



## STAFF REPORT

DATE: NOVEMBER 20, 2012  
TO: HONORABLE MAYOR AND CITY COUNCIL  
FROM: DEAN DERLETH, CITY ATTORNEY  
SUBJECT: REVISED CITY COUNCIL MANUAL OF PROCEDURE (MOP)

### RECOMMENDED ACTION

It is recommended that the City Council adopt attached Resolution R-76-12 adopting the revised City Council Manual of Procedure and rescinding Resolution R-150-07.

### GOAL STATEMENT

The proposed action will assist the City in administering its meetings.

### BACKGROUND

The City Council last adopted its Manual of Procedure (MOP) on November 20, 2007. Recently, the City Council formed an ad hoc committee to consider proposed revisions to the MOP.

### ISSUES/ANALYSIS

On October 2, 2012, the City Council considered recommendations from the ad hoc committee. The City Council then directed that a resolution be prepared to effectuate the ad hoc committee's recommendations, as well as the following few specific revisions: (1) the 10:30 p.m. time restrictions for meetings were to be eliminated; (2) City Council oral reports and comments were to be moved to the end of meeting agendas; (3) public comments were to be moved to the end of meeting agendas; (4) no more than 3 ceremonial items were to be placed on any meeting agenda; (5) a motion "for previous question" was to be renamed a motion "to call for the question"; and (6) the process for substitute motions was to be clarified.

The attached Resolution R-76-12 and revised MOP dated November 20, 2012 will accomplish this direction. With respect to the substitute motion clarification, note that a specific motion for that purpose, consistent with past City Council practice, has been added in Section F-4(H).

**FINANCIAL IMPACTS**

There are no direct financial impacts with this action.

**ALTERNATIVES**

1. Provide alternative direction to staff.

**ATTACHMENTS**

Resolution R-76-12  
Manual of Procedure (11-20-12)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**RESOLUTION NO. R-76-12**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLTON, ADOPTING A REVISED CITY COUNCIL MANUAL OF PROCEDURE AND RESCINDING RESOLUTION R-150-07**

WHEREAS, the City Council conducts its meetings in accordance with its Manual of Procedure ("MOP") and applicable state law, including, but not limited to, the Ralph M. Brown Act (Government Code Section 54950 et seq.);

WHEREAS, the City Council last adopted the MOP in its entirety on November 20, 2007, pursuant to Resolution No. R-150-07;

WHEREAS, the City Council has determined that the MOP should be updated and re-adopted in its entirety;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

SECTION 1. The MOP dated November 20, 2012 is hereby adopted.

SECTION 2. All prior resolutions and actions adopted or taken with respect to the MOP, including, but not limited to, Resolutions R-150-07 are hereby rescinded.

SECTION 3. The City Clerk shall certify to the adoption of this Resolution.

SECTION 4. This Resolution shall become effective immediately upon its adoption.

**PASSED, APPROVED AND ADOPTED** this 20th day of November, 2012.

\_\_\_\_\_  
SARAH S. ZAMORA, Mayor

ATTEST:

\_\_\_\_\_  
EILEEN C. GOMEZ, CMC  
City Clerk

1 STATE OF CALIFORNIA )  
2 COUNTY OF SAN BERNARDINO ) ss.  
3 CITY OF COLTON )

4 I EILEEN C. GOMEZ, City Clerk of the City of Colton, do hereby certify that the  
5 foregoing Resolution No. R-76-12 was duly and regularly adopted by the City Council of the City  
6 of Colton at a regular meeting thereof on the 20<sup>th</sup> day of November, 2012 and that the same was  
7 passed and adopted by the following vote, to wit:

- 7 AYES:
- 8 NOES:
- 9 ABSENT:
- 10 ABSTAIN:

11  
12  
13 \_\_\_\_\_  
14 Eileen C. Gomez, City Clerk

15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

CITY COUNCIL MEETINGS

**MANUAL OF PROCEDURE**

CITY OF COLTON

**TABLE OF CONTENTS**

	<b>Page</b>
A. MEETINGS .....	1
A-1 REGULAR MEETINGS.....	1
A-2 ADJOURNED MEETINGS.....	1
A-3 SPECIAL MEETINGS .....	1
A-4 EMERGENCY MEETINGS.....	1
A-5 MEETINGS TO BE PUBLIC.....	1
A-6 CLOSED SESSIONS.....	2
A-7 ATTENDANCE.....	2
A-8 QUORUM.....	2
B. AGENDA.....	2
B-1 AGENDA PREPARATION – AUTHORITY TO PLACE ITEMS ON AGENDA.....	2
B-2 AGENDA PREPARATION – PROCESS AND DISTRIBUTION TO CITY COUNCIL .....	3
B-3 AGENDAS FOR SPECIAL OR EMERGENCY MEETINGS .....	3
B-4 AGENDA POSTING AND MAILING TO PUBLIC.....	4
B-5 AGENDA ITEMS AND ACTIONS .....	4
B-6 AGENDA CONTENTS.....	5
B-7 PUBLIC COMMENT OPPORTUNITY ON AGENDA.....	5
B-8 ORDER OF BUSINESS .....	5
C. PRESIDING OFFICER .....	7
C-1 MAYOR TO PRESIDE .....	7
C-2 POWERS & DUTIES OF PRESIDING OFFICER.....	8
D. ADDRESSING THE COUNCIL.....	8
D-1 WRITTEN CORRESPONDENCE.....	8
D-2 RIGHT TO ADDRESS COUNCIL AT MEETING.....	9
D-3 MANNER OF ADDRESSING COUNCIL, .....	9
D-4 TIME LIMITATION .....	9
D-5 IMPROPER REMARKS .....	10
D-6 CHALLENGING UNLAWFUL ACTIONS; LITIGATION .....	11
E. DEBATE AND DECORUM .....	11
E-1 GETTING THE FLOOR .....	11
E-2 QUESTIONS TO STAFF .....	11
E-3 INTERRUPTIONS .....	11

**TABLE OF CONTENTS**  
(continued)

	<b>Page</b>
E-4 POINTS OF ORDER.....	11
E-5 POINT OF PERSONAL PRIVILEGE.....	12
E-6 REMARKS OF COUNCILMEMBERS AND SYNOPSIS OF DEBATE.....	12
E-7 DECORUM AND ORDER - COUNCIL AND CITY STAFF.....	12
E-8 DECORUM AND ORDER - MEMBERS OF THE PUBLIC.....	12
E-9 ENFORCEMENT OF DECORUM.....	13
E-10 FAILURE TO OBSERVE RULES OF ORDER.....	13
F. MOTIONS.....	13
F-1 PRESENTATION OF MOTIONS.....	13
F-2 PROCESSING OF MOTIONS.....	14
F-3 PRECEDENCE OF MOTIONS.....	14
F-4 PARTICULAR MOTIONS, PURPOSE AND CRITERIA.....	15
G. VOTING.....	17
G-1 VOTING PROCEDURE.....	17
G-2 CHANGE OF VOTE.....	17
G-3 FAILURE TO VOTE.....	17
G-4 CONFLICT OF INTEREST.....	17
G-5 RECONSIDERATION AND RESCISSION OF PRIOR ACTION.....	18
H. MINUTES.....	18
H-1 PREPARATION OF MINUTES.....	18
H-2 MINUTES OF HEARINGS.....	19
H-3 READING OF MINUTES.....	19
I. ORDINANCES, RESOLUTIONS AND CONTRACTS.....	19
I-1 PREPARATION OF ORDINANCES, RESOLUTIONS AND CONTRACTS.....	19
I-2 PRIOR APPROVAL BY ADMINISTRATIVE STAFF.....	19
I-3 ENACTMENT OF ORDINANCES.....	20
I-4 ADOPTION OF RESOLUTIONS.....	20
J. HEARINGS.....	21
J-1 APPLICATION AND DEFINITION.....	21
J-2 RIGHTS OF INTERESTED PERSONS.....	21
J-3 PRESENTATION OF EVIDENCE.....	21
J-4 EVIDENCE OUTSIDE THE HEARING.....	22

**TABLE OF CONTENTS**  
(continued)

	<b>Page</b>
J-5 CONTINUANCES.....	23
J-6 DECISION .....	23
J-7 RECORD OF HEARING .....	23

**A. MEETINGS**

**A-1 REGULAR MEETINGS**

The City Council shall hold regular meetings on the first and third Tuesday of each month. The closed session portion of the meeting shall begin at five p.m. in the Council Chambers of City Hall (650 North La Cadena Drive, Colton) or at such other place within the City limits to which said meeting may be adjourned, and then recess to a secure location. The open session portion of the meeting shall begin at six p.m. in the Council Chambers or at such other place within the City limits to which said meeting may be adjourned. If by reason of fire, flood, or other emergency, it is unsafe to meet in the City Hall, the meetings may be held for the duration of the emergency at such other place designated by the Mayor or by a majority of the entire City Council. When the day for any regular meeting falls on a legal holiday, no meeting shall be held, but a regular meeting shall be held at the same hour on the following business day.

**A-2 ADJOURNED MEETINGS**

Any meetings may be adjourned to a certain time, place and date in accordance with Section 54955 and any other applicable sections of the Ralph M. Brown Act (Government Code Section 54950 et seq.) ("Brown Act"), but not beyond the next regular meeting. Once adjourned, the meeting may not be reconvened.

**A-3 SPECIAL MEETINGS**

Special meetings may be called at any time by the Mayor, or by a majority of the entire City Council, in accordance with Section 54956 and any other applicable sections of the Brown Act.

**A-4 EMERGENCY MEETINGS**

Emergency meetings may be called only in those rare instances authorized in accordance with Section 54956.5 and any other applicable sections of the Brown Act.

**A-5 MEETINGS TO BE PUBLIC**

All regular, adjourned, special, emergency and any other meetings of the City Council shall be held in public, except as provided for in accordance with the Brown Act.

A-6 CLOSED SESSIONS

The City Council may hold closed sessions from which the public may be excluded for the consideration of certain subjects in accordance with any applicable sections of the Brown Act and any other applicable state or federal laws, rules or regulations. For instance, see Sections 54956.7, 54956.8, 54956.9, 54956.95, 54957, 54957.6, 54957.8, 54956.86, 54956.96 and 54956.75 of the Brown Act, as well as Government Code Sections 37606 and 37624.3 and Health and Safety Code Sections 1461, 32106 and 32155. The City Council and its legal counsel shall comply with all procedural requirements prior to holding any closed session, as prescribed in Sections 54954.5, 54957.7 and any other applicable sections of the Brown Act. The City Council shall comply with all requirements relating to the public report of any action taken in closed session, as provided in Section 54957.1 and any other applicable sections of the Brown Act.

A-7 ATTENDANCE

Councilmembers are expected to attend all meetings of the City Council. In accordance with Government Code Section 36513, if a Councilmember is absent without permission from all regular City Council meetings for sixty (60) consecutive days from the last regular meeting they attend, their office becomes vacant and shall be filled as any other vacancy. Councilmembers shall notify the Mayor, City Manager and/or City Clerk if they are going to be absent from a regular meeting, and the Presiding Officer shall note such excused absence for the record.

A-8 QUORUM

Four members of the Council shall constitute a quorum and shall be sufficient to transact regular business. If less than four Councilmembers appear at a meeting, the meeting shall be adjourned as provided in Section 54955 and any other applicable sections of the Brown Act. If all members are absent, the City Clerk may adjourn the meeting in such situation.

**B. AGENDA**

B-1 AGENDA PREPARATION – AUTHORITY TO PLACE ITEMS ON AGENDA

An agenda shall be prepared for each regular meeting in accordance with Section 54954 and any other applicable sections of the Brown Act. The agenda shall contain the specific items of business to be transacted and the order thereof. Items of business to be heard in public may be

placed on the agenda by any Councilmember, the City Manager, the City Attorney or the City Clerk. The City Clerk prefers that such requests be submitted on or before 4:00 p.m. on the Tuesday one week prior to the regular meeting. Items of business to be heard in closed session may be submitted by any Councilmember, the City Manager or the City Clerk to the City Attorney or Risk Manager for review for compliance with the provisions of the Brown Act, and the City Attorney or Risk Manager shall place such items that comply with those provisions on the closed session agenda. Notwithstanding the foregoing, however, items of business relating to personnel matters involving performance review or discipline, dismissal or release of specific City employees shall only be placed on the closed session agenda at the direction of the City Manager or upon the request of three Councilmembers through the City Clerk.

**B-2 AGENDA PREPARATION – PROCESS AND DISTRIBUTION TO CITY COUNCIL**

Agenda items shall be delivered to the City Clerk pursuant to Administrative Policy 1.01.010. The Clerk shall thereafter prepare the agenda under the direction of the City Manager. Each item of business to be transacted or discussed on the agenda shall be adequately described in accordance with the Brown Act, and shall contain the specific action requested to be taken by the Council. The agenda, together with all reports pertaining thereto, shall be delivered to the Councilmembers at 4:00 p.m., or soon thereafter, on the Thursday preceding the regular meeting. Each Councilmember may direct the method by which the agenda packet shall be delivered to them. The agenda shall be made available to the public as soon as practicable, but no later than the time provided for in Section 54954.2 and any other applicable sections of the Brown Act (currently, 72 hours before the regular meeting). No matters other than those listed on the posted agenda shall be acted upon by the Council, except as provided for in Section B-5 below and applicable sections of the Brown Act.

**B-3 AGENDAS FOR SPECIAL OR EMERGENCY MEETINGS**

An agenda or notice shall be prepared for each special or emergency meeting in accordance with Sections 54956, 54956.5 and any other applicable sections of the Brown Act. Each agenda shall contain a discussion item allowing the City Council to establish a time after which time limits similar to those provided for in Section A-9 above shall apply.

B-4 AGENDA POSTING AND MAILING TO PUBLIC

Meeting agendas and/or notices shall be posted in the glass enclosed Bulletin Board at City Hall, 650 North La Cadena Drive, Colton, as well as any other location designated by the City Council, City Manager or City Clerk. The City Clerk, or his/her designee, shall accomplish the City Council agenda posting requirements. The City Clerk shall maintain a file of certificates certifying to the agenda posting. Upon payment of the applicable fee, any person may make a written request for and receive a copy of the agenda or a copy of the agenda packet by mail in accordance with Section 54954.1 and any other applicable sections of the Brown Act.

B-5 AGENDA ITEMS AND ACTIONS

- (A) CALL TO ORDER; ROLL; ORDER OF ACTION. At the time set for each regular meeting, the Council, City Clerk, City Manager, City Attorney and such department heads as have been requested by the City Manager to be present, shall take their regular places in the meeting room. The Presiding Officer shall call the meeting to order, note for the City Clerk those Councilmembers who are present and absent, and the business of the Council shall be taken up for consideration and disposition in the order set forth in Section B-8. However, items may be taken out of order with the consent of the majority of the Council.
- (B) ITEMS ON AGENDA. No matters other than those listed on the posted agenda shall be discussed or acted upon by the Council, except as provided for in Sections 54954.2, 54956.5 and any other applicable sections of the Brown Act.
- (C) CERTAIN BRIEF COMMENTS & DIRECTIONS ALLOWED. Councilmembers and/or staff may briefly respond to statements made or questions posed by persons exercising their public testimony rights under Sections 54954.2, 54954.3 and other applicable sections of the Brown Act. In addition, on their own initiative, or in response to questions posed by members of the public, Councilmembers and/or staff may ask a question for clarification, provide a reference to Staff or other resources for factual information, or request Staff to report back to the Council at a subsequent meeting concerning any matter, in accordance with Sections 54954.2, 54954.3 and other applicable sections of the Brown Act. Furthermore, a Councilmember, or the

entire Council, may take action to direct staff to place a matter of business on a future agenda.

B-6 AGENDA CONTENTS

- (A) BRIEF GENERAL DESCRIPTIONS. The agenda must contain a brief general description of business to be transacted or discussed at the meeting, as well as the time and location of the meeting, in accordance with Section 54954.2 and any other applicable sections of the Brown Act.
- (B) CLOSED SESSION DESCRIPTIONS. Closed Session Agenda Items must be described in accordance with Section 54954.5 and any other applicable sections of the Brown Act.
- (C) AVAILABILITY OF STAFF REPORTS. The agenda shall contain a statement that copies of staff reports or other written documents relating to each item referred to on the Agenda are on file in the office of the City Clerk and are available for public inspection (including via the City's website).
- (D) QUESTIONS FOR CITY CLERK. The agenda shall also contain a notation that any person having questions concerning any item on the agenda may call the City Clerk to inquire about the nature of the items described on the agenda. The City Clerk shall direct inquiries to the appropriate office.

B-7 PUBLIC COMMENT OPPORTUNITY ON AGENDA

Every agenda for regular meetings must provide an opportunity for members of the public to directly address the Council on any item of interest to the public, before or during the time the Council takes up the item for consideration (if it is on the agenda), as provided for in Section 54954.3 and any other applicable section of the Brown Act. For items on closed session, members of the public must be present to address the Council before the Council recesses into closed session. (See also Section D (Addressing the Council) below.)

B-8 ORDER OF BUSINESS

The Agenda shall be conducted in the order and manner set forth below:

- (A) CLOSED SESSION. If needed, the Council will discuss items in closed session as provided for in the Brown Act.
- (B) INVOCATION AND FLAG SALUTE. The Presiding Officer shall provide for an invocation whenever practicable. Following the invocation, if any, the Presiding Officer shall also provide someone to lead the group in the Pledge of Allegiance.
- (C) ROLL CALL. The city clerk shall call the roll of the councilmembers or note those who are present, and the names of those present shall be entered in the minutes.
- (D) CEREMONIAL MATTERS. Presentations, Awards and Proclamations are given under this item. No more than three (3) such items shall be included on an agenda.
- (E) MAYOR AND CITY COUNCIL ITEMS. The Council shall consider all items of individual Councilmembers regarding any proper matter of municipal business appearing on the posted Agenda, including, but not limited to: gift disclosures pursuant to CMC Section 2.04.030, oral reports required by AB 1234 (GC Section 53232.3) and appointments to City, regional or other boards, committees and commissions. Any such actions shall be subject to the provisions of Sections B-1 through B-3 above
- (F) CITY TREASURER'S REPORTS. The City Treasurer shall present any reports he may have, which shall be considered for receipt and filing by the City Council.
- (G) CONSENT CALENDAR. All matters listed under the Consent Calendar are considered by the Council to be routine and will all be enacted by one motion. There will be no separate discussion of these items prior to the time the Council votes on the motion, unless councilmembers, staff or the public request specific items be discussed and/or removed for separate discussions or action. Approval of Minutes and Warrants will routinely appear on the Consent Calendar.
- (H) PUBLIC HEARINGS. The Council shall conduct all hearing in accordance with Section J below.

- (I) BUSINESS ITEMS. The Council shall consider items continued from prior meetings which are not subject to a public hearing. .
- (J) PUBLIC COMMENT. The Presiding Officer shall announce commencement of the Public Comment period. Public Comment shall be subject to Sections D-1 through D-5.
- (K) CITY MANAGER ORAL REPORTS. This is the time for the City Manager to give brief oral reports on items within the subject matter jurisdiction of the City, including responses to prior Public Comment requests. No discussion or action shall be taken on any such item, unless they are specifically listed for such purpose.
- (L) MAYOR AND COUNCIL ORAL REPORTS AND COMMENTS. This is the time for the City Council to give brief oral reports on items of interest to them, including events they have attended or items they wish to have addressed in the future. No discussion or action shall be taken on any such item, unless they are specifically listed for such purpose.
- (M) CLOSED SESSION. If needed, the Council will discuss items in closed session as provided for in the Brown Act.
- (N) ADJOURNMENT. The meeting shall be adjourned after a motion to adjourn has been made and carried.

C. PRESIDING OFFICER

C-1 MAYOR TO PRESIDE

The Mayor shall be the Presiding Officer at all meetings of the City Council. In the absence of the Mayor, the Mayor Pro-Tempore shall preside. In the absence of both the Mayor and Mayor Pro Tempore, the City Clerk shall call the Council to order, whereupon a temporary Presiding Officer shall be elected by the Councilmembers present to serve until the arrival of the Mayor or Mayor Pro Tempore or until adjournment.

C-2 POWERS & DUTIES OF PRESIDING OFFICER

- (A) PARTICIPATION. The Presiding Officer may move, second, debate, and vote. The Presiding Officer shall not be deprived of any of the rights and privileges of a Council member by reason of acting as Presiding Officer.
- (B) RESTATING OF THE QUESTION. The Presiding Officer, or such member of the City Staff as he or she may designate, may verbally restate each motion immediately prior to calling for the vote. Following the vote, the City Clerk shall announce whether the question carried or was defeated. The Presiding Officer, in his or her discretion, may publicly explain the effect of a vote for the audience, or may direct a member of the City staff to do so, before proceeding to the next item of business.
- (C) MAINTAINING ORDER AND DECORUM. The Presiding Officer shall be responsible for maintaining order and decorum at all meetings. The Presiding Officer shall also decide all questions of order subject, however, to an appeal to the Council.
- (D) SIGNING OF DOCUMENTS. The Presiding Officer shall sign all ordinances, resolutions, and other documents requiring the Presiding Officer's signature adopted in his or her presence, unless he or she is unavailable. If the Presiding Officer is unavailable, the alternate Presiding Officer may sign such documents.
- (E) APPOINTMENTS OF COMMITTEES. The Mayor may appoint such ad-hoc committees of Councilmembers, City staff and private citizens, or a combination thereof, as the Mayor deems necessary and expedient to assist and advise the Council in its work.

D. ADDRESSING THE COUNCIL

D-1 WRITTEN CORRESPONDENCE

- (A) REQUIRED COUNCIL ACTION. Any communications requiring Council action shall be placed upon the agenda for the next regular meeting, together with a report and recommendation by the City Staff. All correspondence shall be answered or acknowledged as soon as possible.

D-2 RIGHT TO ADDRESS COUNCIL AT MEETING

- (A) AGENDA & NON-AGENDA ITEMS. Subject to the provisions of Sections D-3, D-4 and D-5, any interested member of the public shall have the right to address the Council on items within the subject matter jurisdiction of the Council, in accordance with Section 54954.3 and any other applicable sections of the Brown Act. If an item is on the agenda, the person shall have the right to address the Council before the Council's consideration of that item. For items on closed session, members of the public must be present to address the Council before the Council recesses into closed session. For items not on the agenda, the person shall have the right to address the Council only during the "Public Comment" portion of the agenda.
- (B) SPEAKER CARDS. Persons wishing to address the Council are requested to fill out a speaker card and submit it to the City Clerk. The City Clerk shall make speaker cards available to the public in the meeting room. For agenda items, the speaker cards may include a request to indicate whether the speaker is in favor, opposition or neither. The City Clerk shall assure that there is a sufficient amount of speaker cards available in the Council Chambers and that all of them are the same color for uniformity.

D-3 MANNER OF ADDRESSING COUNCIL.

Any person desiring to address the Council shall stand and wait to be recognized by the Presiding Officer. The Presiding Officer may determine any fair and reasonable manner in which to recognize speakers. After being recognized by the Presiding Officer, the person should state his or her name and address for the record, and proceed to address the Council. All remarks and questions shall be addressed to the Council as a whole and not to any particular member. No individual Councilmember or member of the City staff shall be questioned without first obtaining permission from the Presiding Officer.

D-4 TIME LIMITATION

- (A) PUBLIC COMMENT PERIOD. Every person addressing the Council on an item not on the agenda ("Public Comment" period) shall limit his or her address to five (5) minutes, unless further time is granted by the Presiding Officer. If the Presiding Officer determines it to be necessary in the interests of time and the ability of the Council to consider all items on its agenda, the Presiding Officer may do any one or more of the

following: (1) require that one or more – in the discretion of the Presiding Officer - spokespersons be chosen to represent the group so as to avoid repetitive comments; (2) choose to limit the overall time for the "Public Comment" period; or (3) reduce the five (5) minutes given to each individual. Speakers shall not be allowed to yield or give their allotted time to other speakers.

(B) AGENDA ITEMS (INCLUDING PUBLIC HEARINGS). Every person addressing the Council on an item on the agenda shall limit his or her address to three (3) minutes, unless further time is granted by the Presiding Officer; provided, however, that for public hearing agenda items, the applicant shall be provided with at least five (5) minutes and may, in the determination of the Presiding Officer, be asked to respond to or address comments made by members of the public. If the Presiding Officer determines it to be necessary in the interests of time and the ability of the Council to consider all items on its agenda, the Presiding Officer may do any one or more of the following: (1) require that one or more – in the discretion of the Presiding Officer - spokespersons be chosen to represent the group so as to avoid repetitive comments; (2) choose to limit the overall time for public comments or the overall time given to those persons speaking in support and in opposition to the item,; or (3) reduce the three (3) minutes given to each individual. Speakers shall not be allowed to yield or give their allotted time to other speakers.

D-5 IMPROPER REMARKS

Any person making impertinent, slanderous, or profane remarks, or who becomes unruly while addressing the Council, shall be called to order by the Presiding Officer. If such conduct continues and willfully disrupts the meeting, the Presiding Officer may, in accordance with Section 54957.9 and any other applicable sections of the Brown Act or other federal or state laws, rules or regulations, order him or her removed from the meeting room or order the room cleared. Public criticism of City policies, procedures, programs or services or acts or omission of the Council shall not be deemed improper.

D-6 CHALLENGING UNLAWFUL ACTIONS; LITIGATION

Pursuant to Sections 54960 and 54960.1 of the Brown Act and any other applicable law, any interested person may file litigation to obtain a determination as to whether an action taken by the City Council is null and void as having been taken in violation of the Brown Act.

E. DEBATE AND DECORUM

Roberts Rules of Order is used by the City Council for guidance only, and shall not be strictly applied.

E-1 GETTING THE FLOOR

Councilmembers wishing to speak shall first address the Presiding Officer and gain recognition by him or her before getting the floor. Councilmembers shall confine themselves to the question under debate.

E-2 QUESTIONS TO STAFF

Councilmembers wishing to question the City Staff may, after recognition by the Presiding Officer, address questions to the City Manager, the City Clerk, or the City Attorney. The City Manager is entitled either to answer the inquiry or direct the question to the appropriate staff member for an answer.

E-3 INTERRUPTIONS

A Councilmember, once recognized, shall not be interrupted when speaking unless called to order by the Presiding Officer, a point of order or personal privilege is raised by another Councilmember, or the speaker chooses to yield to a question by another Councilmember. If a Councilmember, while speaking, is called to order, the member shall cease speaking until the question of order is determined. If the question is determined to be in order, the Councilmember may continue speaking on the question. After recognition by the Presiding Officer, City Staff shall hold the floor until completion of their remarks, , unless recognition is withdrawn by the Presiding Officer.

E-4 POINTS OF ORDER

The Presiding Officer shall determine all points of order subject to the right of any Councilmember to appeal such determination to the Council. The Presiding Officer may

request the opinion of the City Attorney in making such determination. If an appeal is taken, the question shall be: "Shall the decision of the Presiding Officer be sustained?" The Council's decision on this matter shall conclusively determine such question of order.

E-5 POINT OF PERSONAL PRIVILEGE

The right of a Councilmember to address the Council on a question of personal privilege shall be limited to cases in which their integrity, character or motives are questioned or where the welfare of the Council is concerned. A Councilmember raising a point of personal privilege may interrupt another Councilmember who has the floor. The Presiding Officer has the power to call the Council-member out of order.

E-6 REMARKS OF COUNCILMEMBERS AND SYNOPSIS OF DEBATE

Any Councilmember shall have the right of having an abstract of their statement and/or synopsis of the debate on any subject under consideration by the Council entered in the minutes. Such right shall be exercised by specific direction to the City Clerk at the Council meeting.

E-7 DECORUM AND ORDER - COUNCIL AND CITY STAFF

(A) GENERAL RULES OF DECORUM. While the Council is in session, the Councilmembers and City Staff shall preserve order and decorum. A Councilmember or Staff shall not interrupt, otherwise delay the proceedings or the peace of the Council, or disturb any member while speaking. A Councilmember or City Staff shall not refuse to obey the directives of the Presiding Officer. If any Councilmember or City Staff violate these rules of decorum in a manner which willfully disrupts the meeting, the Presiding Officer may, in accordance with Section 54957.9 and any other applicable sections of the Brown Act or other federal or state laws, rules or regulations, direct the Sergeant-at-Arms to clear the room or remove such offenders from the room.

E-8 DECORUM AND ORDER - MEMBERS OF THE PUBLIC

(A) GENERAL RULES OF DECORUM. Public members attending Council meetings shall observe the same rules of order and decorum applicable to the Council and Staff. The Presiding Officer may, in accordance with Section 54957.9 and any other applicable sections of the Brown Act or other federal or state laws, rules or regulations, direct the Sergeant-at-Arms to clear the room or remove any person making impertinent

-12-

NOVEMBER 20, 2012  
(RESOLUTION R-76-12)

and slanderous remarks that willfully disrupt the meeting or any person who becomes unruly while addressing the Council in such a manner that willfully disrupts the meeting. Such person may be barred from the remainder of the Council meeting.

- (B) EXAMPLES OF POTENTIALLY DISRUPTIVE ACTIONS. Unauthorized remarks from the audience, stamping of feet, whistles, yells, and similar demonstrations that willfully disrupt the meeting shall not be permitted. The Presiding Officer may, in accordance with Section 54957.9 and any other applicable sections of the Brown Act or other federal or state laws, rules or regulations, direct the Sergeant-at-Arms to clear the room or remove such offenders from the room. Aggravated cases may be prosecuted by appropriate complaint signed by the Presiding Officer or a Councilmember.

E-9 ENFORCEMENT OF DECORUM

The Chief of Police, or such member of the Police Department as he may designate, shall be the Sergeant-at-Arms of the City Council and shall attend meetings at the request of the Presiding Officer, City Manager or City Council. He shall be available to attend all meetings immediately upon call. He shall carry out all orders given by the Presiding Officer or Council to maintain order and decorum at the Council meetings. Any Councilmember may move to require the Sergeant-at-Arms to enforce the rules and the affirmative vote of a majority of the Councilmembers present shall require him to do so.

E-10 FAILURE TO OBSERVE RULES OF ORDER

Rules adopted to expedite the transaction of the business of the Council in an orderly fashion are deemed to be procedural only and the failure to strictly observe such rules shall not affect the authority of the Council or invalidate any action taken at a meeting that otherwise conforms with the law.

F. MOTIONS

F-1 PRESENTATION OF MOTIONS

- (A) DEFINITION. A motion is the formal statement of a proposal or question to the Council for consideration and action.

- (B) RIGHT TO MAKE A MOTION. Every Councilmember has the right to present a motion, provided they have first been formally recognized by the Presiding Officer.

F-2 PROCESSING OF MOTIONS

When a motion is made and seconded, it shall be restated by the Presiding Officer before debate. A motion may not be withdrawn by the mover without the consent of the member seconding it and the approval of the Council.

F-3 PRECEDENCE OF MOTIONS

- (A) GENERAL ORDER OF PRIORITY. When a main motion is before the Council, no motion shall be entertained except the following, which shall have priority in the order listed below:

- (1) Adjourn
- (2) Recess
- (3) Postpone temporarily or definitely (table)
- (4) Call for the question
- (5) Limit or extend debate
- (6) Refer to committee or staff
- (7) Amend
- (8) Substitute motion
- (9) Postpone indefinitely

- (B) RESTRICTIONS. The above order of priority is subject to the following restrictions:

- (1) A motion shall not be repeated without intervening business or discussion.
- (2) A motion shall not be in order when the previous question has been ordered.
- (3) A motion shall not be in order while a vote is being taken.
- (4) The Presiding Officer may allow informal recognition of any Councilmember or staff at anytime, and such shall not be considered to be out-of-order.

F-4 PARTICULAR MOTIONS, PURPOSE AND CRITERIA

The purpose and relevant criteria of the motions listed above are as follows:

(A) MOTION TO ADJOURN.

- (1) Purpose. To close a meeting.
- (2) Debatable or Amendable. Generally, No. However, a motion to adjourn to another time is debatable and amendable as to the time to which the meeting is to be adjourned.

(B) MOTION TO RECESS.

- (1) Purpose. To permit an interlude in the meeting and to set a definite time for continuing the meeting.
- (2) Debatable or Amendable. Yes. However, duration of recess may be restricted.

(C) MOTION TO POSTPONE TEMPORARILY.

- (1) Purpose. To temporarily set aside a pending main motion provided that it may be taken up again for consideration during the current meeting or at the next regular meeting. It is also referred to as a motion to lay on the table.
- (2) Debatable or Amendable. It is debatable, but not amendable.

(D) MOTION TO CALL FOR THE QUESTION.

- (1) Purpose. To prevent or stop discussion on the pending question and to bring such question to vote immediately. If the motion fails, discussion shall continue. If the motion passes, a vote shall be taken on the pending motion.
- (2) Debatable or Amendable. No.

(E) MOTION TO LIMIT OR EXTEND DEBATE.

- (1) Purpose. To limit or determine the time that will be devoted to discussion of a pending motion or to extend or remove limitations already imposed on its discussion.
- (2) Debatable or Amendable. This motion is not debatable. Amendments are restricted to period of time of the proposed limit or extension.

(F) MOTION TO REFER TO COMMISSION OR STAFF.

- (1) Purpose. To refer the question before the Council to a commission or to the City Staff for the purpose of investigating or studying the proposal and to make a report back to the Council. If the motion fails, discussion or vote on the question resumes.
- (2) Debatable or Amendable. Yes.

(G) AMEND.

- (1) Purpose. To modify or change a motion that is being considered by the Council so that it will express more satisfactorily the will of the members. If the motion fails, discussion or vote on the main motion resumes. If the motion passes, then the main motion should be voted on as amended.
- (2) Debatable or Amendable. It is debatable unless applied to a main motion that is not debatable. It is amendable.

(H) SUBSTITUTE MOTION.

- (1) Purpose. To entirely replace a motion that is being considered by the Council. If the motion fails, discussion or vote on the prior motion resumes. If the motion passes, then the prior motion is moot. Only one substitute motion may be considered at a time.
- (2) Debatable or Amendable. It is debatable and amendable.

(I) POSTPONE INDEFINITELY.

- (1) Purpose. To prevent further discussion and voting on the main motion. If the motion fails, discussion and voting on the main motion resumes. If it passes, the subject of main motion resumes. If it passes, the subject of main motion shall not be brought up again for the remainder of the meeting or the next regular meeting.
- (2) Debatable or Amendable. It is debatable but not amendable.

(J) MAIN MOTION.

- (1) Purpose. The primary proposal or question before the Council for discussion and decision.
- (2) Debatable or Amendable. Yes.

G. VOTING

G-1 VOTING PROCEDURE

(A) VOICE OR ROLL CALL VOTE. When any motion is in order for the question, a vote thereon shall be taken by voice or roll call and entered into the record. Motions may be passed by a simple majority of the members present at a properly called meeting (3 votes sufficient if only 4 members present), except those motions on actions required by law to be adopted by a higher number of Councilmembers.

(B) ROLL CALL VOTE. A roll call vote shall be used for the enactments listed above. All other motions shall not require a roll call vote unless demanded by a Councilmember. It shall not be in order for members to explain their vote during the roll call.

G-2 CHANGE OF VOTE

A member may change his vote only if he makes a timely request to do so immediately following the announcement of the vote by the City Clerk and prior to the time that the next item in the order of business is taken up.

G-3 FAILURE TO VOTE

Every member should vote unless disqualified for cause accepted either by vote of the Council or by opinion of the City Attorney. Self-disqualification, without approval, which results in a tie vote shall be viewed as thwarting Council action. However, no Councilmember shall be forced to vote. A Councilmember who abstains shall in effect consent that a majority of the quorum may act for him. Tie votes shall be lost motions and matters may be reconsidered upon the making of a motion to reconsider.

G-4 CONFLICT OF INTEREST

Any Councilmember who has a financial interest which requires disqualification under applicable law, including Government Code Section 1090 et seq. or the Political Reform Act, shall disclose said interest and disqualify himself or herself in accordance with applicable law. Where it is not clear whether such interest is of a disqualifying nature, the Councilmember shall confer with the City Attorney in advance of the meeting. The Councilmember shall confer with

the City Attorney in sufficient time to seek research and guidance from the City Attorney, Attorney General or Fair Political Practices Commission, as necessary under the law.

G-5 RECONSIDERATION AND RESCISSION OF PRIOR ACTION

After motion and vote by the Council, such action may be reconsidered or rescinded in the following manners:

- (A) RECONSIDERATION. A motion to set aside a vote or reconsider a main motion shall always be in order at the same meeting. The motion to reconsider is amendable and debatable. Such motion can be made by a Councilmember regardless of how he previously voted on the matter. If the motion to reconsider passes, the prior action is overruled and canceled.
- (B) RESCISSION. A motion to rescind repeal, cancel, or nullify prior Council action on a main motion shall be in order at any meeting of the Council. The effect of rescinding prior Council action shall operate prospectively only and not retroactively to the date of the original action. That is, it shall not operate to adversely affect intervening legal rights which create an estoppel situation.
- (C) LOST MOTIONS. A lost motion is one that fails to receive the necessary number of votes to carry the motion. Tie votes result in a lost motion. Lost motions may be renewed at any subsequent Council meeting. To revive a lost motion at the same meeting, the proper action is a motion to reconsider, discussed above.

H. MINUTES

H-1 PREPARATION OF MINUTES

The minutes shall consist of a clear and concise statement of each and every Council action including the motions made and the vote thereon. Reasons for making a motion, or voting, Council debate and audience reaction are generally irrelevant for purposes of the minutes. Such items may be included if considered to be particularly relevant or otherwise necessary by the City Clerk in the first instance and by the Council in the final instance. The City Clerk shall have exclusive responsibility for preparation of the minutes and any directions for changes in the minutes shall be made only by action of the City Council.

H-2 MINUTES OF HEARINGS

Whenever the Council acts in a quasi judicial proceeding, such as hearings as defined in Section J-1, the minutes shall contain a synopsis of all evidence considered in the hearing, including statements of persons addressing the Council.

H-3 READING OF MINUTES

Unless the reading of the minutes of a Council meeting is ordered by a majority vote of the Council, such minutes may be approved without reading if the City Clerk has previously furnished each Councilmember with a copy.

**I. ORDINANCES, RESOLUTIONS AND CONTRACTS**

I-1 PREPARATION OF ORDINANCES, RESOLUTIONS AND CONTRACTS

(A) ORDINANCES. All ordinances shall be prepared by the City Attorney and shall be presented to the Council only when ordered by the Council, requested by the Mayor, City Manager or prepared by the City Attorney on his own initiative.

(B) RESOLUTIONS. It shall be considered best practice to have all resolutions prepared by the City Attorney. However, resolutions may be prepared for submission by an individual, group or organization. In matters of urgency, a resolution may be presented verbally in motion form together with instructions for written preparation for later execution. Urgency resolutions shall be avoided except when absolutely necessary and shall be avoided entirely when such resolutions are not required by law.

(C) CONTRACTS. All contracts shall be prepared or approved by the City Attorney, and shall be presented to Council only when ordered by the Council, or submitted by the Mayor, City Manager or City Attorney.

I-2 PRIOR APPROVAL BY ADMINISTRATIVE STAFF

All ordinances, resolutions and contract documents shall ,be approved as to form and legality by the City Attorney before presentation to the Council. Where there are substantive administrative matters involved, the City Manager or his authorized representative shall also examine and approve such ordinances, resolutions or contracts.

I-3 ENACTMENT OF ORDINANCES

- (A) INTRODUCTION. Ordinances shall be introduced for first reading by motion. When ordinances, other than urgency ordinances, are altered after introduction, they shall be passed only at a regular or adjourned regular meeting held at least 5 days after alternation. Corrections or typographical or clerical errors are not considered alterations.
- (B) ADOPTION. Ordinances shall be adopted by motion. Ordinances shall not be adopted within five (5) days of their introduction. Ordinances shall only be adopted at a regular or adjourned meeting.
- (C) READING. All ordinances shall be read in full either at the time of introduction or passage. However, further reading may be waived, after reading the title, by regular motion adopted by majority vote of the Councilmembers present.
- (D) URGENCY ORDINANCE. An urgency ordinance is an ordinance for the immediate preservation of the public peace, health or safety of the city, as provided for in applicable law. It may be passed immediately upon introduction and either at a regular or special meeting. The urgency ordinance must declare the facts constituting the urgency and it shall be passed by the number of affirmative votes required by applicable law.
- (E) PUBLICATION. Within 15 days after its adoption, the City Clerk shall cause each ordinance or a summary thereof to be published as required by applicable law.
- (F) EFFECTIVE DATE. Most ordinances take effect 30 days after their final passage. However, certain ordinances shall take effect immediately, as allowed by applicable law.

I-4 ADOPTION OF RESOLUTIONS

Resolutions may be adopted by motion on the date they are first presented to the Council. It is not required that resolutions be read, either in full or by title only.

**J. HEARINGS**

J-1 APPLICATION AND DEFINITION

The following procedural rules shall apply to all hearings before the City Council. As used here, the term "hearing" shall include all public hearings required by state law or city ordinance.

J-2 RIGHTS OF INTERESTED PERSONS

On the date and at the time and place designated in the notice, the Council shall afford any interested person and / or authorized representative, the opportunity to examine and cross examine witnesses, to present documentary evidence, to present statements, arguments, or contentions orally and/or in writing, subject to the rules on ADDRESSING THE COUNCIL, listed in Section D of this manual, and rules stated below.

J-3 PRESENTATION OF EVIDENCE

- (A) ORAL EVIDENCE. All oral statements which are relevant to the subject matter of the hearing may be considered by the Council. Oral evidence may be taken, on oath or affirmation, at the request of any interested party or his authorized representative.
- (B) EXHIBITS AND DOCUMENTS. Exhibits and documents used by the City Staff and any persons participating in the hearing may be considered as evidence.
- (C) COMMUNICATIONS AND PETITIONS. All communications and petitions concerning the subject matter of the hearing shall be read aloud either in full or by synopsis thereof, providing that a reading in full shall be provided at the request of any Councilmember. All such communications and petitions may be considered as evidence by the Council.
- (D) STAFF REPORTS. Whenever practicable, a written staff report shall be prepared and read or summarized orally as part of the staff presentation. Said report shall be considered as evidence.
- (E) LARGE MAPS AND DISPLAYS. Large size maps and displays presented for use at the hearing shall, whenever practicable, be displayed in full view of the participants and

the audience. Said maps or displays, or authentic reductions thereof, may be considered as evidence.

- (F) ADMISSIBLE EVIDENCE. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to reply in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but shall not be sufficient in itself to support a decision, unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the extent that they are otherwise required by statute to be recognized at the hearing, and irrelevant and unduly repetitious evidence shall be excluded.

J-4 EVIDENCE OUTSIDE THE HEARING

Any evidence taken outside the council chambers such as field trips, views of the premises and discussion with individuals, shall not be considered by the Council in reaching its decision except under either of the following circumstances:

- (A) ADJOURNED MEETING. When, during the hearing, the meeting is adjourned to a date, place and time certain for the specific purpose of taking visual or demonstrative evidence such evidence may be considered; or
- (B) COUNCILMEMBER OBSERVATIONS & REPORTS. With the consent, either oral or written, of all interested persons, or their authorized representatives, appearing at the hearing, individual members of the Council may take visual or demonstrative evidence outside the council chambers, provided, that the hearing shall be continued to a date and time certain and, upon reconvening in chambers, each Councilmember shall orally report his observations of such outside evidence taken and shall be subject to examination thereon by any interested person or authorized representative.

J-5 CONTINUANCES

Any hearing being held, or noticed or ordered to be held by the Council may, by minute action, be continued to any subsequent regular or adjourned meeting of the Council, provided that if the hearing is continued to a time less than 24 hours after the time specified in the order or notice of hearing, a copy of the order or notice of continuance shall be posted outside the council chambers immediately following the meeting at which the order of continuance was made

J-6 DECISION

The Council shall consider all evidence properly presented in accordance with the rules stated in this manual. Unless otherwise provided by law, the Council shall render a decision or determination on the matter within forty (40) days of the close of the hearing. Said decision or determination shall be by motion made and action taken thereon at a regular or adjourned meeting of the Council. Any Councilmember who was not present during the entire hearing or who, in the opinion of the City Attorney should not discuss or vote on the matter, shall disqualify himself from discussion or voting on said matter.

J-7 RECORD OF HEARING

A verbatim mechanical recording shall be made of the oral evidence presented at the hearing. Said recording, together with all documents, maps, exhibits and displays admitted into evidence, shall be retained by the City Clerk for a period of two (2) years from the date of the close of the hearing. In lieu of retaining said recording, the City Clerk may prepare a typewritten transcript thereof which shall also be retained for two (2) years. Said recording or transcript and evidentiary documents shall be made available for public inspection and use at reasonable times and under such reasonable conditions as may be prescribed by the City Clerk.