



SPECIAL TOWN COUNCIL MEETING STAFF REPORT

MEETING DATE	November 19, 2024
PREPARED FOR	Mayor and Town Council
PREPARED BY	Janet Coleson, Town Attorney and Heather Abrams, Town Manager
SUBJECT	Adopt a Resolution Adopting the Town Council Rules and Procedures Handbook

RECOMMENDATION

Adopt a Resolution adopting the Town Council Rules and Procedures Handbook.

DISCUSSION

Many municipalities in California have adopted a Council Rules and Procedures Handbook, setting forth the rules and procedures governing the way Council meetings are conducted, agendas prepared and generally, serving as a guide for Council and staff, as well as the general public, for how the Council operates. This initial version of the Handbook is expected to be modified and refined over time to include more information including, but not limited to, rules and procedures for appointing members of the Town's Boards, Commissions and Committees and how their agendas are prepared and meetings conducted.

FISCAL IMPACT

There is no fiscal impact resulting from the adoption of this resolution.

ATTACHMENT

- A. Resolution
- B. Town of Fairfax Town Council Rules and Procedures Handbook

RESOLUTION 24-

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX ADOPTING TOWN COUNCIL RULES AND PROCEDURES

WHEREAS, the Town Council wishes to establish a uniform set of rules and procedures in the form of a Town Council Rules and Procedures Handbook; and

WHEREAS, the Town Council contemplates building on this Handbook in the future by adding, among other items, sections regarding rules and procedures for Town Boards, Commissions and Committees

NOW, THEREFORE, BE IT RESOLVED, that the Town Council hereby adopts the Town of Fairfax, Town Council Rules and Procedures Handbook.

The foregoing Resolution was duly passed and adopted at a Regular Meeting of the Town Council of the Town of Fairfax held in said Town on the 19h day of November 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST

BARBARA COLER
MAYOR

CHRISTINE FOSTER
DEPUTY TOWN CLERK



Town of Fairfax

Town Council Rules & Procedures Handbook

Table of Contents

INTRODUCTION	3
Town Council Powers and Responsibilities	3
Form of Government.....	3
Selection of Mayor & Vice Mayor.....	4
Role of the Mayor	4
Role of the Vice Mayor	4
Role of the Town Manager	4
Relationship with the Town Manager.....	5
Role of Town Attorney	5
STATUTORY REQUIREMENTS & REGULATORY GUIDELINES	5
Legal and Ethical Standards.....	6
Confidential Information	6
The Brown Act	6
Political Reform Act	7
Due Process	7
MEETING BASICS	8
Requirement to Meet in Public.....	8
Communication and Public Participation Requirement.....	8
Meeting Agendas and Notice Requirements	9
Meeting Rules and Procedure	9
Appointments to External Boards or Commissions.....	10

Introduction

The proper operation of democratic government requires that decision-makers be independent and impartial. The Town of Fairfax has adopted this Council Rules & Procedures Handbook to promote and maintain the highest standards of personal and professional conduct in the Town's government.

Purpose

This Handbook assists the Town Council by documenting currently accepted practices. By agreeing to these practices, the effective administration of Town Council affairs is greatly enhanced. While not overly restrictive, it provides clear guidelines to guide Council members in their actions. This Procedures Manual may be reviewed and revised periodically.

Town Council Powers and Responsibilities

Public officials are representatives of public purpose and hold office for the public's benefit. They must uphold the United States and California Constitutions and impartially carry out the laws of the Nation, State, and Town. They are bound to observe the highest standards of performance and faithfully discharge their duties, regardless of personal considerations.

The Town Council acts as a body. No member has extraordinary powers beyond those of other members. The Mayor and Vice Mayor have additional ceremonial and administrative responsibilities, but all Council members are equal in establishing policies, voting, and other significant areas. Policy is established by a majority vote of the Town Council. While individual Council members may disagree with the majority, a decision by the majority binds the Town Council to a course of action. It is staff's responsibility to ensure that the policy direction established by the majority of the Town Council is upheld.

The Town Council provides policy direction, adopts ordinances and resolutions, sets the Town's priorities through the annual budget and adopted goals, and conveys constituent requests and concerns to the Town staff. The Town Council also appoints members to advisory boards, commissions, and committees.

Form of Government

The Town operates under a Town Council-Town Manager form of government. Under this form of government, the Town Council is the legislative body responsible for setting Town policy, including the adoption of ordinances and land use regulations, and the adoption of the annual Town operating and capital budget. The Council appoints the Town Manager and the Town Attorney, as well as members of Town commissions, boards, and advisory committees.

Selection of Mayor & Vice Mayor

The Fairfax Town Council consists of five members, who are elected at large by Fairfax residents for four-year terms. Elections are held every two years, with three Council members elected in one cycle and two in the alternate cycle. Annually, the five Council members select a mayor and vice mayor from their ranks.

Role of the Mayor

As reflected in the Town Code, the Mayor is to preside at all meetings of the Town Council and perform such other duties consistent with the office as may be imposed by the Town Council. The Mayor does not possess any power of veto. As presiding officer of the Town Council, the Mayor is to faithfully communicate the will of the Town Council majority in matters of policy. The Mayor is also recognized as the official head of the town for all ceremonial purposes.

The Mayor, unless unavailable, shall sign all ordinances, resolutions and other documents that have been adopted by the Town Council and require an official signature; except when the Town Manager has been authorized by Town Council action to sign documents. In the event the Mayor is unavailable, the Vice Mayor may sign in place of the Mayor.

The Mayor is assigned to consult and coordinate with the Town Manager in the development of agendas for meetings of the Town Council. The scope of such review focuses on the timing of business items and the volume of business that can be considered at any one meeting.

During Council meetings, the Mayor is responsible for overseeing the public debate in a manner that encourages input while facilitating the decision-making process. The Mayor should limit the discussion and debate to the particular scope of responsibility of the Council and should ensure that all individuals have the opportunity to speak. To this end, the Mayor may set time limits on public comments at various points during a meeting, but in no event should public comments, often limited to two minutes per person, extend for greater than three minutes per person.

Role of the Vice Mayor

In the Mayor's absence, the Vice Mayor shall perform the formal duties of the Mayor.

Role of the Town Manager

The Town Manager is appointed by the Town Council solely on the basis of their executive and administrative qualifications and ability. The Town Manager serves as the

administrative head of the government of the town under the direction and control of the Town Council, except as otherwise provided in the Fairfax Municipal Code.

Relationship with the Town Manager

The Town Council and its members shall deal with the administrative services of the Town only through the Town Manager and neither the Town Council nor any member thereof shall give orders to any subordinates of the Town Manager. The Town Manager shall take their orders and instructions from the Town Council only when sitting in a duly held meeting of the Town Council and no individual Council member shall give any orders or instructions to the Town Manager, except the Mayor, Vice Mayor, or Acting Mayor in the case of emergency.

Role of Town Attorney

The Town Attorney is the legal advisor for the Town Council, Town Manager, Town Departments and Town Boards, Commissions and Committees. The general legal responsibilities of the Town Attorney are to:

- Provide legal assistance necessary for formulation and implementation of legislative policies and projects.
- Represent the Town's interest, as determined by the Town Council, in litigation, administrative hearings, negotiations and similar proceedings.
- Prepare ordinances, resolutions, contracts and other legal documents to best reflect and implement the purposes for which they are prepared.
- Keep the Town Council and staff apprised of court rulings and legislation affecting the legal interest of the Town. It is important to note that the Town Attorney does not represent individual Council members, but the Town Council as represented by a majority of the members.

STATUTORY REQUIREMENTS & REGULATORY GUIDELINES

Certain state laws and other established regulations exist which govern various responsibilities of the Town Council and Town Boards, Commissions, and Committees. This Handbook is not intended to duplicate, modify, supersede, or repeat any existing statutes or regulations. Town Council members are responsible for becoming familiar with these statutes and regulations. Any discrepancies with state law will result in state law taking precedence.

Legal and Ethical Standards

Understanding that the Town Officials' primary concern is the public interest, such officials should work for the common good, rather than for private or personal interests. Town Officials are expected to serve as a model of leadership and civility to the community and to treat all members of the public, each other, and the issues before them with respect, in order to promote open and effective government.

In order to promote the highest standards of respect and integrity, Town Council members should:

- Practice civility and decorum in discussions and debate.
- Honor the role of the presiding officer in maintaining order.
- Demonstrate effective problem-solving approaches.
- Base decisions on the best available information.
- Be prepared and knowledgeable about issues on the agenda.
- In public discourse, it is not uncommon for there to be a difference of opinion. When there is a difference of opinion, the goal is to disagree without being disagreeable.
- Be respectful of other people's time.
- Treat others as you would like to be treated.

Confidential Information

Town Council members must refrain from disclosing confidential information concerning the property, government, or affairs of the Town, whether it be provided in a closed session or otherwise, unless the Town Council authorizes such disclosure by majority vote. Confidential information shall not be used to advocate financial or other personal interests. Confidential information means all information, whether transmitted orally or in writing, which is of such a nature that it is not, at that time, a matter of public record or public knowledge. Confidential information of any nature and from any source is to remain confidential. Confidential information includes those items identified as confidential at the time the information is conveyed as well as information described or defined as confidential as a matter of regulation, law or statute including those items described in the California Public Records Act (Government Code Section 6254 et seq.), items from closed sessions under the Brown Act (Government Code Section 54950 et seq), and items subject to the attorney-client privilege. It is important to note that Council members do not have any greater access to public records than other members of the public.

The Brown Act

The Ralph M. Brown Act ("Brown Act") is a law which provides that all meetings of a legislative body, whether meetings of the Town Council or its appointed commissions and committees, shall be open and public and all persons shall be permitted to attend. In order to ensure open and public meetings, the Brown Act includes numerous and detailed

provisions affecting Town Council conduct. For example, regular meetings of the Town Council, or of other public bodies subject to the Brown Act, must be noticed and an agenda provided 72 hours prior to the meeting. Special Meetings require only a 24-hour notice and emergency meetings may be called with less time for notification. With a few exceptions and special rules, a “meeting” takes place whenever a quorum is present and subject matter related to Town business is heard, discussed, or deliberated upon. Please refer to the Brown Act, California Government Code section 54950 et seq., for further details.

Political Reform Act

The Political Reform Act (California Government Code §§81000 et seq. and other statutory and common law provisions control conflicts of interests through disclosure of financial interests and prohibition in participating in decision-making when a conflict of interest exists. Town Officials are prohibited from making, participating in or in any way attempting to use their official position to influence a governmental decision in which they know or have reason to know they have a financial interest. Financial interests can arise out of property ownership, business investment, leadership in a business entity, or receipt of income and gifts.

Title 2 of the California Code of Regulations contain the regulations of the Fair Political Practices Commission (FPPC). The FPPC’s Regulations and opinions interpreting statutory authority and regulations govern the Council’s conduct with regard to potential conflicts of interest.

It is important for any Council member who believes they may have a conflict of interest to bring the matter to the attention of the City Attorney as soon as possible before the matter is before the Town Council.

Due Process

There are two types of hearings that may be conducted by the Town Council, legislative and quasi-judicial (also known as adjudicatory) hearings. Legislative hearings involve creating or adopting rules that apply to all future situations. These include adoption of ordinances, resolutions, and the General Plan.

Quasi-Judicial Hearings

Quasi-judicial hearings, involve the application of the laws and rules contained in the ordinances, resolutions and planning documents to specific situations. Decisions in quasi-judicial hearings require findings based on an evidentiary record. Examples of decisions from quasi-judicial hearings include granting or denying entitlements and permits, code enforcement decisions and generally, similar decisions where a property interest is at stake and the Town Council is charged with applying the laws, rules and regulations to a specific situation.

Under the federal and state Constitutions, due process requires decision-makers to conduct a fair and impartial hearing. In a quasi-judicial or adjudicatory proceeding, a fair hearing includes two basic components; notice that a matter will be heard, and an opportunity for the interested person(s) to be heard on that matter before the decision-making body.

Circumstances potentially impacting the fairness of a hearing include whether a decision-maker has participated in any ex parte contacts, which are communications with a decision-maker and another on the subject matter of the hearing, conducted outside of the public hearing. While it is best to avoid any ex parte communications, should such communications happen, it is imperative to disclose the fact of the communication, including the substance of the communication, on the record at the public hearing before a decision is rendered. Disclosure is necessary to avoid the risk of legal challenge to the Council's decision based on a violation of due process.

In addition, it is a violation of due process for a decision-maker to make up their mind about how they intend to vote on a quasi-judicial matter and state that decision before hearing all of the evidence to be presented. Such statements may be verbal, online through social media or in published writings. Council Members should consult the Town Attorney on any questions regarding due process.

MEETING BASICS

Requirement to Meet in Public

The Ralph M. Brown Act, otherwise referred to as the "Brown Act," is codified in the California Government Code §§54950 et seq. The Brown Act mandates that local government business be conducted at open and public meetings, except in certain limited situations (i.e. closed sessions). The Brown Act broadly defines the term "meeting" to include any congregation of a majority of the members of a particular legislative body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the legislative body.

The Brown Act also requires that the public be given notice of the time and place meetings are to be held. Absent certain circumstances, a legislative body may not act on or discuss any item that does not appear on the agenda posted for the meeting.

Communication and Public Participation Requirement

The Brown Act protects the public's right to attend and participate in meetings and requires that agendas for legislative bodies provide an opportunity for the public to address the body. Public comment procedures and time limits for speakers are explained on the agenda.

The Brown Act requires that an agenda allow for two types of public comment periods. The first is a general audience comment period (i.e., "Open Time for Public Expression")

where the public may comment on any item of interest that is **not** on the agenda, but it must be within the subject matter jurisdiction of the legislative body. The second type of public comment period specifically pertains to items on the agenda.

In order to ensure the timely completion of the Council's business, the length of public comments have been limited and each person is given only one opportunity to speak on each item. The Consent Calendar, is taken as one item with one vote by the Council. The public is offered one opportunity to speak on the Consent Calendar in its entirety. Any Council member may request of the Mayor that an item be removed from consent. Granting such a request requires a majority vote of the Council.

Meeting Agendas and Notice Requirements

For all Regular meetings, an agenda containing a brief general description of each item of business to be considered must be posted at least 72 hours in advance of the meeting. Agendas are posted at Town Hall, the Fairfax Women's Club Building, the Fairfax Post Office and on the Town's website. Posting is handled by Town staff.

Special meetings may be called by the Mayor in consultation with the Town Manager. Notice of such meetings must be posted at least 24 hours in advance of the meeting and sent to all members. In these situations, the meeting notice constitutes the agenda, which must include the date, time and place of the meeting as well as a listing of all business to be transacted.

Future agenda items may be proposed at the end of Council meetings by any Council member, including the Mayor. A majority vote is required to place an item on a future Council meeting agenda.

The Town Council will review the agenda at 10:00 p.m. to ascertain which items, if any, will be continued to another meeting. Any matter not started by 11:30 p.m. will be continued to an adjourned, regular, or special Town Council meeting unless the Council suspends this rule by a majority vote.

Meeting Rules and Procedure

In order for the Town Council to meet, conduct business and take action, a quorum must be present. For a body of five members, quorum is three members. Action is taken by motion. All motions require a second. Failure to receive a second means a motion fails and there is no further action on that motion. The Mayor may make or second a motion. When a motion has received a second, the Mayor calls for discussion on the motion. After the discussion, the Mayor closes debate on the motion and asks for a vote. The Brown Act prohibits voting or taking action by secret ballot or proxy.

Appointments to External Boards or Commissions

Council members are requested to serve on various boards and committees for external agencies. Annually, after each regular election or as vacancies arise, the Council shall review the list of current assignments and make appointments. Any Council member desiring to serve on a certain committee (or who desires not to be considered) should inform the Council in open session. These appointments are subject to approval by the majority of Council. Appointments to some external Boards require that the Mayor and/or Vice Mayor be appointed. Town Council members and their Alternates appointed to an external Board or Commission shall coordinate with each other directly when the Council member is unable to attend a meeting so that the Alternate may attend in their absence. In some circumstances, the Council may appoint a Town resident to represent the Council.