

Rashi Kesarwani
Councilmember, District 1

REVISED AGENDA MATERIAL

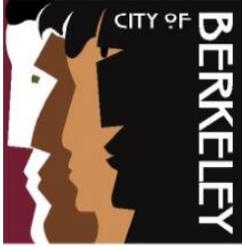
Meeting Date: September 24, 2024

Item Number: Item #11

Item Description: City Council Rules of Procedure and Order Revisions

Submitted by: Rashi Kesarwani

This revised recommendation modifies the [City Council Rules of Procedure and Order Revisions](#) presented by the City Manager and passed by the Agenda and Rules Committee.



Rashi Kesarwani
Councilmember, District 1

ACTION CALENDAR

September 24, 2024

TO: Honorable Mayor Jesse Arreguín and Members of the City Council
FROM: Councilmember Rashi Kesarwani (Author)
SUBJECT: Council Rules and Procedures Amendments

Summary of Recommendation:

Amend the Council Rules and Procedure in the following areas:

- 1) Delete change that permits three no votes to cause a Consent item to automatically shift to the Action calendar.
- 2) Recognize BUSD spring break in the City Council recess schedule.
- 3) Objectively define “Major Items.”
- 4) Simplify “Standards for Agenda Items.”
- 5) Eliminate Supplemental #3 Items.
- 6) Reinstate Council approval for reordering of the agenda.
- 7) Simplify language and require a budget referral for “Major Items.”
- 8) Clarify that legal and operational concerns should be discussed at policy committees.
- 9) Legislation introduced by a member of the Council who is no longer serving on the City Council must be resubmitted by a sitting member of the Council and reconsidered by the Agenda and Rules Committee.
- 10) Prohibit a speaker from speaking on the same issue twice.
- 11) Shorten debate on the non-debatable Consent Calendar.
- 12) Eliminate Appendix B, as it is not substantive.

Issue #1: Rationale for Amendment to II.D. Council Meeting Conduct of Business

This new rule, which requires that a Consent item is automatically moved to the Action calendar simply when three Councilmembers wish to record a no vote or abstention is a poor use of limited meeting time. Under a different rule, if at least three Council members wish to have discussion about an item on Consent, then it is moved to the Action calendar for consideration.

This new policy, as written, has the potential to cause unwarranted delay of important Action items—potentially to a future meeting. Councilmembers already have the ability to express an interest in pulling an item to Action so this change is unnecessary.

Recommendation:

~~With respect to Consent items, the Mayor or Councilmembers will be allowed to record their aye, nay or abstain votes on individual items or the entire Consent Calendar prior to the vote on the Consent Calendar. However, if three or more Councilmembers object to a Consent item by expressing their intent to abstain or vote no, the item shall be moved from Consent to Action.~~

Issue #2: Rationale for Amendment to II.G. City Council Schedule and Recess Periods

In recent years, the Council's spring recess has been adjusted to coincide with the Berkeley Unified School District's spring recess, facilitating alignment of breaks for City employees and Councilmembers. It is recommended that this alignment be formally codified in the City Council Rules of Procedures and Order.

Recommendation

II.G. "Regular meetings of the City Council shall be held generally two to three Tuesdays of each month except during recess periods; the schedule to be established annually by Council resolution taking into consideration holidays, Berkeley Unified School District Spring recess, and election dates.

Issue #3 Rationale for Amendments to III. B. 11. "Major Items"

It is essential to establish objective criteria for determining what qualifies as a "Major" action in order to ensure the integrity of the legislative process.

Recommendation

"Major Item" means an Agenda Item with moderate to significant administrative, operational, budgetary, resource, or programmatic impacts submitted by the Mayor or Councilmember.

The determination of a Major Item is based on the following objective criteria:

1. In consultation with the City Manager, an item is deemed to have moderate to significant administrative, operational, or resource impacts due to an implementation timeline that would take six months or longer; or
2. An item is considered to have significant budgetary impacts if either it does not specify fiscal impacts or if the City Manager's overall budget estimate exceeds \$200,000; or
3. An item is identified as having significant programmatic impacts or if existing city programming must be adjusted to accommodate the new initiative.

Issue #4: Rationale for Amendments to III.C. "Standards for Agenda Items"

1. The Standards for Agenda Items are overly prescriptive. Strike the unnecessary and superfluous standards. Consolidate “Review of Existing Plans, Programs, Policies and Laws and Consultation/Outreach Overview and Results” into “Background.”
2. Strike Implementation, Administration and Enforcement. This is for the City Manager to address, not City Council.
3. Since this is the *City Council’s* Rules and Procedures, reference to city contracts is unnecessary.

Recommendation

1. Agenda Items, other than Major Items submitted by the Mayor or any Councilmember, shall contain all relevant documentation, including the information listed below:
 - a. A descriptive title that adequately informs the public of the subject matter and general nature of the item or report;
 - b. Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information;
 - c. Recommendation of the report’s Primary Author that describes the action to be taken on the item, if applicable;
 - d. Fiscal impacts of the recommendation
 - e. A description of the current situation and its effects;
 - f. Background information as needed;
 - g. Rationale for recommendation;
 - h. Alternative actions considered;
 - ~~i. For awards of contracts; the abstract of bids and the Affirmative Action Program of the low bidder in those cases where such is required (these provisions shall not apply to Mayor and Council items);~~
 - j. Person or persons to contact for further information, with telephone number;
 - k. Additional information and analysis, as may be required.
 - l. Environmental sustainability and climate impacts.

It is recommended that Regular Item reports also include, to the extent relevant, the points of analysis in Major Council Item Standards in Section C.

2. Major Items submitted by the Mayor or any Councilmember shall contain all relevant documentation, including the information listed below ~~and more fully described in Appendix B~~, Guidelines for City Councilmember/Mayor Major Items:
 - a. **Title**
 - i. A descriptive title that adequately informs the public of the subject matter and general nature of the item or report and action requested.
 - b. **Consent/Action/Information Calendar**
 - i. Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information.

c. Recommendation

- i. A clear, succinct statement of actions to be taken. More lengthy/detailed actions can be detailed within the item and incorporated by reference.

d. Summary Statement/Current Situation and its effects

- i. A short resume of the circumstances that give rise to the need for the recommended actions.

e. Background

- i. A full discussion of the evidence, history, circumstances and concerns to be addressed by the item. Background may include stakeholder input and review of existing plans, programs, policies, and law.

~~**f. Review of Existing Plans, Programs, Policies and Laws**~~

- ~~i. Review, identification, and discussion of relevant/applicable City of Berkeley, State, and other relevant Plans, Programs, Policies and Laws, and how the proposed actions conform with, compliment, are supported by, differ from, or run contrary to them.~~

g. Actions/Alternatives Considered

- i. A listing of solutions/measures that other jurisdictions, or advocates, experts, or organizations have studied or adopted to address the same or similar subject matter, the range of actions considered, and the reasons why those solutions/measures are proposed to be adopted, modified, or rejected.

~~**h. Consultation/Outreach Overview and Results**~~

- ~~i. Review/listing of external and internal City of Berkeley stakeholders that were consulted and reports, articles, books, websites and other materials that were consulted and discussion of approaches that were accepted, modified, or rejected.~~

i. Rationale for Recommendation

- i. A clear and concise statement that explains why the proposed policy is the best alternative. ~~as to whether~~ The item should explain if proposed actions (a) conform to, clarify or extend, (b) make major or minor changes/amendments, (c) create an exception, or (d) reverse/go contrary to existing City of Berkeley Plans, Programs, Policies and Laws, or (e) create largely or entirely new Plans, Programs, Policies or Laws.

~~**j. Implementation, Administration and Enforcement**~~

- ~~i. A discussion of how the recommended action would be implemented, administered and enforced by the City of Berkeley.~~

k. Environmental Sustainability and Climate Impacts

- i. A discussion of the impacts of recommended actions, if any, on the environment and the recommendation's relationship to the City's Climate Action, Resilience, and other sustainability goals.

I. Fiscal Impacts

- i. A review of the recommended action’s potential to generate funds or savings for the City in the short and long-term, as well as expected or potential direct and indirect costs.

m. Outcomes and Evaluation*

- i. A statement of the specific outcomes expected and what reporting and/or evaluation is recommended to ensure the outcomes are being achieved.

n. Contact Information

o. Attachments/Supporting Materials

Issue #5: Rationale for Amendments to III.5.c Submission of Supplemental and Revised Agenda Material

This section pertaining to Supplemental Communications #3 should be removed. To promote transparency, any revisions or supplemental materials submitted less than 24 hours before a meeting should not be allowed.

Recommendation

~~After 12:00 p.m. one calendar day prior to the meeting, supplemental or revised reports may be submitted for consideration by delivering a minimum of 40 copies of the supplemental/revised material to the City Clerk for distribution at the meeting and submitting the material electronically to the City Clerk. Each copy must be accompanied by a completed supplemental/revised material cover page, using the form provided by the City Clerk. Revised reports must reflect a comparison with the original item using track changes formatting. The material may be considered only if the City Council, by a two-thirds roll call vote, makes a factual determination that the good of the City clearly outweighs the lack of time for public review or City Councilmember evaluation of the material. Supplemental and revised material must be distributed and a factual determination made prior to the commencement of public comment on the Agenda Item in order for the material to be considered.~~

Issue #6 Rationale for Amendments to III.F. “Agenda Sequence and Order of Business”

The September 24, 2024 version eliminates the consent of the Council and allows the Chair sole discretion. The Chair should have approval from the Council with regard to agenda sequence.

Recommendation

Action items may be reordered at the discretion of the Chair with the consent of Council.

Issue #7: Rationale for Amendments to 3.H. “Major Items”

The current language is confusing and unclear. This section should also mandate that Major Items must include a budget referral.

Recommendation

The Agenda & Rules Committee must take action on an item as prescribed in Chapter III.D. at the first meeting that the item appears before the Agenda & Rules Committee. The Agenda & Rules Committee may only assign the item to a single Policy Committee, except that an item meeting the definition of a Major Item that also includes a budget referral may be referred to both the Budget & Finance Committee in the form of a notice that a budget referral is under consideration at another Committee, and one other Policy Committee for subject matter review.

The Agenda & Rules Committee may ~~only~~ assign the item to a single Policy Committee, ~~except that However, if~~ an item ~~meeting the definition of~~ qualifies as a Major Item ~~that also includes a budget referral may be referred to both,~~ it must include a budget referral and be sent to the Budget & Finance Committee in the form of a notice that a budget referral is under consideration at another Committee, and one other Policy Committee for subject matter review.

Issue #8: Rationale for Amendments to III.4.h “Functions of the Policy Committee”

Report standards are already listed above in III.C. Instead of “reports” including operational and legal analysis that may be beyond the subject matter expertise of a Council office, the policy committee should discuss with appropriate staff, budget implications, administrative feasibility, and legal considerations.

Recommendation

~~Reports leaving a~~ Policy Committees s must adequately include discuss budget implications, administrative feasibility, basic legal concerns, and staff resource demands before sending reports to the full Council. ~~in order to~~ This allows s for informed consideration by the full Council.

Issue #9: Rationale for Amendments to “Agenda Items Authored by Former Mayors and Councilmembers”

If a Councilmember wants to adopt an item originally submitted by a former member of the Council, that item must be resubmitted for reconsideration. It cannot be fast-tracked for a vote if the former official is no longer on the Council.

Recommendation

Agenda Items Authored by Former Mayors and Councilmembers

Upon the date that the elected official leaves office, all Agenda Items in the legislative process for which the former official is the Primary Author shall be placed on the next available draft Council Agenda to be reviewed by the Agenda & Rules Committee. The Agenda & Rules Committee shall then place the items on the Council Agenda under consideration or the next Council Agenda. At the Council meeting where the items appear on the Agenda, the Mayor or any Councilmember may assume primary authorship of any item authored by the former official. If the item is adopted by a member of the Council, it must be resubmitted and reconsidered at a future Agenda and Rules Committee. ~~The Council may then, by motion and vote, take any legislative action permitted under the Rules of Procedure.~~ If any of the items from the former

official are not assumed by the Mayor or any Councilmember, the Council may then, by motion and vote, take any legislative action permitted under the Rules of Procedure, except that the item may not be referred to a policy committee.

Issue #10: Rationale for Amendments to IV.2. “Public Comment on Consent Calendar and Information Items”

It is redundant to permit a speaker to speak twice on the same matter within one Council meeting.

Recommendation

~~For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again at the time the matter is taken up during the Action Calendar.~~

Issue #11: Rationale for Amendments to V.G “Procedural Matters: Debate Limited”

The purpose of a Consent calendar is to facilitate efficient decision-making without extensive discussion. Allowing each Councilmember and the Mayor up to seven minutes each of comment could extend the duration of the consent calendar to more than one hour and defeats the purpose of a Consent calendar.

Recommendation

G. Debate Limited

For the Consent Calendar, the Mayor and Councilmembers will ~~initially~~ have three up to five minutes each to make comments. ~~After all members of the Council have spoken (or passed) and after public comment, members will each have two additional minutes to discuss the Consent Calendar.~~

Issue #12 Rationale for Amendments to Appendix B “Guidelines for City Council/Mayor Major Items”

See Issue #4 Rationale above. This section is unnecessary, given the “Standards for Agenda Items” section.

Recommendation

Delete [Appendix B](#) (p.44-47).

CONTACT PERSON

Rashi Kesarwani

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