

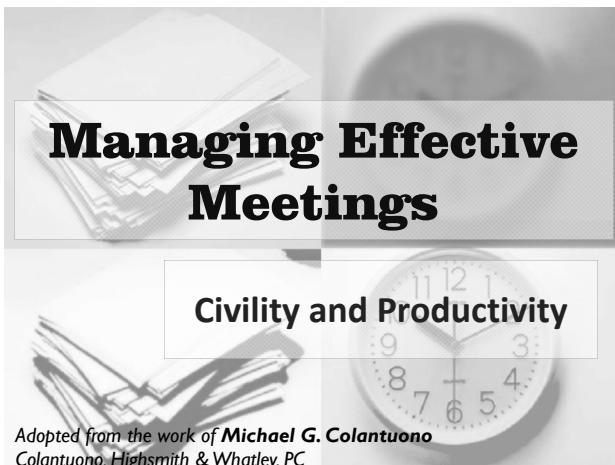


New Supervisors Institute

Session III

Materials for
Tab 9

**Public Meetings
and Public Engagement**



Goals of Meeting Management

- * Comply with the law
- * Balance efficiency with public input
- * Make meetings shorter
- * Deal with disruptive people
- * Avoid parliamentary paralysis
- * Present a face of competence, civility and efficiency



Purpose and Goals

- * What is the purpose and desired outcomes?
- * What type of meeting?
 - ◆ Formal
 - ◆ Informal
 - ◆ "Town Hall"
- * Is a meeting the best communication forum?



Types of Meetings – Formal

- * Audience speaks only when called on
- * Time limits apply
- * Members speak only when recognized
- * No straying from the topic
- * Communication via chair
- * Rules of decorum and procedure strictly followed



Managing
Effective
Meetings



Types of Meetings – Informal

- * Fewer barriers between audience and Board
- * Town-meeting atmosphere
- * Participation is encouraged and less structured
- * Generous or no time limits



Managing
Effective
Meetings



How Much Formality?

- * Tool for meeting management
 - ◆ Size
 - ◆ Controversy/complexity
 - ◆ Potential for disagreement
 - ◆ Length of agenda
 - ◆ Skill of chair
 - ◆ Set up of room
- * Degree varies by circumstance
- * Error on formality; can back off



Managing
Effective
Meetings



Why Meetings Go On and On

Agenda Problems

- ◆ Poorly organized
- ◆ Overly long
- ◆ Poorly timed closed sessions
- ◆ Where items are placed on the agenda
 - Too soon for meaningful discussion
 - Too late for meaningful discussion
 - Not sensitive to staff or audience timing



Why Meetings Go On and On

Audience Problems

- ◆ Hostile audience
- ◆ Disruptive "regulars"
- ◆ Exceeding time limits
- ◆ Wandering from subject
- ◆ Speaking on every issue
- ◆ Refusing to take "yes" for an answer
- ◆ Rude behavior, personal attacks



Why Meetings Go On and On

Staff Problems

- ◆ Unprepared staff
- ◆ Incomplete staff reports
- ◆ Non-responsive answers
- ◆ Overly talkative staff





Why Meetings Go On and On

Chair Problems

- ◆ Too passive or too controlling
- ◆ Don't apply norms or protocols
- ◆ Unprepared, disorganized
- ◆ Fail to perceive mood of audience or Board
- ◆ Allow one person to dwell when Board ready to move on or from



Why Meetings Go On and On

Board Member Problems

- ◆ Talk too much
- ◆ Fail to distinguish large from small issues
- ◆ Unprepared – reading reports at the meeting
- ◆ Disorganized
- ◆ Break agreed-upon norms or protocol



Preparation – Board

- * Prepare – read the materials
 - ◆ Write down questions, comments where you can find them
- * Ask questions public needs to hear; get your own information needs met off-line
 - ◆ Give staff a heads up Take time to reflect on issue
- * Don't ambush people or ideas





Preparation – Staff

* Prepare and practice

- ◆ Use visuals sparingly
- ◆ Summarize rather than read
- ◆ Give enough information for public to follow discussion

* Be succinct – stop when sufficient info is presented

* Avoid debates with public or Supervisors



Organize the Agenda

- * Limited public comment at start
- * Public hearings early or set ‘time certain’
- * Pulled consent items later
- * Start and finish on time
- * Use study sessions
- * Schedule closed sessions to not keep public or staff waiting
- * Realistic agenda length



Don't Be Too Efficient

- * Don't decide matters outside of meetings
 - ◆ Brown Act and public impression
 - ◆ Serial meetings
 - ◆ Email; social media
- * Don't give impression you aren't listening
 - ◆ How do you look on TV
- * Be careful about using electronic devices



Don't Attack Staff

- * They are YOUR staff
 - ◆ Makes county look incompetent
- * You look like a bully because staff cannot defend themselves
- * Questions about performance belong in closed session or CAO office



Manage Public Input

- * Use speaker lists
 - ◆ Pre-announce next few speakers
- * Enforce reasonable time limits
- * Insist speakers address Board
 - ◆ Position of podium
- * Allow Board questions
 - ◆ Discourage debates and dialog
 - ◆ Don't need to respond



Manage Public Input

- * Consider Board and staff response times after public comment
- * Keep audience informed where you are and where you are headed on the agenda
- * Be polite and encourage courtesy
 - ◆ Be firm about heckling, boozing, harassment, personal attacks



Discourage Repetition

- * Encourage people not to repeat
- * Ask for a show of hands
- * Allow spokesperson more time
- * Curb straying from subject
- * Discourage applause
- * Enforce time limits
- * Prohibit dialogue with Board
- * Encourage written submittals
- * Practice reflective listening



Managing
Effective
Meetings



Meeting Disruptions

Disruptive people

- ♦ Rise above it
- ♦ Establish and maintain norms
- ♦ Remind audience to be civil
- ♦ Meet with offenders privately
- ♦ Use positive reinforcement



Managing
Effective
Meetings



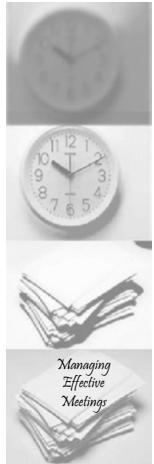
Dealing with Disruption

- * Take a break
- * Eject a violator after on-the-record warnings
- * Clear the room of all but media

Only the first is without legal risk!



Managing
Effective
Meetings



Conflicts in Meetings

- * Expect and respect conflict
 - ◆ Disagreement is inevitable; ***mistrust is not***
- * Manage the debate
 - ◆ Focus on problem not people
 - ◆ Chair should stay above fray
 - ◆ Balance participation
 - ◆ Don't repeat debate on same issue
- * End on a positive note



Build Governance

- * Create a positive image for Board and county
 - ◆ Clarify roles and responsibilities
- * Written rules of decorum, protocol or procedure
 - ◆ On agendas, speaker slips, dais
- * Build the team
 - ◆ Retreats, workshops foster cooperation and trust

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**MAKING MEETINGS MANAGEABLE:
Meeting Management Tips
for Local Elected Officials**

April 26, 2013

by

Michael G. Colantuono, Esq.^{1/}

This paper is an outline of ideas to assist City and County Clerks and Governing Board members to identify meeting management issues. It is not intended as legal advice and is not a fully developed, narrative discussion of the issues presented. If you have questions about these matters or their application to specific facts, you should seek appropriate counsel.

1/ My thanks to my colleague Michael Jenkins, who prepared an earlier version of this paper and upon whose work it is substantially based.

I. GOALS OF MEETING MANAGEMENT

- A. Complying with legal requirements for public participation in a way that balances public participation with the need to get the agency's business done.
- B. Making meetings shorter, while allowing thorough and meaningful discussion.
- C. Relieving elected officials and public agency staff of "meeting anxiety."
- D. Dealing effectively with disruptive people.
- E. Preventing rules of parliamentary procedure from become obstacles to, rather than tools for, meeting management.
- F. Presenting a "public face" of the agency of competence, civility, and efficiency.
- G. Accomplishing these goals without violating the Brown Act, due process rights of constituents or the privacy rights of agency employees.

II. PUBLIC PARTICIPATION REQUIREMENTS

There are four sources of public participation requirements in public meetings:

A. THE BROWN ACT. Since 1987, the Brown Act has required that the agenda of every regular meeting of a legislative body (such as a Board of Supervisors, City Council, a standing Council or Board subcommittee, or a Planning Commission) include a time for public participation (Government Code Section 54954.3). If a Council or Board generally allows public comment on all agenda items when each item is considered, the public comment period is usually reserved for items not on the agenda. The public comment period may be placed anywhere on the agenda. The Brown Act requires that the public have an opportunity to address every item before it is acted on by the Council. Therefore, unless you wish to allow public comment on every item of business, some portion of the public comment period must appear at the beginning of the agenda. Comments may be limited to those matters within the subject matter jurisdiction of the body. Reasonable time limits may be imposed; you should probably hear everyone who signs up (the law is silent on this point) unless the lateness of the hour makes it unreasonable to do so.

B. OTHER STATUTES. A number of State statutes compel legislative bodies to conduct "public hearings" on various subjects. Examples include zoning matters, the establishment of some fees, and the formation of assessment districts. Members of the public must be accorded the right to participate in public hearings. Reasonable time

limits may be imposed on speakers, consistent with the importance of the matter at hand and the number of speakers. You have greater leeway with a “legislative” matter (such as the adoption of a zoning ordinance), than with a “quasi-judicial” matter (such as a conditional use permit).^{2/} You may establish reasonable rules for hearing the testimony, such as sequence of speakers, or whether to give an applicant or a spokesperson for a group more time than others.

C. DUE PROCESS CLAUSE. The Due Process Clause of the 14th Amendment to the United States Constitution, and similar provisions in the California Constitution, apply to a quasi-judicial proceeding in which a “property” or “liberty” interest is at stake.^{3/} In those cases, those with an interest in a matter must be given due process — that is, reasonable notice of the matter and a meaningful opportunity to be heard — whether or not a statute requires a public hearing.

You should show some flexibility in your procedure and evaluate what “process” is required in each situation. Not every applicant, or business licensee, or disciplined employee can present a case in a standard allotment of time — the amount of time required depends on the importance and complexity of the matter at stake. A variance for a lot line adjustment on an existing house probably takes less time to discuss than a subdivision proposal for several dozen hillside houses.

The difficulty here is balancing two competing concerns. One the one hand, rigid reliance on fixed rules may violate due process if the interests at stake are so significant that a more lenient rule is required. On the other hand, deviation from usual rules without good reason creates the appearance of arbitrary, and perhaps discriminatory, conduct. Therefore, you must use your judgment. It is helpful when deviating from usual rules to explain to the audience why a change is needed (“This is a very complicated zoning matter, so we will give the applicants and the project opponents more time than we usually allow.”) When in doubt, ask the City Attorney or County Counsel for guidance about what due process requires.

2/ While you should ask your City Attorney or County Counsel if a particular matter is legislative or “quasi-judicial,” as a rule of thumb, if the matter involves a request from a particular person for a decision which will affect only that person or a small group of which he or she is a part, it is more likely to be “quasi-judicial” than is a matter which involves the formulation of a rule to govern a large class of people in the future.

3/ Many court decisions are devoted to defining the “property” and “liberty” interests protected by the Due Process Clause. For now, it is enough to note that most land use decisions affect the “property” interests of all who own or lease land near the site which is the subject of the decision, as well as the applicant and the owner of the site. Employees who cannot be fired without legal cause have a “property” interest in their employment and employees and others have a “liberty” interest in their reputation in the community. “Liberty” interests most commonly arise in “name-clearing” hearings for terminated employees. “Property” interests arise in many settings.

D. FIRST AMENDMENT. The “free speech” clause of the First Amendment to the United States Constitution and the parallel provisions of the California Constitution do not accord members of the public a “right” to speak at a Council or Board meeting. The courts have recognized that meetings are business sessions, and not unlimited First Amendment forums — places like parks and streets, where people may freely express themselves. Members of the public do not have the right to speak at a meeting, or to speak whenever they want, or on any subject they want. The First Amendment permits “reasonable time, place, and manner restrictions” as well as rules designed to limit comments to the subjects with which City or County government is concerned. Apart from this general subject matter restriction, however, the First Amendment **does** forbid the City to regulate speech based on its content, unless it is disruptive. You cannot suppress someone’s speech merely because you do not like what they are saying; if you do, you violate the First Amendment, and potentially put your agency, and yourselves personally, at risk of liability for damages under the federal civil rights statute, section 1983 of Title 42 of the United States Code.

Unless they disrupt a meeting, people can say just about anything at a City Council or Board of Supervisors meeting. You can require speakers to stick to matters relevant to the City’s business. What’s “relevant”? Speaking about political freedom in China might be safely regarded as irrelevant, unless the Council or Board has passed a resolution supporting greater freedom in that country. A subject is irrelevant if it simply has no bearing on the issue at hand or on matters within the jurisdiction of the City or County (or of the Commission or Board the speaker is addressing).

Speakers may denounce Council or Boardmembers and call for their defeat. The Brown Act specifically provides that a local government “shall not prohibit public criticism of the policies, procedures, programs, or services of the agency, or of the acts or omissions of the legislative body.” (Government Code section 54954.3(c).) They may make personal attacks, to the extent that they involve agency business. All comments in a meeting are absolutely privileged from liability for defamation under Civil Code section 47(b).

III. TYPES OF MEETINGS

FORMAL. These are the characteristics of formal meetings:

- Roles of participants are strictly observed.
- Audience speaks only when called on.
- Time limits established for speakers.
- Council or Boardmembers speak when called on.
- Everyone sticks to the issue at hand.
- Debates are not allowed — communication via the chair only.
- Rules of decorum and procedure are strictly followed.

INFORMAL. These are the characteristics of informal meetings:

- Fewer barriers between audience and Council or Board.
- Town-meeting atmosphere.
- Participation is encouraged and less structured.
- Generous or no time limits.

Every board must decide on the degree of formality that works best to accomplish its goals. Some factors to consider include:

- How many people come to the meetings?
- How controversial are the issues?
- How well does the Mayor or Chair keep the meeting on track?
- Is audience disruption a regular problem?
- How long is a typical agenda?
- How big is the Council or Board chamber?
- Where does the Council or Board sit vis-à-vis the audience?
- Are the meetings broadcast or videotaped?

Each board must decide what degree of formality works best for a given meeting, depending on the combination of these factors. Generally, more control can be obtained if the meeting is more formal. Meetings need not be uniformly of one type or another; each meeting may be more or less formal than the last, depending on how the above factors apply; but if so, the inconsistency should be explained (Example: "We've got a lot more folks here than usual tonight, so we're going to use speaker slips and limit everyone to three minutes so we can try to hear everyone by a decent hour.")

Formality has the advantage of keeping tighter control over the meeting, appearing more business-like and moving through the agenda more quickly. However, it is less personal, more intimidating to the public, and allows less spontaneity. Less formal meetings offer a more approachable government, but are more difficult to manage, especially with larger audiences. Even with a small audience, an extremely informal approach, where the audience is given free rein to participate, often leads to long-winded discussions and lengthy meetings. Obviously, though, an overly formal meeting style would look silly if only a handful of people regularly attend meetings. Thus, you should adjust to your own particular situation and use those elements of formality necessary to accomplish your objectives.

IV. WHY MEETINGS GO ON ... AND ON ... AND ON

A. AUDIENCE PROBLEMS: hostile audience, disruptive “regulars,” exceeding time limits, wandering from the subject, speaking on every issue, speaking when it’s obvious the Council or Board is doing what the speaker wants, rude behavior and personal attacks.

B. STAFF PROBLEMS: unprepared staff, incomplete staff reports, non-responsive answers to questions, overly talkative staff.

C. AGENDA PROBLEMS: poorly organized agenda, overly packed agenda, poorly timed closed sessions, placing matters on the agenda before they are ready for decision or after the time when productive discussion can be had.

D. MAYOR/CHAIR PROBLEMS: a Mayor or Chair who is too passive and fails to move the meeting along, an autocratic Mayor or Chair who invites resistance and argument from peers or audience, an unprepared Mayor or Chair, a disorganized Mayor or Chair, one who fails to perceive the feelings and desires of the audience and the Council or Board and allows one person to drag on a discussion when most of the group is ready to move on.

E. COUNCIL OR BOARDMEMBER PROBLEMS: Members who talk too much, who don’t distinguish between important and unimportant issues, who aren’t prepared and delay the meeting while they read the staff report, who are disorganized and waste time trying to remember what it is they wanted to know or say about an item.

Knowing the source of the problem is the key to managing it. We are all given to these behaviors at one time or another and effective meeting management requires collective effort by all Council and Boardmembers to cooperate toward a common goal of effective meetings.

V. TECHNIQUES FOR MANAGING MEETINGS

A. ORGANIZE THE AGENDA. Meetings are, in a loose sense, a form of theater — organize your agenda in a way that makes the most sense, prevents pent-up frustration due to long waits and is responsive to the audience.

- ◎ Consider placing a limited audience participation period (perhaps 15 or 30 minutes) at the beginning of the meeting (allowing overflow later) so people don’t have to wait all meeting to comment on something not on the agenda and people who have come to speak about something that is on the agenda are not delayed indefinitely.

- ◎ Schedule public hearings early, especially if you know people are present to testify, so people can speak on the item they came for and then leave. Similarly, you may want to schedule early on the agenda items of interest to children, invited guests, and others who may not wish to stay for the whole meeting.
- ◎ If your consent calendar tends to take longer than it should, put it later in the agenda, because it usually contains routine items. It is a good practice not to take items “pulled” from the consent calendar up right after (or before the consent calendar), but at the end of meeting, under “new business.”
- ◎ Start on time and finish at a reasonable hour; otherwise you communicate to the public that you do not mind wasting their time and do not invite their participation.
- ◎ Be prepared and organized so the business moves along smoothly, in an orderly and business-like fashion. Read the agenda in advance and direct routine questions to staff before the meeting. Write down your comments and questions in anticipation of the meeting. Remember, there are two different reasons to ask a question: to get the answer and to make a public point. You can get your answers before or after the meeting. Making a public point may require a public question. Even if the question must be asked at the meeting, staff will be grateful, and answers will be more useful, if you let staff know in advance that they should prepare to answer the question.
- ◎ Use study sessions to tackle difficult and time-consuming issues in a more informal setting, so that they do not interfere with regular meetings.
- ◎ Schedule closed sessions so that they do not interfere with the public portion of the agenda.
- ◎ In your enthusiasm to increase efficiency and shorten meetings, be careful not to pre-decide issues outside the meeting by use of so-called “daisy chain” or “seriatim” meetings (in which a series of conversations among Council or Boardmembers effectively resolves an issue out of public view), to prematurely cut-off audience input (especially in a public hearing setting), or otherwise give the impression that you are steam-rolling through the agenda in a predetermined direction without regard to public input.
- ◎ Develop a process for placing items on agendas so that they are not unrealistically long.

B. MANAGE PUBLIC INPUT. You can accord speakers a meaningful opportunity to be heard without giving them unlimited time:

- ◎ Use speaker slips; announce who will speak next so they can be ready and it isn't necessary to wait for them to get to the podium.
- ◎ Enforce reasonable time limits.
- ◎ Insist that the speaker address the Council or Board as a whole and not the audience, the television audience or an individual Council or Boardmember (think about positioning the speaker table or podium to subtly reinforce this rule).
- ◎ Allow Council or Boardmembers to ask questions of speakers but avoid debates between the Council or Board and speakers or among audience members, but avoid cross-examination and abusive exchanges.
- ◎ Avoid debates between Council or Boardmembers and staff.
- ◎ Consider using a "Council or Boardmember response" period after audience comments so Councilmembers can respond or give staff direction immediately, yet not when a speaker is at the podium; a "staff response" time can avoid encouraging debates between members of the public and staff.
- ◎ Tell people what is going on as you work through the agenda so that the audience is fully informed. People are more likely to participate if they don't feel lost or intimidated. Borrow from television news practice of telling people where you are on the agenda and what's coming up, and what the evening's rules are for participation. Try to make the public feel comfortable participating in the meeting and get buy-in for your decisions.
- ◎ Be polite and encourage politeness; but do it firmly. The audience can be told to quiet down and a speaker can be told to conclude politely, rather than by bullying. Be firm about heckling, booing and harassment of other speakers.

C. DEALING WITH DISRUPTIVE PEOPLE. So, how do you deal with persistent, vicious public commentary? You have at least these options:

- Rise above it by ignoring it, smiling, and thanking each speaker for his/her comments; effective use of appropriate humor can also be helpful.
- Respond in kind.
- Periodically remind the audience to be civil and observe commonly understood rules of decent behavior.
- Meet with the offenders privately to see if their concerns can be resolved.

- Compliment offenders when they behave well, praise their commitment to the community in attending meetings, and give them the attention they may be seeking in ways that encourage positive behavior.
- All of the above.

Each alternative has its pros and cons, and its predictable consequences. There is no one single solution; sometimes only time, patience, and peer pressure to observe the rules of common courtesy will work in your favor.

It is always best to treat the audience with respect and in a manner that responsible adults prefer to be treated. In general, it is better to serve as an example than to be perceived as a bully or an object of ridicule.

Be aware of your body language, both positively and negatively. Reaching for the microphone is a non-disruptive way to ask for the floor. Crossing your arms, rolling your eyes, turning your chair, etc., tell the speaker that you are not listening. Facing the speaker, sitting still, making eye contact, all say that you are listening.

Be careful with the use of cellphone, slate computers and other electronic devices in public meetings. Multi-tasking conveys that you are not listening and can raise thorny issues under the Brown Act and the Public Records Act.

You can eject disruptive people from meetings, but before doing so, you should establish a “record” by giving them clear and ample warnings and alternatives, providing the person an opportunity to leave or reform his/her behavior voluntarily, and calling upon the sergeant-at-arms as a last resort. Alternatives include clearing the room under Government Code section 54957.9 or simply taking a short recess to cool things down.

Consider efforts outside the public meeting to address the concerns of persistent or regular complainers. This could be a conversation with the complainers or with the Council or Boardmembers or staff members who react to the complainers in a counterproductive way.

Whatever your style, don’t make threats you won’t carry out. Ejecting someone from a Council or board meeting and clearing the room are serious legal matters and can lead to lawsuits, so we recommend consulting with your City Attorney or County Counsel before doing so.

D. DISCOURAGE REPETITION.

The Audience. When you have a full house and many members of the audience want to speak, you can:

- ◎ Encourage people to avoid repetition (and even interrupt to remind them not to repeat what prior speakers have said).
- ◎ Ask for a showing of hands as an alternative to individual comments.
- ◎ Ask for a “spokesperson” from a group and give him or her more time than the others.
- ◎ Firmly curb straying from the subject.
- ◎ Discourage applause and other demonstrative activity. It is helpful to explain that you are doing so not to silence the audience but to make all speakers feel welcome, whether they agree or disagree with the majority.
- ◎ Enforce time limits.
- ◎ Prohibit dialogues and encourage written testimony. Written testimony is especially useful in complex matters.
- ◎ “Reflective listening” – in which the chair or a Council or Boardmember summarizes what has been said and encourages input which is not repetitious – tells people that you are listening, that they have been heard, and they needn’t belabor the point.

Staff. Encourage staff to summarize, rather than read, staff reports; reading the entire report wastes time and suggests to the public (and Council and Boardmembers) that the Council or Board is not (or need not be) prepared. Do provide enough information to allow the public to follow the meeting.

E. MANAGE CONFLICT. Conflict among Council or Boardmembers can lead to repeated debates which waste time. It may be best to agree to disagree respectfully and to encourage the chair to manage or prevent debates. Obviously, the chair should not get so involved in debate that he or she forgets that it is his or her primary responsibility to manage the meeting. If the chair gets into a prolonged debate, it is difficult for anyone else present to get the meeting back on track (although the Mayor Pro Tem or Vice-Chair might take on this role). It may also be useful to attempt “team-building” via retreats, study sessions, and social contacts among Council or Boardmembers.

Cooperate to create a positive image for the agency. Like it or not, the Council or Board is likely to be perceived as a whole, not as five individuals. Therefore, you all have an interest in creating a positive public perception.

Rotating the chair among Council or Boardmembers can expose the agency to a variety of meeting management styles and give all Council or Boardmembers an appreciation for the chair’s job. Even Cities with directly elected Mayors often have

related City bodies, such as redevelopment successor agencies, financial authorities, etc., and the chair of these bodies can be rotated.

Use team-building retreats, study sessions, and social contact among leaders to foster an environment of cooperation and trust. While conflict is inevitable, mistrust is not.

Don't send people home angry if you can avoid it, even if only by thanking them for coming and speaking.

F. DON'T ATTACK OR EMBARRASS STAFF. The City or county will look better, and the Council or Board, too, if you avoid "ambushing" or embarrassing staff. You look like a bully if you attack the people who work for you: they can't fight back. You also increase disrespect for the City or County as an institution and ultimately for you — you hired these people (or didn't fire them), didn't you?

You can respectfully disagree with staff's recommendations; but address the issues, not the personalities. If you have serious questions about the performance of a staff member, take it up with the City Manager or CAO or schedule a closed session to evaluate his or her performance. This will also avoid suits claiming that a Council or Boardmember has invaded the privacy of a staff member.

G. KNOW YOUR LIMITS. Adjourn at a reasonable hour. No one does their best work late at night after a long day.

If a long meeting is unavoidable, consider a short break or a "seventh inning stretch" to allow people to refresh themselves and come back to the table with renewed focus.

A snack can be a good idea, especially for a late closed session. Keeping people's blood sugar levels up can contribute to effective meetings!

VI. WRITTEN PROCEDURES

A. Consider written rules of decorum.

B. Disseminate written rules governing meeting procedures and public participation by placing them at the back of the room with the agendas and speaker slips.



Rosenberg's Rules of Order

REVISED 2011

Simple Rules of Parliamentary Procedure for the 21st Century

By Judge Dave Rosenberg

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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:

- Rules should establish order.** The first purpose of rules of parliamentary procedure is to establish a framework for the orderly conduct of meetings.
- 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.
- 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.
- 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.

Simple Parliamentary Procedures Cheat Sheet

(Adapted from Rosenberg's *Rules of Order*: Simple Parliamentary Procedures for the 21st Century)

Meeting Basics



Motions 101

- Basic motion on agenda item
- Motion to amend
- Substitute motion

Basic Motions

- Motion to adjourn
- Motion to recess
- Motion to fix the time to adjourn
- Motion to table

- Motion to limit debate
- Motion to close nominations
- Motion to object to the consideration of a question
- Motion to suspend the rules

Super Majority Motions

A motion can be made and seconded by any member.

Agenda Item Discussions

1. **Announce Agenda Item:** Chair clearly states agenda item number and subject.
2. **Reports and Recommendations:** Relevant speaker gives report and provides recommendations.
3. **Questions and Answers:** Technical questions from members are asked and addressed.
4. **Public Comment:** Chair allows public comment and input under the terms of the Board's policy for such comment.
5. **Motions and Action Items:**

- a. **Motions Introduced:** Chair invites motion from body, and announces name of member introducing motion.
 - b. **Seconds:** If motion is seconded, Chair announces name of seconding member.
 - c. **Motions Clarified:** Seconded motion is clarified by maker of motion, Chair, or secretary/clerk.
 - d. **Amendments and Substitutions:** Other members may propose amended or substitute motions.
 - e. **Discussion and Vote:** Members discuss motion. Chair announces that vote will occur. Members vote on the last motion on the floor (a substitute motion) first, and if that does not pass, vote on the next-to-last motion, and so on.
 - f. **Ayes and Nays:** Chair takes vote by asking for "ayes," "nays," or "abstentions." Unless super majority required, simple majority determines whether motion passes.
 - g. **Results and Actions:** Chair announces result of vote and action the body has taken. Names of dissenters should be announced as well. Example: "*The motion passes by a vote of 3-2, with Smith and Jones dissenting. We have passed the motion requiring 10 days' notice for all future meetings of this governing body.*"
6. **Repeat:** Begin process again with next agenda item.



Understanding the Role of Chair

Meetings are central to the local agency decision-making process. Through public meetings, elected and appointed officials come together to receive public input, discuss, deliberate and decide issues on behalf of the public. Such decisions typically require support of a majority of the decision-making body.

All members of the decision-making body usually have the same voting power. The meeting chair, however, plays a special role in helping the group reach wise decisions. The following tip sheet offers suggestions for performing that role well.

Goal of Meeting Discussions

The usual goal of any discussion at a public agency meeting is for decision-makers to:

- Receive and share information, so everyone can make informed choices;
- Share thoughts and perspectives on what decision best serves the public's interests and other community values; and
- Reach a decision on what the best option is.

Another goal is for the group to reach decisions in a way that builds and maintains relationships as well as promotes trust in both decision-makers and the decision-making process.

Everyone's Role

All participants in the decision-making process are responsible for working towards achieving these meeting goals. Moreover, everyone has a shared stake in having an opportunity to be heard and being treated fairly. Thus, all officials have an interest in supporting the chair's efforts to conduct the meeting effectively and fairly.

The Chair's Role

The chair's role includes:

- Helping the group determine whether it has all the information necessary and available to make a decision;

- Encouraging decision-makers to share multiple points of view;
- Actively listening to determine potential points of agreement and testing those points for actual agreement;
- Managing any conflicts that may arise during the discussions;
- Keeping the discussion on topic;
- Ensuring that clear decisions are made;
- Sticking to the agenda; and
- Getting through the agenda items in a timely manner.

As a result, the role of the chair can be understood as:

- A team captain who leads by example and helps the group function as a team;
- A coach who encourages participants to perform at their best, including as it relates to principles of fair play and sportsmanship; and
- A referee who has authority to stop the action and apply the rules of play.¹

For the chair to play the role of referee effectively, the chair needs the group's trust and respect. To earn this trust and respect, the chair needs to conduct the meeting fairly. This means applying the group's agreed upon standards in an impartial manner. If one's colleagues' understand that the chair's goal is to be an impartial facilitator to help the group achieve consensus, the group will be more inclined to act in ways that support the chair's efforts and achieve the meeting's goals.

To achieve both the perception and the reality of impartiality, it can be helpful for the chair to hold off expressing his or her views on a matter and not engage in debate.

Strategies for Success

At the Beginning of the Meeting

- **Welcome and Introductions.** It can be helpful for the public (particularly first-timers) to know who is sitting at the dais, what opportunities there will be to provide input, and how they can understand what is going on (for example, if translation equipment/service is available, where people can pick up the equipment). This can communicate decision-makers' earnest desire to both receive public input and have the public understand what is going on.
- **Agenda Overview.** A brief statement of the major sections of the agenda can remind both decision-makers and the public of the scope of what needs to be accomplished during the meeting.
- **Aspirational Statement on Decorum.** If the body has adopted a guidelines and goals for civility, a brief reminder to that effect can help set the tone for both decision-makers' interactions and encouragement for other meeting participants' conduct.

As the Body Moves to New Agenda Sections/Items

- **Agenda Sections.** Different agenda sections are sometimes subject to different procedures. For example, a consent agenda usually is a group of items that are routine and non-controversial and are taken up as a group.

Conversely, other items are taken up one by one. Sometimes certain items are subject to special procedures (for example, public hearings). It can be helpful for the chair to briefly note these differences, as a reminder to new decision-makers and first time attenders at the meeting.

Example: Chair: "Now we are at the public hearing portion of the agenda. To be respectful of the rights and interests of all involved, there will be three stages to our consideration of each item:

1. *Facts and Evidence:*
 - a. *First staff will summarize their analysis of the issue before us.*
 - b. *Then, the applicant will be given a chance to explain, based on facts and evidence, how the applicant has met standards necessary for us to approve the application.*
 - c. *Next the public will be given an opportunity to offer their thoughts and evidence on the merits of the application. This can include any suggestions or questions that the public thinks we should ask of the applicant.*
 - d. *We will then ask any questions of the applicant.*
 2. *Law and Analysis:*
 - a. *After listening to and considering both the applicant's and the public's information, it becomes our turn to discuss among ourselves what we have learned based on what has been presented.*
 - b. *Once it appears that a consensus is developing, we may ask questions of staff on what kinds of findings need to be made to explain our decision based on the information we have received.*
 3. *Decision:*
 - a. *The chair will entertain a motion to make a decision and adopt findings consistent with that decision.*
 - b. *If the motion receives a second, we'll vote to see if a majority of us can agree."*
- **Being Clear on the Issue to Be Resolved.**

In addition to calling the agenda item, it can be helpful to identify the issue to be resolved.

Example: Chair: "The issue before us is whether the application to engage in X enterprise meets the standards in our zoning code for such activities."

When Consensus is not Immediately Forthcoming

If the conversation does not seem to be coalescing into a consensus or even a majority position, one technique for non-time sensitive matters is to refer the matter back to staff for further work. Staff will then have time to craft a decision that endeavors to take into account as many of the concerns expressed as possible.

This reminds staff, decision-makers, the applicant and the public the standard which needs to be focused on. In addition, for complex or divisive items, sometimes participants can lose sight of the issue to be decided. A helpful role the chair can play in getting the discussion to a point of resolution is to remind participants of the issue to be resolved (or ask staff to state the issue to be resolved).

- **Note about Technical Language.** Public agency decisions sometimes involve special terminology, jargon and acronyms. This can lead to confusion and misunderstanding, which in turn, can take the discussion in unproductive directions. Another important role of the chair is to make sure the conversation occurs at a level that everyone can understand. The chair can ask speakers to define unfamiliar terms and explain unfamiliar concepts.

Fostering Discussion and Decision

- **Opening up the Issue for Discussion.** Having stated the issue and heard staff and the public's information on it, ask for decision-makers' thoughts. To enable the chair to be a fair guider of the discussion, the chair will typically refrain from offering their thoughts at the beginning.
- **Who Speaks When and to Whom.** At this point in the meeting, the discussion is among decision-makers and therefore decision-makers should be speaking to each other in an effort to come to a decision, not the public.

Staff can be a Resource

Depending on the nature of the topic under discussion, agency staff and legal counsel can sometimes assist the chair in listening for consensus or clarifying misunderstandings that are impeding the effort to reach consensus.

Where staff sits can determine how helpful they can be in this role. Being able to signal or make eye contact with the chair is one issue. Many agencies have key staff (attorney and chief administrative official) sit at the dais with the body.

An important role of the chair is to make sure only one person speaks at a time, so both the public and decision-makers can understand and follow the discussion. A typical approach is for each decision-maker to offer their thoughts and then listen to other decision-makers' thoughts in turn.

If it appears multiple people want to talk at once, the chair has the option of asking people to raise their hands to be recognized before speaking. The chair can keep a list of who has asked to be heard, to call on each person to speak in sequence. Everyone who wants to speak should know that they are on the list and their turn is coming.

- **Keeping Discussion Participation Balanced.** Some bodies have a norm that each person will take a turn in asking all their questions and sharing their thoughts. Others find that such a restriction interferes with dialogue and the deliberative process. If a person seems to be repeating him or herself or otherwise dominating the discussion to the exclusion of others, one approach is for the chair to acknowledge that the individual's perspective has been heard.

Example: Chair “We have heard that Supervisor Nasirian feels strongly that fixing our roads is an urgent priority. What are others’ thoughts?” or “Is there anyone who hasn’t spoken yet who would like to share their thoughts?”

The chair can also give preference to those who haven’t spoken.

Example: Chair “I see your hand up Council Member Cooke and we’ll get to you in a moment; I am going to recognize Council Member Suarez first since she hasn’t yet spoken.”

- **Avoiding Interrupting one Another.** When people are passionate or otherwise convinced of the correctness of their position or information, they will sometimes jump in to respond to what a colleague is saying. A chair’s role is to intervene to protect the person’s ability to finish their thought. (“Let’s let Director Feliciano finish his thought; you’ll have an opportunity to share your perspectives.”)
- **Dealing with Conflict.** Differing perspectives is inherent in a group decision-making process and healthy. However, if the discussion gets particularly heated among two or more decision-makers, a helpful device is to have people address their remarks to the chair. Another is to summarize the points of disagreement and then move the discussion away from those who are in conflict by asking others how they see the issue. If the conversation turns personal, the chair can ask the group to keep the discussion focused on the problem at hand, not underlying motivations or personalities. If these techniques are unsuccessful, calling a recess can be helpful to enable people to step away from the conflict and reflect on how to move the discussion forward. See also *Dealing with Emotional Audiences* (www.ca-ilg.org/dealing-emotional-audiences).
- **Actively Listening for Signs of Consensus.** The chair’s role is to listen for points of agreement and possible consensus and then test the chair’s sense of where people are leaning. Tools the chair has to help the group get to a decision point include:
 - “It sounds like Supervisor Rodriguez and Supervisor Ifill are both concerned about the impact of the proposed use, even with the proposed conditions on the permit, on surrounding neighbors. Am I understanding your concerns? Would either of you like to move that the application be denied?”
 - Thank you Council Member Chen for sharing that view; would you like to make a motion to that effect?”
 - “It sounds that there are two views on the board: [state the two views]. Which strikes people as having more advantages for our community? “What’s the group’s pleasure? The question before us is [restate the issue before the group].”
- **Motion and Second.** Once a motion is made, the chair asks for a second. A second to the motion indicates that at least one other person agrees with the maker of the motion.
 - If no one seconds the motion, the chair can note that the motion is appearing to die for lack of a second. The chair can ask if someone else wants to make a different motion.
 - If the group seems ambivalent, the chair can ask if someone wants to second the motion for purposes of discussion. Through that discussion, an approach at least a majority can agree on may emerge, in which case the chair may want to ask whether there’s a friendly amendment to the original motion or a substitute motion.

- **Vote.** It's helpful for the chair to re-state the motion on which the group is voting.

At the End of the Meeting

- **End on an Upbeat Note.** If at all possible, end the meeting on a positive note and thank everyone for their contributions to the meeting and their participation.
- **Explain Next Steps.** Note that the actions taken at the meeting are being recorded through meeting minutes, which will be reviewed at the next meeting. Note when the next meeting will be.

If at First You Don't Succeed

People can take a while to get used to the norms associated with group decision-making. If an approach doesn't work perfectly the first time, don't give up. Think about what worked and what didn't and consider whether persistence might help get the group to a better place. Many agencies have key staff (attorney and chief administrative official) sit at the dais with the body.

More Resources

Dealing with Emotional Audiences

www.ca-ilg.org/EmotionalAudiences

Codes of Conduct for Elected Boards

www.ca-ilg.org/CodesOfConduct

ILG's Meeting Resource Center

www.ca-ilg.org/meeting-resource-center

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References

Note: Sections in the California Code are accessible at <http://leginfo.legislature.ca.gov/>. Fair Political Practices Commission regulations are accessible at www.fppc.ca.gov/index.php?id=52. A source for case law information is www.findlaw.com/cacases/ (requires registration).

¹ See Vermont Institute for Government, Born to Chair: An Introduction to the Science and Art of Chairing a Board Meeting (1998), available at www.sec.state.vt.us/municipal/pubs/chair.pdf and <http://crs.uvm.edu/citizens/chair.pdf>.

Making Your Open Public Meetings More Effective



California law provides general rules which local agencies must follow when conducting official business. In addition to state law, many local agencies have their own rules of conduct and procedure. However, merely following the laws and rules will not always result in an effective meeting. Outlined below are the basics of California's open meeting laws as well as tips for both local officials and the public to help ensure a successful meeting.

Basics of California's Open Meeting Laws

- Elected and most appointed local-agency bodies must conduct their business in open and public meetings.¹
- The law allows for private discussion during closed sessions under very limited circumstances.²
- A "meeting" is any situation involving a majority of a public body in which agency business is transacted or discussed. In other words, a majority of the body cannot communicate privately about a matter of agency business no matter how the communication occurs, whether by telephone or e-mail, or at a local coffee shop.³
- The public must be informed of the time and place of each meeting and the issues to be addressed.⁴
- The agenda must be posted at least 72 hours in advance of a regular meeting and written in a way that informs people of what business will be discussed.⁵ Special meetings require 24-hour notice to the members of the governing body and media outlets and must include a brief description of the business that will be discussed.⁶
- In general, public officials may only discuss and act on items included on the posted agenda for a meeting.
- The public has a right to address the governing body at any meeting.⁷
- Local agencies may adopt reasonable rules to ensure everyone has an opportunity to be heard in an orderly manner.⁸ For example, some agencies impose a uniform time limit on each person providing public comments on an issue.
- Sign-in at meetings is voluntary. Members of the public cannot be required to register their name or satisfy any other condition for attendance. If an attendance list is used, it must clearly state that signing the list is voluntary.⁹

- Anonymous speech must be permitted.¹⁰
- When comments fall within the purview of the governing body, a chairperson cannot stop a speaker from expressing opinions and/or criticisms of the governing body.¹¹
- If an individual or group willfully interrupts a meeting and order cannot be restored, the room may be cleared.¹² Members of the media must be allowed to remain and only matters on the agenda can be discussed.¹³
- Anyone attending a meeting may photograph or record it with an audio or video recorder unless the governing body makes a finding that the noise, illumination or obstruction of view will disrupt the meeting.¹⁴

Effective Public Meetings: Best Practices

Tips for Elected and Appointed Officials

- **Be Clear About the Process**
 - Be clear about who is running the meeting and explain the role of the presiding officer (chair of the meeting).
 - The chair can help ensure a more successful meeting by:
 - Explaining the meeting process and outlining local rules and procedures at the beginning of the meeting, including any limitations on public participation.
 - Assuring people that they will be allowed to share their views.
 - Reminding all participants (governing body and public) to be compassionate about the fear of public speaking; do not allow heckling or applause.
- **Be Prepared**
 - Educate yourself about agenda items before the meeting.
 - Make information available to the public before the meeting.
 - Reach out to the community; talk to community members one-on-one and to groups at their meetings.
 - Invite questions ahead of the meeting.

A Note on Civility

- First and foremost, everyone should treat others how they would like to be treated.
- Set a friendly tone.
- Demonstrate civility toward members of the governing body as well as the public.
- Embrace diverse points of view.
- Consider using titles – using titles and last name is a sign of respect.
- Separate the person from the problem – avoid personal attacks, name calling or questioning people's motives. These actions undermine your effectiveness and your message.
- Avoid engaging in debates and interruptions.
- Be attentive and use active listening skills.
- Limit statements in discussions to those that move the conversation forward.
- Keep remarks brief, to the point and non-repetitive of comments others have made.

Tips for Public Participants

- **Be Clear About the Process**
 - Understand open meeting laws, local rules and meeting procedures.
 - Understand the role of the presiding officer (chair of the meeting).
- **Be Prepared**
 - Educate yourself about agenda items before the meeting.
 - Review any informational material made available before the meeting.
 - Familiarize yourself with the members of the decision-making body so that you can address them at the meeting.

- Reach out to your local decision-makers and agency staff before the meeting and share your thoughts in advance.
- Submit letters of support or opposition, or any questions you may have to the decision-making body before the meeting.
- If planning on making comments during the public comment period, prepare your remarks in advance.

About the Institute for Local Government

ILG is the nonprofit 501(c)(3) research and education affiliate of the League of California Cities, the California State Association of Counties and the California Special Districts Association. For more information and to access the Institute's resources on local government basics visit www.ca-ilg.org/local-government-basics.

The Institute welcomes feedback on this resource:

- Email: info@ca-ilg.org Subject: *Making Your Public Meetings More Effective*
- Mail: 1400 K Street, Suite 205 • Sacramento, CA • 95814

ENDNOTES

¹ See Cal. Gov't Code § 54952.2(a); Cal. Gov't Code § 54954.2(a).

² See Cal. Educ. Code § 72122.

³ See Cal. Gov't Code § 54952.2(b); Cal. Educ. Code § 72121.

⁴ See Cal. Gov't Code §§ 54954.2, 54956, 54956.5.

⁵ See Cal. Gov't Code § 54954.2.

⁶ See Cal. Gov't Code § 54956.

⁷ See Cal. Gov't Code § 54954.3.

⁸ See Cal. Gov't Code § 54954.3(b); *White v. City of Norwalk*, 900 F.2d 1421, 1425 (9th Cir. 1990).

⁹ See Cal. Gov't Code § 54953.3.

¹⁰ See Cal. Gov't Code § 54953.3.

¹¹ See Cal. Gov't Code §§ 54954.3(c), 54957.9; *Perry Educational Association v. Perry Local Educators' Association*, 460 U.S. 37, 46 (1983).

¹² See Cal. Gov't Code § 54957.9.

¹³ See Cal. Gov't Code § 54957.9.

¹⁴ See Cal. Gov't Code § 54953.5(a).



Orange County Human Relations Commission

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714.567.7470 www.ochumanrelations.org

Mission: Seek out the causes of tension and conflict, discrimination and intolerance, and eliminate those causes

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January 2014

Free Speech vs Hate Speech Practical Guidelines for Managing Public Forums

BACKGROUND

City Councils and other public agencies at times face very hostile testimony during Public Comments at their open public meetings. These comments can slip into profane, disruptive, and even threatening behaviors, impinging on the civil exchange of ideas and the ability of the public agency to do their regular business.

While public input is guaranteed by the Brown Act, and freedom of speech is guaranteed by the U.S. Constitution, presiding officers at these public agencies have attempted to identify and protect the boundary where free speech becomes unduly disruptive, and to safeguard the rights of other residents to participate in the political and civic life free from bigotry and intimidation based on their race, religion, ethnicity, age, gender, sexual orientation, disability or other aspect of their being.

OC Human Relations Commission was created in 1971 to eliminate prejudice, intolerance and discrimination and promote mutual understanding among Orange County's diverse residents. In pursuit of this mission the Commission works with local cities and public agencies to develop strategies that create safe, respectful, inclusive communities.

These guidelines are ideas to consider as public agencies attempt to balance the sometimes competing interests of Freedom of Speech, Disruption of a Meeting, and Hate Speech. This draft was prepared in consultations with city managers, police chiefs, elected officials, civil libertarians, and hate crime advocates.

The Commission believes that civic leaders have a key role in establishing a community's climate of respect for all people. Further that when leaders speak out to condemn hate and bigotry when it occurs, it helps set a standard of conduct that can deter hate and bigotry from taking root and growing.

Definitions

Free Speech: The political right guaranteed by the First Amendment to the U.S. Constitution to express your opinion orally, in written form, through the internet, or through art forms, with a few exceptions including: libel, slander, obscenity, copyright violation, sedition, inciting violence, fighting words, imminent threats.

Hate Speech: Legally protected speech that vilifies an individual or group based on their perceived race, religion, sexual orientation, ethnicity, gender, disability etc., but does not rise to the level of a criminal threat or inciting violence, in which case it would be termed a hate crime.

OC Human Relations

Free Speech vs Hate Speech

Practical Guidelines for Managing Public Forums

PAGE 2

Practical Guidelines

- 1. Adopt a Code of Conduct:** post them so they are visible to all attendees, attach to the speaker request forms, and post them on the podium where a speaker may place their notes. A Code of Conduct as it pertains to what a person says, should be thought of as “**guidelines**” that you **promote** not necessarily “**enforce**”, including:
 - a. No profanity or obscenity.
 - b. Refrain from personal threats or attacks.
 - c. Respect all people.
 - d. Refraining from hateful epithets and demeaning language based on hate of a person’s race, religion, sexual orientation, ethnicity, gender, or disability.
 - e. No yelling or screaming. (**This one you can enforce**)
 - f. Respect all people that are present or watching.
 - g. Obey the direction of the Presiding Officer as to when and how long they can speak. (**This one you enforce**).
- 2. Understand the difference between offensive speech and ACTUAL disruption of a meeting.**
 - a. During public comments individuals have a right to say whatever they wish, as long as it does not disrupt the meeting. So they can swear, use hate epithets, say horrible things about councilmembers and staff and others etc. So long as it does not disrupt the meeting, these are **within their legally protected right to freedom of speech**.
 - b. Things that **disrupt the meeting are NOT within their rights** such as:
 - i. Exceeding their allotted minutes, (usually 3 minutes),
 - ii. Yelling and screaming in a way that upsets the public and council to the point of not being able to continue the meeting,
 - iii. Excessive profanity or slander,
 - iv. Speaking without being recognized by the presiding officer,
 - v. Specific threats that they are capable of following through on,
 - vi. Inciting violence, or “fighting words”,
 - vii. Issues that are not in the subject matter jurisdiction of the body, (this may be difficult to know without listening to the testimony which might seem to start off topic, but then a connection is made.
- 3. Manage Hate Speech at Public Meeting:** Strategies for managing a hateful speaker while protecting the first amendment right to speak include:
 - a. **Stop the meeting to consult with your attorney** for advice. If you think that a member of the public is disrupting the meeting by going over these lines, stop the meeting to ask for advice from the City Attorney. This will allow for a cooling off before reacting in the heat of the moment.
 - b. **Gavel and/or Mute Microphone:** When bigoted epithets, profanity, personal attacks and other odious things are said the presiding officer can gavel to silence and/or mute a speaker’s microphone:
 - i. **If the presiding officer gavels a member of the public to silence, or mutes their microphone**, they should also,



Dealing with Emotional Audiences

www.ca-ilg.org/EmotionalAudiences

October 2009

Question: *We have a controversial development proposal coming up for decision and we are expecting a difficult public hearing. In particular, we are expecting many of those who are opposed to the development to be quite emotional about what they perceive as negative effects of the development. There are of course countervailing positive effects.*

As decision-makers, what can we do to keep the tone of the hearing civil and focused on the merits (and demerits) of the proposal?

Answer: There are a number of strategies that leaders can employ to maximize the likelihood that public meetings will involve constructive exchanges that contribute to the best decision being made. These strategies are most successful, however, as sustained, long-term efforts to meaningfully engaging a wide spectrum of the community in the decision-making process. As such, they involve acting on certain values as leaders and decision-makers. This relationship to values is the connection between ethics and leadership.

Resources Available through the Institute

The Institute's Meeting Resource Center aims to help local officials and agency staff make the most of meeting time.

www.ca-ilg.org/meeting-resource-center

Understanding the Sources of Public Emotion

You indicate that the people at the hearing are likely to be “emotional” about the proposal. In your own desired to be calm and civil in your own responses to what might occur at the hearing, it can be helpful to understand *why* people get emotional in situations like you describe.

In their book, *Dealing with an Angry Public*, Lawrence Susskind and Patrick Field note that people can get emotional—angry—in three situations:

1. When people have been hurt;
2. When people feel threatened by risks not of their making; and
3. When they believe their fundamental beliefs are being challenged.

They note that anger can be intensified when people feel:

- Weak or powerless in the face of others who have power;
- Treated unfairly, disrespectfully or dishonestly; or
- Anger is a helpful way of rallying the troops, demonstrating one's own power, or bullying others into accepting their point of view.

They note that while understanding discrete sources of anger can be helpful, most situations involve a combination of causes.¹

It sounds like the people concerned about the proposed development could be feeling threatened by the risks they perceive the development poses to them. Perhaps they are worried that the development will hurt their property values or other qualities of their neighborhood that they like. There may be public health and safety concerns.

Of course, as decision-makers, you have power to ultimately decide what happens with the proposal. Moreover, there may be the perception that the project proponent has political clout and extensive resources with which to pursue approval of a project. Members of the community they may be worried decision-makers don't care about their concerns and won't take their interests into account in making a decision.

Compounding their frustration and anxiety may be the fact that concerned residents may not understand the decision-making process or how to be effective advocates of their interests. They may feel showing their anger is the only way to underscore the depth of their concerns and get decision-makers' attention. They may also not have all the information that would be helpful to them in understanding both the downsides and the upsides of a particular project.²

Leading by Values

With power comes responsibilities that are linked to core values. As mentioned previously in this column, research by the Institute for Global Ethics indicates that humans all share common core values irrespective of religious faith, culture or nationality. These include the values of trustworthiness, fairness, responsibility, compassion, respect and loyalty.³

For example, a central *responsibility* for public officials is to make decisions that are in the community's interests. This is the essence of leadership in a representative democracy. It may not always be clear what course of action is in a community's best interests; reasonable people can earnestly disagree.

Moreover, with net benefits can also come costs. Another hallmark of values-based leadership is working to assure that certain neighborhoods don't bear *unfair* burdens associated with achieving those community-wide benefits. If those burdens are not avoidable, then a leader looks for ways that those burdens can be counterbalanced with corresponding benefits to those neighborhoods.

Another important responsibility for public decision-makers is stewardship of the decision-making process. This involves making sure that the process is *fair* and that all points of view are treated with *respect*. Another responsibility is making sure that participants in the process have *trustworthy* information about the impacts—both positive and negative—about a proposal. And of course, leaders themselves need to be trustworthy. This, among other things, means telling the truth, acknowledging mistakes and being guided by what serves the community’s interests—not leaders’ personal or political interests.

The Public Is Skeptical, If Not Downright Distrustful

The unfortunate reality is that polling data is replete with examples of the public thinking that government is generally controlled by a few big interests looking out for themselves⁴ and skepticism about whether one can trust government to do what’s right. Fortunately, the public tends to have more faith in local government,⁵ but the general lack of trust in government means that it doesn’t take much for residents to question whose interests are being served in a given situation. The media and bloggers frequently stand ready to encourage that kind of thinking.

Campaign finance and financial interest disclosure requirements enable the media and public to know whether the project proponent has engaged in efforts to curry favor with decision-makers. Disqualification requirements help protect the public’s trust by requiring decision-makers to step aside from the decision-making process if they or those with whom they have a financial relationship could be financially affected by approval or rejection of the project. Open meeting and fair process laws also assure the public that decisions have not been made in advance of public meetings, with the concomitant expectation that public officials will hear and consider the public’s views in making their decision on a matter.

These laws create minimum standards for protecting the public’s trust and confidence in the integrity of the decision-making process; public officials can and do set their sights higher than these minimum requirements. From a public trust and confidence standpoint, it is necessary but not sufficient to faithfully comply with these transparency and disqualification requirements.

A Leadership Strategy

Assuming that there aren’t conflict of interest or other issues that might cause the public to question the underlying motivation for decisions, the next question is how to build trust in the decision-making process in general. Susskind and Field recommend a strategy that focuses on building and maintaining a *long-term* relationship of trust between your agency and the community it serves.

This involves, among other things, being willing to 1) share information, 2) listen to people’s concerns and 3) learn what steps might be taken to address those concerns.⁶

- ✓ **Sharing Information:** This means that the agency and the project proponent must share all information—the good, bad and the ugly. If indeed the project will or could have negative effects, whitewashing that fact will not help build trust in the long run since the agency is likely to be in for a big “we told you so” when those negative effects start occurring after the project is in place. Moreover, after the project is approved, the project proponent is not likely to have the same if any incentives to address those effects.

The agency also should share information about how the decision-making process will work, so concerned residents know how to participate effectively. This also underscores that the public agency is genuinely interested in their concerns.

- ✓ **Listening:** Acknowledging concerns is very important. It demonstrates that the agency and its leaders care about its residents and are willing to explore solutions to the problems that the project may create. Active listening means reiterating what has been heard to make sure 1) those sharing their concerns understand that their message is being heard, and 2) those receiving the information understand accurately the concerns that are being expressed. Then, as Susskind and Henry note, following up with questions to probe underlying assumptions and concerns is critical.⁷ The goal is to get to the root of the concerns (“We understand that you want us to turn this project down; what specific impacts are you concerned about and how will these impacts affect you and your neighbors?”).

This may mean decision-makers will have to work hard to listen past the expressions of anger and fear that might occur, especially if these expressions are less than civil.

- ✓ **Learning.** Once core concerns have been identified, the process of addressing those concerns can begin. Leaders can ask the project proponent and concerned residents what steps might minimize the impacts that are of concern. Leaders can share their own ideas and seek reactions or refinements.

A challenge is that traditional public hearing formats tend to be ill-suited to this kind of dialogue. This is why public agencies are well-advised to encourage project proponents to meet with concerned residents in advance of public hearings.

Skilled public agency staff can play an important role in making sure these meetings are bona fide exchanges of information as opposed to merely a one-way sales pitch. Encouraging staff to help the public frame their questions and get answers can help concerned residents feel that the public agency does indeed care about their concerns. Letting staff know that you appreciate their efforts to independently apply the agency’s standards and get answers for questions that decision-makers and the public are likely to have can also pay big dividends in making sure decision-makers themselves have full information on which to exercise their judgment.

Smart project proponents also understand that it’s in their long-term interest to share, listen and learn as well. This includes offering commitments to minimize knowable impacts and offer benefits that may counterbalance impacts that cannot be minimized or

avoided. For those impacts that are feared but may not occur, the project proponent may be able to offer commitments to address those impacts if indeed they do occur.

Interestingly, Susskind and Field's book is just as much addressed to the private sector as it is to the public sector.

The Mutual Gains Approach to Resolving Disputes

In *Dealing with an Angry Public*, Susskind and Field advocate what they call the "mutual gains" approach to dealing with an angry public. This involves using processes that adhere to six key principles.

1. Acknowledge the concerns of the other side
2. Encourage joint fact finding
3. Offer contingent commitments to minimize impacts if they do occur; promise to compensate knowable but unintended impacts
4. Accept responsibility, admit mistakes and share power
5. Act in a trustworthy fashion at all times
6. Focus on building long-term relationships⁸

The authors explain each of these principles and illustrate them in their book (by examples of where these principles have worked and examples of where pursuing the opposite approach led to sometimes disastrous results).

Bottom Line: No Magic Wands

It may or may not be possible to address residents' concerns about the proposed project. There are limits to what a local agency can legally require a project proponent to do and it may be that the current standards of the community need to be updated to reflect the community's concerns about a given type or project. If so, that's something leaders need to be forthright about and the task becomes one of figuring out a better set of standards and processes for the future.

Ultimately, it will be the frequently difficult task of decision-makers to decide whether the project makes sense for the community under current circumstances. If decision-makers decide it does, there still may be people who disagree and are disappointed (and yes, angry) with that decision. If decision-makers decide the project does not make sense, then there are likely to be members of the community that are disappointed (and again, possibly angry) with that decision as well.

As leaders and decision-makers, your collective goal is to have as many people possible feel heard and that their input made a difference. Another goal is for the project proponent and opponents alike to feel that the process was fair and their leaders behaved in a trustworthy manner.

As writer Lewis Lapham noted, “Leadership consists not in degrees of technique but in traits of character; it requires moral rather than athletic or intellectual effort, and it imposes on both leader and follower alike the burdens of self-restraint.”

You can’t control others’ behavior, but you can determine the traits of character you bring to your own role in the decision-making process. You can also encourage your agency to apply values and character traits to the decision-making process. Although it requires work, the potential payoff is a long-term relationship of trust and confidence with the community that will likely pay big dividends in terms of the agency’s efforts to address the difficult issues of the time.

About the Institute for Local Government

This resource is a service of the Institute for Local Government (ILG) whose mission is to promote good government at the local level with practical, impartial, and easy-to-use resources for California communities. ILG is the nonprofit 501(c)(3) research and education affiliate of the League of California Cities and the California State Association of Counties.

For more information and to access the Institute’s resources on ethics visit www.ca-ilg.org/ethics-transparency. If you would like to access this resource directly, go to www.ca-ilg.org/document/dealing-emotional-audiences.

The Institute welcomes feedback on this resource:

- Email: ethicsmailbox@ca-ilg.org Subject: *Dealing with Emotional Audiences*
- Mail: 1400 K Street, Suite 205 • Sacramento, CA • 95814

References and Resources

Note: Sections in the California Code are accessible at <http://leginfo.legislature.ca.gov/>. Fair Political Practices Commission regulations are accessible at www.fppc.ca.gov/index.php?id=52. A source for case law information is www.findlaw.com/cacases/ (requires registration). (kj)

¹ Lawrence Susskind and Patrick Field, *Dealing with an Angry Public: The Mutual Gains Approach to Resolving Disputes*, (The Free Press: 1996) at 16-17.

² *Id.* at 28.

³ Rushworth Kidder, *How Good People Make Tough Choices: Resolving the Dilemmas of Ethical Living* (Fireside: 1995) at 13-49.

⁴ See August 2008 Public Policy Institute of California (finding 67% percent of respondents believe that the state is run by a few big interests as opposed to 24 percent believing that government is run for the benefit of all the people), available at http://www.ppic.org/content/pubs/survey/S_808MBS.pdf (see question 23). See also **Council for Excellence in Government** poll conducted in mid 1999 (giving special interests top billing in answer to what's wrong with government today), available at www.pollingreport.com/institut.htm.

⁵ In a September 2008 Gallup poll, 72 percent of respondents said that they have either a great deal or fair amount of trust in local government. See www.gallup.com/video/110461/Americans-Trust-Local-Govt-Much-More-Than-National.aspx.

⁶ *Angry Public*, at 229-231.

⁷ *Id.* at 231.

⁸ *Id* at 37-38.