



MEETING DATE: 4/5/04
AGENDA ITEM: 4

COUNCIL AGENDA REPORT

DATE: March 26, 2004
TO: MAYOR AND TOWN COUNCIL
FROM: ORRY P. KORB, TOWN ATTORNEY *OK*
SUBJECT: APPROVE RESOLUTION AMENDING TOWN COUNCIL AGENDA
FORMAT AND RULES

RECOMMENDATION:

Approve resolution amending Town Council Agenda Format and Rules.

BACKGROUND:

At its meeting on March 15, 2004, Council expressed a desire for greater flexibility in determining when to consider matters that are removed from the consent calendar. The current policy is found in paragraph D of the Town Council Agenda Format and Rules and reads as follows:

The Mayor will ask if any member of the Council, Town staff or public wishes to comment on any item on the consent calendar. Items removed from the consent calendar shall be considered for discussion and action after the Public Hearings portion of the agenda.

Paragraph A of the same Council policy provides the Mayor with discretion to change the order of consideration of any item during any individual meeting.

DISCUSSION:

The specific policy found in paragraph D is ultimately subordinate to the general authority found in paragraph A, granting the Mayor the discretion to modify the order of the agenda in any individual meeting. Council is thus left with the following options:

1. Make no changes so that the rule remains that removed consent items are heard after public

PREPARED BY: ORRY P. KORB, TOWN ATTORNEY

OPK:wp [N:\ATY\AgendaFormatandRules.tcr.wpd]

Reviewed by: *dy* Town Manager *PST* Assistant Town Manager _____ Clerk
Finance _____ Community Development

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MAYOR AND TOWN COUNCIL

SUBJECT: APPROVE RESOLUTION AMENDING TOWN COUNCIL AGENDA FORMAT
AND RULES

March 25, 2004

hearings unless the Mayor elects to change the order during the course of a meeting;

2. Change paragraph D to require that removed consent items be heard prior to public hearings unless the Mayor elects to change the order during the course of a meeting; or
3. Change paragraph D to delete any required order for hearing removed consent items, leaving it to the Mayor's discretion to determine during the meeting when to hear any item that is removed from the consent agenda.

Consistent with the above recommendation, the attached proposed resolution incorporates the third option by amending the second sentence of paragraph D to read as follows:

At the Mayor's discretion, items removed from the consent calendar may be considered either before or after the Public Hearings portion of the agenda.

This option is recommended because it avoids a binding rule and allows the decision about the order of the agenda to be made at the moment when the Mayor is most knowledgeable of the consequences of the decision on the conduct of a meeting. This change would also accommodate a custom of hearing such items at any set point of an agenda.

ENVIRONMENTAL ANALYSIS:

Changing the Town Council Agenda Format and Rules is not a "project" as defined by the California Environmental Quality Act.

FISCAL ANALYSIS:

Changing the Town Council Agenda Format and Rules will not have any discernable fiscal impact on the Town.

Attachments: Proposed Resolution (policy revision attached as Exhibit "A" to resolution)

RESOLUTION NO.

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS
AMENDING TOWN COUNCIL AGENDA FORMAT AND RULES

WHEREAS:

- A. The Town Council has adopted Town Council Agenda Format and Rules, which, among other things, sets forth the order of items for Council meeting agendas.
- B. That the Town Council Agenda Format and Rules were last amended by the Town Council on July 2, 2001 (Resolution 2001-77).
- C. The Town Council Agenda Format and Rules currently provide that items removed from the consent calendar shall be considered for discussion and action after the Public Hearings portion of the agenda, and elsewhere that the Mayor has the discretion to change the order of consideration of any item during any individual meeting.
- D. The Town Council desires to amend its Agenda Format and Rules to grant the Mayor the discretion to determine the order of consideration of items that are removed from the consent calendar during the meeting in which those items are removed.

RESOLVED:

1. That paragraph D. of the Town Council Agenda Format and Rules are amended to read as shown in Exhibit "A" to this Resolution, which is by this reference incorporated herein.
2. That Resolution 2001-77 is hereby rescinded.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos,

California held on the day of , 2004, by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST:

CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

**COUNCIL POLICY
TOWN OF LOS GATOS**

Subject: Town Council Agenda
Format and Rules

Enabling Actions:
1986-183; 1987-24; 1988-124;
1993-181; 1994-57; 1996-108;
2001-77

Approved:

Effective:
12/15/86

Revised Date:
12/15/86; 3/2/87; 6/6/88; 6/15/92; 12/6/92;
12/6/93; 4/4/94; 8/5/96; 7/2/01

PURPOSE

To establish procedures which standardize the Town Council agenda and insure an orderly meeting.

POLICY

The following policies have been established:

A. Order of the Agenda

Subject to the Mayor's discretion to change the order of consideration of any agenda item during any individual meeting:

- Closed Session
- Interviews
- Meeting Called to Order
- Roll Call
- Pledge of Allegiance
- Closed Session Report
- Appointments
- Presentations
- Consent Calendar
- Verbal Communications
- Public Hearings
- Other Business
- Council Matters
- Manager Matters
- Adjournment (No later than midnight without vote)

B. Closed Session Report

At the first Council meeting following any closed session, the Town Attorney will report on the closed session describing what occurred, but without reporting any information which could damage the Town's position on a) potential or existing litigation, b) the acquisition or disposition of property, or c) any employee's privacy interests. In addition, the closed session agenda shall

clearly identify the subject of each agenda item consistent with the requirements of the *Brown Act*.

C. Communications by Members of the Public

- (1) Verbal Communications. Comments by members of the public during the Verbal Communications portion of the agenda shall be limited to no more than three (3) minutes per speaker.
- (2) Public Hearings. Presentations during the Public Hearings portion of the agenda by appellants and applicants, including any expert or consultant assisting with the presentation, shall be limited to a total of no more than ten (10) minutes for all speakers. Appellants and applicants shall be provided no more than five (5) minutes to rebut at the end of the public hearing. Other members of the public testifying at public hearings shall be limited to no more than three (3) minutes.
- (3) Other Agenda Items. Comments by members of the public concerning any other item on an agenda shall be limited to no more than three (3) minutes per item.
- (4) Mayor's Discretion. All time limits shall be subject to change at the Mayor's discretion in order to control the length of a meeting.

D. Consent Calendar

The Mayor will ask if any member of the Council, Town staff or public wishes to comment on any item on the consent calendar. At the Mayor's discretion, items removed from the consent calendar may be considered either before or after the Public Hearings portion of the agenda.

E. Presentations

The Presentations portion of the agenda is intended to allow organized groups to make formal presentations to the Council and to recognize and honor deserving individuals and organizations. All matters included on the Presentations portion of the agenda require the prior approval of the Mayor and shall be limited to no more than ten (10) minutes, unless the Mayor grants additional time.

F. Council Matters

Members of Council may report on the activities of the committees to which they belong or the meetings they attend, question staff briefly on matters upon which the Council has taken action or given direction, make brief announcements, or discuss whether to place particular items on future agendas for action by the Council. Future agenda items to be briefly discussed here shall be identified consistent with section G of this Policy, or may be raised for the first time under this item.

G. Adjournment

Council meetings will be adjourned at midnight unless a majority of the Council Members present vote to extend the adjournment time.

H. Preparation of the Agenda

The agenda is prepared by staff for the Mayor's approval. In this manner the Mayor determines the agenda. Any member of the Council may request that the Mayor make a change or addition to the agenda. Such requests may be made through the Town Manager or directly to the Mayor. In no event may the subject of whether to amend the agenda be discussed outside of a public meeting by more than two (2) members of the Council.

Items thus proposed to be added to the agenda require the Mayor's agreement to be added for action. If the Mayor does not agree, the item shall be listed on the agenda for discussion purposes only under the Council Matters portion of the agenda. Council may then discuss whether to place the item on a future agenda for action. Two (2) or more members of the Council must vote in favor of placing an item on a future agenda for action.

If the wish of the Council is to add an item on the agenda of the current meeting, then the *Brown Act* generally requires a two-thirds (2/3) vote or a unanimous vote of those present if less than five (5) Council Members are present, with a finding that there is a need to take immediate action and the need for action came to the attention of the Town after the agenda was posted.

I. Agenda Schedule and Preparation of Schedule

Thursday, 11 days prior to meeting

All agenda reports are due to the Town Manager's Secretary. Reports should be submitted as soon as possible to allow time for review and revision. The deadline for all reports is the Wednesday prior to the Council meeting.

Wednesday, Noon, prior to meeting

Cut-off for requests for placement of items on agenda by members of the public.

Wednesday, 5:00 p.m., prior to meeting

Cut-off for placement of items on the agenda by members of Town Council.

Thursday, prior to meeting

Written agenda is finalized and printed. Agenda packets distributed to Town Council members.

J. Conduct of Town Council Meetings

The Council shall adopt:

- (1) Robert's *Rules of Order*, or
- (2) Some other rules of order, or
- (3) Allow the Mayor to conduct the meeting as deemed appropriate so long as all members of the Town Council concur.

K. Reconsideration of Items

No item acted upon by the Town Council will be reconsidered by the Council within 90 days of the Council action unless the item is requested for reconsideration by a member of the Town Council. A motion for reconsideration may only be made at the meeting of the original Council action or at the meeting immediately following the original action provided the matter appears on the agenda, unless a request for reconsideration is made by at least two (2) members of the Council at the meeting immediately following the original action, in which event the item will be placed on the next available agenda for Council action. See schedule in section H concerning placement of items on the regular agenda by members of the Town Council.

L. Motions by the Chair

The Chairperson of the meeting may make or second motions.

The Mayor may restate, or ask that the maker restate, all motions immediately prior to any vote.

APPROVED AS TO FORM:

Orry P. Korb, Town Attorney