



CITY COUNCIL STAFF REPORT

DATE: December 3, 2008 New Business

SUBJECT: COUNCIL PROCEDURES REGARDING PUBLIC COMMENTS

FROM: David H. Ready, City Manager

BY: Douglas Holland, City Attorney

SUMMARY

During the City Council meeting of November 19, 2008, Councilmember Weigel requested that the City Manager place on the Council agenda a discussion regarding Council procedures in handling and responding to public comments.

RECOMMENDATION:

Discuss and provide direction to staff as may be required.

BACKGROUND

Pursuant to the Brown Act, every agenda for a regular meeting is required to provide an opportunity for members of the public to directly address the City Council on any item under the subject matter jurisdiction of the body. With respect to any item which is already on the agenda, the public must be given the opportunity to comment before or during the Council's consideration of the item.

Consistent with this requirement, the City Council pursuant to its Rules of Procedure, Section 2.6, adopted February 9, 2005, provides:

During the Public Comments portion of the meeting any person may address the Council on any subject pertaining to City business, whether listed on the agenda or not, except at special meetings Public Comments shall be limited to matters appearing on the agenda. All public comments shall be on matters within the jurisdiction of the City. A limitation of 3 minutes shall be imposed upon each person so desiring to address the Council during the Public Comments designation on the agenda.

ITEM NO. 5.4.

The Brown Act generally prohibits the Council from taking action or even discussing matters that do not appear on the posted agenda. There are exceptions to this general rule, including the public emergency and issues that arose after the posting of the agenda considerations. The Brown Act specifically recognizes significant practical exceptions that allow councilmembers to be responsive to the public while performing their duties in a transparent and public manner. These exceptions include:

1. Councilmembers and/or staff can briefly respond to statements made or questions posed by persons who raise issues during the "public comments" portion of the agenda;
2. A Councilmember may ask questions for clarification, make a brief announcement, or make a brief report on the member's activities; and
3. A Councilmember or the Council "may provide a reference to staff or other resources for factual information, request staff to report back to the body at a subsequent meeting concerning any matter, or take action to direct staff to place a matter of business on a future agenda."

The City Council's adopted Rules do not expressly address this issue. In the absence of express rules governing council responses to public comments, the provisions of the Brown Act would be applicable. The City Attorney will provide Council a briefing of these rules at the meeting.



Douglas Holland, City Attorney



David H. Ready, City Manager