City of Mission Viejo

COUNCIL POLICY

SUBJECT	RES. NO.	POLICY NO.	EFF. DATE	PAGE
CITY COUNCIL MEETING RULES OF ORDER AND PROCEDURES	**05-52**	**0400-3**	**10/22/90** **1/6/03** (revised) **1/5/04** (revised) **5/16/05** (revised)	**1 of 14**

PURPOSE

The purpose of this policy is to set forth rules of order and procedures relating to City Council Meetings.

PROCEDURE

I. City Council Meeting Preparation

A. Deadline for Filing Items to Be Presented at Regular City Council Meetings. All items submitted for the City Council Agenda must be in writing. The deadline for submitting an item to the City Clerk is 12:00 p.m. on Monday one week prior to the regular City Council Meeting at which the item is to be presented.

B. **Placing an Item on the Agenda by a Council Member.** Any Council Member may place an item on a future Agenda under Council Comments accompanied by a brief written explanation.

C. **Posting of the Agenda.** The regular City Council Meeting Agenda shall be posted at 5:00 p.m. on the Wednesday before the Monday Council Meeting. However, it may be reposted when it is necessary to add an item to the Agenda up until 72 hours before the City Council Meeting as provided for by law.

D. **Agenda Posting Locations.** A complete copy of the City Council Agenda shall be posted (1) on the outdoor bulletin board at City Hall, 200 Civic Center; (2) at the Norman P. Murray Community and Senior Center, 24932 Veterans Way; and (3) at the Montanoso Recreation and Fitness Center, 25800 Montanoso Drive.

E. **Delivery and Distribution of Agenda Packets.** The City Council Agenda packets are prepared by the City Clerk's Office. Barring unavoidable difficulties or holidays, the Agenda packets will be distributed to members of the City Council the Wednesday evening preceding the Monday City Council Meeting.

F. **Backup Material for Agenda Items.** Each Agenda item shall be composed of the City Council Agenda Report cover sheet and all backup material needed for the City Council to take its action.

II. City Council Meeting Order of Business

A. **Order of Business.** The order of business for regular meetings of the City Council shall be

Roll Call
Pledge of Allegiance

Invocation
Closed Session
Report of Closed Session
Presentations
Public Comments
Consent Calendar
Items Removed from the Consent Calendar
Public Hearings
Old Business
New Business
Commission, Committee, and Mayor's Reports
Staff Reports
Council Member Comments

III. City Council Meeting Process and General Policies

A. Reordering Agenda Items. The Mayor may, with Council concurrence, reorder items on the Agenda to accommodate the public or to address other concerns.

B. Review of Remaining Agenda Items. At the hour of 9:30 p.m., the City Council will review the remaining Agenda items and make a decision regarding which items will be considered before the 11:00 p.m. curfew and which items will be continued to the next meeting.

C. City Council Meeting Curfew. The City Council Meeting curfew is 11:00 p.m. A three-fifths vote of the Council is required to extend a meeting beyond that hour.

D. Presentations. Presentations shall be scheduled as necessary to recognize persons or groups, or to promote events. All presentation requests shall be forwarded to the Mayor. The Mayor will review the requests and determine whether any recognition will be given and what form that recognition will take (for example, Certificate of Appreciation, Certificate of Commendation, Proclamation).

E. City Council Minutes. Minutes shall be submitted for approval and/or correction in draft form on the Consent Calendar at a subsequent regular City Council Meeting. The primary purpose of City Council Meeting Minutes shall be to record the action taken by the City Council and the reason for a Council Member's vote if requested. The Minutes shall also include a record of all persons addressing the City Council by name, city of residence, and subject or position.

F. Notification of Meeting Absences. Members of the City Council shall notify the City Clerk when they are unable to attend a City Council Meeting by completing the Notification of Council Meeting Absence form.

IV. City Council Meeting Rules of Order

A. Obtaining the Floor. Any Council Member wishing to speak must first obtain the floor by being recognized by the Mayor. The Mayor must recognize any Council Member who seeks the floor when that Council Member is appropriately entitled to do so.

B. Council Member Comment Time Limits. Each Council Member shall be allowed an initial three minutes to speak on an Agenda item. Following the comments by all members of the City Council, the Mayor may provide additional rounds of comments with a maximum of three minutes for each Council Member. Council Members shall not be allowed to defer any portion of their time to other Council Members, however; unused time may be added to the second round or subsequent rounds of Council Member comments.

C. Motions. The Mayor or any member of the Council may call an action on any matter before the Council by making a motion. Before the motion can be considered or debated it must be seconded. Once the motion has been properly made and seconded, the Mayor shall open the matter for debate offering the first opportunity to debate to the moving party and, thereafter, to any Council Member properly recognized by the Mayor. Once the motion has been fully debated and the Mayor calls for a vote, no further debate will be allowed. However, Council Members may be allowed to explain their vote.

Council participation during the presentation of public testimony or staff reports shall be limited to questions asked at the conclusion of the testimony. No general discussion should be permitted until the testimony has been completed. Council discussion not relevant to the matter should be reserved for the Council Comment portion of the Agenda. Comments inconsistent with the aforementioned should be ruled out of order by the Mayor.

D. Voting.

(1) It is the policy of the City Council that all members present at a meeting fully participate in the discussion of a matter and shall vote for or against a motion, unless disqualified by conflict of interest or other legal reason as provided in this Section.

(2) If the vote is a voice vote, the Mayor shall declare the result and note for the record all yes votes and all no votes. The Council may also vote by roll call or ballot. Regardless of the manner of voting, the results reflecting all yes and no votes and the Council Members who cast them must be clearly set forth for the record. To be

adopted, a motion requires the yes vote of a majority of the quorum present, unless the vote of three Council Members is required by statute, ordinance, or resolution.

(3) No member of the Council shall be permitted to abstain from voting on a motion unless the Council Member is legally disqualified from voting due to a conflict of interest (including a disqualification under the Political Reform Act or Government Code Section 1090 et seq.) or other legal reason (such as common law conflict of interest or bias) and such disqualification is confirmed by an opinion of the City Attorney. The City Attorney's opinion that a Council Member is disqualified from voting shall be presented to the City Council at the time the matter is heard. The City Attorney's opinion may be presented orally at the meeting, but shall be confirmed in writing to the City Council and filed with the City Clerk within ten (10) business days following the Council Meeting at which the disqualification occurs.

(4) If a member is disqualified from voting, the member shall not participate in the consideration of the matter, shall not be counted for the purpose of the quorum, and shall leave the dias during the consideration of the matter; provided, however, that if the matter is being considered on the Consent Calendar and has not been removed from Consent Calendar, the Council Member may remain on the dias and disclosed the reason for disqualification. A disqualified Council Member may speak on the matter as a private citizen, but only to the extent allowed by the Section 18702.5 of the Regulations of the Fair Political Practices Commission, or its successor sections.

(5) If a Council Member abstains on a motion in violation of this rule, the abstention shall be considered concurrence in the motion and the City Clerk shall record the Council Members abstention as a "yes" vote.

(6) A tie vote means no action has been taken.

E. Procedural Rules of Order. Once the main motion is properly placed on the floor, several related motions may be employed in addressing the main motion, and if properly made and seconded, must be disposed of before the main motion can be acted upon. The following motions are appropriate and may be made by the Mayor or any Council Member at any appropriate time during the discussion of the main motion. They are listed in order of precedence. The first three subsidiary motions are not debatable; the last three are debatable.

1. **Subsidiary Motions.**

   a. **Lay on the Table.** Any Council Member may move to lay the matter under discussion on the table. This motion temporarily suspends any further discussion of the pending motion without setting a time certain to resume debate. To bring the matter back before the Council, a motion must be adopted that the matter be taken from the table. A motion to take from the table must be made at the same meeting at which it was placed on the table or at the next meeting of the Council held within five calendar days of the original meeting. Otherwise the motion that was tabled dies, although it can be raised later as a new motion. A motion to lay on the table is not debatable.

   b. **Move Previous Question**. Any Council Member may move to immediately bring the question being debated by the Council to a vote, suspending any further debate. The motion must be made and seconded without interrupting one who already has the floor. A majority vote of the quorum present is required for passage. A motion to move previous question is not debatable.

   c. **Limit or Extend Limits of Debate.** Any Council Member may vote to put limits on the length of debate. The motion must be made and seconded and requires a majority vote of the quorum present to pass. A motion to limit or extend limits of debate is not debatable.

   d. **Postpone to a Time Certain.** Any Council Member may move to postpone debate and action on a motion to a date and time certain. A motion to postpone to a time certain is debatable.

   e. **Commit or Refer.** Any Council Member may move that the matter being discussed should be referred to staff, a committee, or a commission for further study. The motion may contain directions for the staff, committee, or commission, as well as a date upon which the matter will be returned to the Council's Agenda. If no date is set for returning the item to the Council Agenda, any Council Member may move, at any time, to require that the item be returned to the Agenda. A motion to commit or refer is debatable.

   f. **Amend.** Any Council Member may amend the main motion or any amendment made to the main motion. Before the main motion may be acted upon, all amendments and amendments to the amendments must first be acted upon. An amendment must be related to the main motion or amendment to which it is directed. Any amendment that substitutes a new motion rather than amending the existing motion is out of order and may be so declared by the Mayor. A motion to amend is debatable.

2. Motions of Privilege, Order, and Convenience. The following actions by the Council are to ensure orderly conduct of meetings and are for the convenience of the Mayor and Council Members. These motions take precedence over any pending main or subsidiary motion and may be debated except as noted.

a. **Call for Orders of the Day.** Any Council Member may demand that the Agenda be followed in the order stated therein. No second is required, and the Mayor must comply unless the Council, by majority vote, sets aside the Agenda order of the day. A motion to call for orders of the day is not debatable.

b. **Request for Privilege.** Any Council Member, at any time during the meeting, may make a request of the Mayor to accommodate the personal needs of the Council for such things as reducing noise, adjusting room temperature, ventilation, etc. The validity of the request is ruled on by the Mayor.

c. **Recess.** Any Council Member may move for a recess. No second is required, and the Mayor must comply unless the Council, by majority vote, sets aside the motion.

d. **Adjourn**. Any Council Member may move to adjourn at any time, even if there is business pending. The motion must be seconded, and a majority vote is required for passage. A motion to adjourn is not debatable.

e. **Point of Order.** Any Council Member may require the Mayor to enforce the rules of the Council by raising a point of order. The point of order shall be ruled upon by the Mayor.

f. **Appeal.** Should any Council Member be dissatisfied with a ruling from the Mayor, he or she may move to appeal the ruling to the full Council. The motion to appeal requires a second, and the ruling of the Mayor may be overturned by a majority vote.

g. **Suspend the Rules.** Any Council Member may move to suspend the rules if necessary to accomplish a matter that would otherwise violate the rules. The motion requires a second, and a majority vote is required for passage.

h. **Division of Question.** Any Council Member may move to divide the subject matter of a motion which is made up of several parts so that Council Members can vote separately on each part. This motion may also be applied to complex ordinances or resolutions.

i. **Reconsider.** Except for votes regarding matters that are quasijudicial in nature or matters that require a noticed Public Hearing, the Council may reconsider any vote taken at the

same meeting, but no later than the same or next regular meeting, to correct inadvertent or precipitant errors or to consider new information not available at the time of the vote. The motion to reconsider must be made by a Council Member who voted on the prevailing side, must be seconded, and requires a majority vote of the quorum for passage, regardless of the vote required to adopt the motion being reconsidered. If the matter is to be reconsidered at the next regular meeting, a Council Member on the prevailing side must ask the City Clerk to place the matter on the Agenda or otherwise comply with the Government Code. If the matter to reconsider is successful, the matter to be reconsidered takes no special precedence over other pending matters and any special voting requirements related thereto still apply. Except pursuant to a motion to reconsider, once a matter has been determined and voted upon, the same matter cannot be brought up again at the same meeting.

j. **Rescind, Repeal, or Annul.** The Council may rescind, repeal, or annul any prior action taken with reference to any legislative matter so long as the action to rescind, repeal, or annul complies with all the rules applicable to the initial adoption, including any special voting or notice requirements or unless otherwise specified by law.

V. Public Participation in Council Meetings

A. **Audience Decorum**. Members of the audience shall not engage in disorderly or boisterous conduct, including the utterance of loud, threatening, or abusive language; clapping; whistling; stamping; or other acts that disturb, disrupt, impede, or otherwise render the orderly conduct of the City Council meeting unfeasible. A member of the audience engaging in such conduct shall, at the discretion of the Mayor or a majority of the Council Members, be subject to removal from that meeting.

B. **Request to Speak Form.** Members of the public may address the City Council during Public Comments and/or before consideration of any agenda item; however, no person shall address the Council without first being recognized by the Mayor. Any person wishing to speak, whether during Public Comments or on an agenda item, shall first complete a Public Comment or Request to Speak form and submit this form to the City Clerk before the Mayor calls for Public Comments or calls the particular agenda item.

C. **Purpose.** The purpose of addressing the City Council is to communicate formally with the Council regarding matters that relate to Council business or citizen concerns within the subject matter jurisdiction of the City Council. Persons addressing the City Council on an agenda item shall confine their remarks to the matter under consideration by the Council.

D. Speaker Decorum. Each person addressing the City Council shall do so in an orderly manner and shall not engage in conduct that disrupts, disturbs, or otherwise impedes the orderly conduct of the Council meeting. Any person who so disrupts the meeting shall, at the discretion of the Mayor or a majority of the Council Members, be subject to removal from that meeting.

E. Time Limit. In the interest of fairness to other persons wishing to speak and to other individuals or groups having business before the City Council, each speaker shall limit comments to three minutes. If a large number of people wish to speak, this time may be shortened by the Mayor so that the number of persons wishing to speak may be accommodated within the time available.

F. Public Comment Placement on Agenda and Overall Time Limit. Public Comment will be heard at the beginning of the meeting for thirty minutes. Any remaining speakers will be heard at the end of the meeting.

G. Speak Only Once. Second opportunities for the public to speak on the same issue will not be permitted unless mandated by state or local law.

H. Addressing the Council. Comment and testimony are to be directed to the Mayor. Dialogue between and inquiries from citizens at the lectern and individual Council Members, members of staff, or the seated audience is not permitted. Council Members seeking to clarify testimony or gain additional information should direct their questions through the Mayor.

I. Yielding of Time. It is understood that a person making a request to speak does so on his own behalf. For this reason and to guarantee all persons an ample opportunity to be heard, all speakers will be recognized for the same amount of time. No speaker will be allowed to yield part or all of his time to another, and no speaker will be credited with time requested but not used by another.

J. Public Comments

1. Non-Agenda Items. The Agenda shall provide for public comment about matters that are within the jurisdiction of the City but are not specifically listed on the Agenda. The Public Comments period shall be for a maximum of thirty minutes. A member of the public who wishes to speak under Public Comments must fill out a Public Comment Request to Speak form and submit it to the City Clerk before the Mayor calls for Public Comments. Persons may speak under Public Comments for a maximum of three minutes and shall not be allowed to defer any portion of their time to any other person.

State law prohibits the City Council from taking action on any item not listed on the Agenda unless the Council makes a determination that an emergency exists or that the need to take

immediate action on the item arose subsequent to the final posting of the Agenda. Council Members or staff members may provide brief response to comments when recognized by the Mayor for the purpose of doing so.

2. **Agenda Items.** Public comment will be accepted on Agenda items. A member of the public who wishes to speak on an Agenda item, including items on the Consent Calendar, must fill out a Request to Speak form and submit it to the City Clerk before the Mayor calls the Agenda item. Persons may speak about an Agenda item for a maximum of three minutes and will not be allowed to defer any portion of their time to any other person.

3. **Public Hearing Agenda Items.** At Public Hearings the property owner or the applicant has the burden of proof and, therefore, shall be allowed thirty minutes for an initial presentation and an additional ten minutes for rebuttal following the other comments on the matter. The Mayor may allow more time if required to provide due process for the property owner or applicant. An appellant, other than the property owner or applicant, and the spokesperson for an organized group of residents residing within the noticed area of the property which is the subject of the Public Hearing, may have up to ten minutes to speak and shall not be allowed to defer any portion of their time to other speakers. All other members of the public may speak during the Public Hearing for a maximum of three minutes and shall not be allowed to defer any portion of their time to other speakers. In the event the time required for members of the public to speak would exceed ninety minutes, the Mayor may reduce the maximum time limit for members of the public to speak.

K. Violation of the Rules of Decorum. Upon violation of the rules of decorum established in Items A or D above, the procedure to enforce the rules shall be as follows:

1. **Warning.** The Mayor shall first request that a person who is violating the rules cease such conduct. If, after receiving a request from the Mayor, the person persists in violating the rules, the Mayor shall order a recess. Any representative of law enforcement who is present at the meeting when the violation occurs shall be authorized to warn the person that his or her conduct is violating the rules and that he or she is requested to cease such conduct. If upon resumption of the meeting the violation persists, the Mayor shall order another recess, whereupon the Mayor shall have the authority to asked the law enforcement personnel to remove the person from the meeting and/or to cite the person as being in violation of Penal Code Section 403.

2. **Motion to Enforce.** If the Mayor fails to enforce the rules of decorum set forth herein, any Council Member may move to require the Mayor to do so, and an affirmative vote of a majority of the Council shall require the Mayor to do so. If the Mayor fails to carry out the

will of the majority of the Council in this matter, the majority may designate another Council Member to act as Mayor for the limited purpose of enforcing the rules of decorum established herein.

3. **Clearing the Room.** Pursuant to Government Code Section 54957.9, in the event that any meeting is willfully interrupted by a person or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of the individuals who are willfully interrupting the meeting, by a majority vote of the City Council, the meeting room may be ordered cleared and the meeting shall continue in session. Only matters appearing on the agenda may be considered in such a session. Representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to Government Code Section 54957.9.

4. **Violation of the California Penal Code.** A person or persons who substantially impair(s) the conduct of a City Council meeting by knowingly and intentionally violating these rules of decorum may be prosecuted under Penal Code Section 403 for disturbing a public meeting. Every person who violates Penal Code Section 403 is guilty of a misdemeanor.

VI. Public Hearings

A. Process and Procedures

The City Council conducts Public Hearings on applications, projects, and other matters as required to provide due process of law. The following information outlines the process under which Public Hearings will be conducted.

1. Staff will review the application/project/matter, will prepare a staff report, and may make a recommendation or propose alternatives to the City Council prior to the Public Hearing.

2. A notice of the Public Hearing will be posted, published, and mailed as required by law.

3. The members of the City Council will receive the staff report for the application/project/matter in the Agenda packet prior to the meeting. This provides the Council with an opportunity to study the staff report, which will become part of the hearing record, and to become familiar with the project prior to the Public Hearing.

4. When the Public Hearing is called, staff will summarize the application/project/matter as contained in the staff report or request a continuance to a future meeting. The City Council may ask questions for clarification.

5. Once the Public Hearing is opened, the applicant/property owner is entitled to present the application/project/matter in person or through a representative.

6. Following this presentation, all other proponents/supporters of the application/project/matter are provided the opportunity to speak.

7. After the proponents finish, the Mayor will ask any opponents or other concerned citizens to speak.

8. Once all opponents or concerned citizens have spoken, the applicant/property owner will be provided an opportunity to rebut any testimony or evidence provided by opponents or by staff. The rebuttal shall be limited to answering or refuting testimony of opponents or staff.

9. Following each presentation, members of the City Council may question the speakers.

10. Following rebuttal, the item is then before the City Council for discussion and clarification.

11. When all parties have been heard and there are no additional requests to speak, the Mayor may close the Public Hearing and/or any member of the Council may make a motion to

    a. Continue the Public Hearing to a date certain to allow for further study/discussion; or

    b. close the Public Hearing and do one of the following

        (1) approve the application/project/matter as submitted,

        (2) conditionally approve the application/project/matter with certain revisions,

        (3) deny the application/project/matter, or

        (4) deny the application/project/matter without prejudice (this action will allow applicant to refile without waiting a specified time period and will permit the waiver of the required fees).

12. The applicant may withdraw the application/project/matter at any time before a vote is taken by the City Council.

B. Mayor's Guidelines for the Conduct of Public Hearings

1. The Mayor states "This is the time for the Public Hearing on Agenda item #___" (describe generally from Agenda).

2. The Mayor opens the Public Hearing by calling on the City Manager for the Staff Report. The City Manager will then call on the appropriate staff member to give the report. Council Members may ask clarifying questions of staff.

3. The Mayor calls on

   a. applicant/property owner and asks him to state his name and address for the record,

   b. others in favor of the matter and asks them to state their name and address for the record,

   c. those in opposition to the matter or concerned about the application/project/matter and asks them to state their name and address for the record,

   d. the applicant/proponent for rebuttal,

   e. staff for any closing clarification.

   Following each presentation, the Council may question the speakers.

4. The Mayor declares that the Public Hearing is closed and states: "The issue is now before the City Council for discussion."

5. The Mayor calls upon individual Council Members who request recognition to speak.

6. Following discussion, the Mayor or any Council Member may make a motion to

   a. Continue the Public Hearing to a date certain to allow for further discussion or study; or

   b. close the Public Hearing and do one of the following:

      (1) approve the application/project/matter as submitted;

      (2) conditionally approve the application/project/matter with certain revisions;

(3) deny the application/project/matter; or

(4) deny the application/project/matter without prejudice (this action will allow applicant to refill without waiting a specified time period and without repaying all of the required fees).

7. The Council votes on the motion.

VII. Council Powers

A. Role of the Mayor

1. The Mayor is responsible for conducting the meeting and should not actively participate in discussion. The Mayor should reserve comment until all of the Council Members have spoken.
2. All comment should be directed to the Mayor. Cross talk between Council Members should be ruled out of order by the Mayor.

B. Council Seating Order. The Council seating order shall be at the discretion of the Mayor.

C. Selection of City Council Officers. At the last regular City Council Meeting in December of each year, the City Council shall select from among its members a Mayor and Mayor Pro Tempore to serve for the following year. The Mayor and Mayor Pro Tempore shall take office on January 1 of each year. The term of office for the Mayor and the Mayor Pro Tempore shall be a calendar year from January 1 through December 31.

VIII. Council Authority

The Council shall have the authority to waive provisions of the procedures established by this policy unless the procedure is required. Failure of the Council to follow these procedures shall not invalidate or otherwise affect any action of the Council.

IX. History

November 28, 1988 Adopted Resolution No. 88-86 Regulating the Conduct of City Council Meetings.

March 12, 1990 Adopted Resolution No. 90-23 Regulating the Conduct of City Council Meetings (added the Role of the Mayor)

October 22, 1990 Adopted Resolution No. 90-94 (incorporating Resolution No. 90-23 as Council Policy 0400-3)

April 5, 1999 Adopted Resolution No. 99-XX Revising Council Policy 0400-3 to

(1) incorporate April 25, 1988, minute action regarding proclamation (presentation) requests to be forwarded to the Mayor for review and handling

(2) incorporate May 23, 1988, minute action regarding delivery of the Agenda packet to members of the City Council

(3) incorporate Resolution 88-45 Establishing a Deadline for Filing of Items to be presented at Regular City Council Meetings and Setting the Posting Time of the Agenda, adopted June 13, 1988

(4) incorporate Public Hearing Guidelines, adopted June 27, 1988

(5) incorporate Resolution 88-102 Regarding the selection of City Council Officers (Mayor and Mayor Pro Tempore), adopted December 12, 1988

(6) incorporate April 24, 1989, minute action requiring an Agenda item proposed by a Council Member to be accompanied by a brief explanation

(7) incorporate September 25, 1989, minute action requiring members of the City Council to notify staff of City Council Meeting absences by the use of the Meeting Absence form

(8) incorporate October 23, 1989, minute action regarding the City Council Meeting curfew extension

(9) incorporate November 26, 1990, minute action placing the approval of City Council Minutes on the Consent Calendar

(10) incorporate June 10, 1991, minute action setting Public Comment thirty-minute time limit at the beginning of the meeting

(11) incorporate Resolution 97-158 Designating Posting Locations, adopted November 3, 1997

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