



City of Carson

Report to Mayor and City Council

October 2, 2012
New Business Discussion

SUBJECT: CONSIDER REINSTATING THE "FIVE MINUTE RULE" AS PART OF THE PROCEDURAL RULES FOR THE CONDUCT OF THE MAYOR AND CITY COUNCIL DURING CITY COUNCIL MEETINGS

Submitted by David C. Biggs
City Manager

Approved by David C. Biggs
City Manager

I. SUMMARY

At the September 4, 2012 City Council meeting, during the discussion of item 19, staff was requested to bring back an item reinstating the "5 minute rule." Tonight the City Council asked to give staff direction to bring back an ordinance reinstating the "5 minute rule."

II. RECOMMENDATION

DISCUSS and PROVIDE direction.

III. ALTERNATIVES

TAKE another action the City Council deems appropriate.

IV. BACKGROUND

The "5 minute rule" is a procedural rule that amended the municipal code. It regulated a member to speak not more than once or for more than five minutes during the considerations of any one question during the debate except for a motion for reconsideration. This rule was implemented in 2007 by Ordinance No. 07-1394 and then repealed in 2009 by Ordinance No. 09-1438.

V. FISCAL IMPACT

None at this time.

VI. EXHIBITS

1. Ordinance No. 07-1394. (pgs. 3-9)
2. Ordinance No. 09-1438. (pgs. 10-11)

Document

Prepared by: Lisa Berglund, Principal Administrative Analyst

TO: Rev01-23-12

Reviewed by:

City Clerk	City Treasurer
Administrative Services	Development Services
Economic Development	Public Services

Action taken by Successor Agency

Date _____ Action _____

ORDINANCE NO. 07-1394

AN ORDINANCE OF THE CITY OF CARSON,
CALIFORNIA, AMENDING THE PROCEDURAL
RULES FOR THE CONDUCT OF CITY COUNCIL
MEETINGS

WHEREAS, the City Council has received complaints from the public that Council meetings are unnecessarily long and that some agenda items are not addressed because too much time is spent on items continued from previous agendas; and

WHEREAS, the City Council desires to modify the current procedural rules to expedite the handling of City business during City Council meetings; and

WHEREAS, in order to facilitate the timely and professional conduct of official City business, the rules and procedures relating to the conduct of City Council meetings, as set forth in the Carson Municipal Code, must be amended; and

WHEREAS, the purpose and effect of the amendments proposed herein is not to prevent any member of the City Council from exercising the right to express his or her views, but is intended to provide for the more efficient use of time during public meetings; and

WHEREAS, the City Council is also amending the Carson Municipal Code so that the Council's reorganization and selection of one of its members to serve as Mayor Pro Tempore is consistent with the Government Code providing for reorganization at the regular meeting where the election results are declared.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CARSON
DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Section 2404 of the Carson Municipal Code, relating to Presenting Matters to Council and Agendas, is hereby amended to read in its entirety as follows (new text is shown in underline, while deleted text is shown in ~~strikeout~~):

"§ 2404 Presenting Matters to Council – Agendas.

A. Every Councilmember, elected official, department head, Official Board, Commission or other body connected with the City Government, and every citizen, individual, corporation, committee, or civic group having reports, communications, proclamations, resolutions or any other matter of business to be presented at a Council meeting, shall notify the City Manager of the fact in writing before 12:00 noon on the Wednesday preceding the day of such meeting. The City Manager shall determine which of such items, other than those requested by a Councilmember, are to be placed on the agenda. All items requested to be

EXHIBIT NO. 01



placed on an agenda by a Councilmember shall appear on the agenda, except that the City Manager shall place no item on the agenda, including those requested by a member of the City Council, without a brief general description of the item for inclusion in the agenda. Notwithstanding the foregoing, if a motion to postpone a matter indefinitely is adopted by the Council or if a motion to lay on the table is adopted by the Council and not removed from the table at the same Council meeting at which such motion was adopted, the matter(s) which were the subject of such motions may not be placed on the agenda unless specifically approved by a majority of the Council at a duly noticed public meeting in compliance with all laws.

B. The City Manager shall prepare an agenda including all such matters according to the Order of Business (CMC 2405). In order to provide adequate time for members of the Council to request deletion or addition of agenda items in accordance with subsection (d) of this Section, the City Manager shall distribute a preliminary draft of the agenda to each member of the Council by 6:00 p.m. on Tuesday of the week preceding the Council meeting. Prior to circulation and posting of the final agenda, the City Clerk shall review the agenda for completeness. The City Manager shall deliver to members of the Council a complete copy of such final agenda not later than 5:00 p.m. on the Thursday preceding the meeting. The agenda shall contain a brief, general description of each item of business to be transacted or discussed at the meeting. The agenda shall specify the time and location of the meeting and a copy thereof shall be posted on a business day at least seventy-two (72) hours before the meeting in a location that is freely accessible to members of the public and designated by the Council.

C. No matters, other than those on the agenda, shall be acted upon by the Council; provided, however, that the City Council may take action on a matter not appearing on the posted agenda (1) upon a determination by a majority vote that an emergency situation exists, as defined in Government Code Section 54956.5; or (2) upon a determination by a two-thirds (2/3) vote of the Council, or if less than two-thirds (2/3) of the members are present, a unanimous vote of the members present, that the need to take action arose subsequent to the posting of the agenda for the meeting.

D. Any Councilmember may remove an item from the agenda, except an item requested by a Councilmember, by placing written notice in the office of the City Manager and each Councilmember prior to 5:00 p.m., on the Wednesday preceding the Council meeting. Any Councilmember may thereafter have the matter included on the agenda by requesting the City Manager in writing prior to 9:00 a.m. on the Thursday preceding the meeting to include said item on the agenda. No item may be removed from the agenda after 12:00 noon on the Thursday preceding the meeting except by a vote or consent of the City Council at the meeting for which the agenda was prepared.



E. At a Council meeting, any member of the Council may, at the beginning of the meeting under the agenda item for approval of the agenda or when the agenda item is reached during the meeting, request that such item be continued to the next regular meeting or to an adjourned regular meeting, so as to allow additional evaluation, study and staff discussion. As a matter of courtesy to that Councilmember, the Council has traditionally honored that request. However, a majority of the members of the Council may, when deemed to be in the interest of the majority, act on any item listed on an agenda notwithstanding the request for continuance by an individual Councilmember.

Section 2. Section 2409 of the Carson Municipal Code, relating to Rules of Debate and Procedure, is hereby amended to read in its entirety as follows (new text is shown in underline, while deleted text is shown in ~~strikeout~~):

"§ 2409. Rules of Debate and Procedure.

A. The Presiding Officer or such other member of the Council as may be presiding may move, second and debate from the chair subject only to such limitations of debate as are by these rules imposed on all members and shall not be deprived of any of the rights and privileges of a Councilman by reason of his acting as the Presiding Officer.

B. Getting the Floor. Every member desiring to speak shall address the Presiding Officer~~Chair~~, and, upon recognition by the Presiding Officer, shall confine himself to the question under debate, avoiding all personalities and indecorous language. A member may not speak more than once or for more than five minutes during the consideration of any one question during the debate thereon, except for a motion for reconsideration. If a proper motion for reconsideration is before the Council, each member shall be granted an additional five minutes to address the motion for reconsideration and, if approved, the motion is reconsidered. A member may not yield to any other member the time for which he or she is entitled to speak. Notwithstanding the foregoing, if a request is made for the maker of a motion to repeat or clarify the motion, the member may speak briefly and only for the purpose of repeating or clarifying the motion.

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

D. Closing Debate. Debate shall be closed by a motion calling for the 'previous question.' When seconded, such motion is undebatable and ~~if carried the pending question shall be immediately put to a vote.~~ If the motion fails, debate may be reopened. If the motion is approved by a

majority of those present and voting, there shall be no more debate on that subject.

E. Motion. A motion shall have a second before it is properly before the City Council for debate.

F. Motion to Reconsider. A motion to reconsider any action taken by the Council may be made on the day the vote to be considered was taken or at the next succeeding meeting or at a recessed or adjourned meeting thereof. Such motion must be made by one of the prevailing side, but may be seconded by any member; it may be made at any time and have precedence over all other motions; it shall be debatable. After a motion for a reconsideration has once been acted on, no other motion for a reconsideration thereof shall be made without unanimous consent of the Council.

G. Motions to be Stated by Presiding Officer. When a motion is made, it shall be stated by the Presiding Officer before debate. Any member may demand that it be put in writing.

H. Withdrawal of Motion. A motion may be withdrawn by the mover with the consent of the seconder of the motion.

I. Amendments. It shall be in order to amend a motion at any time that it is properly before the Council but not after a call for the previous question has been moved. A motion to amend an amendment is in order, but one to amend an amendment to an amendment shall not be in order. ~~An~~ One amendment modifying the intention of a motion shall be in order, but an amendment on a different matter shall not be in order. ~~An~~ One substitute motion on the same subject is acceptable provided that a substitute motion which merely states the converse of the main motion shall not be in order. There shall be only one (1) amendment or one substitute motion to a main motion pending at any time. ~~This first degree amendment may have one (1) amendment pending at one time. As each is voted, other amendments may be offered in succession. On a motion to amend to 'strike out and insert,' before the vote on the motion is taken, the paragraph to be amended shall first be read as it stands, then the words proposed to be stricken and those to be substituted shall be read, and finally the paragraph as it would stand if so amended shall be read. If an amended or substitute motion fails, the main motion shall then be considered by the Council. If the main motion fails, a new main motion may be made to which only one amendment or substitute motion shall be permitted.~~

J. Motion to Lay on Table. A motion to lay on the table shall preclude all amendments or debate of the subject under consideration. If the motion shall prevail, the consideration of the subject may be resumed during the Council meeting in which the motion was adopted only upon a motion of a member voting with the majority and with the consent of two-thirds (2/3) of the members present. Notwithstanding CMC 2404, if a



motion to lay on the table is adopted and a motion to resume is not adopted during the Council meeting in which the motion to lay on the table was adopted, the matter may not be placed on a future agenda unless a member of the Council places an item on an agenda to remove the matter from the table, and a majority of the Council approve placing the matter on the agenda at a duly noticed public meeting in compliance with all laws.

K. Motion to Postpone. A motion to postpone indefinitely is fully debatable and if the same is adopted, the principal question shall be declared lost. Notwithstanding CMC 2404, if a motion to postpone indefinitely is adopted, the matter may not be placed on a future agenda unless a member of the Council places an item on an agenda to take up the matter postpone, and a majority of the Council approve placing the matter on the agenda at a duly noticed public meeting in compliance with all laws. A motion to postpone to a definite time is amendable and debatable as to propriety and time set.

L. Motion to Refer. A motion to "refer" is not debatable except as to time or place of the referral.

M. Motion to Rescind. A motion to rescind an action if permissible pursuant to law may be made at any time, is debatable, and may be amended. Such motion must be made by one of the prevailing side, but may be seconded by any member.

N. Motion to Adjourn. A motion to adjourn is not debatable and is in order at any time except as follows:

- a. When repeated without intervening business or discussion.
- b. When made as an interruption of a member while speaking.
- c. When the previous question has been ordered.
- d. While a vote is being taken.

A motion to adjourn is debatable only as to the time to which the meeting is to be adjourned.

O. Remarks of Council ~~membersmen~~. Unless otherwise directed by the Presiding Officer, remarks and/or debate shall not be entered into the minutes. A Council ~~memberman~~ may request the privilege of having an abstract of his or her statement on any subject under consideration by the Council entered into the minutes. If the Council consents thereto by a majority vote, such abstract shall be entered into the minutes.

P. Council Action on Certain Routine, Procedural and Unanimous Consent Matters. When a motion has been duly made and seconded on a matter which is routine or procedural, the Council unanimously concurs therein and a roll call vote is not required by law or this Code nor requested by any member of the Council, the presiding officer may state in substance: "There be no objection, it is so ordered."

No objection being stated, the action shall be deemed to have been taken by unanimous voice vote of the Council and the City Clerk shall record such action in the minutes of the meeting.

Q. Brief explanation. The Presiding Officer may explain the order of business when the motion pending before the Council is not debatable. The explanation may not consume more than two (2) minutes."

Section 3. Section 2418 of the Carson Municipal Code, relating to Robert's Rules of Order, is hereby amended to read in its entirety as follows (new text is shown in underline, while deleted text is shown in ~~strikeout~~):

"§ 2418 Robert's Rules of Order.

In all matters and things not otherwise provided for herein, the proceedings of the Council shall be governed by "Robert's Rules of Order," 1990 (10th) Edition. However, no ordinance, resolution, proceedings or other action of the City Council shall be invalidated, or the legality thereof otherwise affected, by the failure or omission to observe or follow said Rules. Except as specifically provided elsewhere in this Code, any rule of procedure affecting the order of business may be suspended with the approval of a majority of members of the entire City Council."

Section 4. Paragraph (A) of Section 2403 of the Carson Municipal Code, relating to Council meetings and Council reorganization, is hereby amended to read in its entirety as follows (new text is shown in underline, while deleted text is shown in ~~strikeout~~):

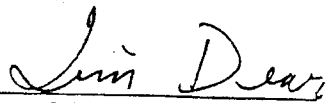
"§ 2403. Council Meetings.

A. Regular Meetings. Regular meetings of the City Council shall be held on the first and third Tuesday of each month at the hour of 5:00 p.m. If any such day is on a holiday, then the meeting shall be held on the next succeeding day which is not a holiday. If any such day is a Statewide election day or a regular or special municipal election day, then the meeting shall be held on the next succeeding day or on such other day as determined by the City Council. At the second regular meeting in March of each even-numbered year, except as otherwise provided by law, the Council shall organize and select a Mayor Pro Tempore. In odd-numbered years, the Council shall organize and select a Mayor Pro Tempore at the meeting at which the declaration of its regular election results is made immediately following the installation of officers in accordance with Government Code section 36801."

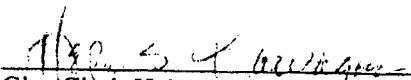
Section 5. If any provision(s) of this ordinance or the application thereof to any person or circumstances is held invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any other provision or application, and to this end the provisions of this ordinance are declared to be severable. The City Council hereby declares that they would have adopted this ordinance and each section, subsection, sentence, clause, phrase, part or portion thereof, irrespective of the fact that any one or more sections, subsections, clauses, phrases, parts or portions thereof be declared invalid or unconstitutional.

Section 6. The City Clerk shall certify to the adoption of this Ordinance, and shall cause the same to be posted and published in the manner required by law.


PASSED, APPROVED, and ADOPTED this 4th day of December, 2007.


Mayor Jim Dear

ATTEST:


City Clerk Helen S. Kawagoe

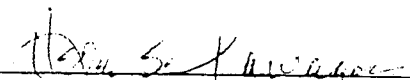
APPROVED AS TO FORM:


City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF CARSON)

I, Helen S. Kawagoe, City Clerk of the City of Carson, California, do hereby certify that the whole number of members of the City Council of said City is five; that the foregoing ordinance, being Ordinance No. 07-1394 passed first reading on November 20, 2007, was duly and regularly adopted by the City Council of said City at a regular meeting of said Council, held on the 4th day of December, 2007, and that the same was passed and adopted by the following roll call vote:

AYES:	COUNCIL MEMBERS:	Mayor Dear, Santarina, and Gipson
NOES:	COUNCIL MEMBERS:	Davis-Holmes and Williams
ABSTAIN:	COUNCIL MEMBERS:	None
ABSENT:	COUNCIL MEMBERS:	None


City Clerk, City of Carson, California

ORDINANCE NO. 09-1438

AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF CARSON, CALIFORNIA,
REPEALING A PORTION OF MUNICIPAL CODE
§ 2409(B)

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CARSON,
CALIFORNIA DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Section 2404(B) of the Carson Municipal Code, relating to Rules of Debate and Procedure, is hereby amended by repealing the following text thereof (deleted text is shown in ~~strikeout~~):

“§ 2409. Rules of Debate and Procedure.

B. Getting the Floor. Every member desiring to speak shall address the Presiding Officer and, upon recognition by the Presiding Officer, shall confine himself to the question under debate, avoiding all personalities and indecorous language. ~~A member may not speak more than once or for more than five minutes during the consideration of any one question during the debate thereon, except for a motion for reconsideration. If a proper motion for reconsideration is before the Council, each member shall be granted an additional five minutes to address the motion for reconsideration and, if approved, the motion is reconsidered. A member may not yield to any other member the time for which he or she is entitled to speak. Notwithstanding the foregoing, if a request is made for the maker of a motion to repeat or clarify the motion, the member may speak briefly and only for the purpose of repeating or clarifying the motion.~~

Section 2. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any other provision or application, and to this end the provisions of this ordinance are declared to be severable. The City Council hereby declares that they would have adopted this ordinance and each section, subsection, sentence, clause, phrase, part or portion thereof, irrespective of the fact that any one or more sections, subsections, clauses, phrases, parts or portions thereof be declared invalid or unconstitutional.

Section 3. The City Clerk shall certify to the adoption of this Ordinance, and shall cause the same to be posted and published in the manner required by law.

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PASSED, APPROVED, and ADOPTED this _____ day of _____.

Mayor Jim Dear

ATTEST:

City Clerk Helen S. Kawagoe, MMC

APPROVED AS TO FORM:

City Attorney

