



# Administrative Report

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N.4., File # 25-0466

Meeting Date: 4/1/2025

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**To: MAYOR AND CITY COUNCIL**

**From: MICHAEL W. WEBB, OUTGOING CITY ATTORNEY JOY A. FORD, INCOMING CITY ATTORNEY CHERYL PARK, ASSISTANT CITY ATTORNEY**

## **TITLE**

DISCUSSION, CONSIDERATION AND POSSIBLE DIRECTION TO STAFF REGARDING RULES OF CONDUCT FOR CITY COUNCIL MEETINGS

## **EXECUTIVE SUMMARY**

None.

## **RECOMMENDATION**

Review the current rules, discuss, and provide direction to staff.

## **BACKGROUND**

A City Council may adopt and change its own procedural rules. However, the procedural rules cannot violate the City's charter or statutes. (See City of Pasadena v. Paine (1954) 126 Cal.App.2d 93. The last time a Redondo Beach City Council amended its rules was on November 8, 2022. With the swearing in of three Councilmembers and the Mayor to four-year terms, this is an ideal time to review and possibly amend the Rules of Conduct.

### **Rosenberg's Rules**

The City of Redondo Beach has not adopted any rules of parliamentary procedure. In the past, questions have been resolved by looking to past practice and informally to Robert's Rules of Order. Some cities have formally adopted Robert's Rules. However, the California League of Cities has noted:

Some city councils use the latest edition of Robert's Rules of Order as a nonbinding guide to the conduct of meetings. However, Robert's Rules of Order was not written to apply to legislative bodies nor local agencies, and it cannot be strictly followed; therefore, it should not be formally adopted by the council except as a guide to conduct. Many city councils have adopted their own rules or are now using Rosenberg's Rules of Order: Simple Rules of Parliamentary Procedure for the 21<sup>st</sup> Century.

It is recommended formally adopting Rosenberg's Rules (attached) for more clarity in resolving parliamentary disputes.

### Disclosure of Ex Parte Communications

Procedural due process relates to adjudicatory proceedings. Ex parte communications must be substantive and relevant to the matter in order to impact due process rights. However, substantive ex parte communications which are disclosed prior to a quasi-judicial hearings do not raise due process concerns. California case law is clear that pre-hearing disclosure of *ex parte* communications adequately protects the due process interests of the nonpresent parties to the matter. The disclosure should be complete, detailed and as early in the process as is reasonable. Some agencies require written disclosure. Further, ex parte communications after quasi-judicial hearings should be prohibited if the decision is not final.

The rules used by a number of other cities are excerpted below. It is recommended that the written disclosure form that the California Coastal Commission uses be adopted. (See below)

### MEETING ADJOURNMENT

Section VIII of the current rules provides:

As a general guideline, the City Council intends to conclude its meetings at or before 11 p.m. At 10:30 p.m., or as soon thereafter as possible, the City Council will determine which remaining agenda items, if any, will be considered after 11 p.m. Any agenda items not completed will be carried over to the following Tuesday.

Over the past few years this rule has been followed very inconsistently. It is recommended that the City Council either follow this rule consistently or remove it from their rules.

Other items that the Mayor and City Council may want to consider may include procedures on how to address disruptive public comment. SB 1100 is attached for your reference.

Submitted by:

*Michael W. Webb, Outgoing City Attorney*  
*Joy A. Ford, Incoming City Attorney*  
*Cheryl Park, Assistant City Attorney*

### ATTACHMENTS

- Rules of Conduct for Council Meetings
- Rosenberg's Rules of Order

Examples of Ex Parte Disclosure Rules

- Santa Barbara City Council Procedures
- Berkeley Rules of Procedure and Order (2016)
- Berkeley Land Use Resolution (2004)
- Palo Alto City Council Procedures and Protocols Handbook (2013)
- Santa Monica Rules of Conduct for City Council Meetings
- Mountain View City Council Code of Conduct (2015)
- Thousand Oaks Municipal Code (1984)

- California Coastal Commission Ex Parte Communication Disclosure Form  
SB 1100 - Government Code Section 54957.95

## **EXAMPLES OF CITY COUNCIL EX PARTE CONTACT RULES**

### **Santa Barbara City Council Procedures (2015)**

4.14.4. Identification of Quasi-Judicial Matters on the Agenda. The City Administrator/City Clerk, in conjunction with the City Attorney, will identify agenda items involving quasi-judicial decisions on the Council agenda. This identification is intended to inform the Council, interested parties, and the public that this policy will apply to the item, but failure to identify an item shall not be cause for a continuance.

4.14.5. Policy to Avoid Ex Parte Contacts. Ex parte contacts are substantive oral or individual written communications concerning quasi-judicial matters that occur outside of noticed public hearings. City Councilmembers should avoid and discourage ex parte contacts if at all possible.

4.14.6. Disclosure of Ex Parte Contacts. If an ex parte contact does occur (which it might because the public has a hard time understanding that on quasi-judicial matters the Council's decision making is confined to the hearing), the Councilmember must disclose the contact and the substance of the information communicated on the record at the start of the public hearing. This disclosure allows people who may have a different point of view or contrary evidence to make their points during the hearing in response to the information you may have obtained through the ex parte contact. The disclosure might go something like this: "I was approached by the appellant last week and they told me that neighborhood traffic is much greater than the City's baseline assumptions."

4.14.7. Ex Parte Contacts After the Hearing. Ex parte contacts after a public hearing is closed and before a final decision is rendered are prohibited because there is no opportunity for rebuttal.

### **Berkeley Rules of Procedure and Order (2016)**

Following any staff presentation, each member of the City Council shall verbally disclose all ex parte contacts concerning the subject of the hearing. Members shall also submit a report of such contacts in writing prior to the commencement of the hearing. Such reports shall include a brief statement describing the name, date, place, and content of the contact. Written reports shall be available for public review in the office of the City Clerk prior to the meeting and placed in a file available for public viewing at the meeting.

### **Berkeley Land Use Resolution (2004)**

3. Council members and Commissioners may receive information relevant to the land use decision by contacts with the parties, the public or staff and are not confined to reading the record or hearing presentations at public hearings.

4. Where information of a specific nature is gathered by a member of the City Council or a board or commission, through contacts outside the record, and the information is not already in the record, the member shall, to the extent feasible, keep contemporaneous notes of the substance of the contact and shall disclose

the contact and its substance on the record prior to the commencement of the hearing to which such contact relates. Where the information is received during the pendency of a hearing the matter shall be disclosed prior to completion of the hearing and the parties and public shall have an opportunity to respond if the matter is substantially new information.

5. Where such contacts were made and information gathered prior to a pending decision by the Council or any decision making body whether or not to grant a hearing, the substance of the information shall be reported to the secretary of the relevant body as soon as it is made. The secretary shall maintain a file on such disclosed contacts for review by members of the public.

### **Palo Alto City Council Procedures and Protocols Handbook (2013)**

#### **2) Restrictions on Council Communications Outside of Quasi-Judicial and Planned Community Zone Hearings**

It is the policy of the Council to discourage the gathering and submission of information by Council Members outside of any noticed public meeting, prior to final recommendations by the Architectural Review Board or Planning & Transportation Commission. The following procedural guidelines are intended to implement this policy, but shall not be construed to create any remedy or right of action.

#### **3) Identification of Quasi-Judicial/Planned Community Matters**

The City Attorney, in conjunction with the City Clerk and City Manager, will identify agenda items involving quasi-judicial/planned community decisions on both the tentative and regular Council agendas. This identification is intended to inform the Council, interested parties, and the public that this policy will apply to the item.

#### **4) Council to Track Contacts**

Council Members will use their best efforts to track contacts pertaining to such identified quasi-judicial/planned community decision items. Contacts include conversations, meetings, site visits, mailings, or presentations during which substantial factual information about the item is gathered by or submitted to the Council Member.

#### **5) Disclosure**

When the item is presented to the Council for hearing, Council Members will disclose any contacts which have significantly influenced their preliminary views or opinions about the item. The disclosure may be oral or written, and should explain the substance of the contact so that other Council Members, interested parties, and the public will have an opportunity to become apprised of the factors influencing the Council's decision and to attempt to controvert or rebut any such factor during the hearing. Disclosure alone will not be deemed sufficient basis for a request to continue the item. A contact or the disclosure of a contact shall not be deemed grounds for disqualification of a Council Member from participation in a quasi-judicial/planned community decision unless the Council Member

determines that the nature of the contact is such that it is not possible for the Council Member to reach an impartial decision on the item.

6) No Contacts after Hearings

Following closure of the hearing, and prior to a final decision, Council Members will refrain from any contacts pertaining to the item, other than clarifying questions directed to City staff.

**Santa Monica Rules of Conduct for City Council Meetings**

**RULE 14. DISCLOSURE FOR QUASI JUDICIAL MATTERS.**

On quasi-judicial matters, Councilmembers shall verbally disclose off the record contacts relating to the item, after the item is called and before Council consideration of the matter. Disclosure shall include the identity of an individual(s) with whom the Councilmember had contact, and the nature of the contact.

**Mountain View City Council Code of Conduct (2015)**

4.7 Quasi-Judicial Role/Ex Parte Contacts

The City Council has a number of roles. It legislates and makes administrative and executive decisions. The Council also acts in a quasi-judicial capacity or "like a judge" when it rules on various permits, licenses, and land use entitlements. In this last capacity, quasi-judicial, the Council holds a hearing, takes evidence, determines what the evidence shows, and exercises its discretion in applying the facts to the law shown by the evidence. It is to these proceedings that the rule relative to ex parte contacts applies.

4.7.1 Ex Parte Contacts/Fair Hearings. The Council shall refrain from receiving information and evidence on any quasi-judicial matter while such matter is pending before the City Council or any agency, board, or commission thereof, except at the public hearing.

As an elected official, it is often impossible to avoid such contacts and exposure to information. Therefore, if any member is exposed to information or evidence about a pending matter outside of the public hearing, through contacts by constituents, the applicant or through site visits, the member shall disclose all such information and/or evidence acquired from such contacts, which is not otherwise included in the written or oral staff report, during the public hearing, and before the public comments period is opened.

Matters are "pending" when an application has been filed. Information and evidence gained by members via their attendance at noticed public hearings before subordinate boards and commissions are not subject to this rule.

**Thousand Oaks Municipal Code (1984)**

Sec. 1-10.08. Ex parte communications.

No official or employee shall encourage, make or accept any ex parte or other unilateral application or communication that excludes the interests of other

parties in a matter under consideration when such application or communication is designed to influence the official decision or conduct of the official or other officials, employees or agencies in order to obtain a more favored treatment or special consideration to advance the personal or private interests of him/herself or others. The purpose of this provision is to guarantee that all interested parties to any matter shall have equal opportunity to express and represent their interests.

Any written ex parte communication received by an official or employee in matters where all interested parties should have an equal opportunity for a hearing shall be made a part of the record by the recipient.

Any oral ex parte communication received under such conditions should be written down in substance by the recipient and also be made a part of the record.

A communication concerning only the status of a pending matter shall not be regarded as an ex parte communication.

#### **California Code, Public Resources Code - PRC § 30324**

(a) No commission member, nor any interested person, shall conduct an ex parte communication unless the commission member fully discloses and makes public the ex parte communication by providing a full report of the communication to the executive director within seven days after the communication or, if the communication occurs within seven days of the next commission hearing, to the commission on the record of the proceeding at that hearing.

(b)(1) The commission shall adopt standard disclosure forms for reporting ex parte communications which shall include, but not be limited to, all of the following information:

(A) The date, time, and location of the communication.

(B)(i) The identity of the person or persons initiating and the person or persons receiving the communication.

(ii) The identity of the person on whose behalf the communication was made.

(iii) The identity of all persons present during the communication.

(C) A complete, comprehensive description of the content of the ex parte communication, including a complete set of all text and graphic material that was part of the communication.

(2) The executive director shall place in the public record any report of an ex parte communication.

(c) Communications shall cease to be ex parte communications when fully disclosed and placed in the commission's official record.

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## EX PARTE COMMUNICATION DISCLOSURE FORM

Filed by Commissioner: \_\_\_\_\_

1) Name or description of project: \_\_\_\_\_

2) Date and time of receipt of communication: \_\_\_\_\_

3) Location of communication: \_\_\_\_\_

(If not in person, include the means of communication, e.g., telephone, e-mail, etc.)

4) Identity of person(s) initiating communication: \_\_\_\_\_

5) Identity of person(s) on whose behalf communication was made: \_\_\_\_\_

6) Identity of persons(s) receiving communication: \_\_\_\_\_

7) Identity of all person(s) present during the communication: \_\_\_\_\_

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Complete, comprehensive description of communication content (attach complete set of any text or graphic material presented):

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Date

Signature of Commissioner

**TIMING FOR FILING OF DISCLOSURE FORM:** File this form with the Executive Director within seven (7) days of the ex parte communication, if the communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication. If the communication occurred within seven (7) days of the hearing, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication. This form may be filed with the Executive Director in addition to the oral disclosure.

**Senate Bill No. 1100**  
CHAPTER 171

An act to add Section 54957.95 to the Government Code, relating to local government.  
[ Approved by Governor August 22, 2022. Filed with Secretary of State August 22, 2022. ]

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1100, Cortese. Open meetings: orderly conduct.

(1) Existing law, the Ralph M. Brown Act, requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. Existing law requires every agenda for regular meetings of a local agency to provide an opportunity for members of the public to directly address the legislative body on any item of interest to the public, before or during the legislative body's



consideration of the item, that is within the subject matter jurisdiction of the legislative body. Existing law authorizes the legislative body to adopt reasonable regulations to ensure that the intent of the provisions relating to this public comment requirement is carried out, including, but not limited to, regulations limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker. Existing law authorizes the members of the legislative body conducting the meeting to order the meeting room cleared and continue in session, as prescribed, if a group or groups have willfully interrupted the orderly conduct of a meeting and order cannot be restored by the removal of individuals who are willfully interrupting the meeting.

This bill would authorize the presiding member of the legislative body conducting a meeting or their designee to remove, or cause the removal of, an individual for disrupting the meeting. The bill, except as provided, would require removal to be preceded by a warning to the individual by the presiding member of the legislative body or their designee that the individual's behavior is disrupting the meeting and that the individual's failure to cease their behavior may result in their removal. The bill would authorize the presiding member or their designee to then remove the individual if the individual does not promptly cease their disruptive behavior. The bill would define "disrupting" for this purpose.

(2) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(3) The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

**Digest Key**

Vote: MAJORITY Appropriation: NO Fiscal Committee: NO Local Program: NO

**Bill Text**

**The people of the State of California do enact as follows:**

**SECTION 1.** The Legislature finds and declares as follows:

(a) It is the intent of the Legislature to prescribe requirements for governing public meetings that are consistent with subdivision (c) of Section 54954.3 of the Government Code, which provides that a legislative body of a local agency shall not prohibit public criticism of the policies, procedures, programs, or services of the agency, or of the acts or omissions of the legislative body.

(b) It is further the intent of the Legislature to prescribe requirements for governing public meetings to protect civil liberties in accordance with the United States Constitution, the California Constitution, and relevant law.

(c) It is further the intent of the Legislature to codify the authority and standards for governing public meetings in accordance with *Acosta v. City of Costa Mesa*, 718 F.3d 800, 811 (9th Cir. 2013),

in which the court explained that an ordinance governing the decorum of a city council meeting is not facially overbroad if it only permits a presiding officer to eject an attendee for actually disturbing or impeding a meeting.

**SEC. 2.** Section 54957.95 is added to the Government Code, to read:

**54957.95.**

(a) (1) In addition to authority exercised pursuant to Sections 54954.3 and 54957.9, the presiding member of the legislative body conducting a meeting or their designee may remove, or cause the removal of, an individual for disrupting the meeting.

(2) Prior to removing an individual, the presiding member or their designee shall warn the individual that their behavior is disrupting the meeting and that their failure to cease their behavior may result in their removal. The presiding member or their designee may then remove the individual if they do not promptly cease their disruptive behavior. This paragraph does not apply to any behavior described in subparagraph (B) of paragraph (1) of subdivision (b).

(b) As used in this section:

(1) "Disrupting" means engaging in behavior during a meeting of a legislative body that actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of the meeting and includes, but is not limited to, one of the following:

(A) A failure to comply with reasonable and lawful regulations adopted by a legislative body pursuant to Section 54954.3 or any other law.

(B) Engaging in behavior that constitutes use of force or a true threat of force.

(2) "True threat of force" means a threat that has sufficient indicia of intent and seriousness, that a reasonable observer would perceive it to be an actual threat to use force by the person making the threat.

**SEC. 3.**

The Legislature finds and declares that Section 2 of this act, which adds Section 54957.95 to the Government Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

This act is necessary to give legislative bodies clear authorization to restore order to meetings in the event of actual disruptions that are disturbing, disrupting, impeding, or rendering infeasible the orderly conduct of the meeting and, thereby, preserve the rights of other members of the public at the meeting and allow the legislative body to continue its work on behalf of the public.

**SEC. 4.**

The Legislature finds and declares that Section 2 of this act, which adds Section 54957.95 to the Government Code, furthers, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

This act is necessary to give legislative bodies clear authorization to restore order to meetings in the

event of actual disruptions that are disturbing, disrupting, impeding, or rendering infeasible the orderly conduct of the meeting and, thereby, preserve the rights of other members of the public at the meeting and allow the legislative body to continue its work on behalf of the public.