

## **RESOLUTION 2003-080**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN PABLO ESTABLISHING PROCEDURES FOR THE CONDUCT OF MEETINGS AND RELATIONSHIP WITH CITY STAFF, AND REPEALING RESOLUTIONS 93-70 AND 97-123.**

WHEREAS, it is critical to the successful operation of any public or private organization and agency, that rules, standards, or norms be established to define the roles, responsibilities and expectations of the governing board and staff in the operation of the organization; and

WHEREAS, the establishment of these procedures by the City Council will promote understanding and trust among members of the City Council and City Staff concerning their roles, responsibilities, and expectations for the operation of the City; and

WHEREAS, Government Code §36813 authorizes the City Council to adopt rules and regulations for the conduct of its meetings,

NOW THEREFORE, the City Council of the City of San Pablo does resolve as follows:

### **SECTION 1. CITY COUNCIL - CITY STAFF RELATIONS**

As set forth in Section 2.04.110 of the San Pablo Municipal Code, the City Council and its members shall deal with the administrative services of the City only through the City Manager, except for the purpose of inquiry, and neither the City Council nor any member thereof shall give orders to any subordinates of the City Manager. The City Manager shall take his or her orders and instructions from the City Council only when sitting in a duly held meeting of the City Council, and no individual Councilmember shall give any orders or instructions to the City Manager, except as set forth below.

A. To the extent allowed by law, and subject to the restrictions set forth in paragraph B, individual City Councilmembers may have letters or other written communications prepared by the City Manager's office and sent on City stationary provided that the subject matter of the correspondence concerns official City business or matters within the subject matter jurisdiction of the City Council. The correspondence should clearly state that the opinions expressed therein are the personal opinions of the Councilmember, and do not necessarily reflect the consensus of the City Council. Copies of all such correspondence should be sent to each member of the City Council.

B. Notwithstanding paragraph A, above, whenever a matter is agendaized for City Council consideration, and that matter may or does result in a letter or other written communication from the City Council, any such letter shall be sent on behalf of the entire City Council and shall be signed by the Mayor. No other letters or written communications shall be prepared by City staff on behalf of individual City Council members on such matters unless so directed by City Council action.

C. The Mayor or a majority of the City Council may call special “Town Hall” meetings and other special meetings in accordance with the Brown Act. No other “Town Hall” meetings shall be called or conducted at City expense. However, this does not preclude the City Councilmember from conducting community meetings on his or her own behalf and at his or her own expense.

## SECTION 2. PLACING MATTERS ON THE CITY COUNCIL AGENDA

### A. City Council Members.

The City Manager, as administrative head of the City, is responsible for determining the content of city council meeting agendas, in consultation with the Mayor. Should an item desired by any individual member of the City Council not be placed on the agenda, any such member of the City Council who desires that an additional matter be placed on an agenda for discussion or action may make a motion during the “Council Reports” portion of the agenda to add such item to a future agenda. It is important that Council members refrain at that time from expressing opinions as to the merits of such item. The merits of the item may be discussed when the matter is agendized.

### B. Members of the Public.

Members of the public who desire that the City Council consider specific items within the Council’s subject matter jurisdiction may make such request to the City Manager, or to the City Council during the “Oral Communications” portion of the agenda. The Council is prohibited from discussing or taking action on such request during the “Oral Communications” portion of the agenda, but may direct that the matter be agendized for a future meeting.

## SECTION 3. CITY COUNCIL AGENDA

The purpose of the agenda is to provide a framework within which Council meetings can be conducted and to effectively implement the approved Council Goals, Financial Plan and Budget, and also work programs, objectives, and business of the City as established by the City Council. Agenda items also include recommendations to the City Council from advisory bodies, land use and zoning actions or appeals, bid and purchasing procedures, and mandates from other levels of government.

### A. Mayor and Council Reports.

1. The Mayor or any Council member may, during the time for reports and comments by Council members, report on activities in representing the Council or the City on boards, committees, commissions, task forces, and other official bodies, before other governmental agencies and at public events. Each Council member may also bring to the City Council’s attention any item of new business under this portion of the agenda. Action on any matter of business not listed on the agenda shall be deferred until properly listed on the agenda for a subsequent City Council meeting unless properly added to the agenda due to a need for immediate action pursuant to state law. For example, Councilmembers who seek Council direction as to specific issues on which

they will be voting in their capacity as members of various regional boards, committees and commissions, should request that the City Manager cause such items to be specifically agendized.

2. During “Mayor and City Council Reports and Inquiries,” each Councilmember shall have such time allowed by the Mayor. Each Councilmember has the right to make his or her report or inquiries without interruptions or questions; provided, however, that upon completion of such report, the Councilmember may respond to questions asked solely for the purpose of clarification.

B. Opportunity For Public to Address City Council

1. Every agenda for regular meetings shall provide an opportunity for members of the public to directly address the City Council on any item of interest to the public within the subject matter jurisdiction of the Council, before or during the Council’s consideration of the item. The agenda need not provide an opportunity for members of the public to address the Council on any item that has already been considered by a committee, composed exclusively of members of the Council, at a public meeting at which all interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee’s consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the Council.

2. Persons addressing the Council are required to limit their remarks to five (5) minutes unless such time is increased or decreased by the Mayor pursuant to Section 4.C of these rules.

3. No action may be taken on oral communication matters which do not appear on the agenda, unless otherwise authorized by the Ralph M. Brown Act. Members of the City Council may ask questions of such speakers for informational purposes only, but should refrain from discussing the merits or giving directions concerning such subjects. Speakers desiring answers to questions should direct such question to the City Council; if relevant, the Council may refer such questions to the relevant committee or commission, or to staff for a report of placement on the agenda. Such referral is a procedural determination only and shall not be construed as “taking action.”

C. STUDY SESSION ITEMS

The study session portion of the agenda is generally but not exclusively for presentation of preliminary proposals, review of on-going projects, and status reports from city and redevelopment agency staff and officials. The Council or Board of Directors may discuss such items, weigh and decide on options, and direct staff that certain items should or should not be placed on future agendas for formal approval.

#### D. PUBLIC HEARING PROCEDURES

1. Generally, public hearings, other than those of a quasi-judicial nature, shall be conducted in the following order:

Staff Review and Report

Questions of Staff by City Council

Presentation by Proponent, Applicant or Appellant

Questions of Proponent, Applicant or Appellant by Council and/or Staff

Public Testimony

Rebuttal by Proponent, Applicant or Appellant

If Desired, Hearing Closed

Questions by City Council

Discussion by City Council

Action by City Council

2. The procedures set forth above are guidelines only and are not binding. The Mayor shall conduct the hearing in such a manner as to afford due process to all affected persons. Quasi-judicial hearings shall be conducted in accordance with the principles of due process, and the City Attorney shall advise the City Council in this regard. All persons interested in the matter being heard by the City Council shall be entitled to submit written evidence or remarks, as well as other graphic evidence. All such evidence presented shall be retained by the City Clerk as part of the Clerk's record.

3. No persons shall be permitted during the hearing to speak about matters or present evidence which are not relevant to the matter being considered. A determination of relevance shall be made by the Mayor, but may be appealed as set forth in these rules.

4. No person may speak without first being recognized by the Mayor. Members of the Council who wish to ask questions of the speakers or each other, during the public hearing portion, may do so following recognition by the Mayor. Members should be mindful that the purpose of the public hearing is to obtain testimony, and not to debate the merits of the item under consideration. Members should avoid debate and expressions of personal opinion until after the close of the public hearing.

#### SECTION 4. THE PRESIDING OFFICER

A. Pursuant to San Pablo Municipal Code §2.16.050, the Mayor presides at all City Council meetings, preserves order and decorum, and has general direction of the Council Chamber during meetings. Should the Mayor be absent, the Vice-Mayor shall be the presiding officer at the meeting. Should both the Mayor and Vice-Mayor be absent, the remaining members of the Council shall select one (1) of their members to be the presiding officer for that meeting. Whenever the term "Mayor" is used in these rules, it shall be construed to include any member of the City Council

acting in the capacity of presiding officer. In the exercising of these rights and responsibilities, the Mayor and City Council shall be guided by the policies and principles set forth herein.

B. The Mayor shall have the authority to rule any speaker out of order, including speakers during the Oral Communications period if the subject raised is not within the subject matter jurisdiction of the City Council or during a Public Hearing if the speaker is not presenting testimony or evidence relevant to the matter which is the subject of the Public Hearing. The Mayor shall have the responsibility for the conduct of meetings in an orderly manner and to prevent the obstruction of business, and in carrying out this responsibility shall have the authority to give the floor to any member of the City Council or public by recognizing them, to prevent the misuse of legitimate forms of motions or privileges, to call for a recess in the proceedings (subject to a motion to appeal such rulings), to order any persons willfully interrupting the meeting to be removed from the room, to call for the vote, and decide all questions of order. Failure of the Council to appeal from the Mayor's determination to depart from the agenda (i.e. take matter up out of order) shall be deemed consent by the Council pursuant to San Pablo Municipal Code §2.16.080.

C. The Mayor may announce special rules for the consideration of a particular item on the agenda, such as, but not limited to: specifying the length of time persons may speak; requiring that, if desirable, a spokesperson address the Council on behalf of a group of persons; and, in the event of a hearing, providing time for arguments and rebuttals from proponents and opponents.

D. Any determination made by the Mayor pursuant to these rules may be appealed by the making of a Motion to Appeal the Ruling by any other member of the City Council. The Mayor's determination will stand unless a majority of the City Council votes in favor of the Motion to Appeal the Ruling, in which case the ruling of the Mayor will be overridden. The Motion to Appeal the Ruling is debatable, and the Mayor may participate in the debate and the voting on the motion. A vote upon a Motion to Appeal the Ruling is purely a procedural matter, and shall not constitute "action taken" on any substantive question.

## SECTION 5. ORDER AND DECORUM

While the Council is in session, neither Councilmembers nor any persons addressing the Council shall make personal, slanderous, unduly repetitious, irrelevant, or profane remarks to any member of the Council, staff or general public, utter loud, threatening, or abusive language, or engage in any other disorderly conduct, any of which disrupts, disturbs, or otherwise impedes the orderly conduct of any Council meeting. Public criticism of the policies, procedures, programs, or services of the City, or of the acts or omissions of the City Council, shall not be prohibited. This provision shall not confer any privilege or protection for expression beyond that otherwise provided by law.

## SECTION 6. PROCEDURES FOR THE CONDUCT OF MEETINGS

A. Obtaining the Floor. Any member of the Council desiring to speak must first obtain the floor by being recognized by the Mayor, and shall confine remarks to the questions under debate.

B. Interruptions. A member once recognized shall not be interrupted when speaking unless it be to call him or her to order, or as otherwise provided in these rules. If a member, while speaking, is called to order, the member shall cease speaking until the question of order is determined, and if in order, shall be permitted to proceed.

C. Motions. The Mayor or any member of the Council may bring a matter of business before the Council by making a motion. Before the matter can be considered or debated it must be seconded. Once the matter has been fully debated and the chair calls for a vote, no further debate will be allowed.

D. Form and Precedence of Related Motions. Once a main motion is properly brought before the City Council and seconded, related motions may be employed in addressing the main motion. These motions take precedence over the main motion, and if properly made and seconded, must be resolved before the main motion can be acted upon. If a main motion is pending, no related motion other than those specifically listed in the Chart of Related Motions attached hereto as Exhibit A should be made, and any such motion may be declared out of order by the Mayor. These related motions may or may not be debatable as indicated in the Chart of Related Motions. Related Motions fall into two (2) categories: Subsidiary Motions and Motions of Privilege, Order, or Convenience. Despite the pendency of a main motion or a Subsidiary Motion thereto, any member of the City Council or the Mayor may make a Motion of Privilege, Order, or Convenience, which once made take precedence.

E. Abstentions. A Councilmember who abstains from an item due to a conflict of interest shall not participate in the discussion, consideration, or voting on an item in any way whatsoever. The Councilmember shall publicly identify the financial interest that gives rise to the conflict or potential conflict in detail sufficient to be understood by the public, except that disclosure of the exact street address of a residence is not required. The Councilmember shall disqualify himself or herself from the consideration of such item, and shall leave the room until after the matter is concluded. It is the intent of this section that councilmembers need only comply with the terms of Government Code 87105, as it shall be amended from time to time.

A Councilmember who has not declared a conflict of interest, but who abstains from a vote after participating in Council deliberations of such item, should explain the reasons for his or her abstention on the record. A Councilmember who so abstains consents to the majority of those voting deciding the issue.

F. Roll Call Voting. A roll call vote shall be used for all ordinances, resolutions and orders for franchises or payments of money. Any other question before the City Council shall not require a roll call vote unless requested by any member. Council members may change their votes before the next order of business is called.

SECTION 7. CITY COUNCIL HANDLING OF LITIGATION AND OTHER  
CONFIDENTIAL INFORMATION.

A. City Councilmembers should keep all written materials and verbal information provided to them on matters that are confidential under State law in complete confidence to insure that the City's position is not compromised. No mention of information in these materials should be made to anyone other than Councilmembers, the City Attorney or City Manager.

B. If the City Council in closed session has provided direction to City Staff on proposed terms and conditions for any type of negotiations whether it be related to property acquisition or disposal, a proposed or pending claim or litigation, and/or employee negotiations, all contact with the other party should be by the designated City Staff representative handling the negotiations or litigation. A Councilmember should not have any contact or discussion with the other party or its representative involved with the negotiation during this time and not communicate any discussion conducted in closed session. All public statements, information, press releases, should be handled by the designated Staff spokesperson.

SECTION 8. AMENDMENTS

This resolution may be repealed or amended with the concurrence of a majority of the total membership of the City Council. Resolutions 93-10 and 97-123 are hereby repealed.

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Adopted the 21<sup>st</sup> day of July, 2003 by the following vote:

AYES:	COUNCILMEMBERS:	Gomes, Morris, Calloway, Vigil and Brown
NOES:	COUNCILMEMBERS:	None
ABSENT:	COUNCILMEMBERS:	None
ABSTAIN:	COUNCILMEMBERS:	None

ATTEST:

APPROVED:

/s/ Ted J. Denney  
Ted J. Denney, City Clerk

/s/ Sharon J. Brown  
Sharon J. Brown, Mayor