



# COUNCIL REPORT

**DATE:** December 6, 2022

**CATEGORY:** Consent

**DEPT.:** City Attorney's Office

**TITLE:** **Modifications to City Council Policy A-13, City Council Meetings, and the City Council Code of Conduct**

## **RECOMMENDATION**

1. Adopt a Resolution of the City Council of the City of Mountain View Amending City Council Policy A-13, City Council Meetings, to Modify Provisions Governing Attendance, Parliamentary Procedure, Decorum, and Written Communications, to be read in title only, further reading waived (Attachment 1 to the Council report).
2. Adopt a Resolution of the City Council of the City of Mountain View Amending the City Council Code of Conduct to Modify Provisions Governing Rules of Procedure and Decorum, to be read in title only, further reading waived (Attachment 2 to the Council report).

## **BACKGROUND**

On April 26, 2022, the City Council voted to have the Council Policy and Procedures Committee (CPPC) consider whether the provisions of Council Policy A-13 related to parliamentary procedure should be modified to align with Rosenberg's Rules of Order instead of Robert's Rules of Order. On that same date, Council also voted to have the CPPC consider whether a provision governing how Councilmembers may share information they obtain from attending regional board meetings should be added to Council Policy A-13. On September 13, 2022, Council voted to have the CPPC consider adding a provision to Council Policy A-13 governing Councilmember attendance at City Council meetings.

Robert's Rules of Order is a manual of parliamentary procedure. It is embodied in a small but complex book. Although Robert's Rules of Order are widely referenced in the context of City Council meetings, its complexity has led many jurisdictions to rely on a more simplified manual of parliamentary procedure, known as Rosenberg's Rules of Order, for guidance when a particular issue is not covered by local policy.

The City of Mountain View has adopted Council Policy A-13, which contains a comprehensive set of rules of parliamentary procedure. The City's rules as currently drafted are generally consistent with either Robert's Rules of Order, Rosenberg's Rules of Order, or both. Nevertheless, after

comparing Robert's Rules of Order and Rosenberg's Rules of Order to Council Policy A-13 and the City Council Code of Conduct and considering some relevant State law, the City Attorney's Office recommended amendments to both Council Policy A-13 and the City Council Code of Conduct.

On September 28, 2022, the City Attorney's Office presented recommended amendments to Council Policy A-13 and the City Council Code of Conduct to the CPPC at a duly noticed public meeting. The CPPC voted to recommend City Council approval of all proposed amendments to Council Policy A-13 except the proposed amendments governing when and under what circumstances Councilmembers may attend meetings by teleconference. The CPPC voted to forward the proposed amendments governing attendance by teleconferencing to Council for further discussion and deliberation. The CPPC voted to recommend all proposed amendments to the Council Code of Conduct.

California Assembly Bill (AB) 2449, enacted September 13, 2022, revised provisions of the Ralph M. Brown Act ("Brown Act") governing the use of teleconferencing for meetings of legislative bodies of a local agency. The Brown Act, as amended by AB 2449, now only permits members of the legislative body of a local agency to participate in meetings by teleconference under certain specified circumstances. Because these recent revisions to the Brown Act are applicable to all legislative bodies of a local agency, any City Council policy governing when and under what circumstances Councilmembers may attend meetings by teleconference must comply with the revised Brown Act provisions governing teleconferencing. As such, the City Attorney's Office has modified its proposed amendments regarding meeting attendance to comply with the Brown Act.

The proposed amendments to Council Policy A-13 and the City Council Code of Conduct are described below and shown in red-line on Exhibit A to the attached resolutions.

## **PROPOSED AMENDMENTS**

### **A. Council Policy A-13.**

#### **1. Section 1, Meetings, subsection b., Attendance.**

The City Attorney's Office has added language to this section requiring that Councilmembers attend all Regular and Special Meetings of the City Council in person unless they are absent with the consent of the Mayor or they are participating in a meeting by teleconference in accordance with California Government Code Section 54953. This language is consistent with the Brown Act's requirement that members of the legislative body of a local agency attend all meetings in person in the absence of an applicable exception to the in-person meeting attendance requirement.

2. Section 8, Consideration and Debate of Matters by Council, subsection d., Second to Motion.

Council Policy A-13 currently requires that the Mayor receive a second to a motion before any discussion or comment can be made on the motion. However, in Section 10 of the Policy, there are a few motions that may proceed without a second. Section 8 and Section 10 as currently drafted are consistent with both Robert's Rules of Parliamentary Procedure ("Robert's Rules") and Rosenberg's Rules of Order ("Rosenberg's Rules"). Therefore, the City Attorney's Office is only recommending that the language in Section 8.d. be modified slightly to clarify that a second is required unless otherwise stated in the Policy.

3. Section 9, General Policies Regarding Meetings and Procedure, subsection b., Motions.

The City Attorney's Office has added subsection b. governing motions generally to include language restricting the number of motions that can be pending on the floor at the same time. Robert's Rules allows up to 13 motions to be pending on the floor at the same time, but having that many motions pending at once can be unwieldy for the Chair, the Clerk, the Councilmembers, and the public. Rosenberg's Rules restricts the number of pending motions to three to ensure orderly disposition of each motion. The City Attorney's Office recommends adopting Rosenberg's Rule with a slight modification to allow the Chair to accept a fourth motion as long as the fourth motion is a privileged motion (e.g., motion to recess) which does not relate to pending business and always takes priority over all other motions. This new subsection also clarifies that the last motion made shall be the first motion voted on unless the Policy states otherwise (as noted above, privileged motions always take priority).

4. Section 9, General Policies Regarding Meetings and Procedure, subsection d., Motion to Amend.

The section as currently drafted is consistent with both Robert's Rules and Rosenberg's Rules. Therefore, the City Attorney's Office recommends only minor clarifying edits to this section.

5. Section 9, General Policies Regarding Meetings and Procedure, subsection e., Friendly Amendments.

Rosenberg's Rules allows for friendly amendments, but Robert's Rules do not. A "friendly amendment" is a practical parliamentary tool that is simple, informal, saves time, and avoids bogging a meeting down with numerous formal motions.

Furthermore, the City Council already has a practice of making friendly amendments. Therefore, the City Attorney's Office recommends adding language to Council Policy A-13 to formally allow for friendly amendments.

6. Section 9, General Policies Regarding Meetings and Procedure, subsection f., Substitute Motion.

Both Rosenberg's Rules and Robert's Rules allow for substitute motions. Currently, Council Policy A-13 does not authorize substitute motions. Substitute motions are different from motions to amend as they serve the practical purpose of allowing a Councilmember to replace a main motion with a completely new and different motion (e.g., main motion to adopt staff's recommendation versus a substitute motion to reject staff's recommendation). Therefore, the City Attorney's Office recommends adding language to Council Policy A-13 to formally allow for substitute motions.

7. Section 10, Orders of Precedence of Items of Business.

The City Attorney's Office is only recommending minor clarifying edits to this section. This section as written is consistent with Robert's Rules and helps staff determine which motions must be decided first in the event multiple motions from different categories are pending on the floor.

8. Section 11, Motions for Reconsideration.

This section as currently written is not entirely consistent with either Rosenberg's Rules or Robert's Rules. In addition, it is a little confusing as written. Therefore, the City's Attorney's Office is recommending revisions to this section to provide clarity regarding who can make a motion to reconsider a matter that has already been voted on by Council, when the motion may be made, and when the matter can be discussed and debated anew if a motion to reconsider is passed.

9. Section 12, Decorum.

The City Attorney's Office is recommending amendments to this section in light of the recent passage of AB 1100 authorizing the removal of disruptive individuals from Council meetings and to authorize Council to clear the Council Chambers in accordance with existing State law in the event a group of persons is disrupting a meeting to the degree that it is impossible to proceed.

10. Section 18, Administrative Matters, subsection b., Written Materials.

The proposed amendments to this section prohibit the exchange of written communication on matters of City business between a majority of Councilmembers without consulting the City Clerk or City Attorney and provides guidelines for sharing information or documents from regional boards in a manner that is consistent with the Brown Act.

11. Section 18, Administrative Matters, subsection (c)(3), Rules of Procedure In General.

The City Attorney's Office is recommending that this section be amended to adopt Rosenberg's Rules as the guide to parliamentary procedure that should be followed on matters that are not covered by Council Policy A-13. Robert's Rules are modern, simplified rules of parliamentary procedure and are more consistent with Council's current procedures.

**B. Code of Conduct.**

1. Sections 6.7 (Rules of Procedure) and 6.8 (Decorum).

The City Attorney's Office is recommending amendments to Sections 6.7 and 6.8 of the Council Code of Conduct that are consistent with the amendments made to Council Policy A-13.

**FISCAL IMPACT**

There will be no fiscal impact as result of adopting the proposed amendments to Council Policy A-13 or the proposed amendments to the Council Code of Conduct.

**ALTERNATIVES**

1. Do not adopt the proposed amendments to Council Policy A-13.
2. Do not adopt the proposed amendments to the City Council Code of Conduct.

**PUBLIC NOTICING**—Agenda posting.

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011-12-06-22CR  
202457

- Attachments:
1. Resolution Amending City Council Policy A-13
  2. Resolution Amending the City Council Code of Conduct