



## THE CITY OF SAN DIEGO

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**OFFICE OF THE INDEPENDENT BUDGET ANALYST REPORT**

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**Date Issued:** February 27, 2009**IBA Report Number:** 09-11**City Council Docket Date:** March 2, 2009**Item Number:** 200

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## Amendments to the Permanent Rules of Council

### OVERVIEW

At the meeting of March 2, 2009, the City Council will discuss various amendments to the Permanent Rules of Council contained within the Municipal Code. At the discussions held previously by the Rules Committee, the IBA was asked to conduct a fiscal analysis of one of the items: to hold one meeting per month in the evening, from 4:30 to 9:00PM, in the Council Chambers. This report provides information pursuant to this request.

### FISCAL/POLICY DISCUSSION

IBA staff consulted with the City Clerk, Executive Detail Officers and the Building Supervisor to understand the potential additional costs that could be incurred by hosting one evening meeting per month. The potential costs identified include:

- Additional building security
- Staff overtime
- Meal provision
- Additional utility costs

The following reviews consideration for each of these items:

#### Additional Building Security

Based on consultations with the Executive Detail Officers and the Building Supervisors, it is proposed that evening meetings would require the use of four security guards, as opposed to the typical one guard for nighttime hours. Two guards would be used for the screening process for the public, and two others would be charged with staffing the front door, monitoring other floors of the building and other security duties.

The City's current contract with Wackenhut provides for a rate of \$19.10 per guard hour. Three additional guards for an estimated four additional hours would cost approximately \$230 per night meeting.

#### Office of Independent Budget Analyst

202 C Street, MS 3A • San Diego, CA 92101

Tel (619) 236-6555 Fax (619) 236-6556



### Staff Overtime

There is the potential for additional costs for overtime for staff. While many staff members that support the Council meetings are unclassified, and do not earn overtime, some support may be required by staff that are not exempt. In the City Clerk's office, efforts could be made to modify and flex schedules in order to avoid most overtime. In most cases, the Clerk believed staff overtime could be avoided through modifying schedules and utilizing minimal and/or unclassified staff where possible.

Additional staff overtime may be incurred by other departments having an item heard at Council at the evening meetings, if non-exempt employees are required to attend. Encouraging flexible scheduling by management, where possible and allowed, may be emphasized to minimize these costs.

### Meal Provision

Because the proposal is to conduct these meetings between 4:30 and 9:00PM, it is understood that Council Members and other staff will likely need access to a meal sometime during those hours. Should the Council and staff pay for and coordinate their own meals, no additional cost to the City may be incurred. However, if the City provides for this function, the cost for food, such as pizza or sandwiches, may be \$200-300 or more, based on historical experience.

Some overtime may be incurred for meal provision, as well. The Clerk estimated that 3-3.5 hours of overtime for two staff members may be required to coordinate logistics for this service. At a fully-loaded cost of approximately \$31 per hour per person, the additional monthly cost for staff time is estimated at \$217. Total costs for meal provision is therefore estimated at \$417-517.

### Additional Utility Costs

Generally during off hours, the building heating and cooling systems are ramped down. However, temperatures would be more strictly maintained during those hours on the evenings Council meetings are held. In addition, lighting that is normally dimmed or off during these hours will be utilized. Additional costs for these utilities were not able to be estimated at this time, since they are not broken down in a manner suitable for identifying incremental costs. We may be able to return with more information over time, particularly if the night meetings are implemented and we could perform a comparative analysis with trending data.

### Total Costs

As referenced, total additional costs would depend upon Council direction as to meal provisions. The following table summarizes the estimated potential costs for both scenarios:

Potential Costs: Night Council Meeting	Scenario A: Meal Provided	Scenario B: No Meal
Additional Security	\$ 230	\$ 230
Staff overtime	\$ -	\$ -
Meal provision	\$ 467	\$ -
<b>TOTAL</b>	<b>\$ 697</b>	<b>\$ 230</b>


### *Other Cities*


The IBA would also note that we conducted a survey of other municipalities and their evening meeting practices. We surveyed seven cities and received valuable information back from six. Three other large cities surveyed were Oakland, San Jose and San Francisco. Two other San Diego County cities consulted were Carlsbad and Solana Beach. We also received information from Santa Barbara.

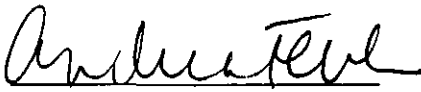
Other cities experienced an array of additional costs for their evening meetings. For the most part, cities did not experience additional overtime costs, due to the use of exempt staff. As noted above, some exceptions were for non-exempt staff required to attend a particular hearing. Most cities did not experience additional security costs or did not track this information. With regard to the provision of food, experience and costs vary, as displayed in the table below.

Finally, while collecting the above data, we also gathered some ancillary information about frequency and times of evening meetings. This information is also provided in the table below for information purposes. Important to note, the City of San Francisco holds meetings at night only if the regularly scheduled meeting runs over.

City	Frequency of Meetings Per Month	Start Times	Meal Provided?
Oakland	2	6:00 PM	no
Carlsbad	4	6:00 PM	yes
Solana Beach	2	6:00 PM	yes
San Jose	2	7:00 PM	no
Santa Barbara	1	6:00 PM	no
San Francisco	varied	n/a	no

  
 Brittany Coppage  
 Research Analyst

  
 Penni Takade  
 Deputy Director

  
 APPROVED: Andrea Tevlin  
 Independent Budget Analyst

03/02

\*CORRECTED  
COMMITTEE ACTION SHEET

COUNCIL DOCKET OF \_\_\_\_\_

☐ Supplemental    ☐ Adoption    ☐ Consent    ☐ Unanimous Consent    Rules Committee Consultant Review

R - ,

O -

Permanent Rules of Council

☒ Reviewed    ☐ Initiated    By Rules    On 1/28/09    Item No. 4

RECOMMENDATION TO:

(See votes on next page.)

\*NOTE: Correction to third vote on the item.

VOTED YEA: (See votes second page)

VOTED NAY: N/A

NOT PRESENT: N/A

CITY CLERK: Please reference the following reports on the City Council Docket:

REPORT TO THE CITY COUNCIL NO.

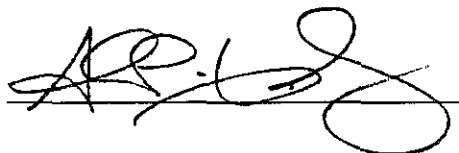
INDEPENDENT BUDGET ANALYST NO.

COUNCIL COMMITTEE CONSULTANT ANALYSIS NO.

OTHER: \

Councilmember DeMaio's January 28, 2009, memorandum; Councilmembers Frye's and DeMaio's November 13, 2008, memorandum with accompanying documents; Council District Eight's PowerPoint; Council President Hueso's January 17, 2009, memorandum

COUNCIL COMMITTEE CONSULTANT



RECOMMENDATION TO (CONT'D):

ACTION: Motion by Councilmember Young, second by Chair Hueso, to make permanent temporary order changes and add Pledge of Allegiance to Tuesday agendas.

VOTE: 5-0; Hueso-yea, Faulconer-yea, Frye-yea, Gloria-yea; Young-yea

ACTION: Motion by Councilmember Frye, second by Councilmember Young, to add timing of election of Council President to immediately after elections. Direction to City Attorney to report on legality of Permanent Rules 2.9 and 2.10. Direction to IBA to report on costs associated with evening meetings.

VOTE: 5-0; Hueso-yea, Faulconer-yea, Frye-yea, Gloria-yea; Young-yea

ACTION: Motion by Councilmember Young, second by Chair Hueso, to amend Permanent Rules to exclude personnel discussions from transcription requirement.

VOTE: 4-1; Hueso-yea, Faulconer-yea, Frye-nay, Gloria-yea; Young-yea



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# Rules Committee

Permanent Rules of Council  
Workshop

Wednesday, January 14, 2009

RULES JAN 28 2009 #4



## **Rule 2.10 (b)**

# **Procedure for Debate**

Items Initiated by a Committee:

- (1) Motion and second.
- (2) Brief opening statement by the committee chair or his/her designee explaining and/or advocating the item (maximum of five minutes).
- (3) Staff report, if any, by the appropriate staff members and relevant questions thereon by Council members, limited to five minutes with the right of any other member to yield all or a portion of such member's time.
- (4) Testimony by members of the public who support the item (maximum of fifteen minutes total for all proponents).
- (5) Testimony by members of the public who oppose the item (maximum of fifteen minutes total for all opponents).
- (6) Discussion by Councilmembers. The order of recognition of Councilmembers desiring to speak shall be determined by the President in accord with the recognition light panel. Each Councilmember shall be allowed the opportunity to speak and shall be limited to a maximum of three minutes.



## **Rule 7.6.3**

# **Preparation and Delivery of Regular Agenda to Clerk**

The City Clerk shall arrange the agenda in proper printed format and cause the agenda to be prepared and distributed for public notice by 10:00 a.m. each Wednesday preceding the regular meetings of the Council to be held the following week. All supplemental agenda materials shall be delivered to the City Clerk by 2:00 p.m. each Wednesday and shall be posted by 2:00 p.m. each Friday preceding the regular meetings of the full Council to be held the following week.





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**Thank you for your  
attention and  
participation in the  
Workshop!**

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**DONNA FRYE**  
CITY COUNCILMEMBER — DISTRICT 6

**CARL DEMAIO**  
CITY COUNCILMEMBER-ELECT — DISTRICT 5

## MEMORANDUM

**DATE:** November 13, 2008

**TO:** City Councilmembers and Councilmembers-elect

**FROM:** Councilmember Donna Frye

Handwritten signature of Donna Frye in cursive script.

Councilmember-Elect Carl DeMaio

Handwritten signature of Carl DeMaio in cursive script.

**SUBJECT:** Recommendations for City Council

We are submitting for your review the following recommendations from the attached report. As you will see, not all of the recommendations in the report are included for a request to docket at the December 8th or 9th Council meeting. It is our intention to have all other recommendations referred to the appropriate Council Committee for more discussion.

We request that the following items be docketed for discussion:

**REFORM 1.1: Hold City Departments Accountable for Timely Disclosure of Documentation for the Council Docket**

**Automatic Continuance Rule:** Amend the Permanent Rules of Council to require that any item that does not have complete documentation at least 24 business hours in advance of a meeting shall be subject to an automatic continuance to the following meeting. Any one Councilmember may raise a point of order on this issue and the Chair shall put the motion to proceed without timely providing documentation to a vote. The item may be heard as docketed only if five (5) votes of the City Council concur.

This change shall *not* effect any other rule that requires a longer review period.

**REFORM 3.2: Enhance Council Oversight of Independent Agencies**

**Oversight Hearing with Boards:** Require that the Council committees hold an oversight hearing at least every six months with the boards of any independent agency that falls under their jurisdiction. The purpose of the hearing would be to receive a status report from the board on the financial, policy, and operational condition of the independent agency and take direction from the City Council committee on future direction. In addition, the financial and performance audit of the independent agency would be the subject of a separate oversight hearing with the independent agency at least once per year.

**Appointment and Removal of Chief Executives:** Amend the operating agreements of the independent agencies to require that the Chief Executive of the agency is appointed and removed by the City Council.

**SDCERS Appearances:** Require that the SDCERS Chief Executive attend City Council hearings on the city's financial audits, financial disclosures, possible pension changes, and budget deliberations when requested by any one member of the City Council.

**Closed Session Reform:** Require SEDC, CCDC and the Housing Commission to follow the same closed session rules as the City Council.

**REFORM 3.4: Include Councilmember Attendance at Disclosure Practices Working Group**

Amend the Municipal Code to allow Councilmembers or their staff to attend the meetings of the DPWG. To ensure no violation of the Brown Act occurs, Councilmembers wishing to attend should inform the Chair of the DPWG in advance.

**REFORM 4.1: Clarify Rules for Election of Council Leadership**

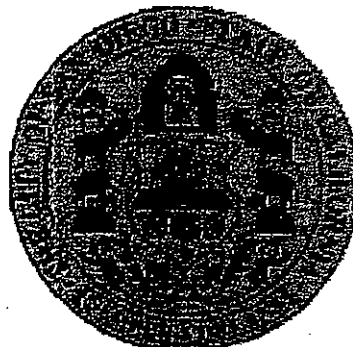
Amend the municipal code to clarify that the election of the Council President and President Pro Tem shall occur at the first meeting in December *after* the new Councilmembers are sworn in. The Clerk shall call the first meeting to order, with the first order of business being the election of City Council leadership.

**REFORM 4.2: Professionalize Docket Management**

Amend the Permanent Rules of Council and task the Office of the Clerk with staffing the docket.

CC: Mayor Jerry Sanders  
City Attorney Michael Aguirre  
Independent Budget Analyst  
City Attorney-elect Jan Goldsmith  
City Clerk, Elizabeth Maland

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# **CITY COUNCIL GOVERNANCE**

**Improving the Openness, Effectiveness, and Independence  
of the City Council through Reforms**

**November 13, 2008**

**A Report by**

**Councilmember Donna Frye  
(District 6)**

**Councilmember-Elect Carl DeMaio  
(District 5)**

## Purpose and Process of Study

As the City of San Diego continues its transition to the "Strong Mayor" form of government, it is imperative that the City Council implement more effectively its new roles and responsibilities as an independent legislative body.

The current five-year trial period is often mislabeled "Strong Mayor," despite the fact that the governance model is actually a "**Strong Mayor-Strong Council**" form of government and the legislative and executive branches of government have equal power.

The City Council is the legislative branch which sets policy (subject to Mayoral veto) and provides oversight of mayoral implementation of policy once a law is passed. The City Council is also the branch of government best positioned to provide the public an opportunity to participate in their local government because they hold public hearings and communicate daily with the constituents.

The Mayor is the executive branch which implements the legislative policy set by City Council and proposes the annual budget. The Mayor's veto authority is subject to a City Council override.

While much progress has been made in transitioning to the Strong Mayor-Strong Council form of government, more needs to be done. This includes the City Council repositioning itself to more effectively: initiate its own legislation, engage the public, exercise proper review and approval of budget decisions, provide effective oversight of the executive branch.

With a new City Council taking office on December 8, 2008 there exists a unique opportunity to change the way the legislative branch operates, both culturally and procedurally.

On June 9, 2008 Councilmember Donna Frye and Councilmember-Elect Carl DeMaio announced the launch of a joint study effort to assess the transition progress to date and offer recommendations for discussion as to how the City Council can make refinements in internal procedures and policies.

The study effort focused on council policies and procedures in four key areas:

**Public Participation:** The City Council should truly be the "people's body" in city government. As such, the City Council should strive to provide maximum access to the people to participate in their local government. The study examined ways to enhance public knowledge of planned Council actions as well as their ability to weigh in on key issues before Council. Topics included timing and location of City Council meetings, agenda and non-agenda public comment, and sunshine policies.

**Budget and Legislative Processes:** If the City Council is to be a truly independent branch of government, it ought to play a greater role in the initiation and docketing of legislation. In addition, there have been a number of instances in recent years where there has been great confusion over the legislative process—particularly as it concerns budgetary decisions (e.g. mid-year changes, impasse process, timing of budget decisions, etc.) The study examined how to redefine the manner in which ordinances and resolutions are introduced, managed, and considered. In addition, the study reviewed ideas for improving the integrity of the budget process.

## Public Participation

### **REFORM 1.1: Hold City Departments Accountable for Timely Disclosure of Documentation for the Council Docket**

#### *Overview of Issue:*

Timely and complete access to all public documents relating to a pending municipal decision are the centerpiece of an open government. Providing the public with supporting docket documents allows for reasonable review and scrutiny of the data, information, and arguments being presented to councilmembers in support of or opposition to a decision. Unfortunately, there have been far too many instances where supporting information for a docket item has arrived late—preventing councilmembers and the general public from having an opportunity to adequately review the material *before* a decision is made.

In other cases, an item does not even make it on the docket because a city department has not yet provided supporting documentation. In some cases this has been due to workload factors or inability to generate information and data on time. In other cases there has been a concern that the failure to provide supporting documentation has been used as a pre-decisional veto on the legislative process. While input from the executive branch may be helpful to the legislative process, there should be a stronger mechanism in place to allow the City Council to proceed with the docketing of an item even if a city department has failed to provide input on the item.

#### *Recommended Actions:*

**Automatic Continuance Rule:** Amend the Permanent Rules of Council to require that any item that does not have complete documentation at least 24 business hours in advance of a meeting shall be subject to an automatic continuance to the following meeting. Any one Councilmember may raise a point of order on this issue and the Chair shall put the motion to proceed without timely providing documentation to a vote. The item may be heard as docketed only if five (5) votes of the City Council concur.

This change shall *not* effect any other rule that requires a longer review period.

**Legislative Privilege Rule:** Amend the Permanent Rules of Council to allow any City Councilmember to request that the City Council docket an item for a future meeting even if a city department has failed to provide input in a timely manner for the item. (See Reform 2.2 for specific mechanism for making the motion to consider.)

**Opinions by City Attorney:** Require that the City Attorney opinions be received at the same time as all other docketing materials. Should the City Attorney fail to provide materials on time, the City Clerk shall still docket the item, but request the action be to provide authorization for the Clerk to seek outside legal counsel to provide the necessary legal analysis. Any costs associated with this move shall be debited mid-year from the budget of the City Attorney.

### **REFORM 1.2: Expand Use of Evening and District Meetings**

#### *Overview of Issue:*

The City Council currently holds its meetings Monday and Tuesday during business hours—and almost always at City Hall in downtown. Working families often find it hard to take off work to attend a hearing on an item of importance to them. While there is a provision in the current rules for community and evening meetings, this provision could be better utilized.

*Recommended Actions:*

**Amend City TV Policy Guide:** Require that a clear process for prioritization of requests for use of City TV be established, with an "equal time" provision and "first come, first served" rule for resolving disputes on coverage of events.

**Provide Coverage of Independent City Agencies:** The meetings of the boards for the independent city agencies (SEDC, CCDC, Housing Commission, etc.) should be televised.

**REFORM 1.5: Request Monthly Public Comment & Question Session with the Mayor**

*Overview of Issue:*

Under the Strong Mayor-Strong Council form of governance the Mayor no longer chairs, nor regularly attends City Council meetings. Therefore, some have argued that the public has limited access or opportunity to bring their issues directly before the Mayor—as they did under the Manager-Council form of government.

*Recommended Action:*

**Mayoral Question and Comment Session:** Amend the Permanent Rules of Council to include a monthly sixty minute "Question and Comment" Session with the Mayor—ideally during the monthly evening meeting. Thirty minutes would be allocated to the public with thirty minutes allocated to the City Council.

## BUDGET & LEGISLATIVE PROCESSES

### REFORM 2.1: Adopt Performance-based Budgeting Ordinance

#### *Overview of Issue:*

City taxpayers deserve to know what service levels they receive for their tax dollars. Cities and counties across the country have embraced the concept of "performance budgeting" whereby the budget process begins with the definition of performance results and the executive and legislature work to align available resources with those results. Once a budget is adopted the executive branch is given flexibility to manage resources throughout the year—provided that those results are achieved. Enhanced performance measures would be put in place to help define results and track results throughout the year in a transparent way—to the legislature as well as to the general public.

In recent years there have been concerns that there is not enough focus on using performance measures to define service levels—and that mid-year budget changes have adversely impacted service levels without the legislature or the public knowing in advance.

#### *Recommended Actions:*

The City Council should reform the city's budget process to require the following:

**Annual Performance Plan:** The Mayor should submit an annual performance plan to the City Council no later than January 15 of each year that includes measurable outcome goals and measures for each city department. A listing of major services by program area in each department—complete with workload/output measures—should also be included.

No later than February 1, the City Council shall adopt a performance plan by ordinance and the Mayor shall prepare and submit a budget that reflects the resources required to each the level of performance expected from each city department. As decisions are made on resources throughout the budget process, the Mayor shall advise the City Council on the impact on performance expectations for each city department. All changes in performance measures and targets shall be included in the annual budget ordinance passed by the City Council.

**Post Quarterly Performance Updates Online:** The ordinance should include a requirement that each city department post its performance measures online with quarterly updates for the public to track the city's progress.

**NOTE:** In the "Statement of Budgetary Principles" included in the FY 2009 Appropriations Ordinance, the City Council has outlined a process for the Mayor to use in making mid-year spending reductions. The process includes the requirement to inform the City Council in advance of significant reductions being made, and establishes dollar thresholds that would trigger a requirement to seek Council approval for mid-year budget cuts. While we are still concerned this process may allow for abuse, the performance budgeting reforms above should provide greater transparency on the impact to service levels of any mid-year budget cuts. We ask that the Budget Committee continue to provide aggressive oversight of mid-year budget cuts to ensure conformance with the process outlined in the "Statement of Budgetary Principles."



**Point of Order:** A Councilmember may bring attention to items that are awaiting action by the full Council but not yet docketed due to lack of supporting documentation from the executive branch or city attorney's office or absence from the docket due to a failure to conform with the rules for docketing outlined above.

**Motion to Docket in Future:** A Councilmember may make a motion to instruct the Clerk to docket an item for a future meeting. Should such a motion receive five affirmative votes, the item shall be considered at the next regular meeting of the City Council unless the motion included an alternative date for consideration.

### **REFORM 2.3: Clarify Rules for Impasse Procedure**

#### *Overview of Issue:*

The Impasse Procedure is used labor negotiations to determine when management and the bargaining units have failed to reach an agreement. It is used to force a resolution on disputed issues—sometimes through the imposition of contract terms on the union. In the transition to the Strong Mayor-Strong Council form of government the City's procedure for declaring and settling an impasse was not revised. Significant confusion has occurred during each of the impasse hearings on what the proper procedure should be—and recent legal decisions relating to the City's handling of Impasse have indicated a clear policy needs to be established.

#### *Recommended Actions:*

**Adopt Revised Impasse Procedure:** Subject to meet and confer with the employee unions, the city should adopt an impasse procedure that permits the City Council to either adopt the last, best & final offer of the Mayor or the last, best & final offer of the bargaining unit. Failure to adopt either would result in the continuation of the previous year's contract.

## COUNCIL OVERSIGHT

### **REFORM 3.1: Create an "Oversight Provisions" in the Appropriations Ordinance**

#### *Overview of Issue:*

The Appropriations Ordinance is one of the most important tools the City Council has to exercise authority to enforce legislative intent as the executive branch implements city laws and programs. For example, recently there were concerns that the executive branch failed to implement in a timely manner the water recycling ordinance passed by the City Council. There have also been cases where information has not been forthcoming from city agencies when requested by a council committee or councilmember.

Borrowing from the federal appropriations process, the City Council can give an issue more importance if it links timely implementation of a policy or provision of information to the city department's authority to make expenditures.

#### *Recommended Actions:*

**Oversight Provisions List:** The City Council will provide a list of actions that a city department in their jurisdiction should be prepared to carry-out in exchange for authority to spend their appropriation in a specific budget account. Items would be limited solely to issues and policy already defined in municipal law—but await proper implementation by the executive branch. At the initial introduction of the annual Appropriations Ordinance, the Oversight Provisions list will be offered as an amendment to the ordinance and put to a vote of the City Council.

### **REFORM 3.2: Enhance Council Oversight of Independent Agencies**

#### *Overview of Issue:*

As recent events with the South Eastern Development Corporation and the Centre City Development Corporation illustrate, the City Council needs to be more active in overseeing the activities of so-called independent agencies of the city.

#### *Recommended Actions:*

**Oversight Hearing with Boards:** Require that the Council committees hold an oversight hearing at least every six months with the boards of any independent agency that falls under their jurisdiction. The purpose of the hearing would be to receive a status report from the board on the financial, policy, and operational condition of the independent agency and take direction from the City Council committee on future direction. In addition, the financial and performance audit of the independent agency would be the subject of a separate oversight hearing with the independent agency at least once per year.

**Appointment and Removal of Chief Executives:** Amend the operating agreements of the independent agencies to require that the Chief Executive of the agency is appointed and removed by the City Council.

**SDCERS Appearances:** Require that the SDCERS Chief Executive attend City Council hearings on the city's financial audits, financial disclosures, possible pension changes, and budget deliberations when requested by any one member of the City Council.

## Presiding Officer, Rules of Order & Committee Structure

### **REFORM 4.1: Clarify Rules for Election of Council Leadership**

#### *Overview of Issue:*

Some of the outgoing City Councilmembers have suggested that they—not the new City Councilmembers—should select the leadership for the new City Council. This would be tantamount to the House Republicans losing the 2006 election only to reconvene in Washington to elect the Speaker for the next Congress early—selecting a Republican instead of a Democrat. Outgoing members should not impose their leadership choice on the incoming members. Moreover the city's Municipal Code only states that the election of Council leadership shall occur by the first week in January.

#### *Recommended Action:*

Amend the municipal code to clarify that the election of the Council President and President Pro Tem shall occur at the first meeting in December *after* the new Councilmembers are sworn in. The Clerk shall call the first meeting to order, with the first order of business being the election of City Council leadership.

### **REFORM 4.2: Professionalize Docket Management**

#### *Overview of Issue:*

Managing the docket should not be a political process and the staff position devoted to docket management should not change every year with the change in Council Presidency. It can take months for a new staff member to learn the art of effective docket management.

#### *Recommended Action:*

Amend the Permanent Rules of Council and task the Office of the Clerk with staffing the docket.

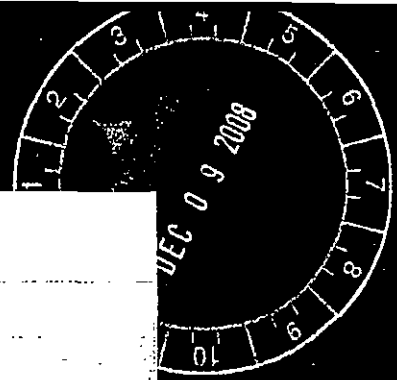
### **REFORM 4.3: Create a Parliamentarian**

#### *Overview of Issue:*

The City Council should adhere to its Rules of Order and maintain a more professional and respectful environment during its meetings. The County Board of Supervisors has designated the Clerk of the Board as its Parliamentarian—a role that actively guides debate at the Board.

#### *Recommended Actions:*

**Designate the Clerk as the Parliamentarian:** Amend the Permanent Rules of Council to make rulings on points of order subject to the advice of the Parliamentarian and a ruling by the Chair. When sitting at Council, the City Clerk would sit as the Parliamentarian. This role is modeled after the County Board of Supervisors—who consults closely with the County Counsel on any parliamentary issues that may also relate to legal matters. The Parliamentarian would also take a more active role in facilitating discussion and managing public testimony.



# Council Governance Report

*Improving the Openness, Effectiveness and  
Independence of the City Council*

*Councilmember Carl DeMaio  
Councilmember Donna Frye*

## PUBLIC PARTICIPATION

- 1.1 Hold City Departments Accountable for Timely Disclosure of Documentation for the Council Docket
- 1.2 Expand Use of Evening and District Meetings
- 1.3 Improve Time Management of the Docket
- 1.4 Improve Use of City TV
- 1.5 Request Monthly Public Comment & Questions Session with the Mayor

## **BUDGET & LEGISLATIVE PROCESSES**

- 2.1 Adopt Performance-Based Budgeting Ordinance
- 2.2 Expand Access to the Docket
- 2.3 Clarify Rules for Impasse Procedure

## **COUNCIL OVERSIGHT**

- 3.1 Create an "Oversight Provisions" in the Appropriations Ordinance
- 3.2 Enhance Council Oversight of Independent Agencies
- 3.3 Enhance Oversight of City Contracting
- 3.4 Include Councilmember Attendance at Disclosures Practices Working Group

## PRESIDING OFFICER, RULES OF ORDER & COMMITTEE STRUCTURE

- 4.1 Clarify Rules for Election of Council Leadership
- 4.2 Professionalize Docket Management
- 4.3 Create a Parliamentarian
- 4.4 Restructure Council Committees

### Motion 1

- Direct City Attorney to Draft the Appropriate Documents and Return to Council for Approval:
  - 1.2 Evening Meetings
  - 1.5 Mayoral Comment
  - 3.2 Oversight of Independent Agencies

## Motion 2

- Direct City Attorney to Draft the Appropriate Documents and Return to Council for Approval
- 4.2 Professionalize Docket Management
- 2.2 Expand Access to the Docket

## Motion 3

- All Remaining Items Should be Sent to Rules Committee Except:
  - 3.4 Include Councilmember Attendance at Disclosures Practices Working Group
    - *Send to Audit Committee*
  - 2.1 Adopt Performance-Based Budgeting Ordinance
    - *Send to Budget Committee*

**Permanent Rules of Council**  
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City of San Diego

## CITY COUNCIL

## MEMORANDUM

DATE: February 3, 2009

TO: Council President Ben Hueso

FROM: Councilmember Donna Frye

Councilmember Carl DeMaio

Councilmember Sherri Lightner

Councilmember Marti Emerald

RE: Request to Docket Council Governance Items at City Council

Implementing the following reforms from the Council Governance Report is an important step forward in improving the processes of and public access to the City Council. We respectfully request that they be considered as action items at a hearing of the full City Council within 30 days:

Reform 1.2: Expand Use of Evening and District Meetings

Adopt the provision for one evening meeting per month, usually to be held at City Hall, on the first Monday of the month, from 4:30 – 9:00 pm. Specify that Non-Agenda Public Comment be included on this day;

Reform 2.2: Expand Access to the Docket

Any item requested by three city councilmembers in writing shall be docketed at full Council within 45 days of the request (not counting legislative recess weeks)-unless the requesting members request an alternative timeline with the Clerk.

A number of other recommendations not pertinent to the permanent rules from the Council Governance Report have been referred to various City Council committees for discussion. We look forward to these discussions and the opportunity for them also to be heard at the full City Council.

Thank you for your timely response in docketing the above items.



City of San Diego

**CARL DEMAIO**  
CITY COUNCILMEMBER -DISTRICT 5

## MEMORANDUM

DATE: January 28, 2009  
TO: Rules Committee  
FROM: Councilmember Carl DeMaio *Carl DeMaio*  
RE: Council Governance Report

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I respectfully request that the following items from the Council Governance Report be forwarded to the full City Council for consideration:

Reform 1.2: Expand Use of Evening and District Meetings

Adopt the provision for one evening meeting per month, usually to be held at City Hall, on the first Monday of the month, from 4:30 – 9:00 pm. Specify that Non-Agenda Public Comment be included on this day.

Reform 2.2: Expand Access to the Docket

Any item requested by three city councilmembers in writing shall be docketed at full Council within 45 days of the request (not counting legislative recess weeks)- unless the requesting members request an alternative timeline with the Clerk.

Reform 4.1: Clarify Rules for Election of Council Leadership

Adopt report recommendations, with the option of making the Council President term 2 years instead of 1 year.

I appreciate the time that Chairman Hueso and the members of this committee have given to our ongoing efforts to enhance the openness, independence and effectiveness of the City Council.


**COUNCIL PRESIDENT BEN HUESO**

City of San Diego  
Eighth District

**MEMORANDUM**

**DATE:** January 27, 2009

**TO:** Rules Committee Members

**FROM:** Council President Ben Hueso 

**SUBJECT:** Discussion regarding the Permanent Rules of Council

On December 9, 2008, the City Council held a discussion on changes to the Permanent Rules of Council and other proposals by Councilmembers DeMaio and Frye. The Council approved a motion to refer the proposals to the Rules Committee with direction to return recommendations to the Council by March 2009. On January 14, 2009, the Rules Committee held a workshop to discuss these proposals along with additional changes to the Permanent Rules that I have recommended. The members of the Rules Committee decided to bring back to committee some changes for further deliberation based on the comments made during the workshop. On January 28, 2009, the Rules Committee will discuss the following:

Procedure for Assignment to Council Docket

The City Attorney will provide an opinion on Rule 2.9.2 of the Permanent Rules regarding whether there are any legal issues associated with having multiple Councilmembers request in writing to docket any matter at Council.

If there are no regulations prohibiting the current rule, which requires four Councilmembers sign a memo in order to require docketing of an item at Council, I will recommend we keep this rule in place. In addition, I suggest we add to Rule 2.9.2 a provision stating that a memo signed by any two Councilmembers can require that an item be placed on a Council Committee agenda.

Council President Election

The City Attorney will provide an opinion to determine how many votes are required to elect the Council President.

I will ask the Committee members to consider changing the election to the first meeting after June 30 on odd numbered years. I will recommend that we amend Rule 4.2 to state that the next election be held on the first meeting after June 30, 2010 with every subsequent election held only on odd numbered years.

Procedure for Debate

Committee members agreed to further discuss Rule 2.10 regulating procedure for debate during City Council meetings and other suggestions for improving time management of the docket.

Temporary Order Changes

Councilmembers agreed to further discuss making permanent changes to the Order of Business under Rule 2.2.

I will request the members of the Rules Committee move Special Orders of Business from Mondays to Tuesdays, following Roll Call; consolidate Consent items from Mondays and Tuesdays to Mondays only; and allow for placement Noticed and Special Hearings on both Mondays and Tuesdays to allow for better docket management.

Transcription of Closed Session

The City Attorney will report on whether it is a requirement to transcribe closed session discussions relating to personnel matters.

If it is not legally required to transcribe said discussions, I will recommend that we amend Rule 8.4 to exclude discussions regarding personnel matters.

During the Workshop on the Permanent Rules held on January 14, the Rules Committee also discussed recommendations that do not require a change to the Permanent Rules of Council. These items may be docketed for discussion on a future Rules agenda. I look forward to discussing each of these proposals in an effort to improve the effective operation of the City Council.

CC: Mayor and City Council  
City Attorney  
City Clerk and IBA

**COUNCIL PRESIDENT BEN HUESO**

City of San Diego  
Eighth District

**MEMORANDUM**

**DATE:** January 14, 2009  
**TO:** Rules Committee Members  
**FROM:** Council President Ben Hueso

A handwritten signature in black ink, appearing to read "Ben Hueso", written over a horizontal line.

**SUBJECT:** Workshop on Permanent Rules of Council

On January 14, 2009, I will docket for discussion at the Rules Committee standardizing the Permanent Rules of Council. We will cover the topics presented to the City Council on December 9, 2008 under item 331, "Discussion of the Permanent Rules of Council". I also would like to add the following:

- Addressing temporary changes approved by the Council in 2006 regarding Rule 2.2 (Orders of Business), which include special orders of business, consent items, and noticed and special hearings. See attached memorandum by Council President Peters, dated January 11, 2006.
- Reviewing Rule 2.10 (b) regulating procedure for debate during City Council meetings
- Reviewing Rule 4.2 to include a discussion on the length of term of the Council President
- Amending Rule 7.6.3 to require that all requests for supplemental items be accompanied by a memorandum explaining the timely nature of the matter
- Discussing changes to Rule 8.4 regarding the requirement for recording and transcribing of closed session meetings to exclude personnel items

I look forward to a meaningful discussion on the Permanent Rules which will make the docketing and Council processes run more smoothly. Thank you.

CC: Mayor and City Council  
City Attorney  
City Clerk  
IBA

Attachments

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200  
03/02**REQUEST FOR COUNCIL ACTION**  
**CITY OF SAN DIEGO**1. CERTIFICATE NUMBER  
(FOR AUDITOR'S USE ONLY)TO: CITY ATTORNEY  
2. FROM (ORIGINATING DEPARTMENT): Rules Committee3. DATE:  
February 17, 20094. SUBJECT:  
Amendments to Permanent Rules of Council

5. PRIMARY CONTACT (NAME, PHONE, &amp; MAIL STA.)

Alonso Gonzalez, 236-6688, 10a

6. SECONDARY CONTACT (NAME, PHONE, &amp; MAIL STA.)

Ana Molina Rodriguez, 236-6688, 10a

7. CHECK BOX IF REPORT TO COUNCIL IS ATTACHED

**8. COMPLETE FOR ACCOUNTING PURPOSES**

FUND					9. ADDITIONAL INFORMATION / ESTIMATED COST:
DEPT.					
ORGANIZATION					
OBJECT ACCOUNT					
JOB ORDER					
C.I.P. NUMBER					
AMOUNT					

**10. ROUTING AND APPROVALS**

ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED	ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
1	ORIG. DEPT	<i>Amel / Ly</i>	2-17-09	8	DEPUTY CHIEF		
2				9	COO		
3				10	CITY ATTORNEY	<i>[Signature]</i>	2-18-09
4	LIAISON OFFICE			11	ORIG. DEPT		
5				DOCKET COORD: _____ COUNCIL LIAISON _____			
6				<input checked="" type="checkbox"/> COUNCIL PRESIDENT <input type="checkbox"/> SPOB <input type="checkbox"/> CONSENT <input checked="" type="checkbox"/> ADOPTION <input type="checkbox"/> REFER TO: _____ COUNCIL DATE: 3-2-09			
7							

11. PREPARATION OF: ☐ RESOLUTIONS ☐ ORDINANCE(S) ☐ AGREEMENT(S) ☐ DEED(S)

Introduce an ordinance amending the Permanent Rules of Council; discuss additional actions and give the appropriate direction or make the appropriate referrals.

11A. STAFF RECOMMENDATIONS:

Approve the ordinance and provide the appropriate additional direction

12. SPECIAL CONDITIONS (REFER TO A.R. 3.20 FOR INFORMATION ON COMPLETING THIS SECTION.)

COUNCIL DISTRICT(S): ALL

COMMUNITY AREA(S):

ENVIRONMENTAL IMPACT:

HOUSING IMPACT:

OTHER ISSUES:

## EXECUTIVE SUMMARY SHEET

### CITY OF SAN DIEGO

Date: February 17, 2009  
 Attention: Council President Ben Hueso  
 Originating Department: Council President Ben Hueso, Rules Committee Chair  
 Subject: Changes to the Permanent Rules of Council  
 Council District(s): Citywide  
 Primary Contact: Alonso Gonzalez, (619) 236-6688

**REQUESTED ACTIONS:** (A) Introduce an ordinance to amend the Permanent Rules of Council by adopting the recommendations of the Rules Committee; and (B) Consider additional amendments discussed but not acted upon by the Rules Committee—including the proposals raised in my January 14, 2009 and January 27, 2009 memoranda, the proposals referred to the City Attorney by the Rules Committee, and the proposals recommended by Councilmembers Lightner, DeMaio, Frye, and Emerald in a February 3, 2009 memorandum. Direct the City Attorney to prepare the appropriate ordinance(s) and return to Council within 30 days to effect those amendments Council chooses to adopt. Return to the Rules Committee those amendments Council determines require further discussion.

**EXECUTIVE SUMMARY:**

(A) On January 14, 2009 the Rules Committee discussed and on January 28, 2009 the Rules Committee voted to recommend that the Council adopt the following amendments to the Permanent Rules of Council.

1. Order of Business: Make permanent the changes to Rule 2.2 regarding Order of Business approved by Council on January 30, 2006. These changes affect special orders of business, consent items, and noticed and special hearings. In addition to these changes, add the Pledge of Allegiance to each Tuesday's agenda
2. Council Presidency: Include language in Rule 4.2 to require that the election of the Council President take place during the first meeting after incoming Councilmembers are sworn in
3. Transcription of Closed Sessions: Change Rule 8.4 regarding the requirement for recording and transcribing of closed session meetings to exclude all personnel items

The requested action is to adopt these amendments.

(B) On January 14, 2009 and January 28, 2009, the Rules Committee discussed but did not take action on the following proposed amendments, including two items referenced in a February 3, 2009 memorandum issued by Councilmembers Lightner, DeMaio, Frye, and Emerald, and other items referred to in my January 14, 2009 and January 27, 2009 memoranda. Of the items discussed but not forwarded to Council for action, the Rules Committee referred some to the City Attorney for further input so that the committee could take up all the remaining items at a subsequent committee meeting. Today, all related items are forwarded to the full Council for discussion, including but not limited to the following:



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1. Time and Place of Meetings: Require that the Council convene on the first Monday of each month from 4:30 - 9:00 pm and that Non Agenda Public Comment be included on this day
2. Procedure for Council Meetings: Specify that any item requested by three Councilmembers in writing shall be docketed within 45 days
3. Procedure for Debate: time management for Council meetings

The requested action is that the Council determine whether to adopt these amendments and, as to those that the Council wishes to adopt, that Council direct the City Attorney to prepare the appropriate documents and return to Council within 30 days to effect those amendments and, as to those that Council deems require further discussion, that Council return them to the Rules Committee.

FISCAL CONSIDERATIONS: None

PREVIOUS COUNCIL and/or COMMITTEE ACTION: On January 28, 2009, the Rules Committee voted to recommend to the Council changes to the Permanent Rules of Council as described above. On January 14, 2009 and January 28, 2009, the Rules Committee discussed and did not forward to Council several other amendments as described above.

  
\_\_\_\_\_  
Originating Department

Ana Molina Rodriguez  
for Council President Ben Hueso

ORDINANCE NUMBER O-\_\_\_\_\_ (NEW SERIES)

DATE OF FINAL PASSAGE \_\_\_\_\_

AN ORDINANCE AMENDING THE SAN DIEGO MUNICIPAL CODE BY AMENDING CHAPTER 2, ARTICLE 2, DIVISION 1, SECTION 22.0101.5, ENTITLED "PERMANENT RULES OF THE COUNCIL," BY AMENDING RULE 2.2, RULE 4.2 AND RULE 8.4.

WHEREAS, section 22.0101.5 of the San Diego Municipal Code, as amended, establishes permanent rules of procedure governing the operation of the Council; and

WHEREAS, on January 28, 2009, the Committee on Rules, Open Government and Intergovernmental Relations recommended making changes to the permanent rules of procedure to make Temporary Rule 2.2: Order of Business, approved by the Council on January 30, 2006, permanent, add the Pledge of Allegiance to the beginning of the Tuesday Council meeting, and exclude personnel discussions from the transcription requirement for closed session meetings; and

WHEREAS, under Charter section 280(a)(1) this ordinance is not subject to veto by the Mayor because this matter is exclusively within the purview of the City Council and not affecting the administrative service of the City under the control of the Mayor; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 2, Article 2, Division 1, of the San Diego Municipal Code be and is hereby amended by amending section 22.0101.5, Rule 2.2, Rule 4.2, and Rule 8.4 to read as follows:

**§22.0101.5 Permanent Rules of the Council**

**Rule 1 through Rule 2.1** [No change in text].

**Rule 2.2 Order of Business** (Former Rule 3)

The order of business for Council meetings shall be as follows:

**Monday at 2:00 p.m.**

1. Roll Call
2. Invocation and Pledge of Allegiance
3. Requests for Continuances
4. Communications
5. Adoption Agenda
  - (a) Committee Items
  - (b) Other Legislative Items
  - (c) Noticed Hearings (to be scheduled at various times throughout the day by the City Clerk based on the number of hearings and reasonable expectation of length) and Special Hearings
6. Public Comment on Closed Session Items
7. Public Notices
8. Non-Agenda Items
9. Adjournment

**Tuesday at 9:00 a.m.**

1. Closed Session

**Tuesday at 10:00 a.m.**

1. Roll Call
2. Pledge of Allegiance
3. Special Orders of Business
4. Non-agenda Public Comment (limited to three minutes)
5. Requests for Continuance
6. Adoption Agenda
  - (a) Consent Items
  - (b) Noticed Hearings (to be scheduled at various times throughout the day by the City Clerk based on the number of hearings and reasonable expectation of length) and Special Hearings
  - (c) Unfinished Business from Monday
7. Non-Agenda Items
8. Adjournment

**Rule 2.3 through Rule 4.1** [No change in text].

**Rule 4.2 Selection of the President**

At the first regular Council meeting held after 10:00 a.m. the first Monday after the first day of December, the Council shall select a President from one of its members by majority vote of the Council. The President shall serve for a term of one year, commencing on the date set forth above, or until a successor is selected and qualified, whichever is later. The President may serve more than one term.

**Rule 4.3 through Rule 8.3** [No change in text].

**Rule 8.4 Transcription of Closed Sessions**

Except for matters involving personnel decisions, all closed sessions shall be transcribed by a court certified reporter. All transcripts shall be retained.


**Rule 8.5 through Rule 11** [No change in text].

Section 2. That a full reading of this ordinance is dispensed with prior to its passage, a written or printed copy having been available to the City Council and the public prior to the day of its passage.

Section 3. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: JAN I. GOLDSMITH, City Attorney

By



Paul F. Prather  
Deputy City Attorney

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PFP:als

02/19/09

Or.Dept:Rules Committee

O-2009-104

000045

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck-Out~~

NEW LANGUAGE: Underlined

ORDINANCE NUMBER O-\_\_\_\_\_ (NEW SERIES)

DATE OF FINAL PASSAGE \_\_\_\_\_

AN ORDINANCE AMENDING THE SAN DIEGO MUNICIPAL CODE BY AMENDING CHAPTER 2, ARTICLE 2, DIVISION 1, SECTION 22.0101.5, ENTITLED "PERMANENT RULES OF THE COUNCIL," BY AMENDING RULE 2.2, RULE 4.2 AND RULE 8.4.

**§22.0101.5 Permanent Rules of the Council**

**Rule 1 through Rule 2.1** [No change in text].

**Rule 2.2 Order of Business** (Former Rule 3)

The order of business for Council meetings shall be as follows:

**Monday at 2:00 p.m.**

1. Roll Call
2. Invocation and Pledge of Allegiance
3. ~~Special Orders of Business~~
4. Requests for Continuances
- ~~5.4.~~ Communications
- ~~6.5.~~ Adoption Agenda
  - (a) Consent Items

~~(b)~~——Committee Items

~~(e)~~(b) Other Legislative items

(c) Noticed Hearings (to be scheduled at various times throughout the day by the City Clerk based on the number of hearings and reasonable expectation of length) and Special Hearings

6. Public Comment on Closed Session Items

7. Public Notices

8. Non-Agenda Items

9. Adjournment

**Tuesday at 9:00 a.m.**

1. Closed Session

**Tuesday at 10:00 a.m.**

1. Roll Call

2. Pledge of Allegiance

23. Special Orders of Business

4. Non-agenda Public Comment (limited to three minutes)

35. Requests for Continuance

46. Adoption Agenda

~~(a-)~~ Consent Items



(b-) Noticed Hearings (to be scheduled at various times throughout the day by the City Clerk based on the number of hearings and reasonable expectation of length) and Special Hearings

(c-) Unfinished Business from Monday

57. Non-Agenda Items

67. Adjournment

**Rule 2.3 through Rule 4.1** [No change in text].

**Rule 4.2 Selection of the President**

~~No later than the first meeting of the Council in January of each~~  
~~calendar year, At the first regular Council meeting held after 10:00~~  
~~a.m. the first Monday after the first day of December, the Council shall~~  
select a President from one of its members by majority vote of the  
Council. The President shall serve for a term of one year, commencing  
on the ~~first meeting of the Council in January of each year~~ date set  
forth above, or until a successor is selected and qualified, whichever is  
later. The President may serve more than one term.

**Rule 4.3 through Rule 8.3** [No change in text].

**Rule 8.4 Transcription of Closed Sessions**

Except for matters involving personnel decisions, all closed sessions shall be transcribed by a court certified reporter. All transcripts shall be retained.

**Rules 8.5 through Rule 11 – [No change in text].**

PFP:als  
02/20/09  
Or.Dept:  
O-2009-104