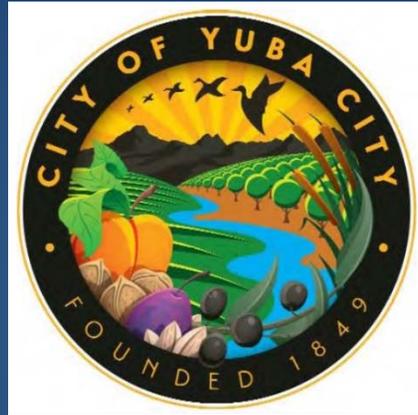


BOARD AND COMMISSION TRAINING



Shannon Chaffin
City Attorney

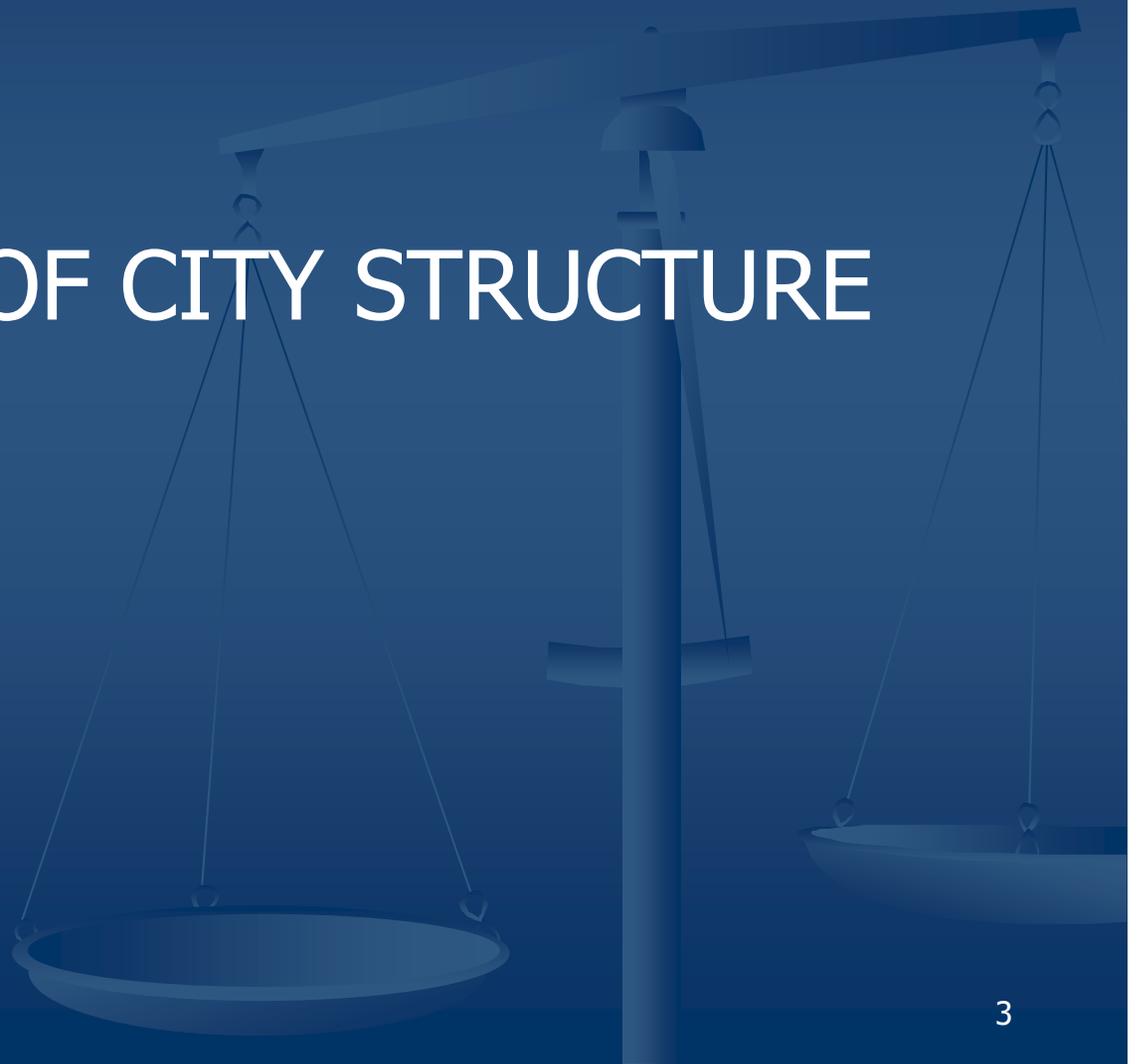
January 28, 2020



TOPICS

- Overview of the City Structure
- “Meeting” rules under the Brown Act
- Agenda rules under the Brown Act
- How to conduct a meeting under Rosenberg’s Rules of Order
- Types of motion and debate (Rosenberg’s)
- Role of the presiding officer
- Working with Staff
- Other considerations

OVERVIEW OF CITY STRUCTURE

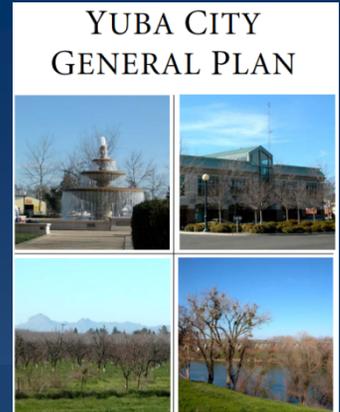


City Council

- Governing Legislative Body of the City.
- Elected.
- Responsible for establishing the overall policy direction of the City, in compliance with Federal and State law, the Municipal Code and its adopted regulations and policies.
- Appoints the City Manager and the City Attorney.



Planning Commission



- Appointed/Confirmed by the City Council.
- Responsible for reviewing and acting on matters related to planning and development.
- Takes action in compliance with the policy direction of the City Council set by the Municipal Code and the City's adopted regulations and policies, and Federal and State law.
- Supported by City Staff, City Attorney, etc.

Other Commissions

- The City has several other commissions including the Economic Development Commission, Parks and Recreation Commission, Youth Commission, and Senior Commission.
- Generally appointed/confirmed by the City Council.
- Serve in an advisory capacity to the City Council, City Manager and certain City Departments.
- Supported by City Staff, City Attorney, etc., as appropriate.

City Manager

- Appointed by the City Council.
- The administrative head, and has the power to administer the day-to-day affairs of the City, hires and fires City employees (except the City Attorney), and performs such other functions as the Council chooses to authorize by ordinance.
- Operates under the policy direction and control of the City Council, except as otherwise provided by law.
- Responsible for implementing Council's policy directions.

City Staff

- Hired under the authority of the City Manager.
- Implement and administer the day-to-day affairs of the City under the direction of the City Manager.
- Assist the City Council and Commission by preparing Agendas, staff reports, presentations, providing documentation and responding to inquiries, etc.
- Expected to use expertise to make recommendations to the City Council and Commissions consistent with the rules set by the City Council and State and Federal law.



City Attorney

- Appointed by the City Council.
- Provides legal advice on behalf of the City on all types of legal matters pertaining to City business, including ordinances and resolutions, advising at meetings, appearing in litigation, preparing contracts, etc.
- Warns of potential legal pitfalls, and assists with developing alternatives to obtain an objective while minimizing legal risk.
- Does not make policy decisions on behalf of the City. (Advises whether something legally can be done, not whether it should be done.)



“MEETING” RULES UNDER THE BROWN ACT

Brown Act

- * Basic Rule: “meetings” of legislative bodies must be open and public
- * Purpose
 - * Facilitate public participation
 - * Curb misuse of democratic process by secret legislation by public bodies

Brown Act

- * Remedies for Violations:

- * Any interested person may demand that the body declare any action taken in violation of the Brown Act to be null and void and cure defect w/in 30 or 90 days of violations
- * City may be required to pay attorney's fees to prevailing party
- * Individual members may also be criminally liable if member attends meeting with intent to deprive public of information

Brown Act – “Meeting” Rules

- * “Meeting”:
 - * Includes any congregation of a majority of the members of the body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the Board or the local agency to which it pertains. (GC §54952.2.)
 - * No need for the body to take action for a gathering to be a “meeting”



Brown Act – “Meeting” Rules

- * Serial Meetings
 - * Prohibited
 - * Defined as meetings that at any one time only involve less than a quorum of the legislative body, but eventually result in the development of a collective concurrence without any formal meeting that satisfies the requirements of the Brown Act.

Brown Act – “Meeting” Rules

- * GC 54952.2(b): “Any use of direct communication, personal intermediaries, or technological devices that is employed by a majority of the members of the [body] to develop a collective concurrence as to action to be taken on an item by the members of the [body] is prohibited.”



Brown Act – “Meeting” Rules

- * Two Common Types of Serial Meetings
 - * Chain of direct communications between the decision makers themselves (e.g. e-mails being forwarded).
 - * A series of communications between individual decision makers and a third party, such as a developer or a City staff person.

Brown Act – “Meeting” Rules

- * Gatherings that are not meetings
 - * Individual Contact - Conversation between Councilmember and any other person where *the person is not “polling” members or conveying information obtained from other Councilmembers.*
 - * Conference, Public Meeting, Social/Ceremonial Exception – attendance by majority at conference, public meeting or social gathering *provided members do not discuss among themselves specific business w/in body’s subject matter jurisdiction.*

Brown Act – Closed Session Rules

Some limited items may be considered privately by the body in “closed session.”

- * Permissible Topics for Closed Session:
 - * Litigation (initiation, threatened, pending).
 - * Conference with real estate negotiator.
 - * Conference with labor negotiator.
 - * Consider the appointment, employment, evaluation of, performance discipline or dismissal of a public employee or to hear complaints or charges brought against the employee.
 - * Discuss matter posing a threat to the security of public buildings, essential public services or the public’s right of access to public services or facilities over which the legislative body has jurisdiction.



Brown Act – Closed Session Rules

- * Actions to Report Out Immediately After Closed Session (Gov. Code, section 54957.1)
 - * Agreement concluding real estate negotiations if Council approval in closed session renders agreement final.
 - * Approval given to legal counsel to defend, or seek or refrain from seeking appellate review or relief, or to enter as an amicus curiae in any form of litigation.
 - * Settlement of litigation if Council accepts settlement offer signed by opposing party.
 - * Action taken to appoint, employ, dismiss, accept the resignation of, or otherwise affect the employment status of a public employee.



AGENDA RULES UNDER THE BROWN ACT

Brown Act – Agenda Rules

- * An Agenda must be posted prior to a meeting.
- * Agendas must be posted at least 72 hours in advance for regular meetings; 24 hours in advance for special meetings. (Must be posted on City’s website)
- * The Agenda must specify the time and place of meeting and general description of each item of business (20 words is sufficient)



AGENDA

JANUARY 21, 2020
REGULAR MEETING
CITY COUNCIL
CITY OF YUBA CITY

5:00 P.M. CLOSED SESSION: BUTTE ROOM
6:00 P.M. REGULAR MEETING: COUNCIL CHAMBERS

MAYOR	• Shon Harris
VICE MAYOR	• Marc Boomgaarden
COUNCILMEMBER	• Manny Cardoza
COUNCILMEMBER	• Grace Espindola
COUNCILMEMBER	• Dave Shaw
CITY MANAGER	• Michael Rock
CITY ATTORNEY	• Shannon L. Chaffin

1201 Civic Center Blvd,
Yuba City CA 95993
Wheelchair Accessible
508R

If you need assistance in order to attend the City Council meeting, or if you require auxiliary aids or services, e.g., hearing aids or signing services to make a presentation to the City Council, the City is happy to assist you. Please contact City offices at (530) 823-4817 at least 72 hours in advance so such aids or services can be arranged. City Hall TTY: 530-622-4732

Brown Act – Agenda Rules

- * Agendas for Regular Meetings: Must provide a public comment period for public to address the legislative body before or during consideration of an item on the agenda, on any matter within the jurisdiction of the committee. These may be combined into a single comment period.
- * Agendas for Special Meetings: Public comments are generally limited to those items on the Agenda.

Brown Act – Agenda Rules

- * The body cannot discuss or take action on any item not appearing on the Agenda.
- * Narrow Exceptions:
 - * Briefly responding to comments made by a private person during public comment period.
 - * Asking Staff for clarification.
 - * Directing Staff to place item on future agenda.
 - * Making brief announcement regarding member's own activities.
 - * Emergency and qualifying urgent items (requires special action).

Brown Act – Documents

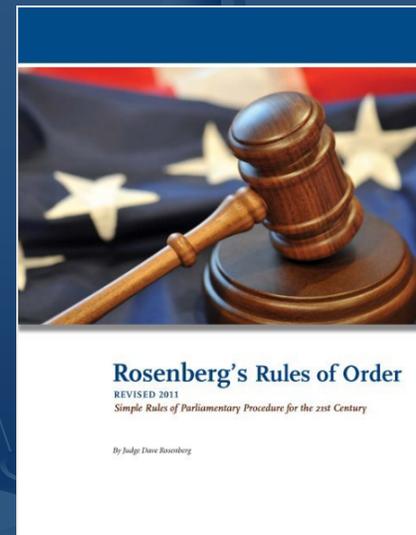
- * Information, documents, reports given to the body less than 72 hours prior to meeting must be equally available to public at same time. This would include any PowerPoint presentations presented to the body.
- * Note that there is no time requirement for reports to be prepared prior to a meeting like there is for Agendas to be posted. This means that reports, presentations, and other documents can technically be provided during the meeting.

HOW TO CONDUCT A MEETING



Rosenberg's Rules of Order

- The City Council has adopted Rosenberg's Rules of Order.
- Rosenberg's Rules of Order are practical, simple, easy to learn and user friendly.



Public Input

These rules should help make a meeting very public-friendly.

- First: Tell the public what the body will be doing.
- Second: Keep the public informed while the body is doing it.
- Third: When the body has acted, tell the public what the body did.

Procedural Overview: General Steps for Meetings

1. Establish a quorum.

- A quorum is defined as the minimum number of members of the body who must be present at a meeting for business to be legally transacted. The default rule is that a quorum is one more than half the body.
- If there is not a quorum at any time during the meeting, then the meeting must stop until there is a quorum.

Procedural Overview: General Steps for Meetings

2. Determine if the Chair is present.
 - The Chair is the presiding officer in all meetings.
 - In the absence of the Chair, the Vice-Chair presides.
 - If neither is present, after the meeting is called to order the Commission elects an acting Chair, who runs the meeting until the Chair or the Vice-Chair arrives.

Procedural Overview: General Steps for Meetings

3. Call the meeting to order.

- The meeting can be called late, but cannot be called earlier than listed on the Agenda.
- Called by the Chair (or Vice-chair if the Chair is absent).
 - *Example:* "I call this meeting to order."
- If there is no Chair/Vice-Chair, then the Clerk or Secretary calls the meeting to order for the limited purpose of selecting an Acting Chair. Once the Commission selects an Acting Chair the Acting Chair runs the meeting until either the Chair or the Vice-Chair arrives.



Procedural Overview: General Steps for Meetings

4. Follow the Agenda.

- New items cannot be added to the Agenda at the meeting. (See additional details, below.)
- The presiding officer can move the order of Agenda items to accommodate the meeting, unless a majority of the quorum disagree. A majority of the quorum can also move the order of the Agenda.

Procedural Overview: General Steps for Meetings

5. Call each Agenda item.

- Generally, Agenda items cannot be combined or heard at the same time.
- If an Agenda item was continued or removed by the Commission earlier in the meeting, the presiding officer should briefly note that and then continue to the next item.

6. Adjourn the meeting.

Rosenberg's Rules of Order: Considering Agenda Items

1. Call Agenda Item: The Chair clearly announces the agenda item and number.

- *Example*: "I now call Agenda item 1(d)." (Note, certain Agenda titles should be read in full, such as hearings, ordinances, etc.)

2. Conflicts/Disclosures: Members should announce any conflicts and recuse themselves.

- *Example*: "Through the Chair?" (Chair: "Yes, Commissioner Hunt?) "I live across the street from this property, and will be recusing myself for this item as I have a conflict."
(Commissioner Hunt then leaves the room for the duration of the Agenda item).



Rosenberg's Rules of Order: Considering Agenda Items

3. Presentation: Chair should invite the appropriate people to report on the item.

- This usually involves a presentation from City Staff, followed by an opportunity for an applicant to speak. Chair should invite the appropriate people to report on the item.
- *Example*: "Does Staff have a presentation?" or even "Staff?", followed by "Would the applicant like to address the body?"

4. Questions to Staff: The Chair should ask members of the body if they have any technical questions for clarification.

- *Example*: "Do any members on my left have any questions for Staff? On my right?"

Rosenberg's Rules of Order: Considering Agenda Items

5. Open Public Comment/Hearing: The Chair should invite the public comments, or open meeting to public input at a more formal meeting.



- *Example:* "Is there anyone from the public that would like to speak on this item?" or "I now open the public hearing on this matter. Would anyone like to speak on this matter?"
- Note: Public comment, motions, and debate may not be required for certain items such as ceremonial presentations and workshops.

Rosenberg's Rules of Order: Considering Agenda Items

6. Receive Public Comments:

- Public comments should be made at the dais/microphone to preserve the record.
- Names and addresses can be requested, but not required.
- Unless additional time is granted, remarks are generally limited to 3 minutes.
- Remarks should be addressed to the body as a whole.

Rosenberg's Rules of Order: Considering Agenda Items

- 6. Receive Public Comments: cont'd
 - While questions can be asked by the public, no member of the body or staff can respond to the question without permission of the presiding officer. (This is typically done at the end of public comment.)
 - *Example:* (If question asked) "Staff can answer your question at the end of public comment" or "Staff, would you mind briefly responding to the question?"
 - The public has right to videotape or record meeting so long as it doesn't create a persistent disruption.

Rosenberg's Rules of Order: Considering Agenda Items

7. Close the public comment/hearing: The Chair should close the public comment portion.

- *Example*: "The public hearing is now closed" or "If there are no further public comments, I bring this matter back to the [body]."

8. Questions by Body: The Chair invites questions.

- This is an opportunity for members of the body to ask staff or others to provide clarifications or respond to questions.
- *Example*: "Do any members have any questions for Staff?"



Rosenberg's Rules of Order: Considering Agenda Items

9. Motion: The Chair should invite a motion from the governing body members.

- *Example*: "Would anyone like to make a motion?" or "Is there a motion?" (Response: "Through the Chair?") "The Chair recognizes Commissioner Smith" or "Commissioner Smith." (Response: Commissioner Smith then makes motion.)

10. Second: The Chair should determine if any member of the body wishes to second the motion. The chair should announce the name of the member who seconds the motion.

- *Example*: "A motion has been made by Commissioner Smith. Is there a second?" (If a second is made.) "A second has been made by Commissioner Doe."

Rosenberg's Rules of Order: Considering Agenda Items

11. Confirm the Motion: The Chair should make sure everyone understands the motion and allow for debate.

- *Example*: "There is a motion on the floor to approve a recommendation to the Council regarding update to the Municipal Code regarding _____."

12. Debate on the Motion: The Chair should invite discussion of the motion.

- *Example*: "Would anyone like to discuss the motion?"

Rosenberg's Rules of Order: Considering Agenda Items

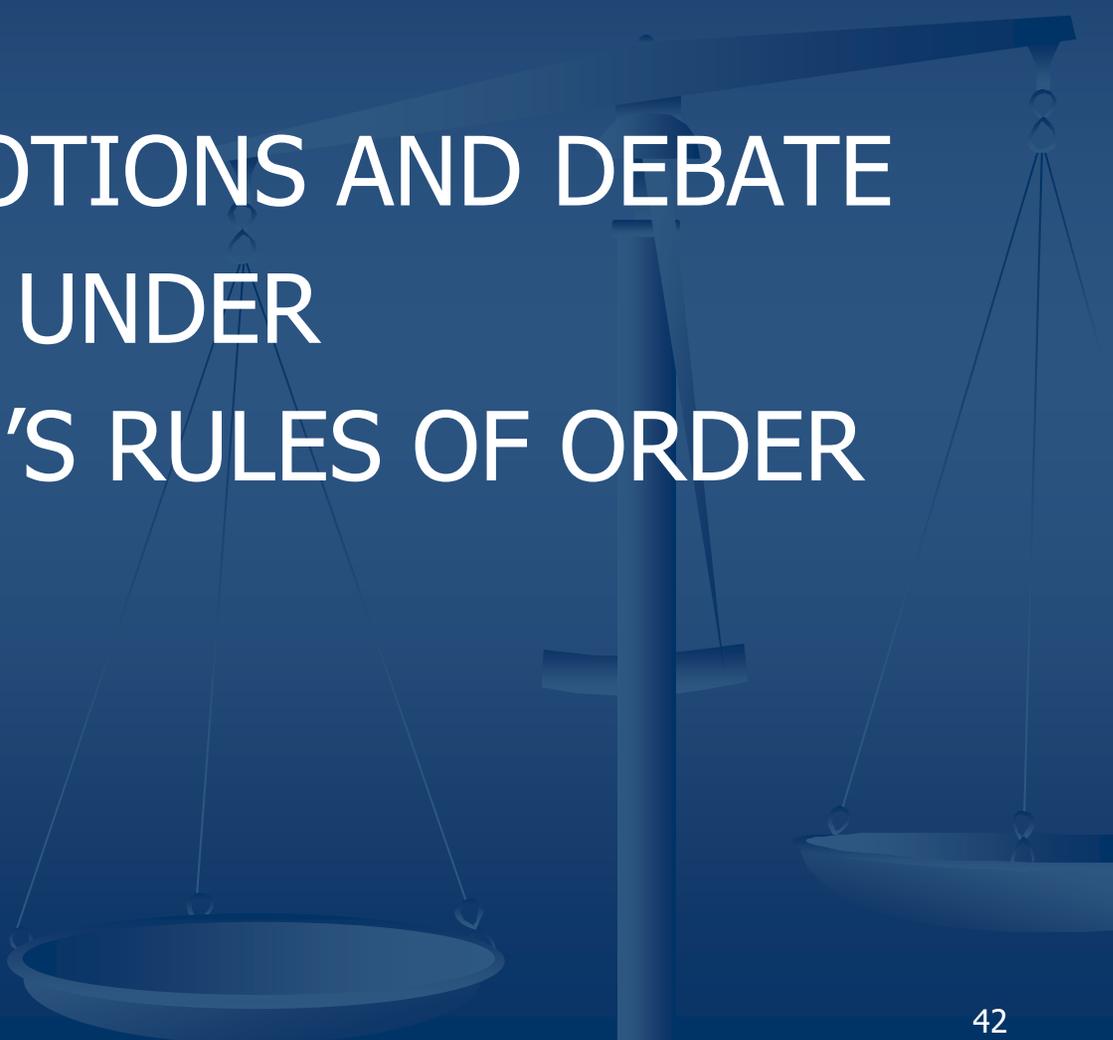
13. Vote: The Chair takes the vote.

- *Example*: "Is there any further discussion or debate? If not, all those in favor say 'aye.'" (Response.) "All those against?" (Response)

14. Announce the Vote: The Chair should announce the results of the vote and should announce what action, if any, the body has taken.

- *Example*: "The motion passes 5-2, with Commissioners Roe and Fletcher dissenting."

15. Next Item: The Chair calls the next Agenda item.



TYPES OF MOTIONS AND DEBATE
UNDER
ROSENBERG'S RULES OF ORDER

Rosenberg's Rules of Order

The three most common motions are:

1. The basic motion: The basic motion is the one that puts forward a decision for the body's consideration.
2. The motion to amend: Amends the basic motion.
3. The substitute motion: If a member wants to completely do away with the basic motion that is before the body, and put a new motion before the body, they would move a substitute motion.

Rosenberg's Rules of Order

- Motions are made in a simple two-step process:
 - First the chair recognizes the member.
 - Second, the member makes a motion.
- A second on a motion is made the same way.
- Multiple Motions: When there are two or three motions on the floor (after motions and seconds) at the same time, the vote should proceed first on the most recent (the last) motion that is made and seconded.

Rosenberg's Rules of Order

- Debate or Not to Debate
 - The basic rule is that all motions are subject to debate or discussion.
 - The exceptions:
 - Motion to Adjourn
 - Motion to Recess
 - Motion to fix the time to adjourn
 - Motion to table
 - Motion to limit debate



Rosenberg's Rules of Order

Votes

- The basic rule is that all motions require a simple majority vote to pass.
- Exceptions:
 - Motion to limit debate;
 - Motion to close nominations;
 - Motion to object to consideration of a question;
 - Motion to suspend rules

Note: The Municipal Code or State law may require that certain items be passed by a super-majority.

Rosenberg's Rules of Order

Rules for Motion to Reconsider

A motion to reconsider requires only a majority vote to pass. However, it has special rules.



- It must be made at the meeting where it was first voted upon or at the very next meeting of the body. A motion to reconsider made at a later time is untimely.
- May be made only by a member who voted in the majority (the winning side) on the original motion. If a member who voted in the minority seeks to make the motion to reconsider, it must be ruled out of order by the Chair.
- A member who previously voted in the minority may second the motion.
- Once a motion to reconsider passes, it "resets" consideration of the Agenda item. A new motion to approve/deny is then required.

Procedural Rules

Rules of Debate/Discussion

- Every member desiring to speak shall first gain recognition of the Presiding Officer and confine himself or herself to the question under debate, avoiding personalities and indecorous language.
- Three Steps to Open Debate:
 1. Motion Made
 2. Motion seconded
 3. Motion stated by Presiding Officer
- Exceptions:
 - Staff Presentations
 - Questions of Staff
 - Public Hearings



ROLE OF THE PRESIDING OFFICER

Role of the Presiding Officer

- * The presiding officer is charged with applying the rules of conduct of the meeting.
- * For all intents and purposes, the presiding officer makes the final ruling every time the presiding officer states an action.
- * Decisions by the presiding officer are final unless overruled by the body itself.

Role of the Presiding Officer

- * It is a usual courtesy for the presiding officer to play a less active role in the debate and discussion than other members of the body.
- * However, as a member of the body, the presiding officer has the full right to participate in the debate, discussion and decision-making of the body.
- * The presiding officer should strive to be the last to speak at the discussion and debate stage. The presiding officer should generally refrain from making or seconding a motion unless the presiding officer is convinced that no other member of the body will do so at that point in time.

Courtesy and Decorum

- * The rules of order are meant to create an atmosphere where members of the body and public can attend to business efficiently.
- * One person speaking at a time.
- * Every member desiring to speak should first gain recognition of the Presiding Officer and confine himself or herself to the question under debate, avoiding personalities and indecorous language.

Courtesy and Decorum

- * Generally a member of the body doesn't interrupt a speaker. A few exceptions:
 - * Point of privilege – Relates to anything that would interfere with the normal comfort of a meeting.
 - * Point of Order - is the proper interrupter where something would not be considered appropriate conduct of a meeting.
 - * Appeals – if the chair makes a ruling and a member of the body disagrees.
 - * Withdrawing a motion – a maker of a motion may interrupt a speaker to withdraw a motion.

WORKING WITH STAFF



City Staff

A good relationship with Staff will make you a more effective commissioner. A good relationship is built on mutual trust and respect. Here are some ways to achieve that:

- Come to meetings having reviewed the materials prepared by staff.
- Ask questions of staff in advance if possible and alert them to concerns you intend to raise during the meeting.
- If you disagree with a staff recommendation, state specific reasons for your decision. This will help staff to draft findings in support of your decision. Simply stating “I do not like the project” is not enough.

City Staff

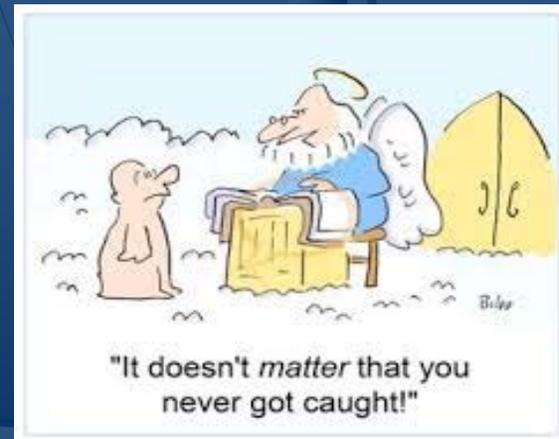
- Clearly communicate to staff what the commission needs in order to make well-informed decisions. If material is not being presented in an understandable way, work with staff to make changes.
- Treat staff with respect.
- Do not assume that staff is wrong and a critic is right.
- Compliment staff when and where appropriate.

OTHER CONSIDERATIONS



Conflicts of Interest

- Number of Different Laws (statutory and common law) in this area.
- Responsibility of each member to avoid conflicts.



Conflicts of Interest

- Commissioners should contact their City Staff member liaison. If appropriate, the liaison can connect you with the City Attorney. Please contact the liaison as early as possible, as conflicts can be very fact specific.
- Other Resources:
 - FPPC – free advice line, (866) ASK-FPPC or legaladvice@fppc.ca.gov
 - Institute for Local Government

CONCLUSION





Rosenberg's Rules of Order

REVISED 2011

Simple Rules of Parliamentary Procedure for the 21st Century

By Judge Dave Rosenberg



MISSION AND CORE BELIEFS

To expand and protect local control for cities through education and advocacy to enhance the quality of life for all Californians.

VISION

To be recognized and respected as the leading advocate for the common interests of California's cities.

About the League of California Cities

Established in 1898, the League of California Cities is a member organization that represents California's incorporated cities. The League strives to protect the local authority and autonomy of city government and help California's cities effectively serve their residents. In addition to advocating on cities' behalf at the state capitol, the League provides its members with professional development programs and information resources, conducts education conferences and research, and publishes Western City magazine.

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ABOUT THE AUTHOR

Dave Rosenberg is a Superior Court Judge in Yolo County. He has served as presiding judge of his court, and as presiding judge of the Superior Court Appellate Division. He also has served as chair of the Trial Court Presiding Judges Advisory Committee (the committee composed of all 58 California presiding judges) and as an advisory member of the California Judicial Council. Prior to his appointment to the bench, Rosenberg was member of the Yolo County Board of Supervisors, where he served two terms as chair. Rosenberg also served on the Davis City Council, including two terms as mayor. He has served on the senior staff of two governors, and worked for 19 years in private law practice. Rosenberg has served as a member and chair of numerous state, regional and local boards. Rosenberg chaired the California State Lottery Commission, the California Victim Compensation and Government Claims Board, the Yolo-Solano Air Quality Management District, the Yolo County Economic Development Commission, and the Yolo County Criminal Justice Cabinet. For many years, he has taught classes on parliamentary procedure and has served as parliamentarian for large and small bodies.



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INTRODUCTION

The rules of procedure at meetings should be simple enough for most people to understand. Unfortunately, that has not always been the case. Virtually all clubs, associations, boards, councils and bodies follow a set of rules — *Robert's Rules of Order* — which are embodied in a small, but complex, book. Virtually no one I know has actually read this book cover to cover. Worse yet, the book was written for another time and for another purpose. If one is chairing or running a parliament, then *Robert's Rules of Order* is a dandy and quite useful handbook for procedure in that complex setting. On the other hand, if one is running a meeting of say, a five-member body with a few members of the public in attendance, a simplified version of the rules of parliamentary procedure is in order.

Hence, the birth of *Rosenberg's Rules of Order*.

What follows is my version of the rules of parliamentary procedure, based on my decades of experience chairing meetings in state and local government. These rules have been simplified for the smaller bodies we chair or in which we participate, slimmed down for the 21st Century, yet retaining the basic tenets of order to which we have grown accustomed. Interestingly enough, *Rosenberg's Rules* has found a welcoming audience. Hundreds of cities, counties, special districts, committees, boards, commissions, neighborhood associations and private corporations and companies have adopted *Rosenberg's Rules* in lieu of *Robert's Rules* because they have found them practical, logical, simple, easy to learn and user friendly.

This treatise on modern parliamentary procedure is built on a foundation supported by the following four pillars:

1. **Rules should establish order.** The first purpose of rules of parliamentary procedure is to establish a framework for the orderly conduct of meetings.
2. **Rules should be clear.** Simple rules lead to wider understanding and participation. Complex rules create two classes: those who understand and participate; and those who do not fully understand and do not fully participate.
3. **Rules should be user friendly.** That is, the rules must be simple enough that the public is invited into the body and feels that it has participated in the process.
4. **Rules should enforce the will of the majority while protecting the rights of the minority.** The ultimate purpose of rules of procedure is to encourage discussion and to facilitate decision making by the body. In a democracy, majority rules. The rules must enable the majority to express itself and fashion a result, while permitting the minority to also express itself, but not dominate, while fully participating in the process.

Establishing a Quorum

The starting point for a meeting is the establishment of a quorum. A quorum is defined as the minimum number of members of the body who must be present at a meeting for business to be legally transacted. The default rule is that a quorum is one more than half the body. For example, in a five-member body a quorum is three. When the body has three members present, it can legally transact business. If the body has less than a quorum of members present, it cannot legally transact business. And even if the body has a quorum to begin the meeting, the body can lose the quorum during the meeting when a member departs (or even when a member leaves the dais). When that occurs the body loses its ability to transact business until and unless a quorum is reestablished.

The default rule, identified above, however, gives way to a specific rule of the body that establishes a quorum. For example, the rules of a particular five-member body may indicate that a quorum is four members for that particular body. The body must follow the rules it has established for its quorum. In the absence of such a specific rule, the quorum is one more than half the members of the body.

The Role of the Chair

While all members of the body should know and understand the rules of parliamentary procedure, it is the chair of the body who is charged with applying the rules of conduct of the meeting. The chair should be well versed in those rules. For all intents and purposes, the chair makes the final ruling on the rules every time the chair states an action. In fact, all decisions by the chair are final unless overruled by the body itself.

Since the chair runs the conduct of the meeting, it is usual courtesy for the chair to play a less active role in the debate and discussion than other members of the body. This does not mean that the chair should not participate in the debate or discussion. To the contrary, as a member of the body, the chair has the full right to participate in the debate, discussion and decision-making of the body. What the chair should do, however, is strive to be the last to speak at the discussion and debate stage. The chair should not make or second a motion unless the chair is convinced that no other member of the body will do so at that point in time.

The Basic Format for an Agenda Item Discussion

Formal meetings normally have a written, often published agenda. Informal meetings may have only an oral or understood agenda. In either case, the meeting is governed by the agenda and the agenda constitutes the body's agreed-upon roadmap for the meeting. Each agenda item can be handled by the chair in the following basic format:



First, the chair should clearly announce the agenda item number and should clearly state what the agenda item subject is. The chair should then announce the format (which follows) that will be followed in considering the agenda item.

Second, following that agenda format, the chair should invite the appropriate person or persons to report on the item, including any recommendation that they might have. The appropriate person or persons may be the chair, a member of the body, a staff person, or a committee chair charged with providing input on the agenda item.

Third, the chair should ask members of the body if they have any technical questions of clarification. At this point, members of the body may ask clarifying questions to the person or persons who reported on the item, and that person or persons should be given time to respond.

Fourth, the chair should invite public comments, or if appropriate at a formal meeting, should open the public meeting for public input. If numerous members of the public indicate a desire to speak to the subject, the chair may limit the time of public speakers. At the conclusion of the public comments, the chair should announce that public input has concluded (or the public hearing, as the case may be, is closed).

Fifth, the chair should invite a motion. The chair should announce the name of the member of the body who makes the motion.

Sixth, the chair should determine if any member of the body wishes to second the motion. The chair should announce the name of the member of the body who seconds the motion. It is normally good practice for a motion to require a second before proceeding to ensure that it is not just one member of the body who is interested in a particular approach. However, a second is not an absolute requirement, and the chair can proceed with consideration and vote on a motion even when there is no second. This is a matter left to the discretion of the chair.

Seventh, if the motion is made and seconded, the chair should make sure everyone understands the motion.

This is done in one of three ways:

1. The chair can ask the maker of the motion to repeat it;
2. The chair can repeat the motion; or
3. The chair can ask the secretary or the clerk of the body to repeat the motion.

Eighth, the chair should now invite discussion of the motion by the body. If there is no desired discussion, or after the discussion has ended, the chair should announce that the body will vote on the motion. If there has been no discussion or very brief discussion, then the vote on the motion should proceed immediately and there is no need to repeat the motion. If there has been substantial discussion, then it is normally best to make sure everyone understands the motion by repeating it.

Ninth, the chair takes a vote. Simply asking for the “ayes” and then asking for the “nays” normally does this. If members of the body do not vote, then they “abstain.” Unless the rules of the body provide otherwise (or unless a super majority is required as delineated later in these rules), then a simple majority (as defined in law or the rules of the body as delineated later in these rules) determines whether the motion passes or is defeated.

Tenth, the chair should announce the result of the vote and what action (if any) the body has taken. In announcing the result, the chair should indicate the names of the members of the body, if any, who voted in the minority on the motion. This announcement might take the following form: “The motion passes by a vote of 3-2, with Smith and Jones dissenting. We have passed the motion requiring a 10-day notice for all future meetings of this body.”

Motions in General

Motions are the vehicles for decision making by a body. It is usually best to have a motion before the body prior to commencing discussion of an agenda item. This helps the body focus.

Motions are made in a simple two-step process. First, the chair should recognize the member of the body. Second, the member of the body makes a motion by preceding the member’s desired approach with the words “I move . . .”

A typical motion might be: “I move that we give a 10-day notice in the future for all our meetings.”

The chair usually initiates the motion in one of three ways:

1. **Inviting the members of the body to make a motion**, for example, “A motion at this time would be in order.”
2. **Suggesting a motion to the members of the body**, “A motion would be in order that we give a 10-day notice in the future for all our meetings.”
3. **Making the motion**. As noted, the chair has every right as a member of the body to make a motion, but should normally do so only if the chair wishes to make a motion on an item but is convinced that no other member of the body is willing to step forward to do so at a particular time.

The Three Basic Motions

There are three motions that are the most common and recur often at meetings:

The basic motion. The basic motion is the one that puts forward a decision for the body’s consideration. A basic motion might be: “I move that we create a five-member committee to plan and put on our annual fundraiser.”

The motion to amend. If a member wants to change a basic motion that is before the body, they would move to amend it. A motion to amend might be: “I move that we amend the motion to have a 10-member committee.” A motion to amend takes the basic motion that is before the body and seeks to change it in some way.

The substitute motion. If a member wants to completely do away with the basic motion that is before the body, and put a new motion before the body, they would move a substitute motion. A substitute motion might be: “I move a substitute motion that we cancel the annual fundraiser this year.”

“Motions to amend” and “substitute motions” are often confused, but they are quite different, and their effect (if passed) is quite different. A motion to amend seeks to retain the basic motion on the floor, but modify it in some way. A substitute motion seeks to throw out the basic motion on the floor, and substitute a new and different motion for it. The decision as to whether a motion is really a “motion to amend” or a “substitute motion” is left to the chair. So if a member makes what that member calls a “motion to amend,” but the chair determines that it is really a “substitute motion,” then the chair’s designation governs.

A “friendly amendment” is a practical parliamentary tool that is simple, informal, saves time and avoids bogging a meeting down with numerous formal motions. It works in the following way: In the discussion on a pending motion, it may appear that a change to the motion is desirable or may win support for the motion from some members. When that happens, a member who has the floor may simply say, “I want to suggest a friendly amendment to the motion.” The member suggests the friendly amendment, and if the maker and the person who seconded the motion pending on the floor accepts the friendly amendment, that now becomes the pending motion on the floor. If either the maker or the person who seconded rejects the proposed friendly amendment, then the proposer can formally move to amend.

Multiple Motions Before the Body

There can be up to three motions on the floor at the same time. The chair can reject a fourth motion until the chair has dealt with the three that are on the floor and has resolved them. This rule has practical value. More than three motions on the floor at any given time is confusing and unwieldy for almost everyone, including the chair.

When there are two or three motions on the floor (after motions and seconds) at the same time, the vote should proceed *first* on the *last* motion that is made. For example, assume the first motion is a basic “motion to have a five-member committee to plan and put on our annual fundraiser.” During the discussion of this motion, a member might make a second motion to “amend the main motion to have a 10-member committee, not a five-member committee to plan and put on our annual fundraiser.” And perhaps, during that discussion, a member makes yet a third motion as a “substitute motion that we not have an annual fundraiser this year.” The proper procedure would be as follows:

First, the chair would deal with the *third* (the last) motion on the floor, the substitute motion. After discussion and debate, a vote would be taken first on the third motion. If the substitute motion *passed*, it would be a substitute for the basic motion and would eliminate it. The first motion would be moot, as would the second motion (which sought to amend the first motion), and the action on the agenda item would be completed on the passage by the body of the third motion (the substitute motion). No vote would be taken on the first or second motions.

Second, if the substitute motion *failed*, the chair would then deal with the second (now the last) motion on the floor, the motion to amend. The discussion and debate would focus strictly on the amendment (should the committee be five or 10 members). If the motion to amend *passed*, the chair would then move to consider the main motion (the first motion) as *amended*. If the motion to amend *failed*, the chair would then move to consider the main motion (the first motion) in its original format, not amended.

Third, the chair would now deal with the first motion that was placed on the floor. The original motion would either be in its original format (five-member committee), or if *amended*, would be in its amended format (10-member committee). The question on the floor for discussion and decision would be whether a committee should plan and put on the annual fundraiser.

To Debate or Not to Debate

The basic rule of motions is that they are subject to discussion and debate. Accordingly, basic motions, motions to amend, and substitute motions are all eligible, each in their turn, for full discussion before and by the body. The debate can continue as long as members of the body wish to discuss an item, subject to the decision of the chair that it is time to move on and take action.

There are exceptions to the general rule of free and open debate on motions. The exceptions all apply when there is a desire of the body to move on. The following motions are not debatable (that is, when the following motions are made and seconded, the chair must immediately call for a vote of the body without debate on the motion):

Motion to adjourn. This motion, if passed, requires the body to immediately adjourn to its next regularly scheduled meeting. It requires a simple majority vote.

Motion to recess. This motion, if passed, requires the body to immediately take a recess. Normally, the chair determines the length of the recess which may be a few minutes or an hour. It requires a simple majority vote.

Motion to fix the time to adjourn. This motion, if passed, requires the body to adjourn the meeting at the specific time set in the motion. For example, the motion might be: “I move we adjourn this meeting at midnight.” It requires a simple majority vote.

Motion to table. This motion, if passed, requires discussion of the agenda item to be halted and the agenda item to be placed on “hold.” The motion can contain a specific time in which the item can come back to the body. “I move we table this item until our regular meeting in October.” Or the motion can contain no specific time for the return of the item, in which case a motion to take the item off the table and bring it back to the body will have to be taken at a future meeting. A motion to table an item (or to bring it back to the body) requires a simple majority vote.

Motion to limit debate. The most common form of this motion is to say, “I move the previous question” or “I move the question” or “I call the question” or sometimes someone simply shouts out “question.” As a practical matter, when a member calls out one of these phrases, the chair can expedite matters by treating it as a “request” rather than as a formal motion. The chair can simply inquire of the body, “any further discussion?” If no one wishes to have further discussion, then the chair can go right to the pending motion that is on the floor. However, if even one person wishes to discuss the pending motion further, then at that point, the chair should treat the call for the “question” as a formal motion, and proceed to it.

When a member of the body makes such a motion (“I move the previous question”), the member is really saying: “I’ve had enough debate. Let’s get on with the vote.” When such a motion is made, the chair should ask for a second, stop debate, and vote on the motion to limit debate. The motion to limit debate requires a two-thirds vote of the body.

NOTE: A motion to limit debate could include a time limit. For example: “I move we limit debate on this agenda item to 15 minutes.” Even in this format, the motion to limit debate requires a two-thirds vote of the body. A similar motion is a *motion to object to consideration of an item*. This motion is not debatable, and if passed, precludes the body from even considering an item on the agenda. It also requires a two-thirds vote.

Majority and Super Majority Votes

In a democracy, a simple majority vote determines a question. A tie vote means the motion fails. So in a seven-member body, a vote of 4-3 passes the motion. A vote of 3-3 with one abstention means the motion fails. If one member is absent and the vote is 3-3, the motion still fails.

All motions require a simple majority, but there are a few exceptions. The exceptions come up when the body is taking an action which effectively cuts off the ability of a minority of the body to take an action or discuss an item. These extraordinary motions require a two-thirds majority (a super majority) to pass:

Motion to limit debate. Whether a member says, “I move the previous question,” or “I move the question,” or “I call the question,” or “I move to limit debate,” it all amounts to an attempt to cut off the ability of the minority to discuss an item, and it requires a two-thirds vote to pass.

Motion to close nominations. When choosing officers of the body (such as the chair), nominations are in order either from a nominating committee or from the floor of the body. A motion to close nominations effectively cuts off the right of the minority to nominate officers and it requires a two-thirds vote to pass.

Motion to object to the consideration of a question. Normally, such a motion is unnecessary since the objectionable item can be tabled or defeated straight up. However, when members of a body do not even want an item on the agenda to be considered, then such a motion is in order. It is not debatable, and it requires a two-thirds vote to pass.

Motion to suspend the rules. This motion is debatable, but requires a two-thirds vote to pass. If the body has its own rules of order, conduct or procedure, this motion allows the body to suspend the rules for a particular purpose. For example, the body (a private club) might have a rule prohibiting the attendance at meetings by non-club members. A motion to suspend the rules would be in order to allow a non-club member to attend a meeting of the club on a particular date or on a particular agenda item.

Counting Votes

The matter of counting votes starts simple, but can become complicated.

Usually, it’s pretty easy to determine whether a particular motion passed or whether it was defeated. If a simple majority vote is needed to pass a motion, then one vote more than 50 percent of the body is required. For example, in a five-member body, if the vote is three in favor and two opposed, the motion passes. If it is two in favor and three opposed, the motion is defeated.

If a two-thirds majority vote is needed to pass a motion, then how many affirmative votes are required? The simple rule of thumb is to count the “no” votes and double that count to determine how many “yes” votes are needed to pass a particular motion. For example, in a seven-member body, if two members vote “no” then the “yes” vote of at least four members is required to achieve a two-thirds majority vote to pass the motion.

What about tie votes? In the event of a tie, the motion always fails since an affirmative vote is required to pass any motion. For example, in a five-member body, if the vote is two in favor and two opposed, with one member absent, the motion is defeated.

Vote counting starts to become complicated when members vote “abstain” or in the case of a written ballot, cast a blank (or unreadable) ballot. Do these votes count, and if so, how does one count them? The starting point is always to check the statutes.

In California, for example, for an action of a board of supervisors to be valid and binding, the action must be approved by a majority of the board. (California Government Code Section 25005.) Typically, this means three of the five members of the board must vote affirmatively in favor of the action. A vote of 2-1 would not be sufficient. A vote of 3-0 with two abstentions would be sufficient. In general law cities in



California, as another example, resolutions or orders for the payment of money and all ordinances require a recorded vote of the total members of the city council. (California Government Code Section 36936.) Cities with charters may prescribe their own vote requirements. Local elected officials are always well-advised to consult with their local agency counsel on how state law may affect the vote count.

After consulting state statutes, step number two is to check the rules of the body. If the rules of the body say that you count votes of “those present” then you treat abstentions one way. However, if the rules of the body say that you count the votes of those “present and voting,” then you treat abstentions a different way. And if the rules of the body are silent on the subject, then the general rule of thumb (and default rule) is that you count all votes that are “present and voting.”

Accordingly, under the “present and voting” system, you would **NOT** count abstention votes on the motion. Members who abstain are counted for purposes of determining quorum (they are “present”), but you treat the abstention votes on the motion as if they did not exist (they are not “voting”). On the other hand, if the rules of the body specifically say that you count votes of those “present” then you **DO** count abstention votes both in establishing the quorum and on the motion. In this event, the abstention votes act just like “no” votes.

How does this work in practice?

Here are a few examples.

Assume that a five-member city council is voting on a motion that requires a simple majority vote to pass, and assume further that the body has no specific rule on counting votes. Accordingly, the default rule kicks in and we count all votes of members that are “present and voting.” If the vote on the motion is 3-2, the motion passes. If the motion is 2-2 with one abstention, the motion fails.

Assume a five-member city council voting on a motion that requires a two-thirds majority vote to pass, and further assume that the body has no specific rule on counting votes. Again, the default rule applies. If the vote is 3-2, the motion fails for lack of a two-thirds majority. If the vote is 4-1, the motion passes with a clear two-thirds majority. A vote of three “yes,” one “no” and one “abstain” also results in passage of the motion. Once again, the abstention is counted only for the purpose of determining quorum, but on the actual vote on the motion, it is as if the abstention vote never existed — so an effective 3-1 vote is clearly a two-thirds majority vote.

Now, change the scenario slightly. Assume the same five-member city council voting on a motion that requires a two-thirds majority vote to pass, but now assume that the body **DOES** have a specific rule requiring a two-thirds vote of members “present.” Under this specific rule, we must count the members present not only for quorum but also for the motion. In this scenario, any abstention has the same force and effect as if it were a “no” vote. Accordingly, if the votes were three “yes,” one “no” and one “abstain,” then the motion fails. The abstention in this case is treated like a “no” vote and effective vote of 3-2 is not enough to pass two-thirds majority muster.

Now, exactly how does a member cast an “abstention” vote?

Any time a member votes “abstain” or says, “I abstain,” that is an abstention. However, if a member votes “present” that is also treated as an abstention (the member is essentially saying, “Count me for purposes of a quorum, but my vote on the issue is abstain.”) In fact, any manifestation of intention not to vote either “yes” or “no” on the pending motion may be treated by the chair as an abstention. If written ballots are cast, a blank or unreadable ballot is counted as an abstention as well.

Can a member vote “absent” or “count me as absent?” Interesting question. The ruling on this is up to the chair. The better approach is for the chair to count this as if the member had left his/her chair and is actually “absent.” That, of course, affects the quorum. However, the chair may also treat this as a vote to abstain, particularly if the person does not actually leave the dais.

The Motion to Reconsider

There is a special and unique motion that requires a bit of explanation all by itself; the motion to reconsider. A tenet of parliamentary procedure is finality. After vigorous discussion, debate and a vote, there must be some closure to the issue. And so, after a vote is taken, the matter is deemed closed, subject only to reopening if a proper motion to consider is made and passed.

A motion to reconsider requires a majority vote to pass like other garden-variety motions, but there are two special rules that apply only to the motion to reconsider.

First, is the matter of timing. A motion to reconsider must be made at the meeting where the item was first voted upon. A motion to reconsider made at a later time is untimely. (The body, however, can always vote to suspend the rules and, by a two-thirds majority, allow a motion to reconsider to be made at another time.)

Second, a motion to reconsider may be made only by certain members of the body. Accordingly, a motion to reconsider may be made only by a member who voted in the majority on the original motion. If such a member has a change of heart, he or she may make the motion to reconsider (any other member of the body — including a member who voted in the minority on the original motion — may second the motion). If a member who voted in the minority seeks to make the motion to reconsider, it must be ruled out of order. The purpose of this rule is finality. If a member of minority could make a motion to reconsider, then the item could be brought back to the body again and again, which would defeat the purpose of finality.

If the motion to reconsider passes, then the original matter is back before the body, and a new original motion is in order. The matter may be discussed and debated as if it were on the floor for the first time.

Courtesy and Decorum

The rules of order are meant to create an atmosphere where the members of the body and the members of the public can attend to business efficiently, fairly and with full participation. At the same time, it is up to the chair and the members of the body to maintain common courtesy and decorum. Unless the setting is very informal, it is always best for only one person at a time to have the floor, and it is always best for every speaker to be first recognized by the chair before proceeding to speak.

The chair should always ensure that debate and discussion of an agenda item focuses on the item and the policy in question, not the personalities of the members of the body. Debate on policy is healthy, debate on personalities is not. The chair has the right to cut off discussion that is too personal, is too loud, or is too crude.

Debate and discussion should be focused, but free and open. In the interest of time, the chair may, however, limit the time allotted to speakers, including members of the body.

Can a member of the body interrupt the speaker? The general rule is “no.” There are, however, exceptions. A speaker may be interrupted for the following reasons:

Privilege. The proper interruption would be, “point of privilege.” The chair would then ask the interrupter to “state your point.” Appropriate points of privilege relate to anything that would interfere with the normal comfort of the meeting. For example, the room may be too hot or too cold, or a blowing fan might interfere with a person’s ability to hear.

Order. The proper interruption would be, “point of order.” Again, the chair would ask the interrupter to “state your point.” Appropriate points of order relate to anything that would not be considered appropriate conduct of the meeting. For example, if the chair moved on to a vote on a motion that permits debate without allowing that discussion or debate.

Appeal. If the chair makes a ruling that a member of the body disagrees with, that member may appeal the ruling of the chair. If the motion is seconded, and after debate, if it passes by a simple majority vote, then the ruling of the chair is deemed reversed.

Call for orders of the day. This is simply another way of saying, “return to the agenda.” If a member believes that the body has drifted from the agreed-upon agenda, such a call may be made. It does not require a vote, and when the chair discovers that the agenda has not been followed, the chair simply reminds the body to return to the agenda item properly before them. If the chair fails to do so, the chair’s determination may be appealed.

Withdraw a motion. During debate and discussion of a motion, the maker of the motion on the floor, at any time, may interrupt a speaker to withdraw his or her motion from the floor. The motion is immediately deemed withdrawn, although the chair may ask the person who seconded the motion if he or she wishes to make the motion, and any other member may make the motion if properly recognized.

Special Notes About Public Input

The rules outlined above will help make meetings very public-friendly. But in addition, and particularly for the chair, it is wise to remember three special rules that apply to each agenda item:

Rule One: Tell the public what the body will be doing.

Rule Two: Keep the public informed while the body is doing it.

Rule Three: When the body has acted, tell the public what the body did.



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