



## MEMORANDUM

**TO: CITY COUNCIL**

**FROM: DIANNE THOMPSON, CITY MANAGER**

**SUBJECT: REVIEW AND PROVIDE DIRECTION REGARDING AMENDMENTS TO THE POLICY/PROCEDURE FOR CONDUCTING CITY COUNCIL BUSINESS**

**DATE: JANUARY 26, 2016**

### **RECOMMENDATION:**

It is recommended the City Council review the current Policy/Procedure for Conducting City Council Business and determine if the Council wishes to request amendments to the policy for consideration at a future meeting.

### **IMPACT ON FINANCIAL AND PERSONNEL RESOURCES:**

There is no impact to financial resources and a minimal impact on personnel resources.

### **BACKGROUND:**

Currently, the City Council Operations Manual contains a "Policy/Procedure for Conducting City Council Business" ("Policy #2"). Policy #2 (Attachment 1) was originally adopted by City Council Resolution in December 1997 and has been amended from time to time. Policy #2 consists of procedural guidelines to assist the City Council in the conduct of City business; however, the City's Municipal Code and State law prevail over local adopted policies. Policy #2 provides for periodic review by the City Council and that modifications to Policy #2 shall be by majority vote of the Council.

### **ANALYSIS OF ISSUES:**

At the City Council meeting of December 8, 2015, the Council indicated that they would like to review the City's current policies and procedures regarding the conducting of Council business. The requested sections to be reviewed include the following:

- 1) How the Agenda is prepared;
- 2) Special Meetings;
- 3) Role and responsibilities of the Mayor; and
- 4) Scope of Agenda topics.

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**1) How the Agenda is Prepared**

Agenda preparation is set forth in Arroyo Grande Municipal Code, Chapter 2.08 (City Manager), Subsection 2.08.070.N. (Powers and duties), which states that the city manager shall prepare the agenda for all regular, special or adjourned meetings of the council in accordance with the laws establishing rules for council meetings. In addition, Subsection 2.08.080 states that the city manager "shall take his or her orders and instructions only from the council as a body, and no individual member of the council shall give any order or instruction to the city manager." (Attachment 2) Further, the "City Council/City Manager Mutual Expectations" policy states the "City Council gives direction only as a convened body." Finally, Policy #2, Subsection 6, "Agendas," states that agendas for the Council will be prepared by the City Manager. It should be noted that the City Manager has discretion to place items on the agenda that implement previously established Council policy and new items for which she believes Council direction and policy needs to be established, as well as routine business items.

The City's Municipal Code and Council policies are consistent with the approach taken by the League of California Cities. The League of California Cities Mayors and Council Members Resource Guide states that "Individual members of the council should not expect the city manager to implement their ideas unless a majority of the council gives such direction. The city manager's role is to carry out council policy as established on a given issue by a majority of its members. A council member who is in the minority on some issue should endeavor to change his/her colleague's position rather than expecting the city manager to martial the organization's resources in support of a policy direction that differs from the direction set by the council majority."

With regard to Council Member requests for placing items on the Agenda, Policy #2, Subsection 7.A. provides an opportunity on the agenda for Council Members to request an item of business be placed on a future agenda. This subsection proscribes that action be taken to approve placing an item on a future agenda to ensure there is approval by a Council majority, which is allowed under Section 54954.2(a)(2) of the Government Code.

**2) Special Meetings**

Current language set forth in Subsection 1.C. of Policy #2, states "*Special adjourned meetings and study sessions of the City Council may be called by a majority vote of the City Council.*" It is recommended that this subsection be amended to comply with Government Code Section 54956(a), which states in pertinent part that "A special meeting may be called at any time by the presiding officer of the legislative body of a local agency, or by a majority of the members of the legislative body..." The recommended amendment to Subsection 1.C. would state "*Special meetings of the City Council may be called at any time by the Mayor or by a majority of the City Council.*"

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#### 3) Role and Responsibilities of the Mayor

The City of Arroyo Grande is a general law city with a council-manager form of government. The council is elected by the people and charged with the basic responsibility for governing the community, with a city manager appointed by the council to manage the city organization. The City has a directly elected mayor. An elected mayor is a member of the city council and has all the powers and duties of a member of the city council (Government Code Section 34903). Government Code Sections 40602 et seq. also govern the role of the Mayor which specifically includes the authority to sign all warrants drawn on the city treasurer, all written contracts and conveyances made or entered into by the city; and all instruments requiring the city seal (the legislative body may provide by ordinance that the instruments described in (a), (b) and (c) be signed by an officer other than the mayor); he may administer oaths and affirmations, take affidavits, and certify them under his hand; and may acknowledge the execution of all instruments executed by the city and required to be acknowledged.

#### 4) Scope of Agenda Topics

Cities derive their powers from the California Constitution Article XI, Section 7, which provides a "city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws." General laws have a uniform statewide operation. Cities have broad discretion under Article XI to determine what is reasonable in their efforts to protect the public health, safety and general welfare of the city.

Currently the City does not have a policy governing the scope of regular Agenda items or for Council action on legislative actions by other governmental entities, with the exception of Policy #8 entitled "Guidelines for Council Direction on Items From Appointed Boards and Committees," of the City Council Operations Manual (Attachment 3). Policy #8 provides guidelines and criteria for when the Council should provide input or direction prior to a Council member appointed to a board or commission voting on an item before the board or commission to which they are appointed. The criteria includes such things as whether the item to be considered will result in a financial impact to the city of over \$10,000 and whether the item involves new regulations or requirements that would significantly impact workload or adversely impact Arroyo Grande businesses or citizens.

If the Council wishes to adopt similar policies establishing criteria for determining the scope of Agenda items and when the Council will consider taking action related to the legislative actions of other governmental entities, a draft policy can be prepared for Council consideration, which could be included as part of the Policy/Procedure for Conducting City Council Business.

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**ALTERNATIVES:**

The following alternatives are provided for City Council consideration:

1. Review the current Policy/Procedure for Conducting City Council Business and determine if the Council wishes to request amendments to the policy for consideration at a future meeting;
2. Retain the current Policy/Procedure for Conducting City Council Business; or
3. Provide other direction.

**ADVANTAGES:**

There is an advantage to periodically reviewing the City's policies to ensure that they are consistent with State law and the goals and objectives of the City Council. Policy #2 provides consistent procedural guidelines for conducting City Council business in an effective and efficient manner.

**DISADVANTAGES:**

There are no disadvantages identified relating to review of Policy #2.

**ENVIRONMENTAL REVIEW:**

No environmental review is required for this item.

**PUBLIC NOTIFICATION AND COMMENTS:**

The Agenda was posted in front of City Hall on Thursday, January 21, 2016 and the Agenda and staff report were posted on the City's website on Friday, January 22, 2016.

**ATTACHMENTS:**

1. City Council Operations Manual Policy #2 - Policy/Procedure for Conducting City Council Business
2. Arroyo Grande Municipal Code Sections 2.08.070 and 2.08.080
3. City Council Operations Manual Policy #8- Guidelines for Council Direction on Items From Appointed Boards and Committees

## 2. POLICY/PROCEDURE FOR CONDUCTING CITY COUNCIL BUSINESS

09/24/13

The following guidelines are to assist the City Council in the conduct of City business and are procedural only. Failure to strictly observe such procedures shall not affect the jurisdiction of the Council nor invalidate any action taken at a meeting that is otherwise held in conformance with the law.

Except as otherwise provided for in this Policy, any special rule adopted by the City Council, or as otherwise provided by state statute, the procedures of the City Council meetings shall be governed by the latest revised edition of "*Sturgis Standard Code of Parliamentary Procedure*", as modified by Council practices. The City Attorney is designated as the parliamentarian for City Council meetings. The City Manager shall preside as the parliamentarian in the City Attorney's absence.

### 1. MEETINGS

- A. The City Council shall meet in regular session on the second and fourth Tuesday of each month.
- B. Business at regular sessions shall be conducted from 6:00 PM to 11:00 PM only, unless extended by unanimous consent of the City Council Members present.
- C. Special adjourned meetings and study sessions of the City Council may be called by a majority vote of the City Council.
- D. The order of business for the City Council shall be as arranged by the City Manager, except for matters set at a specific time by the Council.

### 2. ADDRESSING THE CITY COUNCIL

- A. Each person desiring to address the Council shall proceed to the speaker's stand upon recognition from the Mayor. The speaker shall state for the record his/her name and address. Unless further time is granted by the Mayor, (unless overruled by a majority vote of the Council), the speaker shall limit his/her remarks to three (3) minutes unless special circumstances exist. All remarks shall be pertinent to the subject at hand. All remarks must be addressed to the Council as a whole and not to any Member individually. No questions shall be asked of a Council Member or member of City staff without the permission of the Mayor.
- B. In order to avoid repetitious presentations and delay in the business of the Council, whenever any group of persons wishes to address the Council on the same subject matter, it shall be proper for the Mayor to request a spokesperson be chosen by the group to represent its position. The Mayor may, in his discretion, grant additional time for a speaker that has

been recognized or designated by a group to present comments on their behalf.

- C. After a motion has been made and seconded, or a public hearing has been closed, no member of the public shall address the Council from the audience on the matter under consideration without first securing permission to do so from the Mayor or a majority vote of the Council.

**3. DISTURBANCE OF CITY COUNCIL MEETINGS**

The following procedure and format will be used by the City Council to address disruptive persons at a Council Meeting:

- A. The Presiding Officer shall make the following announcement:

As the Presiding Officer, I am advising you that your comments have violated the City Council's rules of procedure for addressing the City Council and you are causing a serious disruption to this meeting. I must ask you to immediately cease the disturbance before further action is necessary. At this time, I am going to recess the meeting for 10 minutes. We will then reconvene our meeting.

- B. Recess and call for police to be present when meeting reconvenes.

- C. If the disturbance continues after reconvening the meeting, the Presiding Officer shall make the following announcement:

As Presiding Officer, since you are continuing this disturbance, I must advise you that the Penal Code provides that every person who, without authority of law, willfully disturbs or breaks up any meeting, not unlawful in its character, is guilty of a misdemeanor. If you do not immediately cease this disturbance, I will request the police to arrest you under Penal Code Section 403.

- D. If the disturbance continues, request the police to come forward to make the arrest. (Government Code Section 54957.9)

**4. PROCEDURES**

- A. Council ordinances and resolutions must be reviewed in written form before binding action is taken on same.

- B. A Council order applies mainly as a directive to City officers or employees. It need not be in writing, as it generally applies to one specific act only.

- C. In the absence or inability of the Mayor and the Mayor Pro Tem to attend a meeting of the City Council, the Members present shall select one Member to temporarily preside.

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- D. A motion shall not be debated or "put to vote", unless the same is seconded. When a motion is seconded, if requested, it shall be stated by the Mayor or the City Clerk before debate.
- E. Upon a motion having been made and seconded, it shall be deemed to be in possession of the Council, but it may be withdrawn at any time, before decision or amendment, with the assent of a second.
- F. A Member called to order should relinquish the floor, unless permitted to explain; and the Council, if appealed to, shall decide on the case, but without debate. If there is no appeal, the decision of the Mayor shall be final.
- G. Upon demand of any Council Member, or at the discretion of the Mayor, the vote shall be by roll call, except that the vote on all ordinances or resolutions shall be by roll call vote.
- H. Tie votes shall be lost motions.
- I. Tie votes on the appeal of a Commission/Board/Committee or staff decision sustain the action of the Commission/Board/Committee, or staff.
- J. Every Council Member, unless disqualified by reason of a conflict of interest or as otherwise provided by law, shall cast his/her vote upon any matter put to vote by the legislative body.
- K. Any Council Member who abstains from voting without a valid reason shall be deemed to have voted with the majority on that particular issue.
- L. A Council Member who publicly announces that he/she is abstaining from voting on a particular matter for specified reasons shall not subsequently be allowed to withdraw that abstention.
- M. In order to avoid any attack on the validity of Council hearings, Council Members shall avoid forming final conclusions or making commitments with proponents and opponents during any meetings, conferences, or discussions regarding the merits of the matter or issue before the body, including but not limited to, specific zoning and related land-use proposals, comprehensive planning, and like matters.
- N. A motion to reconsider a legislative or quasi-legislative action taken by the Council may be made only at the same meeting at which the action was taken. Quasi-judicial actions shall not be subject to a motion to reconsider.

**5. COMMITTEES**

- A. The Council shall appoint committees as deemed necessary for the proper conduct of City business.
- B. No committee shall include in its membership more than two (2) Council Members.
- C. The City Manager, or his/her designee, shall be an ex-officio member of all committees.

**6. AGENDAS**

- A. Agendas for the Council will be prepared by the City Manager.
- B. Agendas shall be posted on a bulletin board, publicly accessible, in City Hall and/or the Council Chamber, and posted on the City website.

**7. COUNCIL MEMBER REQUESTS AND QUESTIONS**

- A. Under the Council Communications portion of the meeting agenda, Council Members may ask a question for clarification, make an announcement, or report briefly on his or her activities. Subject to Council Policies and Procedures, Council Members may also request staff to report back to the Council at a subsequent meeting concerning any matter or take action to direct staff to place matter of business on a future agenda.
- B. Proper action will then be taken by staff.

**8. MISCELLANEOUS**

- A. Items referred to departments for action by the City Council shall be routed through the City Manager's Office.
- B. The City Council shall occasionally review this Policy/Procedure.
- C. Amendments to this Policy/Procedure shall be by majority vote of the Council.

The purpose of this provision is to permit any newly elected member of the council to observe the actions and ability of the city manager in the performance of the powers and duties of his or her office. (Prior code § 2-2.05)

**2.08.060 Compensation and expenses.**

The city manager shall receive such compensation and expense allowances as the council, from time to time, shall determine, and such compensation and expenses shall be a proper charge against such funds of the city as the council shall designate.

The city manager shall be reimbursed for all sums necessarily incurred or paid by him or her in the performance of his or her duties or incurred when traveling on business pertaining to the city under the direction of, or with the express consent of, the council. Reimbursement shall be made only in accordance with an itemized claim setting forth the sums expended or obligations incurred in the manner provided by the council for the presentation of claims for the reimbursement of expenses of other city officers and employees. (Prior code § 2-2.06)



**2.08.070 Powers and duties.**

The city manager shall be the administrative head of the government of the city under the direction and control of the council. He or she shall be responsible for the efficient administration of all the affairs of the city, which affairs are under his or her control.

In addition to his or her general powers as administrative head, and not as a limitation thereon, he or she shall have the following powers and duties:

A. General supervision: to execute on behalf of the council its administrative supervision and control of such affairs of the

city as may be placed in his or her charge, or which are not otherwise provided for by the council;

B. Personnel and organization: to appoint and dismiss all appointive officers and employees except the city attorney and assistant city attorney and to suspend, and discipline such officers and employees in accordance with such policies as from time to time may be set forth by the council; to transfer employees from one department to another consistent with the policies of the council; to recommend to the council such reorganization of officers, departments or divisions as may be indicated in the interests of the efficient, effective and economical conduct of the city's business, and to effect such reorganization when authorized by appropriate ordinance, resolution or motion of the council;

C. Authority over officers and employees: to control, order and give direction to all heads of departments and subordinate officers and employees of the city, including the city clerk and city treasurer, except in matters which by state laws are confined to their exclusive and uncontrolled jurisdiction, and except the city attorney;

D. Rules and regulations: to prescribe such rules, regulations and policies as he or she shall deem necessary or expedient for the conduct of administrative services and to revoke, suspend or amend any rule, regulation or policy established by any officer, department head, or other person in the administrative service;

E. Shift work: to direct any department or division of the city to temporarily perform work for any other department, division or office of the city;

F. Compensation plan: to prepare and recommend to the council, from time to time, desirable revisions of the compensation plan of the city;

G. Assist the council: to attend meetings of the council and to report upon and discuss any matter concerning the affairs of the departments, services or activities under his or her supervision upon which, in his or her judgment, the council should be informed or upon which his views or opinions are requested by the council;

H. Carry out council decisions: to carry out, on behalf of the council, its policies, rules, regulations and laws relating to the administration of the affairs of the city, its departments, divisions and services;

I. Budget: to supervise the preparation of a detailed, proposed municipal budget and submit the same to the council before the fifteenth day of May of each year and to offer his or her recommendations as to such increases, decreases, cancellations, transfers or changes in any of the items included in the proposed budget as in his or her judgment should be made before adoption of the final budget; to be responsible for the administration of the budget after its final adoption; and to keep the council informed with respect thereto;

J. Purchasing: as agent for the council to exercise the power of approval or rejection of expenditures for all departments, divisions, services and offices of the city government in accordance with the municipal budget adopted by the council;

K. Public improvements: to develop and organize public improvement projects and programs and to aid and assist the council and the various departments, services and offices of the city in carrying the same through to a successful conclusion;

L. Recommendations to the council: to recommend to the council for adoption such measures and ordinances as he or she deems necessary or expedient;

M. Studies and reports: to make such surveys, studies, reports and recommendations as he or she may deem desirable on

any matter affecting the interests of the people or city as budgeted or as may requested by the council;

N. Council agenda: to prepare the agenda for all regular, special or adjourned meetings of the council in accordance with the laws establishing rules for council meetings;

O. Other city offices: to serve in any appointed office within the city government to which he or she may be qualified when appointed thereto by the council, and to hold and perform the duties thereof at the pleasure of the council and without further compensation except as expressly provided by the council at the time of such appointment or thereafter;

P. City clerk and city treasurer: pursuant to the authority in Government Code Section 36510, to appoint the city clerk and city treasurer of the city.

Q. Mail: to receive and open all mail addressed in whole or in part to the council, or to the mayor or mayor pro tem by title only, and to give immediate attention thereto to the end that all administrative business referred to in such communications, and not necessary requiring action by the council, may be disposed of in an expeditious manner; provided, however, all actions taken pursuant to such communications shall be reported to the council at its next regular meeting thereafter, or by separate communication to each member of the council;

R. Enforcement of laws: to see to the enforcement within the city of the laws of the state and of the city;

S. Contracts, franchises, permits and licenses: to investigate and see to the faithful performance and observation of all contracts of the city and of all franchises, permits, licenses and privileges granted by the city;

T. Citizen complaints: to investigate all complaints in relation to matters concern-



ing the administration of city government; to adjust all proper grievances within the scope of authority provided by city laws and policies, and to report to the council all injustices suffered by reason of defects or omissions in the laws, policies or practices of the city which he or she is not authorized to rectify;

U. Public property: to exercise general supervision over all public buildings, public parks, and other public property which is under the control and jurisdiction of the council when the general supervision thereof is not specifically delegated to a particular officer;

V. Community relations: to explain to the public the actions, purposes and policies of the city government;

W. Community projects: to cooperate, within lawful limits, with all community organizations whose aims and purposes are, in whole or in part, to advance the spiritual and material interests of the city and its people and to provide them, within lawful limits, with assistance in such aims and purposes through the city government;

X. Contracts: to execute in the name of the council and city any contract authorized or approved by the council unless the council shall expressly provide for another manner of execution of such contract; and

Y. Other powers and duties: to perform such other duties and exercise such other powers as are necessarily incident to the powers set forth in this section or as may be assigned or delegated to him or her, from time to time, by action of the council. (Prior code § 2-2.07)

(Ord. No. 629, § 2, 1-11-2011)

#### **2.08.080 Administrative relationships.**

The council and its members shall deal with the administrative service of the city only through the city manager, except for the purposes of inquiry, and neither the

council, nor any member thereof, shall give orders to any officer or employee of the city under the supervision of the city manager. The city manager shall take his or her orders and instructions only from the council as a body, and no individual member of the council shall give any order or instruction to the city manager. Any subordinate officer or employee receiving orders or instructions contrary to the provisions of this section shall report the same in writing immediately thereafter to the city manager, and the city manager shall promptly forward a copy or summary of such report to each member of the council. He or she shall likewise promptly advise each member of the council of any order or instruction received by him or her contrary to the provisions of this section. It is not intended by the provisions of this section to restrict unduly the privileges of a member of the council to request the city manager, but not any other officer or employee under his or her supervision, to prepare a report dealing with any matter of city business, or municipal affairs generally, if such report can be compiled without the undue dislocation of city activities and without the expenditure of considerable quantities of time by city personnel. (Prior code § 2-2.08)

#### **2.08.090 Limitations imposed.**

The city manager shall not attempt to establish general policy which it is the province of the council to determine, nor shall he or she attempt to commit or bind the council, or any member thereof, to any action, plan or program requiring official council action. It is not intended by the provisions of this chapter to grant any authority to, or impose any duty upon, the city manager which is now or hereafter may be vested in or imposed by general state law on any other city commission, department, officer or employee. (Prior code § 2-2.09)



## 8. GUIDELINES FOR COUNCIL DIRECTION ON ITEMS FROM APPOINTED BOARDS AND COMMITTEES

9/11/12

After each election year, the City Council appoints members of the City Council to serve on regional and local boards and committees that request Council representation. Appointees represent the City on these various boards and committees and are granted authority to make decisions in the best interest of the City of Arroyo Grande, as well as the general public and interests served by the specific agency. However, it is appropriate to seek City Council input and/or direction on items meeting criteria that has been established by the City Council. The following guidelines outline the criteria and process.

1. When time permits prior to an item scheduled to be voted on by a board or committee that a member of the City Council has been appointed to by the City Council, City Council Members are advised to place items on the City Council agenda for direction and/or input if they meet any of the following criteria:
  - a. Items that will result in a one-time or annual direct financial impact to the City of over \$10,000.
  - b. Items that involve new regulations, requirements or other impacts that will result in a significant impact to staff workload or adversely impact Arroyo Grande businesses or citizens.
  - c. Items that will create or increase a fee, tax or other charge to Arroyo Grande residents.
  - d. Items of a controversial nature that have been frequently reported in the media and have resulted in vocal opposition from the public and/or diverse vocal opinions from interest groups and the public.
  - e. Items involving issues that the City Council has received a significant number of comments or correspondence from members of the community.
2. If time permits, City Council Members are advised to brief the remainder of the City Council on any item that may meet any of these criteria under "City Council Reports" and request whether the City Council would like the item to be placed on the next agenda for formal direction.
3. If an upcoming item meets any of these criteria, and there is not sufficient time to brief the City Council under the next scheduled "City Council Reports," Council Members are advised to notify the City Manager or City Clerk/Director of Information and Legislative Services to place the item on the next City Council agenda. If there is not time available, referral of items from other boards and committees may bypass the normal requirement for Council Members to first place under "City Council Items" the request that the item be

placed on a future agenda. The City Manager will determine where on the agenda the item will be placed depending upon the nature of the item.

4. If an item is scheduled to be decided by the board and committee prior to the next City Council meeting, Council Members are advised to request the item be continued until feedback from the entire City Council can be placed on an agenda. If postponement of the item is not possible or is refused by the board or committee, Council Members are advised to vote on the item independently and report to the full City Council during the next "City Council Reports."

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