



## STAFF REPORT

**Meeting Date:** July 5, 2016  
**To:** Honorable Mayor & City Council  
**From:** Kevin Kearney, Senior Management Analyst  
**Subject:** Request by the Mayor to Review the Role of Public Discussion  
During a City Council Meeting  
**Attachments:** 1. Municipal Code 2-1-3, 2-1-8 and 2-1-9

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### **INTRODUCTION**

This report transmits a request by the Mayor for City Council discussion on the role of public comment during a regularly scheduled City Council meeting.

The Mayor is requesting that Council discuss the current structure for receiving public comments on specific items on the agenda before Council questions and deliberation, and whether the public should be given time for rebuttal after Council discussion. This was a result of a member of the public requesting that the Council reconsider the current policy and permit a greater dialogue with members of the public.

### **DISCUSSION**

The Brown Act, originally adopted by the State of California in 1953, covers members of virtually every type of local government body, elected or appointed, decision-making or advisory. The express purpose of the Brown Act is to assure that local government agencies conduct the public's business openly and publicly.

In addition to requiring the public's business to be conducted in noticed, open meetings, the Brown Act also extends to the public the right to participate in meetings. Individuals, lobbyists, and members of the news media possess the right to attend, record, broadcast, and participate in public meetings. The public's participation is further enhanced by the Brown Act's requirement that an agenda be posted in advance of meetings, and by limiting discussion and action to matters listed on the agenda.

Legislative bodies may adopt reasonable regulations on public comment and the conduct of public meetings, including regulations limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker. Such regulations should be enforced fairly and without regard to speakers' viewpoints. The public can talk about anything within the jurisdiction of the legislative body, but the legislative body generally cannot act on or discuss an item not on the agenda.

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While the Brown Act does not allow discussion or action by the Councilmembers on items not on the agenda, it does allow members of the legislative body, or its staff, to “briefly respond” to comments or questions from members of the public, provide a reference to staff or other resources for factual information, or direct staff to place the issue on a future agenda. In addition, even without a comment from the public, a legislative body member or a staff member may ask for information, request a report back, request to place a matter on the agenda for a subsequent meeting, ask a question for clarification, make a brief announcement, or briefly report on his or her own activities.

Aside from the Brown Act legalities, the City's municipal code does address public comment in sections 2-1-3, 2-1-8 and 2-1-9. In summary, the municipal code has the following order of business:

“The business of the council shall be taken up for consideration and disposition in substantially the following order, except as may be otherwise ordered by the mayor or the council:

- A. Roll call;
- B. Presentations;
- C. Oral communication from the audience;
- D. Consent calendar;
- E. Public hearings;
- F. Continued and new business;
- G. Items pulled from consent calendar for discussion;
- H. Commission synopses and minutes;
- I. Other business; and
- J. Adjournment.

In addition, the municipal code addresses the following items:

- A person wishing to address the Council shall secure the permission from the presiding officer, such as the Mayor, under the appropriate headings of business, unless the presiding officer directs otherwise.
- Written communications may be referred to in any staff report or agenda item.
- A person may address the Council regarding matters under consideration in a public hearing.
- A person may address the Council by oral communications on any matters concerning the City's business.
- Each person to address the Council shall furnish their name and address to the City Clerk. During comment, the person shall state their name for the record and limit remarks to the time set by the presiding officer.
- All remarks shall be addressed to the Council as a body, and not any single member.
- No member other than the person speaking and the Council shall be permitted into a discussion, unless there is permission of the presiding officer.
- Whenever a group desires to speak, the presiding officer shall request a spokesperson to be chosen.

In regards to the City of Beverly Hills Council meetings, typical regularly scheduled meetings allow for public comment toward the beginning of the agenda. This can be done by telephone call-in or in-person audience comments. Speaker cards are requested from in-person speakers. The scheduled public comment provides individuals the opportunity to address the Council on items not listed on the agenda. Speakers are

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requested to state their name for the official record and are requested to limit remarks to three minutes, so others may have the opportunity to speak as well; however, the Mayor does have the flexibility to alter time limits.

Members of the public are requested to fill out speaker cards to comment on items listed on the agenda, whether the item is on the consent calendar, scheduled for a public hearing or on continued and new business. Although not formalized, the basic premise is that public comment is first heard by the Council, followed by Council discussion and then Council action; however, the Mayor typically has the flexibility to alter the public comment process and time limits.

### **FISCAL IMPACT**

There are no known fiscal impacts to the City at the moment.

### **RECOMMENDATION**

It is recommended that the City Council review this report and provide direction to staff on how to proceed.



George Chavez

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Approved By

# **Attachment 1**

## **2-1-3: CONDUCT OF BUSINESS:**

All formal meetings of the council shall be open to the public; provided, however, when a closed session is held in accordance with law, the public may be excluded from such closed session held during a council meeting. At the hour set by law on the day of the scheduled formal meeting, the council members, the city manager, the city attorney, the city clerk, and such other personnel as have been requested to be present by the city manager shall take their regular stations in the council chamber. The business of the council shall be taken up for consideration and disposition in substantially the following order, except as may be otherwise ordered by the mayor or the council:

- A. Roll call;
- B. Presentations;
- C. Oral communication from the audience;
- D. Consent calendar;
- E. Public hearings;
- F. Continued and new business;
- G. Items pulled from consent calendar for discussion;
- H. Commission synopses and minutes;
- I. Other business; and
- J. Adjournment. (Ord. 13-O-2646, eff. 10-11-2013)

## **2-1-8: RIGHT TO ADDRESS THE COUNCIL:**

Any person desiring to address the council during a formal meeting shall first secure the permission of the presiding officer so to do; provided, however, under the following headings of business, unless the presiding officer rules otherwise, any qualified and interested person shall have the right to address the council upon obtaining recognition by the presiding officer:

- A. Interested parties or their authorized representatives may address the council with regard to written communications referred to in any staff report, or agenda item.
  
- B. Interested persons or their authorized representatives may address the council in regard to matters under consideration in a public hearing.
  
- C. Taxpayers or residents of the city, or their authorized legal representatives, may address the council by oral communication on any matter concerning the city's business or on any matter over which the council has control during oral communications part of the agenda. (1962 Code § 2-3.12)

## **2-1-9: PROCEDURES IN ADDRESSING THE COUNCIL:**

- A. Each person desiring to address the council shall furnish their name and address to the city clerk. When called upon by the presiding officer, the person shall come to the microphone, state their name in an audible tone of voice for the record, and shall limit their remarks as directed by the presiding officer with the consent of the council. All remarks shall be addressed to the council as a body and not to any member thereof. No person, other than a council member and the person having the floor, shall be permitted to enter into any discussion without the permission of the presiding officer.
  
- B. Whenever any group of persons wishes to address the council on the same subject matter, it shall be proper for the presiding officer to request that a spokesperson be chosen by the group to address the council and, in the event additional matters are to be presented at the time by any other member of such group, to limit the number of persons so addressing the council in order to avoid unnecessary repetition before the council. (1962 Code § 2-3.13)