



Solano Local Agency Formation Commission

675 Texas St. Ste. 6700 • Fairfield, California 94533

(707) 439-3897

www.solanolafco.com

Staff Report

DATE: August 12, 2024

TO: Solano Local Agency Formation Commission

FROM: Christina Love, Deputy Executive Officer on behalf of the Policy Ad-Hoc Committee

SUBJECT: **LAFCO Project No. 2023-16 Solano LAFCO Policy Updates: Solano LAFCO By-Laws Update**

Recommendation:

REVIEW, CONSIDER public testimony, and, APPROVE or Approve with modifications the proposed updates to the Solano LAFCO By-Laws.

Executive Summary:

Part of Solano LAFCO's Workplan is to review current policies and update where necessary. The Commission created a Policy Ad-Hoc Committee to guide staff and provide input on direction for new and updated policies on April 11, 2024. On July 30, 2024, the Policy Ad-Hoc Committee reviewed and recommended that the Commission adopt the proposed updates and revisions to the Solano LAFCO By-Laws.

Discussion:

Solano LAFCO has several policies to govern and guide projects, governance, and practices. However, the policies have not been reviewed or updated since 2019 or longer, due to staffing challenges and workload. With the help of Solano LAFCO's legal counsel, staff revised the Solano LAFCO By-Laws to ensure they are up to date with current laws, and to propose an increase to the Commissioner's per diems.

Several of the proposed revisions to the By-Laws were recommended by legal counsel to ensure that the By-Laws are consistent with Cortese-Knox-Hertzberg (CKH), Brown Act, other mandatory processes and procedures, and a handful of administrative edits for internal consistency. A list of the substantive revisions is as follows:

- Article I. Section 2.b: revised to add language from CKH
- Article II. Section 4.b: revised to comply with Brown Act
- Article II. Section 6: revised to prevent gaps in member appointments

Commissioners

Ron Kott, Chair • John Vasquez, Vice-Chair • Nancy Shopay • Mitch Mashburn • Steve Bird

Alternate Commissioners

Alma Hernandez • Wanda Williams • Jack Batchelor

Staff

Rich Seithel, Executive Officer • Christina Love, Deputy Executive Officer • Aaron Norman, Analyst II • Tova Guevara, Office Administrator/Clerk • Tyra Hays, Project Specialist • Mala Subramanian, Lead Legal Counsel

Agenda Item 7.C – LAFCO Project 2023-16 By-Laws Update

- Article IV: revised to comply with Brown Act
- Article V. Section 3: revised to comply with Brown Act
- Article VIII. Section 6: revised to increase Commissioner per diem from \$100, to \$150.
- Article VIII. Section 7: revised to remove Robert's Rules of Order and replace with Rosenberg's Rule of Order for meeting procedures (see discussion below)
- Article X. Section 1: revised for clarity
- Article X. Section 2: revised for clarity
- Article X. Section 4: revised for consistency with CKH
- Article X. Section 5: revised for consistency with CKH
- Article X. Section 8: revised for clarity
- Article XI: revised for consistency with CKH
- Article XII. Section 1: revised for consistency with CKH and for clarity on independence

Robert's Rules of Order replaced with Rosenberg's Rule of Order

The "rules of order" are parliamentary procedural guidelines – meaning they provide a guiding process for holding formal meetings for government agencies and other legal entities. Solano LAFCO has historically referenced Robert's Rules of Order as they were the most common at the time of LAFCO's formation. Legal Counsel recommends that LAFCO replace Robert's Rules of Order with Rosenberg's Rules of Order for meeting guidelines because they are simpler than Robert's.

Robert's Rules are often criticized as being very long (newly revised version is 700 pages, "brief" books are 200 pages), very rigid (strict process for different situations), discourage participation (because they are so complicated), and can be weaponized to derail or disrupt meetings or prevent actions.

Rosenberg's Rules of Order were drafted by Judge David Rosenberg of Yolo Superior Court to provide a set of procedural rules that are less complicated than Robert's Rules of Order. Robert's Rules of Order are comprehensive but more suited for a larger body, such as Parliament or Congress. Rosenberg's Rules of Order, on the other hand, are similar (if not identical) to what many public agencies already follow. Rosenberg's Rules of Order are more user-friendly and appropriate for agencies with smaller governing bodies, such as the Commission.

As an example, a "friendly" amendment of a motion that has been made and seconded is technically not permitted under Robert's Rules. Rather, any amendment requires a separate motion. However, friendly amendments are allowed under Rosenberg's Rules, avoiding unnecessary formality. No additional training would be required, but counsel would be available to answer any questions or provide training if that would be helpful.

Conclusion:

All the revisions were made under the supervision and approval of Solano LAFCO's legal counsel. The revisions have also been reviewed by the Policy Ad-Hoc Committee. The Committee recommends approving the By-Laws as revised.

Staff and the Policy Ad-Hoc Committee recommend approving the LAFCO Resolutions that adopts the Solano LAFCO By-Laws as revised.

Agenda Item 7.C – LAFCO Project 2023-16 By-Laws Update

Attachments:

Action Item – Resolution of the Solano Local Agency Formation Commission adopted the revised Solano LAFCO By-Laws

Exhibit A: Updated Solano LAFCO By-Laws

A – Proposed Revisions to Solano LAFCO By-Laws

B – Rosenberg’s Rules of Order

LAFCO RESOLUTION NO. _____

**RESOLUTION OF THE LOCAL AGENCY FORMATION OF SOLANO COUNTY
APPROVING AN AMENDED BY-LAWS OF
THE LOCAL AGENCY FORMATION COMMISSION OF SOLANO COUNTY**

WHEREAS, the By-Laws (By-Laws) for the Local Agency Formation Commission of Solano County (Commission) were first formed and adopted March 3, 1997; and

WHEREAS, the By-Laws have since been reviewed and amended three times on June 9, 2008, June 8, 2015, and February 27, 2017; and

WHEREAS, circumstances arose where current LAFCO legal counsel advised that the By-Laws be reviewed and amended for compliance with current laws and regulations; and

WHEREAS, LAFCO legal counsel reviewed the 2017 By-Laws and recommended revisions for consistency with California Brown Act, Cortese-Knox-Hertzberg, and to use Rosenberg's Rules of Order for parliamentary guidance; and

WHEREAS, LAFCO also proposed to increase the Commissioner per diem to \$150 per commissioner per meeting; and

WHEREAS, on July 30, 2024, the LAFCO Policy Ad-hoc Committee met to review the proposed revisions; and

WHEREAS, the LAFCO Policy Ad-hoc Committee recommended that LAFCO adopt the proposed amendments; and

WHEREAS, the Commission met on August 12, 2024 at a regularly scheduled, duly noticed public hearing to consider the proposed amended By-Laws, and all present were given an opportunity to be heard on the proposed amended By-Laws.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the Local Agency Formation Commission of Solano County hold as follows:

1. Adopts the Amended By-Laws for the Local Agency Formation Commission of Solano County as attached in Exhibit A.

PASSED AND ADOPTED by the Local Agency Formation Commission of Solano County at a regular meeting, held on the 12th day of August 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

CONTINUED ON NEXT PAGE

Agenda Item 7.C – LAFCO Project 2023-16 By-Laws Update

Ron Kott, Chair
Local Agency Formation Commission
County of Solano, State of California

ATTEST:

Tova Guevara, Office Administrator/Clerk

Exhibit A: Approved Conflict of Interest Code

BY-LAWS**LOCAL AGENCY FORMATION COMMISSION OF
SOLANO COUNTY****ADOPTED March 3, 1997****AMENDED June 9, 2008****AMENDED June 8, 2015****AMENDED February 27, 2017****AMENDED August 12, 2024**

* * * * *

ARTICLE I. Name and Purpose**Section 1 - Name**

The name of this organization is LOCAL AGENCY FORMATION COMMISSION OF SOLANO COUNTY.

Section 2 - Purpose

- a. The Commissions enabling statute is the Cortese-Knox-Hertzberg Local Government Reorganization Act (Government Code Section 56000 et seq.) For example, the Commission may approve, disapprove or modify, with or without conditions, the formation of cities, creation of special districts, and annexation of territory to or detachment of territory from cities or special districts.
- b. The purposes for the Commission are set forth under Government Code Section 56301:

Among the purposes of a local agency formation commission are the discouragement of urban sprawl, preserving open-space and prime agricultural lands, encouraging the efficient provision of government services, and encouraging the orderly formation and development of local agencies based upon local conditions and circumstances.

One of the objects of the local agency formation commission is to make studies and to obtain and furnish information which will contribute to the logical and reasonable development of local governments in each county and to shape the development of local governmental agencies so as to advantageously provide for the present and future needs of each county and its communities.

ARTICLE II. Membership

Section 1 - General

This Commission shall be comprised of five (5) members. In addition, three (3) alternate members shall be appointed to serve in the event of disqualification or absence of a city member, county member, or public member, as provided by law.

Section 2 - City members

- a. The two regular City members and one alternate must be members of a city council during the time they serve.
- b. City members are appointed by, and serve at the pleasure of the City Selection Committee (Mayors Conference).

Section 3 - County members

- a. The two regular County members and one alternate must be a County Supervisor during the time they serve.
- b. County members are appointed by, and serve at the pleasure of, the Board of Supervisors.

Section 4 - Public members

- a. The one regular Public member and one alternate are appointed by, and serve at the pleasure of, the regular City and County members.
- b. Public member or alternate public member are appointed under the following procedures.
 1. There is a public announcement of the vacancy to solicit letters of interest.
 2. Applications and letters of interest are reviewed by the City and County members.
 3. The City and County members of the Commission select list of finalists to be interviewed or may choose to interview all the candidates.

Section 5 - Alternate members

Agenda Item 7.C – LAFCO Project 2023-16 By-Laws Update

- a. Alternates are entitled to vote when regular members are disqualified or absent.
 - 1. The alternate City member may vote only in the place of a regular City member.
 - 2. The alternate County member may vote only in the place of a regular County member.
 - 3. The alternate Public member may vote only in the place of the regular Public member.
- b. Alternate members may participate fully in the Commissions consideration of any item.

Section 6 - Term of Office

The term of office for each member, after the initial appointments, shall be four (4) years and until the appointment and qualification of their successor. The expiration date of the term of office for each member shall be the last day in January in the year in which the term of the member expires. Members may be re-appointed to additional terms by their governing bodies.

Section 7 - Vacancy

Any vacancy in the membership of the Commission shall be filled for the unexpired term by appointment by the body which originally appointed the member whose office has become vacant.

ARTICLE III. OfficersSection 1 - General

The officers of this Commission shall be a Chairperson, Vice-Chairperson, and Chairperson Pro Tem. The officers of the Commission shall be rotated with rotations to begin and end at the first meeting of each calendar year. The rotation of the chair is as follows: city, county, public member, and that the rotation of the vice-chair is staggered so that the appointed vice-chair is the member who is to be appointed as chair the following calendar year.

Section 2 - Elections and terms of office

Agenda Item 7.C – LAFCO Project 2023-16 By-Laws Update

- a. The Chairperson and Vice-Chairperson shall be elected by the members of the Commission from among their membership at the first meeting of each calendar year or as soon thereafter as practicable.
- b. The Chairperson and Vice-Chairperson shall serve for one-year terms.

Section 3 - Chairperson

The Chairperson shall preside at all meetings of the Commission and shall conduct the business of the Commission in the manner prescribed by State law and by these by-laws. The Chairperson shall preserve order and decorum and decide all questions of order, subject to the action of a majority of the Commission.

Section 4 - Vice-Chairperson

In the absence of the Chairperson or if for any reason the Chairperson is unable to act as Chairperson, the Vice-Chairperson shall act as Chairperson and exercise all the powers and duties of the Chairperson.

Section 5 - Chairperson Pro Tem

- a. In the absence of both the Chairperson and Vice-Chairperson or if for any reason the Chairperson and Vice-Chairperson are unable to act as Chairperson, the members of the Commission present shall select one of the members to act as Chairperson Pro Tem and said selection to be entered into the minutes.
- b. The Chairperson Pro Tem shall have all of the powers and duties of the Chairperson while the Chairperson and Vice Chairperson are absent or for any reason unable to act.

Section 6 - Vacancy

In the event a vacancy or vacancies occur in any office during a regular term of office, such vacancy or vacancies shall be filled in the same manner as the original appointments were made.

ARTICLE IV Committees

The Chairperson, Vice-Chairperson, or Chairperson pro tem in their absence, may appoint such committees from the membership as he/she deems advisable.

ARTICLE V Executive Officer

Section 1 - Appointment

The Executive Officer shall be appointed by the Commission.

Section 2 - Duties

- a. All petitions or resolutions and applications for a change of organization, reorganization or sphere of influence shall be filed with the Executive Officer.
- b. The Executive Officer shall present an Executive Officer's report, with their ~~his/her~~ recommendations, to the Commission on each application prior to the Commission conducting a public hearing on the application.

Section 3 - Performance Review

The Commission shall conduct an annual performance review of the Executive Officer. The review shall be coordinated through the Chairperson. Distribution of the performance review to the individual Commissioners shall be accompanied by an Annual Report from the Executive Officer and any other information deemed appropriate by the Chair or Executive Officer. All members and alternate members of the Commission shall share equal weight in review of the Executive Officer's annual performance. The performance review shall be completed and scheduled for a closed session hearing at the regularly scheduled April Hearing.

ARTICLE VI Secretary

Section 1 - Appointment

The Secretary shall be selected by the Executive Officer.

Section 2 - Duties

- a. The Secretary of the Commission shall attend each meeting of the Commission and maintain a record of all proceedings thereof as required by law.
- b. The Secretary shall prepare an agenda for each meeting. The agenda shall include those matters addressed to the Commission requiring its action on file with the Executive Officer.

- c. The Secretary shall notify all Commission members of the time set for any special meetings.

ARTICLE VIII Meetings

Section 1 - Date of regular meetings

Regular meetings of the Commission shall take place at 10:00 a.m., the second Monday of February, April, June, August, October and December, except when such day falls on a recognized holiday in which event the regular meeting shall take place the following Monday that is not a recognized holiday, or such other day designated by a majority of the Commission.

Section 2 - Location of regular meetings

The regular meetings of the Commission shall be held in the County Board of Supervisor's Chambers, 675 Texas Street, Fairfield, California.

Section 3 - Adjourned meetings

Any regular or special meeting of the Commission may be adjourned to any day prior to the date established for the next succeeding regular meeting of the Commission which is not a holiday, a Saturday or Sunday, or such other day designated by the Commission, in which event, all hearings and other matters before the Commission are continued to such day at 10:00 a.m., or such other hour as shall be designated by the Commission.

Section 4 - Special meetings

Special meetings may be called at any time by the Chairperson, or by the request of any two (2) members, excluding the alternate members, in the absence of the Chairperson or in the event of his/her illness. Such notice shall be in writing and shall specify the purpose for which the special meeting is being requested. At least 24-hours notice of a special meeting shall be given to the members of the Commission.

Section 5 - Meeting Cancellation

Should there be no business to transact for a regular meeting, the Secretary is authorized to so notify the members and the meeting will be considered automatically adjourned for that session. The Secretary shall give a 48-hours notice of such adjournment to the membership.

Section 6 - Meeting attendance per diem

Commission members and alternates shall be paid a per diem of \$150 for attendance at meetings of the Commission with a maximum of two meetings per month.

Section 7 - Rosenberg's Rules of Order

The Rosenberg's Rules of Order are adopted by reference for procedural guidance of all Commission Meetings, unless these By Laws provide for other specific procedures.

Section 8 - Brown Act

The Commission actions and proceedings are subject to the provisions of the Brown Act.

ARTICLE IX Business

Section 1 - Conduct of Meetings

The business of each regular meeting of the Commission shall be transacted as far as possible in the following order:

- a. Call to order and Salute to the Flag
- b. Roll call
- c. Approval of Minutes of previous meeting or meetings.
- d. Public Comment
- e. Matters set for public hearing
- f. Other Business
- g. Pending Applications Received
- h. Status Report
- i. Correspondence
- j. Commissioner Comments
- k. Adjournment

Section 2 - Quorum

A quorum of the Commission shall consist of three (3) members (including the alternate members when authorized to act). In the absence of a quorum, any meetings may be adjourned by the members or member present; or if no members are present, the meeting may be adjourned by the executive officer, but no other business may be transacted.

Section 3 - Roll call voting

Agenda Item 7.C – LAFCO Project 2023-16 By-Laws Update

- a. The offering of a resolution by any voting member of the Commission shall require a second.
- b. The roll need not be called in voting upon a minute order motion, except when requested by a member. The Chairperson shall call for a voice vote of those in favor and those opposed, and announce whether or not the motion has passed. When the roll is called on any motion, any member present who does not vote in an audible voice or who does not vocally abstain shall be recorded as aye.
- c. Each roll call of the Commission shall be in alphabetical order, except that the Chairperson shall be called last.

ARTICLE X Procedures

Section 1 - Application filing

Applications to initiate Commission proceedings shall be filed with the Executive Officer. Applications shall be in a form as required by LAFCO. The application shall be reviewed by the Executive Officer to determine completeness. If the application is incomplete, a notice of insufficiency shall be issued outlining what action is necessary to complete the application. If the application is determined to be complete, a Certificate of Filing shall be issued and the Executive Officer shall set the date for public hearing with 90 days of issuances of the certificate of filing.

Section 2 - Application requirements

Each application filed with the Commission shall contain at a minimum, all of the following information:

- a. A petition or resolution of application initiating the proposal.
- b. a statement of the nature of each proposal
- c. A map and description, acceptable to the Executive Officer, of the boundaries of the subject territory for each proposed change of organization or reorganization.
- d. Processing fees
- e. Compliance with CEQA
- f. Response to Solano County LAFCO Standards and Procedures and supporting documentation

- g. Any additional data and information as may be required by the Executive Officer, pertaining to any of the matters or factors which may be considered by the Commission.

Section 3 - Commission initiated actions

The Commission may initiate with a majority vote, special studies and proceedings for consolidation of special districts.

Section 4 - Agency notification

The Commission shall notify the governing body of each agency subject to the change or organization or reorganization and the governing body of each local agency having jurisdiction within the boundaries of the proposal as provided under Section 56661 of the Government Code. Notice shall also be given to any interested party or local agency which has filed a written request with the Executive Officer of this Commission, and to any Officers or persons designated in the application for the purpose of receiving mailed notice.

Section 5 - Public Notice

Public Notice of such hearing, if required, shall be provided by the Executive Officer, in accordance with Section 56153 and 56154 of the Government Code and shall be posted as provided by Sections 56158 and 56159 of the Government Code.

At the hearing, this Commission shall hear from any interested parties and the report of the Executive Officer. Upon conclusion of the hearing, the Commission may take the matter under consideration and shall, within thirty-five (35) days following the conclusion of the hearing, present its determination.

Section 6 - Adjournment of hearing

This Commission may continue a hearing from time to time, but not to exceed a total of seventy (70) days from the date specified in the original notice. Timing beyond 70 days requires new notice.

Section 7 - Denied Proposals

If this Commission disapproves the proposed change of organization or reorganization, no similar proposal involving the same or substantially the same territory, may not be filed with this Commission for at least one (1) year after the date of disapproval without the consent of the Commission as provide under Section 56884 of the Government Code.

Section 8 - Reconsideration

Any person or affected agency may file a written request with the Executive Officer requesting amendments to or reconsideration of any resolution adopted by the Commission making determinations approving and denying petitions as provided under Section 56895 of the Government Code. The request shall state the specific modifications to the resolution being requested and what new or different facts that could not have been presented previously are claimed to warrant the reconsideration.

ARTICLE XI Standards for Evaluation and Factors to be Considered

The Commission shall consider as a minimum those standards and factors established pursuant to Government Code Section 56668 as reflected in Solano County LAFCO Standards and Procedures as the basis for evaluation of all proposals.

ARTICLE XII Miscellaneous

Section 1 - Records

The records of this Commission shall consist of these By-Laws and amendments thereof, minutes of all meetings, all executed forms and documents filed with it for changes of organization or reorganization, applicable environmental documents, and such other records as shall be designated from time to time by the membership.

Section 2 - By-laws

These By-Laws may be supplemented, amended, or repealed by this Commission by majority vote of the membership.

BY-LAWS**LOCAL AGENCY FORMATION COMMISSION OF
SOLANO COUNTY****ADOPTED March 3, 1997****AMENDED June 9, 2008****AMENDED June 8, 2015****AMENDED February 27, 2017****AMENDED August 12, 2024**

ARTICLE I. Name and Purpose**Section 1- Name**

The name of this organization is LOCAL AGENCY FORMATION COMMISSION OF SOLANO COUNTY.

Section 2- Purpose

- a. The Commissions enabling statute is the Cortese-Knox-Hertzberg Local Government Reorganization Act (Government Code Section 56000 et seq.) For example, the Commission may approve, disapprove or modify, with or without conditions, the formation of cities, creation of special districts, and annexation of territory to or detachment of territory from cities or special districts.
- b. The purposes for the Commission are set forth under Government Code Section 56301:

Among the purposes of a local agency formation commission are the discouragement of urban sprawl, preserving open-space and prime agricultural lands, encouraging the efficient provision of government services, and encouraging the orderly formation and development of local agencies based upon local conditions and circumstances.

One of the objects of the local agency formation commission is to make studies and to obtain and furnish information which will contribute to the logical and reasonable development of local governments in each county and to shape the development of local governmental agencies so as to advantageously provide for the present and future needs of each county and its communities.

ARTICLE II. Membership

Section 1- General

This Commission shall be comprised of five (5) members. In addition, three (3) alternate members shall be appointed to serve in the event of disqualification or absence of a city member, county member, or public member, as provided by law.

Section 2 - City members

- a. The two regular City members and one alternate must be members of a city council during the time they serve.
- b. City members are appointed by, and serve at the pleasure of the City Selection Committee (Mayors Conference).

Section 3 - County members

- a. The two regular County members and one alternate must be a County Supervisor during the time they serve.
- b. County members are appointed by, and serve at the pleasure of, the Board of Supervisors.

Section 4 - Public members

- a. The one regular Public member and one alternate are appointed by, and serve at the pleasure of, the regular City and County members.
- b. Public member or alternate public member are appointed under the following procedures.
 - 1. There is a public announcement of the vacancy to solicit letters of interest.
 - 2. Applications and letters of interest are reviewed by the City and County members.
 - 3. The City and County members of the Commission select list of finalists to be interviewed or may choose to interview all the candidates.
 - 4. ~~The finalists are interviewed by the Commission.~~

Section 5 - Alternate members

- a. Alternates are entitled to vote when regular members are disqualified or absent.
 - 1. The alternate City member may vote only in the place of a regular City member.
 - 2. The alternate County member may vote only in the place of a regular County member.
 - 3. The alternate Public member may vote only in the place of the regular Public member.
- b. Alternate members may participate fully in the Commissions consideration of any item.

Section 63-- Term of Office

The term of office for each member, after the initial appointments, shall be four (4) years and until the appointment and qualification of their successor. The expiration date of the term of office for each member shall be the last day in January in the year in which the term of the member expires. Members may be re-appointed to additional terms by their governing bodies.

Section 47 - Vacancy

Any vacancy in the membership of the Commission shall be filled for the unexpired term by appointment by the body which originally appointed the member whose office has become vacant.

ARTICLE III. OfficersSection 1 - General

The officers of this Commission shall be a Chairperson, Vice-Chairperson, and Chairperson Pro Tem. The officers of the Commission shall be rotated with rotations to begin and end at the first meeting of each calendar year. The rotation of the chair is as follows: city, county, public member, and that the rotation of the vice-chair is staggered so that the appointed vice-chair is the member who is to be appointed as chair the following calendar year.

Section 2 - Elections and terms of office

Agenda Item 7.C – LAFCO Project 2023-16 By-Laws Update

- a. The Chairperson and Vice-Chairperson shall be elected by the members of the Commission from among their membership at the first meeting of each calendar year or as soon thereafter as practicable.
- b. The Chairperson and Vice-Chairperson shall serve for one-year terms.

Section 3 - Chairperson

The Chairperson shall preside at all meetings of the Commission and shall conduct the business of the Commission in the manner prescribed by State law and by these by-laws. The Chairperson shall preserve order and decorum and decide all questions of order, subject to the action of a majority of the Commission.

Section 4 - Vice-Chairperson

In the absence of the Chairperson or if for any reason the Chairperson is unable to act as Chairperson, the Vice-Chairperson shall act as Chairperson and exercise all the powers and duties of the Chairperson.

Section 5 - Chairperson Pro Tem

- a. In the absence of both the Chairperson and Vice-Chairperson or if for any reason the Chairperson and Vice-Chairperson are unable to act as Chairperson, the members of the Commission present shall select one of the members to act as Chairperson Pro Tem and said selection to be entered into the minutes.
- b. The Chairperson Pro Tem shall have all of the powers and duties of the Chairperson while the Chairperson and Vice Chairperson are absent or for any reason unable to act.

Section 62 - Vacancy

In the event a vacancy or vacancies occur in any office during a regular term of office, such vacancy or vacancies shall be filled in the same manner as the original appointments were made.

ARTICLE IV Committees

The Chairperson, Vice-Chairperson, or Chairperson pro tem in their absence, may appoint such committees from the membership as he/she deems advisable. ~~The Chair shall serve as an ex-officio member of all committees.~~

ARTICLE V Executive Officer

Section 1 - Appointment

The Executive Officer shall be appointed by the Commission.

Section 2 - Duties

- a. All petitions or resolutions and applications for a change of organization, reorganization or sphere of influence shall be filed with the Executive Officer.
- b. The Executive Officer shall present an Executive Officer's report, with their ~~his/her~~ recommendations, to the Commission on each application prior to the Commission conducting a public hearing on the application.

Section 3 – Performance Review

The Commission shall conduct an annual performance review of the Executive Officer. The review shall be coordinated through the ~~Commission's Personnel Committee~~ or, in the absence of an appointed Personnel Committee, the Chairperson. Distribution of the performance review to the individual Commissioners shall be accompanied by an Annual Report from the Executive Officer and any other information deemed appropriate by the Chair ~~Personnel Committee~~ or Executive Officer. All members and alternate members of the Commission shall share equal weight in review of the Executive Officer's annual performance. The performance review shall be completed and scheduled for a closed session hearing at the regularly scheduled April Hearing. ~~At least one month prior to the closed session hearing, the Personnel Committee shall distribute all performance review material to the members and alternate members of the Commission. Return of the personnel review to the designated recipient(s) from the member and alternate members shall occur no later than two weeks prior to the closed session hearing. The results of the performance review shall be made known to the Executive Officer and the Chairperson one week prior to the hearing date of the closed session hearing. Any adjustments to the Executive Officer's salary and/or benefits granted by the Commission shall become effective upon the beginning of the first new pay period after July 1 of the new Fiscal Year.~~

ARTICLE VI SecretarySection 1 - Appointment

The Secretary shall be selected by the Executive Officer.

Section 2 - Duties

Agenda Item 7.C – LAFCO Project 2023-16 By-Laws Update

- a. The Secretary of the Commission shall attend each meeting of the Commission and maintain a record of all proceedings thereof as required by law.
- b. The Secretary shall prepare an agenda for each meeting. The agenda shall include those matters addressed to the Commission requiring its action on file with the Executive Officer.
- c. The Secretary shall notify all Commission members of the time set for any special meetings.

ARTICLE VIII Meetings

Section 1 - Date of regular meetings

Regular meetings of the Commission shall take place at 10:00 a.m., the second Monday of February, April, June, August, October and December, except when such day falls on a recognized holiday in which event the regular meeting shall take place the following Monday that is not a recognized holiday, or such other day designated by a majority of the Commission.

Section 2 - Location of regular meetings

The regular meetings of the Commission shall be held in the County Board of Supervisor's Chambers, 675 Texas Street, Fairfield, California.

Section 3 - Adjourned meetings

Any regular or special meeting of the Commission may be adjourned to any day prior to the date established for the next succeeding regular meeting of the Commission which is not a holiday, a Saturday or Sunday, or such other day designated by the Commission, in which event, all hearings and other matters before the Commission are continued to such day at 10:00 a.m., or such other hour as shall be designated by the Commission.

Section 4 - Special meetings

Special meetings may be called at any time by the Chairperson, or by the request of any two (2) members, excluding the alternate members, in the absence of the Chairperson or in the event of his/her illness. Such notice shall be in writing and shall specify the purpose for which the special meeting is being requested. At least 24-hours notice of a special meeting shall be given to the members of the Commission.

Section 5 - Meeting Cancellation

Should there be no business to transact for a regular meeting, the Secretary is authorized to so notify the members and the meeting will be considered automatically adjourned for that session. The Secretary shall give a 48-hours notice of such adjournment to the membership.

Section 6 - Meeting attendance per diem

Commission members and alternates shall be paid a per diem stipend of ~~\$100~~ \$150 for attendance at meetings of the Commission with a maximum of two meetings per month.

Section 7 - ~~Roberts~~ Rosenberg's Rules of Order

~~Where not inconsistent with the provisions of these By-Laws, Roberts Rules of Order are herewith adopted as the procedural guide for all Commission meetings. The Rosenberg's Rules of Order are adopted by reference for procedural guidance of all Commission Meetings, unless these By Laws provide for other specific procedures.~~

Section 8 - Brown Act

The Commission actions and proceedings are subject to the provisions of the Brown Act.

ARTICLE IX BusinessSection 1 - Conduct of Meetings

The business of each regular meeting of the Commission shall be transacted as far as possible in the following order:

- a. Call to order and Salute to the Flag
- b. Roll call
- c. Approval of Minutes of previous meeting or meetings.
- d. Public Comment
- e. Matters set for public hearing
- f. Other Business
- g. Pending Applications Received
- h. Status Report
- i. Correspondence
- j. Commissioner Comments
- k. Adjournment

Section 2 - Quorum

A quorum of the Commission shall consist of three (3) members (including the alternate members when authorized to act). In the absence of a quorum, any meetings may be adjourned by the members or member present; or if no members are present, the meeting may be adjourned by the executive officer, but no other business may be transacted.

Section 3 - Roll call voting

- a. The offering of a resolution by any voting member of the Commission shall require a second.
- b. The roll need not be called in voting upon a minute order motion, except when requested by a member. The Chairperson shall call for a voice vote of those in favor and those opposed, and announce whether or not the motion has passed. When the roll is called on any motion, any member present who does not vote in an audible voice or who does not vocally abstain shall be recorded as aye.
- c. Each roll call of the Commission shall be in alphabetical order, except that the Chairperson shall be called last.

ARTICLE X ProceduresSection 1 - Application filing

Applications to initiate Commission proceedings shall be filed with the Executive Officer. Applications shall be in a form as required by LAFCO ~~the Commission~~. The application shall be reviewed by the Executive Officer to determine ~~their~~ completeness. If the application is incomplete, a notice of insufficiency shall be issued outlining what action is necessary to complete the application. If the application is determined to be complete, a Certificate of Filing shall be issued and the Executive Officer shall set the date for public hearing with 90 days of issuances of the certificate of filing.

Section 2 - Application requirements

Each application filed with the Commission shall contain at a minimum, all of the following information:

- a. A petition or resolution of application initiating the proposal.
- b. a statement of the nature of each proposal

- c. A map and description, acceptable to the Executive Officer, of the boundaries of the subject territory for each proposed change of organization or reorganization.
- d. Processing fees
- e. Compliance with CEQA
- f. Response to Solano County LAFCO Standards and Procedures and supporting documentation
- g. Any additional data and information as may be required by the Executive Officer, pertaining to any of the matters or factors which may be considered by the Commission.

Section 3 - Commission initiated actions

The Commission may initiate with a majority vote, special studies and proceedings for consolidation of special districts.

Section 4 - Agency notification

The Commission shall notify the governing body of each agency subject to the change or organization or reorganization and the governing body of each local agency having jurisdiction within the boundaries of the proposal as provided under Section 56661 ~~s 56834 and 56835~~ of the Government Code. Notice shall also be given to any interested party or local agency which has filed a written request with the Executive Officer of this Commission, and to any Officers or persons designated in the application for the purpose of receiving mailed notice.

Section 5 - Public Notice

Public Notice of such hearing, if required, shall be provided by the Executive Officer, in accordance with Sections 56153 ~~8634~~ and 56154 ~~835~~ of the Government Code and shall be posted as provided by Sections 56158 and 56159 of the Government Code.

At the hearing, this Commission shall hear from any interested parties ~~having made formal request to appear and be heard by filling out a speakers card,~~ and the report of the Executive Officer. Upon conclusion of the hearing, the Commission may take the matter under consideration and shall, within thirty-five (35) days following the conclusion of the hearing, present its determination.

Section 6 - Adjournment of hearing

This Commission may ~~adjourn~~ continue a hearing from time to time, but not to exceed a total of seventy (70) days from the date specified in the original notice. Timing beyond 70 days requires new notice.

Section 7 - Denied Proposals

If this Commission disapproves the proposed change of organization or reorganization, no similar proposal involving the same or substantially the same territory, may not be filed with this Commission for at least one (1) year after the date of disapproval without the consent of the Commission as provide under Section 56884 55 of the Government Code.

Section 8 - Reconsideration

Any person or affected agency may file a written request with the Executive Officer requesting amendments to or reconsideration of any resolution adopted by the Commission making determinations approving and denying petitions as provided under Section 568957 of the Government Code. The request shall state the specific modifications to the resolution being requested and what new or different facts that could not have been presented previously are claimed to warrant the reconsideration. ~~the reasons for the request.~~

ARTICLE XI Standards for Evaluation and Factors to be Considered

The Commission shall consider as a minimum those standards and factors established pursuant to Government Code Section 56668 844 as reflected in Solano County LAFCO Standards and Procedures as the basis for evaluation of all proposals.

ARTICLE XII Miscellaneous

Section 1 – Advisors to the Commission

~~County Counsel, Director of Transportation, Assessor/Recorder of Solano County, and the Auditor/Controller of Solano County or their designated representative, shall act in an advisory capacity to this Commission and shall assist in carrying out its functions.~~

Section 12 - Records

The records of this Commission shall consist of these By-Laws and amendment thereof, minutes of all meetings, all executed forms and documents filed with it for changes of organization or reorganization, applicable environmental documents, and such other records as shall be designated from time to time by the membership.

Section 23 - By-laws

These By-Laws may be supplemented, amended, or repealed by this Commission by majority vote of the membership.



Rosenberg's Rules of Order

REVISED 2011

Simple Rules of Parliamentary Procedure for the 21st Century

By Judge Dave Rosenberg



MISSION AND CORE BELIEFS

To expand and protect local control for cities through education and advocacy to enhance the quality of life for all Californians.

VISION

To be recognized and respected as the leading advocate for the common interests of California's cities.

About the League of California Cities

Established in 1898, the League of California Cities is a member organization that represents California's incorporated cities. The League strives to protect the local authority and autonomy of city government and help California's cities effectively serve their residents. In addition to advocating on cities' behalf at the state capitol, the League provides its members with professional development programs and information resources, conducts education conferences and research, and publishes Western City magazine.

© 2011 League of California Cities. All rights reserved.

ABOUT THE AUTHOR

Dave Rosenberg is a Superior Court Judge in Yolo County. He has served as presiding judge of his court, and as presiding judge of the Superior Court Appellate Division. He also has served as chair of the Trial Court Presiding Judges Advisory Committee (the committee composed of all 58 California presiding judges) and as an advisory member of the California Judicial Council. Prior to his appointment to the bench, Rosenberg was member of the Yolo County Board of Supervisors, where he served two terms as chair. Rosenberg also served on the Davis City Council, including two terms as mayor. He has served on the senior staff of two governors, and worked for 19 years in private law practice. Rosenberg has served as a member and chair of numerous state, regional and local boards. Rosenberg chaired the California State Lottery Commission, the California Victim Compensation and Government Claims Board, the Yolo-Solano Air Quality Management District, the Yolo County Economic Development Commission, and the Yolo County Criminal Justice Cabinet. For many years, he has taught classes on parliamentary procedure and has served as parliamentarian for large and small bodies.

TABLE OF CONTENTS

About the Author	ii
Introduction	2
Establishing a Quorum	2
The Role of the Chair	2
The Basic Format for an Agenda Item Discussion	2
Motions in General	3
The Three Basic Motions	3
Multiple Motions Before the Body	4
To Debate or Not to Debate	4
Majority and Super-Majority Votes	5
Counting Votes	5
The Motion to Reconsider	6
Courtesy and Decorum	7
Special Notes About Public Input	7

INTRODUCTION

The rules of procedure at meetings should be simple enough for most people to understand. Unfortunately, that has not always been the case. Virtually all clubs, associations, boards, councils and bodies follow a set of rules — *Robert's Rules of Order* — which are embodied in a small, but complex, book. Virtually no one I know has actually read this book cover to cover. Worse yet, the book was written for another time and for another purpose. If one is chairing or running a parliament, then *Robert's Rules of Order* is a dandy and quite useful handbook for procedure in that complex setting. On the other hand, if one is running a meeting of say, a five-member body with a few members of the public in attendance, a simplified version of the rules of parliamentary procedure is in order.

Hence, the birth of *Rosenberg's Rules of Order*.

What follows is my version of the rules of parliamentary procedure, based on my decades of experience chairing meetings in state and local government. These rules have been simplified for the smaller bodies we chair or in which we participate, slimmed down for the 21st Century, yet retaining the basic tenets of order to which we have grown accustomed. Interestingly enough, *Rosenberg's Rules* has found a welcoming audience. Hundreds of cities, counties, special districts, committees, boards, commissions, neighborhood associations and private corporations and companies have adopted *Rosenberg's Rules* in lieu of *Robert's Rules* because they have found them practical, logical, simple, easy to learn and user friendly.

This treatise on modern parliamentary procedure is built on a foundation supported by the following four pillars:

1. **Rules should establish order.** The first purpose of rules of parliamentary procedure is to establish a framework for the orderly conduct of meetings.
2. **Rules should be clear.** Simple rules lead to wider understanding and participation. Complex rules create two classes: those who understand and participate; and those who do not fully understand and do not fully participate.
3. **Rules should be user friendly.** That is, the rules must be simple enough that the public is invited into the body and feels that it has participated in the process.
4. **Rules should enforce the will of the majority while protecting the rights of the minority.** The ultimate purpose of rules of procedure is to encourage discussion and to facilitate decision making by the body. In a democracy, majority rules. The rules must enable the majority to express itself and fashion a result, while permitting the minority to also express itself, but not dominate, while fully participating in the process.

Establishing a Quorum

The starting point for a meeting is the establishment of a quorum. A quorum is defined as the minimum number of members of the body who must be present at a meeting for business to be legally transacted. The default rule is that a quorum is one more than half the body. For example, in a five-member body a quorum is three. When the body has three members present, it can legally transact business. If the body has less than a quorum of members present, it cannot legally transact business. And even if the body has a quorum to begin the meeting, the body can lose the quorum during the meeting when a member departs (or even when a member leaves the dais). When that occurs the body loses its ability to transact business until and unless a quorum is reestablished.

The default rule, identified above, however, gives way to a specific rule of the body that establishes a quorum. For example, the rules of a particular five-member body may indicate that a quorum is four members for that particular body. The body must follow the rules it has established for its quorum. In the absence of such a specific rule, the quorum is one more than half the members of the body.

The Role of the Chair

While all members of the body should know and understand the rules of parliamentary procedure, it is the chair of the body who is charged with applying the rules of conduct of the meeting. The chair should be well versed in those rules. For all intents and purposes, the chair makes the final ruling on the rules every time the chair states an action. In fact, all decisions by the chair are final unless overruled by the body itself.

Since the chair runs the conduct of the meeting, it is usual courtesy for the chair to play a less active role in the debate and discussion than other members of the body. This does not mean that the chair should not participate in the debate or discussion. To the contrary, as a member of the body, the chair has the full right to participate in the debate, discussion and decision-making of the body. What the chair should do, however, is strive to be the last to speak at the discussion and debate stage. The chair should not make or second a motion unless the chair is convinced that no other member of the body will do so at that point in time.

The Basic Format for an Agenda Item Discussion

Formal meetings normally have a written, often published agenda. Informal meetings may have only an oral or understood agenda. In either case, the meeting is governed by the agenda and the agenda constitutes the body's agreed-upon roadmap for the meeting. Each agenda item can be handled by the chair in the following basic format:

First, the chair should clearly announce the agenda item number and should clearly state what the agenda item subject is. The chair should then announce the format (which follows) that will be followed in considering the agenda item.

Second, following that agenda format, the chair should invite the appropriate person or persons to report on the item, including any recommendation that they might have. The appropriate person or persons may be the chair, a member of the body, a staff person, or a committee chair charged with providing input on the agenda item.

Third, the chair should ask members of the body if they have any technical questions of clarification. At this point, members of the body may ask clarifying questions to the person or persons who reported on the item, and that person or persons should be given time to respond.

Fourth, the chair should invite public comments, or if appropriate at a formal meeting, should open the public meeting for public input. If numerous members of the public indicate a desire to speak to the subject, the chair may limit the time of public speakers. At the conclusion of the public comments, the chair should announce that public input has concluded (or the public hearing, as the case may be, is closed).

Fifth, the chair should invite a motion. The chair should announce the name of the member of the body who makes the motion.

Sixth, the chair should determine if any member of the body wishes to second the motion. The chair should announce the name of the member of the body who seconds the motion. It is normally good practice for a motion to require a second before proceeding to ensure that it is not just one member of the body who is interested in a particular approach. However, a second is not an absolute requirement, and the chair can proceed with consideration and vote on a motion even when there is no second. This is a matter left to the discretion of the chair.

Seventh, if the motion is made and seconded, the chair should make sure everyone understands the motion.

This is done in one of three ways:

1. The chair can ask the maker of the motion to repeat it;
2. The chair can repeat the motion; or
3. The chair can ask the secretary or the clerk of the body to repeat the motion.

Eighth, the chair should now invite discussion of the motion by the body. If there is no desired discussion, or after the discussion has ended, the chair should announce that the body will vote on the motion. If there has been no discussion or very brief discussion, then the vote on the motion should proceed immediately and there is no need to repeat the motion. If there has been substantial discussion, then it is normally best to make sure everyone understands the motion by repeating it.

Ninth, the chair takes a vote. Simply asking for the “ayes” and then asking for the “nays” normally does this. If members of the body do not vote, then they “abstain.” Unless the rules of the body provide otherwise (or unless a super majority is required as delineated later in these rules), then a simple majority (as defined in law or the rules of the body as delineated later in these rules) determines whether the motion passes or is defeated.

Tenth, the chair should announce the result of the vote and what action (if any) the body has taken. In announcing the result, the chair should indicate the names of the members of the body, if any, who voted in the minority on the motion. This announcement might take the following form: “The motion passes by a vote of 3-2, with Smith and Jones dissenting. We have passed the motion requiring a 10-day notice for all future meetings of this body.”

Motions in General

Motions are the vehicles for decision making by a body. It is usually best to have a motion before the body prior to commencing discussion of an agenda item. This helps the body focus.

Motions are made in a simple two-step process. First, the chair should recognize the member of the body. Second, the member of the body makes a motion by preceding the member’s desired approach with the words “I move ...”

A typical motion might be: “I move that we give a 10-day notice in the future for all our meetings.”

The chair usually initiates the motion in one of three ways:

1. **Inviting the members of the body to make a motion**, for example, “A motion at this time would be in order.”
2. **Suggesting a motion to the members of the body**, “A motion would be in order that we give a 10-day notice in the future for all our meetings.”
3. **Making the motion**. As noted, the chair has every right as a member of the body to make a motion, but should normally do so only if the chair wishes to make a motion on an item but is convinced that no other member of the body is willing to step forward to do so at a particular time.

The Three Basic Motions

There are three motions that are the most common and recur often at meetings:

The basic motion. The basic motion is the one that puts forward a decision for the body’s consideration. A basic motion might be: “I move that we create a five-member committee to plan and put on our annual fundraiser.”

The motion to amend. If a member wants to change a basic motion that is before the body, they would move to amend it. A motion to amend might be: “I move that we amend the motion to have a 10-member committee.” A motion to amend takes the basic motion that is before the body and seeks to change it in some way.

The substitute motion. If a member wants to completely do away with the basic motion that is before the body, and put a new motion before the body, they would move a substitute motion. A substitute motion might be: “I move a substitute motion that we cancel the annual fundraiser this year.”

“Motions to amend” and “substitute motions” are often confused, but they are quite different, and their effect (if passed) is quite different. A motion to amend seeks to retain the basic motion on the floor, but modify it in some way. A substitute motion seeks to throw out the basic motion on the floor, and substitute a new and different motion for it. The decision as to whether a motion is really a “motion to amend” or a “substitute motion” is left to the chair. So if a member makes what that member calls a “motion to amend,” but the chair determines that it is really a “substitute motion,” then the chair’s designation governs.

A “friendly amendment” is a practical parliamentary tool that is simple, informal, saves time and avoids bogging a meeting down with numerous formal motions. It works in the following way: In the discussion on a pending motion, it may appear that a change to the motion is desirable or may win support for the motion from some members. When that happens, a member who has the floor may simply say, “I want to suggest a friendly amendment to the motion.” The member suggests the friendly amendment, and if the maker and the person who seconded the motion pending on the floor accepts the friendly amendment, that now becomes the pending motion on the floor. If either the maker or the person who seconded rejects the proposed friendly amendment, then the proposer can formally move to amend.

Multiple Motions Before the Body

There can be up to three motions on the floor at the same time. The chair can reject a fourth motion until the chair has dealt with the three that are on the floor and has resolved them. This rule has practical value. More than three motions on the floor at any given time is confusing and unwieldy for almost everyone, including the chair.

When there are two or three motions on the floor (after motions and seconds) at the same time, the vote should proceed *first* on the *last* motion that is made. For example, assume the first motion is a basic “motion to have a five-member committee to plan and put on our annual fundraiser.” During the discussion of this motion, a member might make a second motion to “amend the main motion to have a 10-member committee, not a five-member committee to plan and put on our annual fundraiser.” And perhaps, during that discussion, a member makes yet a third motion as a “substitute motion that we not have an annual fundraiser this year.” The proper procedure would be as follows:

First, the chair would deal with the *third* (the last) motion on the floor, the substitute motion. After discussion and debate, a vote would be taken first on the third motion. If the substitute motion *passed*, it would be a substitute for the basic motion and would eliminate it. The first motion would be moot, as would the second motion (which sought to amend the first motion), and the action on the agenda item would be completed on the passage by the body of the third motion (the substitute motion). No vote would be taken on the first or second motions.

Second, if the substitute motion *failed*, the chair would then deal with the second (now the last) motion on the floor, the motion to amend. The discussion and debate would focus strictly on the amendment (should the committee be five or 10 members). If the motion to amend *passed*, the chair would then move to consider the main motion (the first motion) as *amended*. If the motion to amend *failed*, the chair would then move to consider the main motion (the first motion) in its original format, not amended.

Third, the chair would now deal with the first motion that was placed on the floor. The original motion would either be in its original format (five-member committee), or if *amended*, would be in its amended format (10-member committee). The question on the floor for discussion and decision would be whether a committee should plan and put on the annual fundraiser.

To Debate or Not to Debate

The basic rule of motions is that they are subject to discussion and debate. Accordingly, basic motions, motions to amend, and substitute motions are all eligible, each in their turn, for full discussion before and by the body. The debate can continue as long as members of the body wish to discuss an item, subject to the decision of the chair that it is time to move on and take action.

There are exceptions to the general rule of free and open debate on motions. The exceptions all apply when there is a desire of the body to move on. The following motions are not debatable (that is, when the following motions are made and seconded, the chair must immediately call for a vote of the body without debate on the motion):

Motion to adjourn. This motion, if passed, requires the body to immediately adjourn to its next regularly scheduled meeting. It requires a simple majority vote.

Motion to recess. This motion, if passed, requires the body to immediately take a recess. Normally, the chair determines the length of the recess which may be a few minutes or an hour. It requires a simple majority vote.

Motion to fix the time to adjourn. This motion, if passed, requires the body to adjourn the meeting at the specific time set in the motion. For example, the motion might be: “I move we adjourn this meeting at midnight.” It requires a simple majority vote.

Motion to table. This motion, if passed, requires discussion of the agenda item to be halted and the agenda item to be placed on “hold.” The motion can contain a specific time in which the item can come back to the body. “I move we table this item until our regular meeting in October.” Or the motion can contain no specific time for the return of the item, in which case a motion to take the item off the table and bring it back to the body will have to be taken at a future meeting. A motion to table an item (or to bring it back to the body) requires a simple majority vote.

Motion to limit debate. The most common form of this motion is to say, “I move the previous question” or “I move the question” or “I call the question” or sometimes someone simply shouts out “question.” As a practical matter, when a member calls out one of these phrases, the chair can expedite matters by treating it as a “request” rather than as a formal motion. The chair can simply inquire of the body, “any further discussion?” If no one wishes to have further discussion, then the chair can go right to the pending motion that is on the floor. However, if even one person wishes to discuss the pending motion further, then at that point, the chair should treat the call for the “question” as a formal motion, and proceed to it.

When a member of the body makes such a motion (“I move the previous question”), the member is really saying: “I’ve had enough debate. Let’s get on with the vote.” When such a motion is made, the chair should ask for a second, stop debate, and vote on the motion to limit debate. The motion to limit debate requires a two-thirds vote of the body.

NOTE: A motion to limit debate could include a time limit. For example: “I move we limit debate on this agenda item to 15 minutes.” Even in this format, the motion to limit debate requires a two-thirds vote of the body. A similar motion is a *motion to object to consideration of an item*. This motion is not debatable, and if passed, precludes the body from even considering an item on the agenda. It also requires a two-thirds vote.

Majority and Super Majority Votes

In a democracy, a simple majority vote determines a question. A tie vote means the motion fails. So in a seven-member body, a vote of 4-3 passes the motion. A vote of 3-3 with one abstention means the motion fails. If one member is absent and the vote is 3-3, the motion still fails.

All motions require a simple majority, but there are a few exceptions. The exceptions come up when the body is taking an action which effectively cuts off the ability of a minority of the body to take an action or discuss an item. These extraordinary motions require a two-thirds majority (a super majority) to pass:

Motion to limit debate. Whether a member says, “I move the previous question,” or “I move the question,” or “I call the question,” or “I move to limit debate,” it all amounts to an attempt to cut off the ability of the minority to discuss an item, and it requires a two-thirds vote to pass.

Motion to close nominations. When choosing officers of the body (such as the chair), nominations are in order either from a nominating committee or from the floor of the body. A motion to close nominations effectively cuts off the right of the minority to nominate officers and it requires a two-thirds vote to pass.

Motion to object to the consideration of a question. Normally, such a motion is unnecessary since the objectionable item can be tabled or defeated straight up. However, when members of a body do not even want an item on the agenda to be considered, then such a motion is in order. It is not debatable, and it requires a two-thirds vote to pass.

Motion to suspend the rules. This motion is debatable, but requires a two-thirds vote to pass. If the body has its own rules of order, conduct or procedure, this motion allows the body to suspend the rules for a particular purpose. For example, the body (a private club) might have a rule prohibiting the attendance at meetings by non-club members. A motion to suspend the rules would be in order to allow a non-club member to attend a meeting of the club on a particular date or on a particular agenda item.

Counting Votes

The matter of counting votes starts simple, but can become complicated.

Usually, it’s pretty easy to determine whether a particular motion passed or whether it was defeated. If a simple majority vote is needed to pass a motion, then one vote more than 50 percent of the body is required. For example, in a five-member body, if the vote is three in favor and two opposed, the motion passes. If it is two in favor and three opposed, the motion is defeated.

If a two-thirds majority vote is needed to pass a motion, then how many affirmative votes are required? The simple rule of thumb is to count the “no” votes and double that count to determine how many “yes” votes are needed to pass a particular motion. For example, in a seven-member body, if two members vote “no” then the “yes” vote of at least four members is required to achieve a two-thirds majority vote to pass the motion.

What about tie votes? In the event of a tie, the motion always fails since an affirmative vote is required to pass any motion. For example, in a five-member body, if the vote is two in favor and two opposed, with one member absent, the motion is defeated.

Vote counting starts to become complicated when members vote “abstain” or in the case of a written ballot, cast a blank (or unreadable) ballot. Do these votes count, and if so, how does one count them? The starting point is always to check the statutes.

In California, for example, for an action of a board of supervisors to be valid and binding, the action must be approved by a majority of the board. (California Government Code Section 25005.) Typically, this means three of the five members of the board must vote affirmatively in favor of the action. A vote of 2-1 would not be sufficient. A vote of 3-0 with two abstentions would be sufficient. In general law cities in

California, as another example, resolutions or orders for the payment of money and all ordinances require a recorded vote of the total members of the city council. (California Government Code Section 36936.) Cities with charters may prescribe their own vote requirements. Local elected officials are always well-advised to consult with their local agency counsel on how state law may affect the vote count.

After consulting state statutes, step number two is to check the rules of the body. If the rules of the body say that you count votes of “those present” then you treat abstentions one way. However, if the rules of the body say that you count the votes of those “present and voting,” then you treat abstentions a different way. And if the rules of the body are silent on the subject, then the general rule of thumb (and default rule) is that you count all votes that are “present and voting.”

Accordingly, under the “present and voting” system, you would **NOT** count abstention votes on the motion. Members who abstain are counted for purposes of determining quorum (they are “present”), but you treat the abstention votes on the motion as if they did not exist (they are not “voting”). On the other hand, if the rules of the body specifically say that you count votes of those “present” then you **DO** count abstention votes both in establishing the quorum and on the motion. In this event, the abstention votes act just like “no” votes.

How does this work in practice?

Here are a few examples.

Assume that a five-member city council is voting on a motion that requires a simple majority vote to pass, and assume further that the body has no specific rule on counting votes. Accordingly, the default rule kicks in and we count all votes of members that are “present and voting.” If the vote on the motion is 3-2, the motion passes. If the motion is 2-2 with one abstention, the motion fails.

Assume a five-member city council voting on a motion that requires a two-thirds majority vote to pass, and further assume that the body has no specific rule on counting votes. Again, the default rule applies. If the vote is 3-2, the motion fails for lack of a two-thirds majority. If the vote is 4-1, the motion passes with a clear two-thirds majority. A vote of three “yes,” one “no” and one “abstain” also results in passage of the motion. Once again, the abstention is counted only for the purpose of determining quorum, but on the actual vote on the motion, it is as if the abstention vote never existed — so an effective 3-1 vote is clearly a two-thirds majority vote.

Now, change the scenario slightly. Assume the same five-member city council voting on a motion that requires a two-thirds majority vote to pass, but now assume that the body **DOES** have a specific rule requiring a two-thirds vote of members “present.” Under this specific rule, we must count the members present not only for quorum but also for the motion. In this scenario, any abstention has the same force and effect as if it were a “no” vote. Accordingly, if the votes were three “yes,” one “no” and one “abstain,” then the motion fails. The abstention in this case is treated like a “no” vote and effective vote of 3-2 is not enough to pass two-thirds majority muster.

Now, exactly how does a member cast an “abstention” vote?

Any time a member votes “abstain” or says, “I abstain,” that is an abstention. However, if a member votes “present” that is also treated as an abstention (the member is essentially saying, “Count me for purposes of a quorum, but my vote on the issue is abstain.”) In fact, any manifestation of intention not to vote either “yes” or “no” on the pending motion may be treated by the chair as an abstention. If written ballots are cast, a blank or unreadable ballot is counted as an abstention as well.

Can a member vote “absent” or “count me as absent?” Interesting question. The ruling on this is up to the chair. The better approach is for the chair to count this as if the member had left his/her chair and is actually “absent.” That, of course, affects the quorum. However, the chair may also treat this as a vote to abstain, particularly if the person does not actually leave the dais.

The Motion to Reconsider

There is a special and unique motion that requires a bit of explanation all by itself; the motion to reconsider. A tenet of parliamentary procedure is finality. After vigorous discussion, debate and a vote, there must be some closure to the issue. And so, after a vote is taken, the matter is deemed closed, subject only to reopening if a proper motion to consider is made and passed.

A motion to reconsider requires a majority vote to pass like other garden-variety motions, but there are two special rules that apply only to the motion to reconsider.

First, is the matter of timing. A motion to reconsider must be made at the meeting where the item was first voted upon. A motion to reconsider made at a later time is untimely. (The body, however, can always vote to suspend the rules and, by a two-thirds majority, allow a motion to reconsider to be made at another time.)

Second, a motion to reconsider may be made only by certain members of the body. Accordingly, a motion to reconsider may be made only by a member who voted in the majority on the original motion. If such a member has a change of heart, he or she may make the motion to reconsider (any other member of the body — including a member who voted in the minority on the original motion — may second the motion). If a member who voted in the minority seeks to make the motion to reconsider, it must be ruled out of order. The purpose of this rule is finality. If a member of minority could make a motion to reconsider, then the item could be brought back to the body again and again, which would defeat the purpose of finality.

If the motion to reconsider passes, then the original matter is back before the body, and a new original motion is in order. The matter may be discussed and debated as if it were on the floor for the first time.

Courtesy and Decorum

The rules of order are meant to create an atmosphere where the members of the body and the members of the public can attend to business efficiently, fairly and with full participation. At the same time, it is up to the chair and the members of the body to maintain common courtesy and decorum. Unless the setting is very informal, it is always best for only one person at a time to have the floor, and it is always best for every speaker to be first recognized by the chair before proceeding to speak.

The chair should always ensure that debate and discussion of an agenda item focuses on the item and the policy in question, not the personalities of the members of the body. Debate on policy is healthy, debate on personalities is not. The chair has the right to cut off discussion that is too personal, is too loud, or is too crude.

Debate and discussion should be focused, but free and open. In the interest of time, the chair may, however, limit the time allotted to speakers, including members of the body.

Can a member of the body interrupt the speaker? The general rule is “no.” There are, however, exceptions. A speaker may be interrupted for the following reasons:

Privilege. The proper interruption would be, “point of privilege.” The chair would then ask the interrupter to “state your point.” Appropriate points of privilege relate to anything that would interfere with the normal comfort of the meeting. For example, the room may be too hot or too cold, or a blowing fan might interfere with a person’s ability to hear.

Order. The proper interruption would be, “point of order.” Again, the chair would ask the interrupter to “state your point.” Appropriate points of order relate to anything that would not be considered appropriate conduct of the meeting. For example, if the chair moved on to a vote on a motion that permits debate without allowing that discussion or debate.

Appeal. If the chair makes a ruling that a member of the body disagrees with, that member may appeal the ruling of the chair. If the motion is seconded, and after debate, if it passes by a simple majority vote, then the ruling of the chair is deemed reversed.

Call for orders of the day. This is simply another way of saying, “return to the agenda.” If a member believes that the body has drifted from the agreed-upon agenda, such a call may be made. It does not require a vote, and when the chair discovers that the agenda has not been followed, the chair simply reminds the body to return to the agenda item properly before them. If the chair fails to do so, the chair’s determination may be appealed.

Withdraw a motion. During debate and discussion of a motion, the maker of the motion on the floor, at any time, may interrupt a speaker to withdraw his or her motion from the floor. The motion is immediately deemed withdrawn, although the chair may ask the person who seconded the motion if he or she wishes to make the motion, and any other member may make the motion if properly recognized.

Special Notes About Public Input

The rules outlined above will help make meetings very public-friendly. But in addition, and particularly for the chair, it is wise to remember three special rules that apply to each agenda item:

Rule One: Tell the public what the body will be doing.

Rule Two: Keep the public informed while the body is doing it.

Rule Three: When the body has acted, tell the public what the body did.



1400 K Street, Sacramento, CA 95814
(916) 658-8200 | Fax (916) 658-8240
www.cacities.org

To order additional copies of this publication, call (916) 658-8200.

\$10

© 2011 League of California Cities. All rights reserved.

♻️ Printed on recycled paper.