RESOLUTION NO. 2016-190

A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO, CALIFORNIA, TO AMEND THE RULES OF PROCEDURE TO CONFORM TO CURRENT PRACTICE, AND TO ALLOW ADDITIONAL TIME FOR PUBLIC COMMENT BY MEMBERS OF THE PUBLIC SPEAKING THROUGH AN INTERPRETER

WHEREAS, on May 9, 2013, Council adopted the Rules of Procedure of the City Council in Resolution No. 2013-65, to establish rules for the conduct of its proceedings; and

WHEREAS, Council has amended the Rules of Procedure from time to time to account for changes in practice; and

WHEREAS, Council now wishes to change its Rules of Procedure to clarify or conform to current practice; and

WHEREAS, Council wishes to adopt a new rule consistent with AB 1787 (Gomez), whereby non-English speakers addressing the Council through an interpreter shall be allowed twice the allotted time for comment to ensure the same opportunity to directly address the Council, unless simultaneous translation equipment is used; and

WHEREAS, the proposed amendment also includes a number of other changes to make the Rules of Procedure consistent with the way Council currently conducts business; and

WHEREAS, the proposed changes are in the interests of the Council's conduct of business of the City.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Fresno as follows:

SECTION 1. This resolution is adopted to amend the Rules of Procedure as set forth in Exhibit A.

SECTION 2. The procedures are in addition to, and not in place of, applicable ordinances and statutes. In the event of conflict between any part of this resolution and applicable ordinances and statutes, the latter shall govern.

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Date Adopted: 09/22/2016
Date Approved: 09/22/2016
Effective Date: 09/22/2016

SECTION 3. This resolution shall become effective and in full force upon final passage.

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CLERK CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, YVONNE SPENCE, City Clerk of the City of Fresno, certify that the foregoing resolution was adopted by the Council of the City of Fresno, at a regular meeting held on the 22nd day of September, 2016.

Interpreter
AYES : Brand, Olivier, Quintero, Caprioglio
NOES : Brandau
ABSENT : Baines, Soria
ABSTAIN : None

Balance of Resolution
AYES : Brand, Brandau, Quintero, Caprioglio
NOES : Olivier
ABSENT : Baines, Soria
ABSTAIN : None

YVONNE SPENCE, CMC
City Clerk

BY: Yvonne Spence
Deputy

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

BY: 9-30-16
Katie Doerr Date
DOUG SLOAN
Assistant City Attorney

Attachments: Exhibit A - Amended Rules of Procedure

RULES OF PROCEDURE

FOR THE CITY COUNCIL

OF THE

CITY OF FRESNO

Adopted as Amended
September 22, 2016

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RULES OF PROCEDURE FOR
THE CITY COUNCIL OF THE CITY OF FRESNO

RULE NO. 1

EFFECT OF RULES

a. These Rules of Procedure shall govern the conduct of all Fresno City Council meetings and related board meetings. Unless superseded or prohibited by state or city law, these Rules may be suspended by the affirmative vote of two-thirds of the entire membership of the Council. The suspension shall be in effect for the duration of one meeting only.

b. To the extent a matter is not covered by these Rules, the Presiding Officer, in consultation with the City Attorney, may make a ruling. Any such ruling may not violate mandatory Charter, the Fresno Municipal Code ("FMC"), or statutory provisions that may govern a particular matter.

c. If any rule contained herein is in conflict with the provisions of the Charter or FMC, such rule shall be deemed invalid or modified to conform to the Charter or FMC. Such invalidity shall not affect other rules contained herein which can be given effect without the invalid rule, and to this end these rules are severable.[1]

d. Any deviation from these Rules of Procedure shall not, alone, invalidate the approval of any matter.

RULE NO. 2

ELECTION OF COUNCIL PRESIDENT AND VICE PRESIDENT

a. The officers of the Council shall consist of the President of the Council (Council President) and Vice President. A Councilmember must have served on the Council for at least one year to be eligible to serve as Council President. Each year at the first meeting in January, the Council shall select a Council President and Vice President on a rotational basis.

b. The Councilmember who served as Vice President the previous year shall serve as Council President. The Councilmember whose District Number immediately follows that of the Council President, by increasing numerical order, shall serve as Vice President. The Vice President is identified as Acting President in the Charter.

c. Whenever the office of Council President or Vice President rotates to a Councilmember who is not eligible to hold office or who desires not to serve, the office shall rotate to the next eligible Councilmember by Council District, in increasing numerical order. Any vacancy in office shall also be filled in the same fashion, by rotating the office to the next eligible Councilmember by Council District, in increasing numerical order.

[1] Fresno Municipal Code § 2-318

RULE NO. 3

DUTIES OF COUNCIL PRESIDENT AND VICE PRESIDENT

a. In addition to serving as Presiding Officer at Council meetings, it shall be the duty of the Council President:

1. To sign all instruments requiring execution or agreement by the Council.
2. To serve as the chief spokesperson and representative for the Council for matters before the public, the state and federal governments, and the City Administration.
3. To develop an Annual Calendar of events to include, but not restricted to council meetings, recesses, special meetings, holidays, etc.
4. To delegate by administrative directive any of the duties assigned to the Council President.
5. To assist in preparing the Council meeting agenda.

b. It shall be the duty of the Vice President:

1. To serve with the Council President as spokesperson and representative for the Council.
2. To assist the Council President in anticipating issues and problems deserving or in need of special meetings.
3. In the absence of the Council President, the Vice President shall exercise the duties and powers of the Council President.

RULE NO. 4

COUNCIL PRESIDENT TO SERVE AS PRESIDING OFFICER

a. The Council President shall be the Presiding Officer of the Council. In the absence of the Council President, the Vice President shall preside over the Council. In the absence of the Vice President, the Councilmember next in Council District numerical rotation who is present shall preside until the return of one of the regular officers.

b. It shall be the duty of the Presiding Officer:

1. To open all meetings of the Council at the appointed hour by taking the chair and calling the Council to order.
2. To call for the approval of the minutes.
3. To maintain order and proper decorum.
4. To announce the business before the Council in the order prescribed by these rules.
5. To receive and submit all matters properly brought before the Council, to call for votes upon the same, and to announce the results.
6. To make known all Rules of Procedure when so requested, and to decide all questions of order and procedure; all rulings of the Presiding Officer are

subject to an appeal of the Council, and may be overruled by majority vote.

7. To preside at all closed sessions of the Council.

8. To perform such other duties as may be required by law or as may pertain to such office.

RULE NO. 5

MEETINGS

a. Regular meetings of the Council will be held each Thursday at 8:30 a.m. in the Council Chambers of City Hall. The time, date, or place of a regular meeting may be altered as published in the Council Agenda.

b. Each year in December, Council shall adopt its annual calendar of regular meetings for the following 12 months. The calendar may be amended by Council minute resolution.

c. Special meetings of the Council may be called at any time by the Council President or, in his/her absence, by the Vice President. A special meeting may also be called by four members of the Council. A minimum of twenty-four hours notice of any special meeting shall be given in accordance with the Ralph M. Brown Act ("Brown Act").[2]

d. All meetings of Council shall be held in open session unless expressly authorized as closed sessions under the Brown Act.[3]

e. Emergency meetings may be held upon a finding by a majority vote of the Council that an emergency situation exists due to work stoppage, a crippling disaster, or other activity that severely impairs public health or safety. Council may convene emergency meetings without complying with the twenty-four hour notice and posting requirement for special meetings provided the City complies with all provisions of the Brown Act[4] and other applicable law.

RULE NO. 6

COUNCIL AGENDA

a. The Councilmembers, Mayor, City Manager, City Clerk, and City Attorney may place items on a Council Agenda, as provided herein.

b. All proposed resolutions, ordinances, and contracts shall be approved as to form by the City Attorney's Office prior to placement on the Council Agenda. All contracts shall be signed by the non-City party unless the contract is: (1) with another public agency; (2) a complete standardized contract included in an RFP that is not subject to negotiation; or (3) is a construction contract based upon bid specifications in which final details are completed after Council approval.

c. Each Councilmember shall place no more than two items on the Agenda.

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[2] Government Code §§ 54956. Fresno Municipal Code § 2-302

[3] Government Code §§ 54954.5. Fresno Municipal Code § 2-308

[4] Government Code § 54956.5

Consent items and proclamations are excepted from this rule.

d. The general rule is to limit timed items to public hearings as defined in Rule 16. Any requests for a timed item shall be submitted to the City Clerk by 2:00 p.m. of the fifth business day prior to the Council meeting. This will allow for approval by the Council President per Rule 6g. Timed items may also be set at a Council meeting.[5]

e. All matters to be included on the Agenda shall be submitted to the Council President and City Clerk by 5:00 p.m. on the Thursday prior to the Council meeting. All supporting documents provided by staff or the Administration shall be distributed to the Council by 5:00 p.m. on the Monday prior to the Council meeting for the item to be considered at the Thursday meeting.

f. The City Clerk shall immediately arrange a list of such matters according to the order of business as determined by these rules.

g. The Council President, City Clerk, City Manager, and City Attorney shall meet prior to the printing of the final agenda to ensure the agenda is not overly congested and agenda items are appropriately worded to meet Brown Act requirements. All final decisions on matters regarding the agenda shall reside with the Council President. The City Clerk shall notify affected Councilmembers or departments of any changes prior to the issuance of final agenda.

h. The City Clerk shall furnish each member of the Council, the Mayor, the City Manager, the City Attorney, and department directors with a copy of the agenda prior to the Council meeting as far in advance of the meeting as time permits.

i. No item shall be placed on the Council Agenda except in accordance with the Brown Act,[6] the Fresno Municipal Code, and these Rules.

j. The City Clerk shall post and prepare the Agenda in accordance with the Brown Act.[7]

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[5] Fresno Municipal Code § 2-303(a)

[6] Government Code §54950 et seq.

[7] Government Code §§ 54950 et seq., as amended. Fresno Municipal Code § 2-303(b)

RULE NO. 7

ORDER OF BUSINESS

a. The general order of business will be as follows, unless the Council President determines the order for a particular meeting or item needs to be modified:

1. Roll Call
2. Invocation
3. Flag Salute
4. Awards, proclamations, and honorary resolutions
5. Approval of Minutes
6. Councilmember Reports and Comments
7. Announcement of removal of items by the originating party or requests to continue items
8. Approval of Agenda
9. Consent Calendar
10. Contested Consent Items
11. Timed Hearings and Matters
12. General Administration Items
13. Councilmember Items
14. Closed Session
15. Closed Session Announcements
16. Joint Meetings with other agencies
17. Public Comment Period (not timed)
    a. Scheduled
    b. Unscheduled
18. Adjournment

b. The Public Comment Period includes Scheduled and Unscheduled Communications. A speaker may request a timed item under Scheduled Communications which will be set under Rule 10.

c. Council will generally recess from 12 noon to 1:30 p.m. for lunch.

d. A workshop may be placed on the Agenda from time to time, for informational purposes only. During a workshop, public comment is generally not permitted, subject to the discretion of the Presiding Officer to open the matter to public comment. Council may also invite one or more speakers to address the item, with or without time limits.

e. Timed items will generally be heard at or later than the time stated on the Agenda. Untimed items may be called by the Presiding Officer at any time during the meeting.

RULE NO. 8

VOTING PROCESS

a. Every vote taken by the Council in open session shall be by open ballot. To register a vote on an item, a Councilmember must be physically present while the vote is being taken or participating in the meeting by teleconference as permitted by the Brown Act.

b. There shall be four methods of counting the votes of the Council: by electronic vote; by a call of the roll of the members and a record made by the City Clerk of the vote of each member; by a voice vote; or by unanimous consent.

c. The Presiding Officer shall determine the method for voting unless requested otherwise by a member of Council.

d. Unless a present Councilmember states he or she is not voting, silence shall be recorded as an affirmative vote.[8]

e. The City Clerk shall record each vote and each abstention in the Minute Book and announce the result to the Council.

f. Whenever the yes and no votes are called, a Councilmember shall not be permitted to explain a vote or an abstention without the unanimous consent of the Council. After the announcement of the result, a Councilmember shall not be permitted to vote or to change a vote or an abstention, except as provided in paragraph (g) below or in the case of a motion to reconsider as set forth in Rule 15.

g. Unless any Councilmember calls for separate votes in advance, any item on the Agenda with related sub-parts shall be treated as one agenda item and voted on in one motion. If the item and sub-parts receive sufficient votes for approval of some, but not all sub-parts, at the immediate request of any Councilmember, the first vote shall be nullified and Council shall then immediately, without discussion, vote on each item separately.

RULE NO. 9

QUORUM, MAJORITY VOTES, AND SUPERMAJORITY VOTES

a. A majority of the entire membership of the Council shall constitute a quorum. A quorum must be present to begin a Council meeting, for any vote to be taken, or during any portion of a noticed public hearing.

b. A vote of the majority of the quorum shall be sufficient to take action except where the Charter, FMC, or other applicable law requires a greater vote.

c. An Ordinance must receive at least four affirmative votes for adoption.

d. Matters requiring a supermajority vote (at least five affirmative votes) shall be identified as such on the Agenda, and shall include, but are not limited to:

1. Adoption of an emergency ordinance necessary for preserving the public peace, health or safety, that contains a statement of reasons for the urgency, may be introduced, adopted, and take effect on the same date.[9]

2. Adoption of a resolution of necessity for a proposed taking of property by power of eminent domain.[10]

3. Award of contract without competitive bidding if deemed by the Council to

[8] Fresno Municipal Code § 2-313

[9] Charter § 603

[10] Civil Code § 1245.240

be of urgent necessity for the preservation of life, health or property and if such award is made by resolution declaring such facts.

4. Adoption of an appropriation amendment to the City Budget.[11]

5. Council override vote of a Mayoral veto.[12]

RULE NO. 10

PUBLIC COMMENT

a. Citizens have the right to present grievances or offer suggestions for the betterment of municipal affairs at any regular meeting of the Council.[13]

b. At any special meeting of the Council, the public has a right to speak on any item listed on the Council Special Meeting Agenda within the time limits described below. The public shall not have the right to address the Council on matters not listed on the Council Special Meeting Agenda.

c. The public has a right at every regular meeting to provide oral testimony in accordance with the Brown Act and Charter Section 506, subject only to the following:

1. Action Items.

(a) Each speaker shall limit his or her remarks on any action item listed on a Council Agenda to three minutes (hereinafter "public comment period").[14]

(b) The public comment period may be extended by the Presiding Officer.

(c) In situations in which more than 20 people wish to speak on an item, the Presiding Officer may place reasonable limits on the public comment period, including reducing the time allotted to each speaker to two minutes and/or a specific time limit for the total presentation. Such time limits shall allow for full discussion of the item by interested parties or their representative(s). The purpose of this limitation is to ensure the Council can address its agenda and avoid repetitious presentations.

2. Consent Calendar.

(a) Items on the Consent Calendar are considered routine, not controversial, and are treated as one agenda item. Contracts or budget amendments in excess of $500,000 shall not be placed on the consent calendar. Public comment on the Consent Calendar shall be limited to three minutes per speaker, and comments shall be limited to discussion of those items on the Consent Calendar.

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[11] Charter § 1206

[12] Charter § 609

[13] Charter § 506

[14] Fresno Municipal Code § 2-312.

(b) A Councilmember may remove ("pull") a specific item from the Consent Calendar for separate discussion. Councilmembers may also record a "no" vote or abstention as to one more items on the Consent Calendar in advance of the vote. Council may then approve the Consent Calendar by one motion.

(c) Items removed for separate discussion by Councilmembers will be heard under "Contested Consent."

(d) Generally, ordinance amendments approved by the Council at introduction at one meeting shall be placed on the Consent Calendar for final adoption at a subsequent meeting (noting, however, the Council may, but is not required to, vote on an ordinance at introduction).

3. Scheduled and Unscheduled Communications.

(a) A member of the public may address the Council on any item of interest within the subject matter jurisdiction of the Council, under Scheduled or Unscheduled Communications. Public comment shall be limited to three minutes. The Presiding Officer or Council may limit the total testimony under this section of the agenda to one hour. Councilmembers may ask follow up questions of any speaker and make brief comments at that time.

(b) Scheduled Communications are provided as a courtesy and matter of convenience to the public. Requests for Scheduled Communications are to be submitted to the City Clerk at least 10 days in advance on the form provided by the City Clerk's office. To maintain orderly conduct of Council meetings, a speaker may address the Council under either Scheduled or Unscheduled Communications, but not both. The Council President, in consultation with the City Attorney, may deny a request for a Scheduled Communication, if the communication has become repetitive.

(c) Council may not take action on Scheduled and Unscheduled Communications except to place the matter on a future agenda.

d. Speakers shall confine their remarks to those which are relevant to the subject under consideration and are encouraged to present new evidence and points of view not previously considered, to avoid repetition of statements made by previous speakers.

e. Each person addressing the Council shall step up to the microphone, give his or her name and address for the Council in an audible tone of voice for the record.[15]

f. In addition to oral testimony, any person may petition the Council. Petitions and other matters shall be in writing, signed by the petitioners or persons presenting them. All petitions shall be made part of the official records kept by the City

[15] Fresno Municipal Code § 2-312

Clerk.

g. Alternative methods of addressing the Council shall be allowed for persons who do not speak English or with disabilities. Requests for accommodation should be made with the City Clerk at least three business days in advance of the meeting.[16] To maintain clarity and accuracy of the public record, when a City-provided interpreter is present, public comments or discussion on the record shall be translated by the City appointed interpreter. The translation may be summary of the speaker's comments, unless a Councilmember or the speaker desires otherwise or the matter is a noticed public hearing.

h. A speaker addressing the Council through an interpreter shall be granted twice the allotted time for comment (generally, six minutes) to ensure non-English speakers the same opportunity to directly address the Council, unless simultaneous translation equipment is used.

i. If City officials or staff believes an interpreter is likely to be necessary for an item that is contentious, high profile, or specifically affecting a large number of non-English speakers, staff should timely arrange with the City Clerk to have an interpreter available when the item is heard by the Council.

RULE NO. 11

WRITTEN CORRESPONDENCE

a. Any written communication relating to a matter pending, or to be brought before the Council shall, whenever possible, be included in the agenda packet for the meeting at which such item is to be considered. If received after the delivery of the agenda packet, it shall be distributed to Council as soon as practicable after receipt. The City Clerk shall also have copies available for requests by members of the public.

b. Letters of appeal from administrative or commission decisions shall be processed under applicable provisions of the FMC or other applicable laws.

c. Unless otherwise required by law to be accepted by the City at or prior to a Council meeting or hearing, no documents shall be accepted for Council review unless they are submitted to the City Clerk at least 24 hours prior to the Council Agenda item being heard. Nonetheless, the Presiding Officer shall retain discretion to accept additional documents at or prior to the time the Council Agenda item is to be heard. The City Clerk shall note the 24 hour submittal requirement on the Council Agenda.

RULE NO. 12

ORDER AND DECORUM

a. While the Council is in session, the Councilmembers must preserve order and decorum. A Councilmember shall neither by conversation or otherwise, delay or interrupt the proceedings or the peace of the Council nor disturb any Councilmember while speaking or refuse to obey the orders of the Council or its

[16] Fresno Municipal Code § 2-312

Presiding Officer, except as otherwise herein provided. No person shall be permitted to interrupt a speaker who has the floor, except for a Councilmember to raise a question of order.[17]

b. A Councilmember or other person properly before the Council shall address the Presiding Officer, be recognized before proceeding, and confine remarks to the question under discussion.[18]

c. If a Councilmember or other person, in speaking or otherwise, transgresses these rules, the Presiding Officer or any Councilmember may raise a question of order. The Presiding Officer shall then decide the question of order without debate. In addition, the Presiding Officer may call for the sense of the Council on any question of order.

d. Whenever any person is called to order while speaking, such person shall be in possession of the floor after the question of order is decided, and may proceed with the matter under the discussion within the ruling made on the question of order.

e. No person, except authorized City officials and their representatives, may be permitted beyond the podium in the Council Chambers without the express consent of the Council.[19]

f. Any person who willfully engages in conduct which is designed to or is likely to provoke others to violent or riotous behavior, disturbs the peace of the meeting by loud and unreasonable noise, engages in other disruptive conduct which substantially interferes with the orderly conduct of business before the Council, and who fails, upon request of the Presiding Officer to cease such activity, shall be forthwith barred from further attendance at such meeting unless permission to remain and/or address the Council is granted by a majority vote of the Council. A person violating this subsection shall be guilty of a misdemeanor.[20]

g. The Chief of Police, or such member(s) of the Police Department as he or she may designate, shall be sergeant-at-arms of the Council meetings, and shall be in attendance when requested by the Presiding Officer. The sergeant-at-arms shall carry out all orders and instructions given by the Presiding Officer for the purpose of maintaining order and decorum at the Council meeting. Upon instructions of the Presiding Officer, the sergeant-at-arms may place any person who engages in conduct in violation of this Rule, under arrest, and cause him or her to be prosecuted under the provisions of this Rule and the Fresno Municipal Code, the complaint to be signed by the Presiding Officer.[21]

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[17] Fresno Municipal Code § 2-314(a).

[18] Fresno Municipal Code § 2-312

[19] Fresno Municipal Code § 2-315

[20] Fresno Municipal Code § 2-314(b)

[21] Fresno Municipal Code § 2-314(c)

RULE NO. 13

DISCLOSURE OF CONFLICT OF INTEREST

a. The Political Reform Act prohibits any public official from making, participating in making, or in any way attempting to use his or her official position to influence a governmental decision in which the public official knows or has reason to know he or she has a financial interest.[22]

b. A public official who holds an office specified in Government Code Section 87200, and who has a disqualifying financial interest in a decision, shall identify the conflict of interest or potential conflict of interest, and immediately prior to the consideration of the matter, do all of the following:

   1. Publicly identify the financial interest that gives rise to the conflict of interest or potential conflict of interest in detail sufficient to be understood by the public.

   2. Recuse himself or herself from discussing and voting on the matter, or otherwise acting in violation of Government Code Section 87100.

   3. Leave the room until after the discussion, vote, and any other disposition of the matter is concluded, unless the matter has been placed on the portion of the agenda reserved for uncontested matters.[23]

c. Public officials who must comply with this Rule include, but are not limited to, members of the Council, the Mayor, City Manager, City Attorney, City Controller, City Clerk, and public officials who manage public investments.[24]

RULE NO. 14

MOTIONS

a. Only Councilmembers, or duly appointed members of boards sitting with the Council, may make Motions. Motions and amendments may be verbal, but shall be reduced to writing, if requested by the Presiding Officer. The City Clerk shall record all motions and read them back when requested. Upon request, the City Attorney shall assist in the formation of motions.

b. There are three motions that are most common and are usually subject to debate:

   1. The main motion. This motion puts forward a substantive decision for Council consideration. Only one main motion may be on the floor at one time.

   2. The motion to amend. This motion seeks to modify the main motion before the Council. A motion to substitute a motion with another motion shall be treated as a motion to amend. Only one motion to amend may be on the floor at one time, unless the Presiding Officer allows

[22] Government Code § 87100

[23] Government Code § 87105

[24] Government Code § 87200

Councilmembers to state two or more motions to amend, which may be accumulated and then voted upon in series in the order made. All motions to amend shall be resolved prior to voting on the main motion.

3. The procedural motion. This motion is to address a rule of procedure, postpone, or take some other action. Procedural motions take priority over main motions and motions to amend. Only one procedural motion may be on the floor at one time.

c. Any motion that does not receive a second shall die, and then another motion may be made.

d. The following common procedural motions shall be handled as follows:

1. Motion to adjourn. This motion, if passed, requires the Council to immediately adjourn to its next regularly scheduled meeting. It is not subject to debate and requires a majority vote. It is the highest priority motion.

2. Motion to recess. This motion, if passed, requires the Council to immediately recess. The Presiding Officer determines the length of the recess. It is not subject to debate and requires a majority vote.

3. Motion to fix the time to adjourn. This motion, if passed, requires the Council to adjourn the meeting at a specific time set in the motion. It is not subject to debate and requires a majority vote.

4. Motion to table. This motion, if passed, requires the discussion of the agenda item to be halted and the agenda item placed on hold. The motion can contain a specific time in which the item can come back to Council. If the motion does not contain a specific time for the return of the item, a motion to take the item off the table will have to be taken at a future meeting to bring it back to the Council. A motion to table or to bring it back to the Council requires a simple majority vote.

5. Motion to continue. This motion, if passed, requires the item to be withdrawn from the Agenda at that time and postponed either indefinitely or to a certain time and/or date, or to a time later in that meeting, as stated in the motion. A motion to continue is debatable and requires a simple majority vote.

6. "Friendly Amendment." This is a "request," rather than a formal motion. The speaker asks whether the maker of the main motion would agree to amend the motion, as suggested. If agreed, and if the member providing the second also agrees, or another second is offered, then the main motion is replaced with the amended motion. If an offer for a "friendly amendment" is rejected, then a formal motion to amend may be made.

RULE NO. 15

RECONSIDERATION[25]

a. A motion to reconsider any action taken by the Council may be made only on the day such action was taken. It may be made either immediately during the same session, or at a recessed or adjourned session thereof. Such motion must be made by one of the prevailing side, but may be seconded by any member, and may be made at any time and have precedence over all other motions or while a member has the floor; it shall be debatable. Nothing herein shall be construed to prevent any member of the Council from making or remaking the same or any other motion at a subsequent meeting of the Council so long as the ability to make such motion meets the requirements of applicable laws.

b. Notwithstanding this rule, when the Mayor makes a written request for Council reconsideration in accordance with Article 3 of Chapter 2 of the Fresno Municipal Code and Charter Section 605(d), the Council shall reconsider such request.

RULE NO. 16

PUBLIC HEARINGS

a. Public hearings are matters that require a notice by publication or mail and are to be heard on a set date and time.

b. Order of Proceedings. Generally, public hearings shall be conducted in the following order:

Hearing Opened
Staff Report
Presentation by Proponent, Applicant or Appellant
Questions of Proponent, Applicant or Appellant by Council and/or Staff
Public Testimony
Hearing Closed
Discussion by Council
Action by Council

c. Notwithstanding the public comment period in Rule 10, a project or entitlement applicant/appellant shall have such time necessary for a fair and reasonable oral testimony or presentation in connection with the particular Noticed Public Hearing item. In general, this time limit shall be set at 10 minutes.

d. No main motions may be made until a hearing is closed for public comment.

e. Testimony after Closure of Hearing. Once the hearing has been closed, no additional public testimony will be taken without a majority vote of the Council to reopen the hearing, even in cases where the item is continued to a future date for Council consideration. However, after the hearing has been closed, the Council may direct questions to the applicant, or any other person who has testified during the hearing, and receive their answers, which shall be deemed to be part of the record of testimony at the hearing. In the event public testimony is reopened to allow additional information or additional speakers, the Council shall

[25] Fresno Municipal Code § 2-310(e)

permit a reasonable time for rebuttal.

RULE NO. 17

QUASI-JUDICIAL HEARINGS AND INDIVIDUAL CONTACTS

a. Fair hearings are required in quasi-judicial matters. Quasi-judicial hearings shall be conducted in accordance with the principles of due process, and the City Attorney shall advise the Council in this regard.

b. Examples of quasi-judicial hearings include applications and revocations of variances, site plans, and conditional use permits ("CUPs"); resolutions of necessity of eminent domain actions; appeal of competitive bid awards, card room permit appeals.

c. Except as set forth herein, no member of the Council shall discuss or listen to discussion of the facts of any quasi-judicial matter while such matter is pending before the Council or any agency, board or commission thereof except at such time as that matter comes before the Council at a Noticed Public Hearing.

d. Councilmembers shall not discuss with any member of the public the facts of any such matter while such is pending before the Council or any agency, board or commission.

e. Matters involving permits are pending before a City agency, board of commission when an application for a permit has been filed with the appropriate City department.

RULE NO. 18

CONTINUANCES

In addition to a motion to continue as provided in Rule 14, prior to the approval of the Agenda, any Councilmember may ask that an Agenda item be continued indefinitely or to a future date and/or time certain. The matter shall then be continued unless the Council, by majority vote, does not approve the request to continue.

RULE NO. 19

PRIORITY OF BUSINESS

a. The majority of the entire membership of the Council may, by motion, designate any matter on the agenda to be a special order of business, which shall take precedence over all other business. A special order of business action is limited to matters properly noticed and placed on the agenda under the Brown Act.[26] This rule does not permit the hearing of a timed item prior to the time set on the agenda. If Council wants to change the date of a scheduled hearing to a later date, Council may do so without having to wait until the time set for hearing.

b. All questions relating to the priority of business to be acted upon by the Council shall be decided without debate.

[26] Government Code §§ 54950 et seq.

RULE NO. 20

COUNCILMEMBER REPORTS AND COMMENTS

a. Any Councilmember may, during the time for Councilmember reports and comments, report on activities in representing the Council or the City, before other governmental agencies and at public events, or direct brief questions to other Councilmembers, the City Manager, the City Attorney, or the City Clerk. Each Councilmember may also bring to the Council's attention any item of new business under this portion of the agenda. Each Councilmember shall limit his or her reports and comments to a total of three minutes.

b. Action on any matter of business not listed on the agenda shall be deferred until properly listed on the agenda for a subsequent Council meeting unless properly added to the agenda due to a need for immediate action pursuant to state law.

RULE NO. 21

CLOSED SESSIONS

a. Closed sessions may be held at any regular or special meeting for any purpose authorized under the Brown Act in accordance with the procedures in Rule 6. Council actions shall be governed by the Brown Act. Public comments on any item to be heard in closed session shall be received prior to, but not necessarily immediately prior to, a closed session. No discussions in closed session shall take place without a quorum present.

b. Pursuant to the Brown Act,[27] the City Clerk may be required to attend a closed session of the Council and keep and enter in a minute book a record of topics discussed and decisions made at each meeting. The confidentiality of such minutes shall be maintained pursuant to the Brown Act and attorney client privilege.

c. Announcements of Action Taken. When required by state law, actions taken in closed session shall be announced in open session promptly after the closed session. A place may be listed on the agenda for such announcements. After closed sessions, the Presiding Officer, City Clerk, and City Attorney, shall reconvene in open session and make any such required announcements prior to final adjournment of the meeting.

d. Persons Permitted in Closed Sessions. Persons permitted in closed session meetings are limited to: Councilmembers; the City Manager and/or Assistant City Manager(s); the City Attorney and any other attorneys or legal consultants at the invitation of the City Attorney; the City Clerk; and necessary City staff for the matter being considered. No other persons may be present without the prior approval of the Presiding Officer and the City Attorney.

e. Closed Session Materials. Confidential documents, including litigation summaries, legal memoranda, and drafts of labor and real estate agreements or term sheets, shall be made available to Councilmembers, the City Manager, and the City Attorney by 5 p.m. on the fifth day prior to the Council meeting. The

[27] Government Code § 54957.2

documents shall be treated as strictly confidential. Any additional confidential documents to be discussed in the closed session shall be clearly marked "Confidential" and provided to the City Attorney for distribution to the Councilmembers and City Manager no later than 24 hours prior to the closed session. All confidential documents provided for the closed session shall remain in the closed session meeting room at the conclusion of the closed session for collection by the City Attorney's Office, unless released by the City Attorney.

f. Withdrawing Closed Session Items. After publication of the Agenda, if Staff or the City Attorney plans to withdraw any item from closed session discussion, that fact shall be communicated to Councilmembers at the earliest opportunity and then disclosed to the public prior to approval of the Agenda during the Council meeting.

RULE NO. 22

QUESTIONS OF ORDER AND APPEALS TO RULINGS OF CHAIR

a. A question of order may be raised at any stage of the proceedings, except during a calling of the roll when the ayes and noes are called for. Such question shall be decided by the Presiding Officer, without debate, subject to an appeal to the Council.

b. A ruling of the Presiding Officer shall not be subject to debate. However, the ruling may be appealed by any two Councilmembers, one Councilmember making the appeal and another seconding it. The question is then taken from the Presiding Officer and vested in the Council for final decision by majority vote of the entire membership of the Council. A tie sustains the Presiding Officer.

RULE NO. 23

BOARDS, COMMISSIONS, AND COMMITTEES OF THE COUNCIL

a. Council may create a board, commission, committee of the Council, or other body of the City by ordinance, resolution, or other formal action of the Council. Legislative bodies created by Council are subject to the Brown Act, except for ad hoc committees.[28]

b. Boards, commissions, committees and similar bodies not created by Charter, by ordinance or by resolution of the Council shall automatically terminate two years from their creation, unless otherwise specified by the Council.[29]

c. Advisory committees composed solely of less than a quorum of the Council are either standing committees or ad hoc committees. Standing committees are subject to the Brown Act, whereas ad hoc committees are not.

1. A standing committee is a committee having continuing jurisdiction over a particular subject matter, or having a meeting schedule fixed by Charter, ordinance, resolution, or formal action of the Council. A committee with continuing subject matter jurisdiction has authority to consider a specific

[28] Government Code § 54952

[29] Fresno Municipal Code § 2-902

subject matter on an ongoing basis. Examples include committees that have authority to hear and consider issues relating to budgets, audits, contracts, and personnel matters that do not require renewal of its authority to hear and consider such matters.[30]

2. An ad hoc committee is a committee that consists solely of less than a quorum of the Council, that does not have a continuing subject matter jurisdiction, or a meeting schedule fixed by formal action of the Council. Ad hoc committees must have a limited term, and are charged with accomplishing a specific task in a short period of time. Such committees are dissolved when their specific task is completed, and are not perpetual.[31]

RULE NO. 24

MAYORAL COMMITTEE APPOINTMENTS

Action by the Council on requests by the Mayor for confirmation or approval of an appointee or nominee to a public office or position shall be taken by minute resolution confirming or not confirming the appointee or nominee.

RULE NO. 25

COUNCIL APPOINTMENTS OF COUNCILMEMBERS TO COMMITTEES

a. From time to time, Council appoints a Councilmember to serve on a board, commission, committee, joint power authority, or other official body (hereinafter "Committee.") Such appointments shall be for a two year period, unless otherwise stated in the implementing document that formed the Committee.[32]

b. No later than the first regular meeting in February of each year, Council shall review all the appointments as provided in a list prepared by the City Clerk. The annual review will be conducted to fill vacancies or an expired term of office, and to consider removal of any appointee for cause, such as for failure to keep Council informed of the Committee's activities, or for excessive absenteeism without good cause.

c. At the first regular meeting of each month, the appointed Councilmember shall report on the activities of the Committee, including any significant projects of the Committee before it takes place, such as issuance of bonds, matters relating to financing, and other matters that may commit the City to a particular course of action.

d. The Council President shall have the authority to appoint a designee to attend Committee meetings and participate as a voting member of the Committee in his or her absence, as permitted by the implementing document that formed the Committee.

e. The Councilmember next in line to serve as Council President is strongly encouraged to start attending meetings of the Committee served by the Council

[30] 79 Ops. Cal. Atty. Gen. 69, 72-73 (1996)

[31] 79 Ops. Cal. Atty. Gen. 69, supra

[32] Fresno Municipal Code § 2-802

President, at least six months before the expiration of the Council President's term of office. This will give the incoming Council President an opportunity to learn about the Committees, particularly those that deal with complex subjects, before he or she takes office.

RULE NO. 26

NEWS MEDIA

a. Members of the news media covering the business of the Council may be assigned to selected areas by the Presiding Officer.

b. Members of the news media shall be permitted to televise and sound-record the proceedings of the Council under such rules and conditions as the Presiding Officer may prescribe.

c. Selected areas assigned to the members of the news media in the Council Chambers shall be exclusively for the use of the news media members. Unauthorized individuals shall not use or occupy said assigned areas.

RULE NO. 27

ACCESS TO THE DAIS

a. No person shall be permitted on the dais during Council meetings except for the following: Councilmembers, the City Clerk, the City Attorney, the City Manager and Assistant City Manager(s), the Successor Agency Executive Director (during joint meetings), duly authorized additional members of boards sitting in joint meetings with the Council, and on a limited basis, those who are asked to assist the above (Deputy City Attorneys, Council Assistants, etc.). Any other person desiring to sit on the dais may do so only by permission of the Presiding Officer.

b. Members of the news media shall not be permitted access to the dais during Council meetings.