

ACTION CALENDAR
October 9, 2007

To: Members of the City Council

From: Councilmember Dona Spring

Subject: Revised Amendments to the Berkeley City Council Rules of Procedure and Order Chapter IV - Conduct of Meeting, Section A. - Public Comment and amend Sections E., F. and G. on Public Hearings

RECOMMENDATION:

- 1) Request the City Council accept these revised amendments to the Berkeley City Council Rules of Procedure and Order (last amended May 8, 2007) Chapter IV – Conduct of Meeting, Sections A and E. Specifically, replace Section A - Comments from the Public with: a) Public Comment on Consent Calendar and Information Items; b) Public Comment on Action items; c) Appeals appearing on Action Calendar; and d) Public Comment on Non-Agenda Items; and amend Section E, on Public Hearings.
- 2) After listening to the public feedback and discussion at the September 11th Council and receiving Mayor Bates revised amendments, I am recommending the following amendments which are underlined.

BACKGROUND:

1) Public Comment Amendments

Over the seven months the Berkeley City Council, through both the Agenda Committee and Council meetings, has been working to improve the procedures for public comment during Council meetings.

These procedures also balance the need for the Council to hear from the public, for the public to present their views and opinions, and for the Council to move through its agenda in a timely fashion.

I am submitting amendments that incorporate all public as well as Councilmember Worthington and the Mayor Bates recommendations. The public has a right to understand the rules of public comment before the meeting in as clear and simple matter as possible. This allows them to plan and organize their own as well as fellow activists comments as cogently as possible. If the rules are too discretionary and constantly able to change from item to item then members of the public are at a disadvantage because they have no way of predicting who is going to be able to speak and for how long. They are unable to cogently plan how and who should deliver their message at public meetings. My amendments attempt to balance the public's need for certainty as well as clear and simple rules regarding public comment with the councils meet to act in a timely fashion. I have incorporated my few proposed amendments into Mayor Bates revised recommendations. My amendments are underlined.

PROPOSED AMENDMENT TO REPLACE SECTION A. COMMENTS FROM THE PUBLIC WITH:

a) Public Comment on Consent Calendar and Information Items and Items not on the Agenda.

The Council will first determine whether to *move* items on the agenda to the "Consent Calendar" or remove "Consent Calendar" *items to the "Action Calendar"*. Items that remain on the "Consent Calendar" are voted on in one motion as a group. "Information Items" are not discussed or acted upon at the Council meeting unless they are moved to "Action" or "Consent".

The Council will first take public comment on items that are not on the agenda.

The Council will ~~first~~ then take public comment on any items that are either on the amended Consent Calendar or the Information Calendar.

Five speakers will be allowed to speak on Items not on the agenda for two minutes each. The 5 speakers will be selected by lottery.

Six speakers will be allowed to speak on consent Calendar or information Calendar agenda items for two minutes each. The 6 speakers will be selected by lottery.

The printed agenda which describes the rules for public comment will recommend that speakers can demonstrate support for their position by asking members of the audience who are in support to stand up.

~~Up to three speakers will be entitled to two minutes each to speak in support of a Consent Calendar Item. The Presiding Officer will ask additional supporters in the audience to stand to demonstrate their support of the item. Up to three speakers will be entitled to two minutes each to speak in opposition of a Consent Calendar Item.~~

~~**In the case of more than three people wishing to speak either in support of or opposition to a consent item, the Presiding Officer will move the item to the end of the Action Calendar. However, the Presiding Officer retains the authority to place such items earlier on the Action Calendar if time permits.**~~

When the item is heard on the Action Calendar, public comment will be limited to new speakers. After hearing from public speakers, any Council Member may move any Information or Consent item to "Action", **however no additional items can be moved onto the Consent Calendar at that point.** Following this, the Council will vote on the items remaining on the Consent Calendar as a group.

b) Public Comment on Action Items.

The public may comment on each remaining Action item on the Council Agenda as it is taken up, unless that speaker has already addressed that item during a prior period of public comment at that meeting.

*The Presiding Officer will request that public members wishing to speak line up at the podium (members of the public who are disabled they be able to just stand by their seats if they so choose) to determine the number of citizens interested in speaking at that time. Up to ten (10) speakers may speak for two minutes. If there are more than **ten** persons interested in speaking, ~~the Presiding Officer may limit the public comment for~~ then ~~all speakers~~ **to one minute per speaker is allowed. Speakers are permitted to yield** their time to one other speaker, **however** no one speaker **shall** have more than four minutes. The Presiding Officer may with the consent of persons representing both sides of an issue allocate a block of time to each side to present their issue.*

c) . Appeals Appearing on Action Calendar

Appeals from decisions of the Zoning Adjustment Board, Landmarks Preservation Commission, Planning Commission and other City commissions appear on the “Action” section of the Council Agenda. Council determines whether to affirm the action of the commission, set a public hearing, or remand to the matter to the commission. Public comments shall be for persons representing both sides of *the action*/appeal and each side will be allocated five minutes to present their comments.

~~1. The Presiding Officer retains the **authority to allow**~~
10 additional speakers will be selected by the city clerk from the drum and will have one minute each to address the Council. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes.

d) Public Comment on Non Agenda Matters.

Speakers wishing to address the Council on items not on the Council agenda must submit a name card for the lottery if they want to be considered for the first round of public comment on non-agenda matters. Names must be submitted to the City Clerk in person and prior to commencement of the meeting. Immediately following Ceremonial Matters and the City Manager Comments and prior to the Consent Calendar, five members of

the public, selected by lottery, will have two minutes each to address matters not on the Council agenda. The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda. Name cards are not required for this second round of public comment on non-agenda matters. The Presiding Officer retains the authority to limit the number of speakers by subject. The Presiding Officer will generally request that public members wishing to speak, line up at the podium to be recognized and to determine the number of citizens interested in speaking at that time. Each speaker will be entitled to speak for two minutes each unless the Presiding Officer determines that one-minute is appropriate given the number of speakers.

According to the current Rules and Procedures, no Council meeting shall continue past 11:00 p.m. unless a two-thirds majority of the Council votes to extend the meeting to discuss specified items. If by 11:00 p.m. an extension is not approved, any unfinished agenda business will be moved to the next Council meeting and fifteen (15) minutes will be automatically allocated for public comment on non-agenda items.

The Brown Act prohibits the Council from discussing or taking action on an issue raised during Public Comment, unless it is specifically listed on the agenda. However, the Council may refer a matter to the City Manager.

PROPOSED AMENDMENTS TO SECTION E, F AND G. - ADD PUBLIC HEARING FOR LAND USE AND ZONING MATTERS, ADD WORKSESSIONS AND AMEND PUBLIC DISCUSSIONS.

Section E – Add public hearing for Land Use and Zoning Matters

The City Council, in setting the time and place for a public hearing, may limit the amount of time to be devoted to presentations of the public. The Council Staff shall introduce the Public Hearing and present their comments followed by five-minute presentations by the Appellant followed by five minutes for the Applicant. *The Presiding Officer will request that public members wishing to speak, line up at the podium to be*

recognized and to determine the number of citizens interested in speaking at that time. Up to ten (10) speakers may speak for two minutes. If there are more than 10 speakers requesting to speak, then time per speaker will be one minute.

~~*If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may with the consent of persons representing both sides of an issue allocate a block of time to each side to present their issue.*~~

Amend Section F to add new section F- Worksessions

The City Council may schedule a matter for general Council discussion and direction to staff. Official/formal action on a worksession item will be scheduled on a subsequent agenda under the Council Action Calendar.

In general, public comment at Council worksessions will be heard after the staff presentation, for a limited amount of time to be determined by the Presiding Officer.

The Presiding Officer will request that public members wishing to speak, line up at the podium to be recognized and to determine the number of citizens interested in speaking at that time. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes.

After Council discussion, if time permits, the Presiding Officer may allow additional public comment. During this time, each speaker will receive one minute and people who spoke during the prior public comment time may be permitted to speak again.

Amend Section G and F:

Old Section F becomes New Section G – Section F - Public Discussions (Adopted April 12, 2005) becomes Section G – following the proposed new Section F – Worksessions. Delete old Section G - Time Limitations for Public Testimony at Public Hearings and Public Discussions due to duplication on public comment process identified in Section A of Public Comments.

FISCAL IMPACTS OF RECOMMENDATION

None at this time.

CONTACT PERSON

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