



Office of the City Manager

CONSENT CALENDAR  
November 6, 2007

To: Honorable Mayor and Members of the City Council

From: *PK* Phil Kamlarz, City Manager

Submitted by: Pamyla Means, City Clerk

Subject: Amend Council Rules of Procedure, Article IV Conduct of Meetings,  
Regarding Comments from the Public

RECOMMENDATION:

Adopt a Resolution amending Resolution No. 62,857-N.S., Council Rules of Procedure, Chapter IV Conduct of Meetings, regarding Comments from the Public, Public Hearings and Work Sessions.

FINANCIAL IMPLICATIONS:

None anticipated.

BACKGROUND:

In response to citizen requests, the City Council has on a trial basis implemented changes to the process by which public comments are entertained at Council meetings. The public comment process has been informally amended twice in 2007, once in January and again in June.

After analyzing the informal changes, Mayor Bates along with Councilmembers Worthington and Spring proposed changes for Council's approval. Subsequent to Council discussions, on October 9, 2007 Council approved amendments to the public comment, public hearing and work session process as summarized below (and as fully set forth in the attached Resolution).

Council Rules of Procedure  
IV Conduct of Meeting

**A. Comments from the Public**

- 1) Public Comment on Consent Calendar and Information Items  
The Council will take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. Up to three speakers will be entitled to two minutes each to speak in support of or opposition to a Consent Calendar item.

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In the event that there are more than three persons wishing to speak either in support of or opposition to a consent item, the Presiding Officer will move the item to the beginning of the Action Calendar. Prior to moving the item, the Presiding Officer shall inform those present of the process.

2) Public Comment on Action Items.

Up to ten 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.

3) Appeals Appearing on Action calendar

Public Comment time shall be provided for persons representing both sides of the action/appeal and each side will be allocated seven minutes to present their comments on the appeal.

4) Public Comment on Non Agenda Matters

Immediately following Ceremonial Matters and the City Manager Comments, and prior to the Consent Calendar, five persons, selected by lottery, will have two minutes each to address matters not on the Council agenda.

## **E Public Hearings for Land Use and Zoning Matters**

Section E (Public Hearings for Land Use and Zoning Matters) has been amended to delete the requirement to submit speaker cards to the City Clerk. It also sets forth the process for the conduct of public hearings as follows: (1) staff introduction of the item; (2) five-minute presentations each by the appellant and applicant; and (3) for all other speakers, up to two minutes if there are ten speakers or less, and the option of limiting speaker time to one minute if there are ten speakers or more. In addition, speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes.

## **F Work Sessions**

Section F (Work Sessions) has been added to define Council work sessions as an opportunity for general Council discussion and direction to staff. Official/formal action on a work session item will be scheduled on a subsequent agenda under the Action portion of the Council agenda. Public comment at Council work sessions will be heard after the staff presentation, for a limited amount of time to be determined by the Presiding Officer.

### Contact Person:

Pamyla Means, MMC, City Clerk, 981-6900

### Attachments:

1. Resolution proposing amendments
2. Resolution 62,857-N.S. (Council Rules of Procedure)

## RESOLUTION NO.–N.S.

AMENDING RESOLUTION 62,857-N.S. COUNCIL RULES OF PROCEDURE, ARTICLE IV CONDUCT OF MEETING PERTAINING TO COMMENTS FROM THE PUBLIC

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that Resolution 62,857-N.S. Council Rules of Procedure, Article IV Conduct of Meeting pertaining to comments from the public is amended as follows:

### **COUNCIL RULES OF PROCEDURE IV CONDUCT OF MEETING**

- A. Comments from the Public
- B. Consent Calendar
- C. Information Reports Called Up for Discussion
- D. D. Communications
- E. Public Hearings for Land Use and Zoning Matters
- F. Work Sessions
- G. Public Discussions
- H. Protocol

#### **A Comments from the Public**

Public comment will be taken in the following order:

- An initial ten-minute period of public comment on non-agenda items, as described in Section 4, after the commencement of the meeting and immediately after Ceremonial Matters.
- Public comment on the Consent and Information Calendars as described in Section 1
- Public comment on action items, appeals and or public hearings as they are taken up under procedures set forth in the sections governing each below.
- Public comment on non-agenda items from any speakers who did not speak during the first round of non-agenda public comment at the beginning of the meeting.

##### **1) Public Comment on Consent Calendar and Information Items**

The Council will first determine whether to move items on the agenda for action or “Information” to the “Consent Calendar”, or move “Consent Calendar” items to action. 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 then take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. Up to three speakers will be entitled to two minutes each to speak in support of or opposition to a Consent Calendar Item. The Presiding Officer will ask additional persons in the audience to stand to demonstrate their respective support or opposition of the item.

In the event that there are more than three persons wishing to speak either in support of or opposition to a "Consent" item, the Presiding Officer will move the item to the beginning of the Action Calendar. Prior to moving the item, the Presiding Officer will fully inform those persons in the audience of this process.

After hearing from public speakers regarding items remaining on the Consent Calendar, 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 in one motion.

For items removed from the Consent Calendar to the Action Calendar for additional public comment, at the time the matter is taken up during the Action Calendar, public comment will be limited to persons who have not previously addressed that item during the Consent Calendar related public comment period. .

## **2. Public Comment on Action Items**

After the initial ten minutes of public comment on non-agenda items and public comment and action on consent items, the public may comment on each remaining item listed on the agenda for action as the item is taken up. Where an item was moved from the Consent Calendar to Action no speaker who has already spoken on that item would be entitled to speak to that item again.

The Presiding Officer will request that persons wishing to speak line up at the podium to determine the number of persons 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. . 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.

## **3. 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 the matter to the commission.

Time shall be provided for public comment for persons representing both sides of the action/appeal and each side will be allocated seven minutes to present their comments on the appeal. Where the appellant is not the applicant, the appellants collectively shall have seven minutes to comment and the applicant shall have seven minutes to comment. Where the appellant is the applicant, the applicant/appellant shall have seven minutes to comment and the persons supporting the action of the board or commission on appeal shall have seven minutes to comment. Each side shall be informed of this public comment procedure at the time the Clerk notifies the parties of the date the appeal will appear on the Council agenda.

#### **4. Public Comment on Non Agenda Matters**

Immediately following Ceremonial Matters and the City Manager Comments and prior to the Consent Calendar, five persons selected by lottery, will have two minutes each to address matters not on the Council agenda. Persons wishing to address the Council on matters not on the Council agenda during the initial ten-minute period for such comment, must submit a name card to the City Clerk in person at the meeting location and prior to commencement of that meeting. Five cards will be drawn by the City Clerk to determine the speakers who will be allowed to comment during the first round of public comment on non-agenda matters.

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.

For the 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 persons wishing to speak, line up at the podium to be recognized to determine the number of persons 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.

#### **5. Ralph M. Brown Act Pertaining to Public Comments.**

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.

### **Section 2:**

## **E Public Hearings 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 public presentations. Staff shall introduce the public hearing item and present their comments. This is followed by five-minute presentations each by the appellant and applicant. The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons 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. 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.

### **Section 3:**

Section F (Public Discussions) is retiled to Section G (Public Discussions). No changes to “Public Discussions” are proposed.

### **Section 4:**

New Section F added as follows:

## **F Work Sessions**

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

In general, public comment at Council work sessions 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 persons wishing to speak, line up at the podium to be recognized and to determine the number of persons 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. Persons who spoke during the prior public comment time may be permitted to speak again.

### **Section 5:**

Section F (Public Discussions) is retiled to Section G. No changes are proposed.

### **Section 6:**

Section G (Time Limitations for Public Testimony at Public Hearings and Public Discussions) is deleted as this matter is now covered in Section A of Public Comments.

BE IT FURTHER RESOLVED that 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 Council or its presiding officer shall be punishable as misdemeanors under applicable law.

RESOLUTION NO. 62,857-N.S.

READOPTING COUNCIL RULES OF PROCEDURE TO CONFORM TO COUNCIL RESOLUTION 62,571-N.S. ON QUASI-JUDICIAL PROCEDURES AND RESCINDING RESOLUTION NO. 62,420-N.S.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the following rules of the City Council shall govern all proceedings of the City Council therein described, subject to the exception and deviations provided for in such rules.

BE IT FURTHER RESOLVED that 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 Council or its presiding officer shall be punishable as misdemeanors under applicable law.

**I. DUTIES**

A. DUTIES OF MAYOR

The Mayor shall preside at the meetings of the Council and shall preserve strict order and decorum at all regular and special meetings of the Council. The Mayor shall state every question coming before the Council, announce the decision of the Council on all subjects, and decide all questions of order, subject, however, to an appeal to the Council, in which event a majority vote of the Council shall govern and conclusively determine such question of order.

B. DUTIES OF COUNCILMEMBERS

Promptly at the hour set by law on the date of each regular meeting, the members of the Council shall take their regular stations in the Council Chambers and the business of the Council shall be taken up for consideration and disposition.

C. MOTIONS TO BE STATED BY CHAIR

When a motion is made, it may be stated by the Chair or the City Clerk before debate.

D. DECORUM BY COUNCILMEMBERS

While the Council is in session, the members must preserve order and decorum, and a member shall not, by conversation or otherwise, delay or interrupt the proceedings or the peace of the Council nor disturb any member while speaking, nor refuse to obey the orders of the Council, or the presiding officer, except as otherwise herein provided.

E. VOTING DISQUALIFICATION

No member of the Council who is disqualified shall vote upon the matter on which he is disqualified. Any member shall openly state or have the presiding officer announce the fact and

nature of such disqualification in open meeting, and shall not be subject to further inquiry. Where no clearly disqualifying conflict of interest appears, the matter of disqualification may, at the request of the member affected, be decided by the other members of the Council, by motion, and such decision shall determine such member's right and obligation to vote. A member who is disqualified by conflict of interest in any matter shall not remain in the Chamber during the debate and vote on such matter, but shall request and be given the presiding officer's permission to absent himself. Any member having a "remote interest" in any matter as provided in Government Code shall divulge the same before voting.

F. REQUESTS FOR TECHNICAL ASSISTANCE AND/OR REPORTS

A majority vote of the Council shall be required to direct staff to provide technical assistance, develop a report, initiate staff research, or respond to requests for information or service generated by an individual council member.

## II. MEETINGS

A. CALL TO ORDER - PRESIDING OFFICER

The Mayor, or in the Mayor's absence, the Vice Mayor, shall take the chair precisely at the hour appointed by the meeting and shall immediately call the Council to order. Upon the arrival of the Mayor, the Vice Mayor shall immediately relinquish the chair at the conclusion of the business presently before the Council. In the absence of the two officers specified in this section, the council member present with the longest period of Council service shall preside.

B. ROLL CALL

Before the Council shall proceed with the business of the Council, the City Clerk shall call the roll of the members and the names of those present shall be entered in the minutes. The later arrival of any absentee shall also be entered in the minutes.

C. QUORUM CALL

During the course of the meeting, should the Chair note a Council quorum is lacking, the Chair shall call this fact to the attention of the City Clerk. The City Clerk shall issue a quorum call. If a quorum has not been restored within two minutes of a quorum call, the meeting shall be deemed automatically adjourned.

D. COUNCIL MEETING SCHEDULE

Regular meetings of the City Council shall be held generally three Tuesdays of each month; the schedule to be established annually by Council resolution taking into consideration holidays and election dates.

The Council meetings shall commence at 7:00 p.m., except when a Redevelopment Agency or Housing Authority meeting is scheduled, in which case the Council meeting shall

commence at the conclusion of the Redevelopment Agency meeting or Housing Authority meeting, as the case may be.

The agenda for the regular business meetings shall include the following: Ceremonial; Comments from the City Manager; Comments from the Public; Youth Forum (on the first regular business meeting of each month only); Consent Calendar; Action Calendar (Appeals, Public Hearings, Old Business, New Business); Time Critical Items Not Considered By The Agenda Committee; Information Reports; and Communication from the Public. Presentations and workshops may be included as part of the Action Calendar. Any item removed from the Consent Calendar will automatically be moved to the end of the agenda to be considered after completion of the Action Calendar.

Upon request by any council member, any item may be moved from the Consent Calendar or Information Calendar to the Action Calendar. Unless there is an objection by any council member, a council member may also move an item from the Action Calendar to the Consent Calendar. Any item not considered or withdrawn from the agenda will automatically be carried over as Old Business to the next regular business meeting unless another date is set by the Council.

A public hearing that is not expected to be lengthy may be placed on the agenda for a regular business meeting. When a public hearing is expected to be contentious and lengthy and/or the Council's regular meeting schedule is heavily booked, the Agenda Committee, in conjunction with the staff, will schedule a special meeting exclusively for the public hearing. No other matters shall be placed on the agenda for the special meeting. All public comment will be considered as part of the public hearing and no separate time will be set aside for public comment not related to the public hearing at this meeting.

#### E. ADJOURNMENT

1. 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; and any motion to extend the meeting beyond 11:00 p.m. shall include a list of specific agenda items to be covered and shall specify in which order these items shall be handled.

If a Council meeting is continued past 11:00 p.m., it shall end at midnight.

2. Any items not completed at a regularly scheduled Council meeting shall be continued to the next regular business meeting, or by a two-thirds majority vote of the Council to an adjourned regular meeting.

#### F. CITY COUNCIL RECESS PERIODS

A recess period is defined as a period of time longer than 13 days without a regular or special meeting of the Council.

During any recess period, the City Manager is authorized to take such ministerial actions for matters of operational urgency as would normally be taken by the City Council during the period of recess except for those duties specifically reserved to the Council by the Charter, and including such emergency actions as are necessary for the immediate preservation of the public peace, health or safety; the authority to extend throughout the period of time established by the City Council for the period of recess.

The City Manager shall make a full and complete report to the City Council at its first regularly scheduled meeting following the period of recess of actions taken by the City Manager pursuant to this section, at which time the City Council may make such findings as may be required and confirm said actions of the City Manager.

**G. PLEDGE OF ALLEGIANCE TO THE FLAG**

At the first meeting of each year following the August recess and at any subsequent meeting if specifically requested before the meeting by any member of the Council in order to commemorate an occasion of national significance, the first item on the program will be the Pledge of Allegiance.

**III. AGENDA**

**A. DECLARATION OF POLICY**

No ordinance, resolution, or item of business shall be introduced, discussed or acted upon before the Council at its meeting without prior thereto its having been published on the agenda of the meeting and posted in accordance with Section IID2. Exceptions to this rule are limited to circumstances listed in IID4(b) and items carried over.

**B. DEFINITIONS**

For purposes of this section, the terms listed herein shall be defined as follows:

1. "Agenda Item" means an item placed on the agenda (on either the Consent Calendar or as a Report For Action) for a vote of the Council by any council member, the City Manager, the Auditor, or any board/commission/committee created by the City Council, or any Report For Information which may be acted upon if a Councilmember so requests. For purposes of this section, appeals shall be considered action items. All information from the City Manager concerning any item to be acted upon by the Council shall be submitted as a report on the agenda and not as an off-agenda memorandum and shall be available for public review, except to the extent such report is privileged and thus confidential such as an attorney client communication concerning a litigation matter.

2. Agenda items shall contain all relevant documentation, including the following as applicable:

- a) A descriptive title that adequately informs the public of the subject matter and general nature of the item or report and action requested;
- b) Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information;
- c) Recommendation of the City Manager, if applicable;<sup>1</sup>
- d) Fiscal impacts of the recommendation;
- e) A description of the current situation and its effects;
- f) Background information as needed;
- g) Rationale for recommendation;
- h) Alternative actions considered;
- i) For awards of contracts; the abstract of bids and the Affirmative Action Program of the low bidder in those cases where such is required;<sup>1</sup>
- j) Person or persons to contact for further information, with telephone number.
- k) If the author of any report believes additional background information, beyond the basic report, is necessary to Council understanding of the subject, a separate compilation of such background information may be developed and copies will be available for Council and for public review in the City Clerk Department, and the City Clerk shall provide limited distribution of such background information depending upon quantity of pages to be duplicated. In such case the agenda item distributed with the packet shall so indicate.

3. "Agenda" means the compilation of the descriptive titles of agenda items submitted to the City Clerk, arranged in the sequence established in Section III.D hereof.

4. "Packet" means the agenda plus all its corresponding duplicated agenda items.

5. "Emergency Matter" arises when prompt action is necessary due to the disruption or threatened disruption of public facilities and a majority of the Council determines that:

- a) a work stoppage or other activity which severely impairs public health, safety, or both;

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<sup>1</sup> These provisions shall not apply to Mayor and Council items.

- b) a crippling disaster which severely impairs public health, safety or both.

Notice of the Council's proposed consideration of any such emergency matter shall be given in the manner required by law for such an emergency pursuant to Government Code section 54956.5.

6. "Old Business" Items carried over from a prior agenda of a meeting as uncompleted items.

### C. PROCEDURE FOR BRINGING MATTERS BEFORE CITY COUNCIL

#### 1. Persons Who Can Place Matters On The Agenda

Matters may be placed on the agenda by any council member, the City Manager, the Auditor, or any board/commission/committee created by the City Council. All items, other than board and commission items shall be subject to review by an Agenda Committee, which shall be a standing committee of the City Council. The Agenda Committee shall consist of the Mayor and two council members, nominated by the Mayor and approved by the Council. A third council member, nominated by the Mayor and approved by the Council, will serve as an alternate on the Committee in the event that an Agenda Committee member cannot attend a meeting. The Agenda Committee shall have the powers set forth below.

#### a) Items Authored by a Council Member or the Auditor.

As to items authored by a council member or the Auditor, the Agenda Committee shall review the report for the item and may recommend that the matter be referred back to the author, to a commission, or to the City Manager for adherence to required form, additional analysis as required in Section B (2), or suggest other appropriate action including scheduling the matter for a later meeting to allow for appropriate revisions.

The author of a "referred" item must inform the City Clerk within 24 hours of the adjournment of the Agenda Committee whether they prefer to: 1) hold the item for a future meeting pending modifications as suggested by the Committee; 2) have the item appear on the next available Council agenda as originally submitted; 3) pull the item completely; or 4) re-submit the item with revisions as requested by the Agenda Committee for the following week's Council agenda.

In the event that the Clerk does not receive guidance from the author of the item within 24 hours of the Agenda Committee's adjournment, the recommendation of the Agenda Committee will take effect.

Items held for a future meeting to allow for modifications will be placed on the next available Council meeting agenda when the revised version is submitted to the Clerk. If changes made to the item extend beyond the scope of the Agenda Committee referral recommendations, the item must be re-submitted as a new Council item. All items placed on the Council agenda against the referral recommendation of the Agenda Committee or revised items that have not been resubmitted to the Agenda Committee will automatically be placed on the Action Calendar.

b) Items Authored by the City Manager.

Agenda descriptions of items authored by the City Manager shall be reviewed by the Agenda Committee. The Committee can recommend that the matter be referred to a commission or back to the City Manager for adherence to required form, additional analysis as required in Section B(2), or suggest other appropriate action including scheduling the matter for a later meeting to allow for appropriate revisions.

If the City Manager determines that the matter should proceed notwithstanding the Agenda Committee's action, it will be placed on the agenda as directed by the Manager. All City Manager items placed on the Council agenda against the referral recommendation of the Agenda Committee or revised items that have not been resubmitted to the Agenda Committee will automatically be placed on the Action Calendar.

c) Items Authored by Boards and Commissions.

Items submitted by boards and commissions are subject to City Manager review and must follow procedures and timelines for submittal of reports as described in the Commissioners' Manual. While these items are not subject to review by the Agenda Committee, the Agenda Committee may elect to move a commission report from the Consent Calendar to the Action Calendar or from the Action Calendar to the Consent Calendar.

2. Scheduling Public Hearings mandated by State, Federal, or local statute

The City Clerk may schedule a public hearing at an available time and date in those cases where State, Federal or local statute mandates the City Council hold a public hearing.

3. Submission of Agenda Items

a) City Manager Items. Except for Old Business, as a condition to placing an item on the agenda, agenda items from departments, including agenda items from commissions, shall be furnished to the City Clerk at a time established by the City Manager.

b) Council and Auditor Items. The deadline for reports submitted by the Auditor, Mayor and City Council is 5:00 p.m. on Monday, fifteen days before each Council meeting.

c) Time Critical Items. A Time Critical item is defined as a matter that is considered urgent by the sponsor and that has a deadline for action that is prior to the next meeting of the Council and for which a report prepared by the City Manager, Auditor, Mayor or council member is received by the City Clerk after established deadlines and is not included on the Agenda Committee's published agenda.

If received prior to the meeting of the Agenda Committee, the City Clerk shall bring any reports submitted as Time Critical to the meeting of the Agenda Committee. If the Agenda Committee finds the matter to meet the definition of Time Critical, the Agenda Committee may place the matter on the Agenda on either the Consent or Action Calendar. If the Agenda Committee finds that the matter does not meet the definition of Time Critical and the sponsor

does not wish to hold the report for the next Council meeting, the City Clerk shall place the item on the Action Calendar under the Time Critical section.

If the item is received by the City Clerk after the meeting of the Agenda Committee and prior to the publishing of the Council agenda, the City Clerk shall place the item on the Action Calendar under the Time Critical section. The City Clerk shall not accept any item past a deadline if it will result in a delay in the publishing and/or distributing of the Council agenda and agenda packet.

#### 4. Scheduling a Presentation

Any request for a presentation to the Council will be submitted as an agenda item and follow the time lines for submittal of agenda reports. The agenda item should include general information regarding the purpose and content of the presentation; information on the presenters; contact information; and the length of the presentation. The request may state a preference for a date before the Council. The Agenda Committee will review the request and recommend a presentation date and allotted time based on the Council's schedule.

The City Clerk will notify the presenters of the date and time of the presentation and will coordinate use of any presentation equipment and receipt of additional written material.

#### D. PACKET PREPARATION AND POSTING

##### 1. Preparation of the Packet

Not later than the sixth day prior to said meeting, the City Clerk shall prepare the packet, which shall include the agenda plus all its corresponding duplicated agenda items. No item shall be considered if not included in the packet, except that a correction or supplement to an item already included in the packet may be considered. Reports carried over as Old Business need not be reproduced again.

##### 2. Distribution and Posting of Agenda

a) The City Clerk shall post each agenda of the City Council regular meeting at least seventy-two hours in advance of the meeting and shall post each agenda of a special meeting at least twenty-four hours in advance of the meeting in the official bulletin board. The City Clerk shall maintain an affidavit indicating the location, date and time of posting each agenda.

b) The City Clerk shall also post agendas and summaries of all City Council meetings and notices of public hearings on the City's website.

c) Not later than the fifth day prior to said meeting, copies of the agenda shall be mailed by the City Clerk to any resident of the City of Berkeley who so requests in writing. Copies shall also be available free of charge in the City Clerk Department.

### 3. Distribution of the Packet

Not later than the fifth day prior to said meeting, the City Clerk shall distribute the packet to each member of the City Council. The agenda packet will also be made available to members of the press and will be posted to the City's website.

### 4. Failure to Meet Deadlines

a) The City Clerk shall not accept any agenda item or revised agenda item after the deadlines established.

b) Matters not included on the published agenda may be discussed and acted upon as otherwise authorized by State law or providing the Council finds one of the following conditions is met:

- A majority of the Council determines that the subject meets the criteria of "Emergency" as defined in Section IIIB5.
- Two thirds of the Council determines that there is a need to take immediate action and that the need for action came to the attention of the City subsequent to the posting of the agenda as required by law.

c) Matters listed on the printed agenda but for which support materials are not received by the City Council on the fourth day prior to said meeting as part of the agenda packet, shall not be discussed or acted upon. In cases where the good of the City outweighs the lack of time for citizen review or Councilmember evaluation of an item, the Council by a two-thirds vote may waive this rule.

## E. AGENDA SEQUENCE AND ORDER OF BUSINESS

- The Council agenda for a regular business meeting is to be arranged in the following order:
  1. Preliminary Matters: (Ceremonial, Comments from the City Manager, Public Comment, Youth Forum (on the first regular business meeting of the month))
  2. Consent Calendar
  3. Action Calendar
    - a) Appeals and Public Hearings
    - b) Old Business
    - c) New Business
    - d) Time Critical
  4. Information Reports
  5. Communications
  6. Adjournment

## IV. CONDUCT OF MEETING

### A. COMMENTS FROM THE PUBLIC.

A thirty-minute period shall be devoted at the beginning of regular Council meetings to provide an opportunity for citizens to address Council on any issue concerning City business. Each speaker shall limit his/her remarks to no more than three minutes.

A twenty-minute period shall be set aside for public comment at all special meetings, including closed sessions and work sessions, and meetings of Council subcommittees. Each speaker shall limit his/her remarks to no more than two minutes. However if the only matter on the agenda for a special meeting is a public hearing, the public shall speak following the rules for public comment during public hearings and no additional time shall be set aside for public comment on other subject matters.

A fifteen-minute period (Youth Forum) shall be devoted at the beginning of the first business meeting of each month to provide an opportunity for citizens eighteen years of age or younger, to address Council on any issue concerning City business. Each person speaking during Youth Forum period shall limit his/her remarks to three minutes.

A speaker may not yield his/her public comment time to a person that has already used up his/her allotted time.

In order to increase the number of persons who can be heard by the Council when there are a large number of persons who wish to be heard on one or more matters, the Council may make adjustments to these rules for example by increasing or shortening the amount of time per speaker, increasing the total time allotted for public comment or for a subject and/or require the pooling of time per side on a subject.

Speakers are asked to give their names and the city of their residence prior to making their public comments. To expedite the public comment period, the City Clerk will announce the name of the speaker and the city of residence if provided on the speaker card.

Council members may ask questions, but the Council shall not discuss or act in connection with such citizen comment, if the subject is not on the agenda for action. A council member may, however, refer a subject to staff or other resources for factual information or for action, if appropriate.

### B. CONSENT CALENDAR

There shall be a Consent Calendar on all regular meeting agendas on which shall be included those matters which the Mayor, council members, boards, commissions, City Auditor and City Manager deem to be of such nature that no debate or inquiry will be necessary at the Council meetings. Ordinances for second reading may be included in the Consent Calendar.

It is the policy of the Council that council members wishing to ask questions concerning Consent Calendar items should ask questions of the contact person identified prior to the Council meeting so that the need for discussion of consent calendar items can be minimized.

Consent Calendar items removed from the Consent Calendar will automatically be moved to the end of the agenda to be considered after completion of the Action Calendar.

C. INFORMATION REPORTS CALLED UP FOR DISCUSSION.

Reports for Information designated for discussion at the request of any council member shall be added to the appropriate section of Reports for Action and may be acted upon at that meeting or carried over as pending business until discussed or withdrawn. The agenda will indicate that at the request of any council member a Report for Information may be acted upon by the Council.

D. COMMUNICATIONS.

Letters from the public will not appear on the Council agenda as individual matters for discussion but will be distributed as part of the Council agenda packet with a cover sheet identifying the author and subject matter and will be listed under "Communications," with the exception that communications regarding appeals will be listed with the appeal.

All such communications must have been received by the City Clerk no later than the Monday eight days prior to the meeting in order to be included on the agenda.

In instances where an individual forwards more than three pages of email messages not related to actionable items on the Council agenda to the Council to be reproduced in the "Communications" section of the Council packet, the City Clerk will not reproduce the entire email(s) but instead refer the public to the City's website or a hard copy of the email(s) on file in the City Clerk Department.

All communications shall be simply deemed received without any formal action by the Council. A council member may refer a communication to staff for action, if appropriate, or prepare a consent or action item for placement on a future agenda.

E. PUBLIC HEARINGS.

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. Anyone desiring to speak to the Council on the subject of the public hearing shall submit a written request to the City Clerk at the meeting at which the public hearing is held. In the conduct of the public hearing, the presiding officer will request that those making presentations avoid repetition in order to permit maximum information to be provided the Council within the time allotted to the hearing.

Speakers may speak on public hearing matters only during the designated public hearing and not as part of Public Comment. Council may allow the elderly, disabled and those with child care needs to speak early during public hearings.

When more than one public hearing is scheduled, there will be a Council recess between the hearings.

F. PUBLIC DISCUSSIONS.

The City Council may, from time to time, schedule a matter for public discussion and may limit the amount of time to be devoted to said discussions. At the time the public discussion is scheduled, the City Council may seek comment from others if they so determine.

G. TIME LIMITATION FOR PUBLIC TESTIMONY AT PUBLIC HEARINGS AND PUBLIC DISCUSSIONS.

Each speaker shall be limited to three minutes with the exception that one representative for an appellant or applicant of an appeal shall be allowed five minutes during the public hearing on this matter. The Mayor, subject to alteration by the Council may establish overall time limits for applicants, appellants and other speakers at public hearings and set up such other procedures that may facilitate the orderly and efficient conduct of such hearings.

H. PROTOCOL.

Each person addressing the Council shall first give his name and address in an audible tone of voice for the record. All remarks shall be addressed to the Council as a body and not to any member thereof. No one other than the Council and the person having the floor, shall be permitted to enter into any discussion, either directly or through a member of the Council, without the permission of the presiding officer. No question shall be asked a council member except through the presiding officer.

## V. PROCEDURAL MATTERS

A. PERSONS AUTHORIZED TO SIT AT TABLES

No person, except City officials, their representatives and representatives of boards and commissions shall be permitted to sit at the tables in the front of the Council Chambers without the express consent of the Council.

B. DECORUM

No person shall disrupt the orderly conduct of the Council meeting. Prohibited disruptive behavior includes but is not limited to shouting, making disruptive noises, such as boos or hisses, creating or participating in a physical disturbance, speaking out of turn or in violation of applicable rules, preventing or attempting to prevent others who have the floor from speaking, preventing others from observing the meeting, entering into or remaining in an area of the

meeting room that is not open to the public, or approaching the Council table without consent. Any message to or contact with any member of the Council while the Council is in session shall be through the City Clerk.

C. ENFORCEMENT OF DECORUM

Any law enforcement officers on duty or whose services are commanded by the presiding officer shall be Sergeant-at-Arms of the Council meetings. He/she, or they, shall carry out all orders and instructions given by the presiding officer of the purpose of maintaining order and decorum at the Council meetings. Upon instructions of the presiding officer, it shall be the duty of the Sergeant-of-Arms, or any of them present, to place any person who violates the order and decorum of the meeting under arrest, and cause him to be prosecuted under the provisions of applicable law.

D. PRECEDENCE OF MOTIONS

When a question is before the Council, no motion shall be entertained except:

- a) To adjourn,
- b) To fix the hour of adjournment,
- c) To lay on the table,
- d) For the previous question,
- e) To postpone to a certain day,
- f) To refer,
- g) To amend,
- h) To substitute, and
- i) To postpone indefinitely.

These motions shall have precedence in order indicated. Any such motion, except a motion to adjourn, amend, or substitute, shall be put to a vote without debate.

E. ROBERTS RULES OF ORDER

Roberts Rules of Order have been adopted by the City Council and apply in all cases except the precedence of motions in V-D shall supercede.

F. RULES OF DEBATE

a) Presiding Officer May Debate. The presiding officer may debate from the chair, subject only to such limitations of debate as are by these rules imposed on all members, and shall not be deprived of any of the rights and privileges as a member of the Council by reason of his/her acting as the presiding officer.

b) Getting the Floor - Improper References to be Avoided. Every member desiring to speak shall address the Chair, and upon recognition by the presiding officer, shall confine himself/herself to the question under debate.

c) Interruptions. A member, once recognized, shall not be interrupted when speaking unless it be to call him/her to order, or as herein otherwise provided. If a member, while speaking, be called to order, he/she shall cease speaking until the question of order be determined, and, if in order, he/she shall be permitted to proceed.

d) Privilege of Closing Debate. The council member moving the adoption of an ordinance or resolution shall have the privilege of closing the debate. When a motion to call a question is passed, the council member moving adoption of an ordinance, resolution or other action shall have three minutes to conclude the debate.

e) Motion to Reconsider. A motion to reconsider any action taken by the Council may be made only on the day such action is taken. It may be made either immediately during the same session, or at a recessed or adjourned session thereof. Such motion must be made and seconded by one of the prevailing sides, 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 other motion at a subsequent meeting of the Council.

f) Repeal or Amendment of Action Requiring a Vote of Two-Thirds of Council, or Greater. Any ordinance or resolution which is passed and which, as part of its terms, requires a vote of two-thirds of the Council or more in order to pass a motion pursuant to such an ordinance or resolution, shall require the vote of the same percent of the Council to repeal or amend the ordinance or resolution.

#### G. DEBATE LIMITED

a) Except as provided in Section F.b) hereof, consideration of each matter coming before the Council shall be limited to twenty minutes from the time the matter is first taken up, at the end of which period consideration of such matter shall terminate and the matter shall be dropped to the foot of the agenda, immediately ahead of Good of the City; provided that either of the following two not debatable motions shall be in order:

1. A motion to extend consideration which, if passed, shall commence a new twenty minute period for consideration; or
2. If there are one or more motions on the floor, the previous question, which, if passed, shall require an immediate vote on pending motions.

b) The time limit set forth in subparagraph 1 hereof shall not be applicable to any public hearing, public discussion, Council discussion or other especially set matter for which a period of time has been specified (in which case such specially set time shall be the limit for consideration) or which by applicable law (e.g. hearings of appeals, etc.), the matter must proceed to its conclusion.

c) In the interest of expediting the business of the City, failure by the Chair or any council member to call attention to the expiration of the time allowed for consideration of a

matter, by point of order or otherwise, shall constitute unanimous consent to the continuation of consideration of the matter beyond the allowed time; provided, however, that the Chair or any council member may at any time thereafter call attention to the expiration of the time allowed, in which case the Council shall proceed to the next item of business, unless one of the motions referred to in subparagraph a)1. hereof is made and is passed.

H. MOTION TO LAY ON TABLE

A motion to lay on the table shall preclude all amendments or debate of the subject under consideration. If the motion shall prevail, the consideration of the subject may be resumed only upon a motion of a member voting with the majority and with consent of two-thirds of the members present.

I. DIVISION OF QUESTION

If the question contains two or more propositions, which can be divided, the presiding officer may, and upon request of a member shall, divide the same.

J. ADDRESSING THE COUNCIL

Any person desiring to address the Council shall first secure the permission of the presiding officer to do so. Under the following headings of business, unless the presiding officer rules otherwise, any qualified and interested person shall have the right to address the Council in accordance with the following conditions and upon obtaining recognition by the presiding officer:

a) Written Communications. Interested parties or their authorized representatives may address the Council by written communications in regard to matters of concern to them. Communications received by the City Clerk prior to close of business on the day of a Council meeting shall be duplicated by the City Clerk and submitted to the City Council at the meeting if related to an item which is on the agenda for that meeting.

b) Public Hearings. Interested persons or their authorized representatives may address the Council by reading protests, petitions, or communications relating to matters then under consideration.

c) Public Comment. Interested persons may address the Council on any issue concerning City business during the period assigned to Public Comment.

K. ADDRESSING THE COUNCIL AFTER MOTION MADE

When a motion is pending before the Council, no person other than a Councilmember shall address the Council without first securing the permission of the presiding officer or Council to do so.

## VI. FACILITIES

### A. COUNCIL CHAMBER CAPACITY

Council Chamber attendance shall be limited to the posted seating capacity thereof. Entrance to the City Hall will be appropriately regulated by the City Manager on occasions when the Council Chamber capacity is likely to be exceeded. While the Council is in session, members of the public shall not remain standing in the Council Chamber except to address the Council, and sitting on the floor shall not be permitted. The Council proceedings may be conveyed by loudspeaker to those who have been unable to enter the Council Chambers.

### B. ALTERNATE FACILITIES FOR COUNCIL MEETINGS

The City Council shall approve in advance a proposal that a Council meeting be held at a facility other than the City Council Chambers.

If the City Manager has reason to anticipate that the attendance for a meeting will be substantially greater than the capacity of the City Council Chambers and insufficient time exists to secure the approval of the City Council to hold the meeting at an alternate facility, the City Manager shall make arrangements for the use of a suitable alternate facility to which such meeting may be recessed and moved, if the City Council authorizes the action.

If a suitable alternate facility is not available, the City Council may reschedule the matter to a date when a suitable alternate facility will be available.

Alternate facilities are to be selected from those facilities previously approved by the City Council as suitable for meetings away from the City Council Chambers.

BE IT FURTHER RESOLVED, that the Council shall review its Rules of Procedure in March of each odd-numbered year.

BE IT FURTHER RESOLVED, that Resolution No. 62,420-N.S. is hereby rescinded.

The foregoing Resolution was adopted by the Berkeley City Council on April 12, 2005 by the following vote:

Ayes: Councilmembers Anderson, Capitelli, Maio, Moore, Olds, Spring, Worthington, Wozniak and Mayor Bates.

Noes: None.

Absent: None.

Attest: Sara T. Cox  
Sara T. Cox, City Clerk

Tom Bates  
Tom Bates, Mayor