council.

STRATEGIC PLAN ALIGNMENT:

This item contributes to Strategic Priority No. 5 *High Performing Government* and Goal 5.2 – Utilize technology, data, and process improvement strategies to increase efficiencies, guide

decision making, and ensure services are accessible and distributed equitably throughout all geographic areas of the City.

The item aligns with each of the five Cross-Cutting Threads as follows:

1. **Community Trust** – This item builds community trust by identifying City Council process and procedure and providing transparency in municipal operations.
2. **Equity** – Regular review and revision to City Council Rules of Procedure and Order of Business, ensures the City Council, Boards, and Commissions operate in a manner that is equitable to all City of Riverside residents.
3. **Fiscal Responsibility** – This item ensures fiscal responsibility of City resources by outlining and reviewing processes to be used when conducting City Council business.
4. **Innovation** – Riverside is committed to meeting community needs in a changing environment including the addition of virtual community resources, alignment with Legislative emergency orders, and Brown Act modifications.
5. **Sustainability & Resiliency** – This item ensures sustainability through ongoing evaluation of City Council Rules of Procedure and Order of Business to allow for adaptation to meet the changing needs of the community during a public health emergency and future needs ensuring the City's capacity to persevere, adapt and grow.

FISCAL IMPACT:

There is no immediate fiscal impact from this report. However, there may be a future impact, based on the recommendations of the Committee.

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Attachments:

1. Resolution R-23976