



City of Culver City

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Staff Report

File #: 24-890, Version: 1

Item #: A-4.

CC - ACTION ITEM: (1) Introduction of a Proposed Ordinance Amending Certain Sections of Subchapter 3.01.100, et seq. of the Culver City Municipal Code Relating to Decorum, Meeting Procedures and Public Participation; (2) Discussion of Use of Personal Electronic Devices During Meetings; (3) Discussion of “Campaigning” in Council Chambers; and (4) Direction to the City Manager as Deemed Appropriate.

Meeting Date: May 28, 2024

Contact Person/Dept: Heather Baker/City Attorney
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Fiscal Impact: Yes No **General Fund:** Yes No

Public Hearing: **Action Item:** **Attachments:**

Public Notification: (E-Mail) Meetings and Agendas - City Council (05/22/2024);

Department Approval: Heather Baker (05/21/2024); Jesse Mays (05/21/2024)

RECOMMENDATION

Staff recommends the City Council (1) introduce an ordinance amending certain sections of Subchapter 3.01.100, et seq. of the Culver City Municipal Code (CCMC) relating to decorum, meeting procedures and public participation (Attachment 1); (2) discuss the use of personal electronic devices during meetings; (3) discuss “campaigning” in Council Chambers; and (4) provide direction to the City Manager as deemed appropriate.

BACKGROUND

The Culver City Municipal Code (CCMC) sets forth various provisions in Chapter 3.01 relating to decorum, meeting procedures and public participation, which have not been updated in many decades. Updating the CCMC provisions and related City policies is a Fiscal Year 2023-2024 joint work plan for the City Clerk’s and City Attorney’s Offices.

In addition, and related to these provisions, two additional items are included with this report: (1) on

March 13, 2023, the City Council reached a majority consensus to discuss a potential policy with regard to City Council Members' use of personal electronic devices during meetings; and (2) recent campaign-related public comments, and subsequent questions from the public about the appropriateness of such comments, prompted a reexamination of the City's past practice of disallowing campaign activity in the City Council Chambers.

City staff met with the City Council Policies Ad Hoc Subcommittee (Mayor McMorrin and Council Member Vera) (Subcommittee) to discuss these items and the Subcommittee's comments are included in the discussion below. Please note these comments reflect preliminary discussions with the Subcommittee during which they provided their input. During the City Council meeting, the Subcommittee may wish to provide additional details and/or clarifications regarding their input.

DISCUSSION

Culver City Municipal Code Amendments

The purpose of these amendments is to promote mutual respect, civility, and orderly conduct among elected and appointed City officials, City staff, and members of the public and to reflect much needed updates to the following CCMC provisions:

- **3.01.130 - Rules of Order:** This Section has not been updated since 1965. The proposed amendment would update the reference from *Roberts Rules of Order* to *Rosenberg's Rules of Order*, as the parliamentary procedures governing City Council meetings. This is consistent with current City Council meeting procedures, as well as Commission, Board and Committee (CBC) meetings, and is consistent with the CBC Policy.

- **3.01.135 - Addressing the City Council, Commissions, Committees and Boards:** This Section, which outlines the process for public participation during Council and CBC meetings, has not been updated since 1998 and is inconsistent with current state law. The proposed amendments include:
 - A broad statement regarding public participation;
 - Authorization to Council to establish public comment procedures, including time limits, which shall be included in the posted agenda; and
 - A provision stating this Section's applicability to CBC meetings.

If the City Council introduces the proposed Ordinance, staff will review and further refine the City Council agenda template to incorporate additional recommended procedures. Currently, the standard agenda provides for the following:

- Procedures for submitting written comments.
- Procedures for members of the public wishing to speak on an agenda item.

- Time limits for public comment for items not on the agenda.
- Authority of presiding officer to establish procedures during the meeting (e.g., time limits for speakers for on- and off-agenda items, reordering of agenda items).

Unless directed otherwise, the following additional items will be added to the standard agenda:

- Clarification regarding the cut-off time for members of the public to submit a request to speak for public comment. The cut-off time proposed is that requests to speak must be submitted prior to the agenda item being called. Requests to speak would not be accepted once the agenda item has commenced. (See Subcommittee Comments below.)
 - Clarification that, in general, time allotments should be applied consistently among all public speakers for a particular agenda item, and that special time allotments may be granted for applicants and appellants during quasi-judicial matters.
- 3.01.145 - Decorum; Enforcement by Ex-Officio Sergeant-at-Arms: This Section governs the conduct of Council Members and members of the public during meetings in order to ensure the orderly and efficient conduct of the City's business. This Section has not been updated since 1965 and is inconsistent with current state law. The proposed amendments include:
 - Updates to ensure compliance with SB 1100 (2022) pertaining to meeting disruptions (Attachment 2);
 - Other clean-up items, such as using gender neutral references; and
 - A provision stating this Section's applicability to CBC meetings.

Subcommittee Comments: The Subcommittee concurs with the proposed amendments to the Ordinance. In addition, staff received the following recommendations from the Subcommittee to be addressed outside of the CCMC amendments.

- Mayor McMorris would like to see a "guidebook" for the Mayor and the Chair of CBCs, to assist with presiding over the meeting. For example, it may include language to address members of the public who are directing comments to the audience or City staff instead of City Council or a CBC, when the public is speaking out of turn, etc. *[The City Clerk's and City Attorney's Office will work on putting this together for presiding officers' use.]*
- The Subcommittee agrees that the City implement a cut-off time for members of the public to submit a request to speak for public comment. The cut-off time proposed is that requests to speak must be submitted prior to the agenda item being called. Requests to speak would not be accepted once the agenda item has commenced. *[City Council concurrence is requested before this item is implemented. If approved, this procedure will be included in the updated agenda template as discussed above.]*

Use of Personal Electronic Devices

On March 13, 2023, the City Council reached a majority consensus to discuss a potential policy with regard to City Council Members' use of personal electronic devices during meetings. Staff researched other cities that have similar policies and found that the cities vary from simple policy statements to full policies (see Attachment 3 for a full list of the city policies reviewed). For example:

- The City of Lake Elsinore's policy states: "No City Council member shall communicate via cell phone, personal computer or other such electronic device during a City Council meeting or Closed Session Meeting."
- The City of Yorba Linda's policy states: "During a public meeting, the City Council shall be banned from the use of all cell phone, texting, and emailing abilities to discuss any item on the City Council Meeting agenda."

Staff believes, and the Subcommittee concurs, that these examples are overly broad and prohibit appropriate use of devices during meetings, i.e., meeting notes; looking up information, such as reference material; etc. If the City Council wishes to establish a policy, appropriate exceptions should be considered and included in such policy.

Subcommittee Comments: The Subcommittee is not making a recommendation regarding this item and has deferred this matter to the full City Council for discussion and direction. However, the Subcommittee provided the following questions/comments for Council consideration.

Mayor McMorrin:

- How would this be enforced? What's the penalty?
- What is the intent of this kind of policy?
- What's the community interest that is being served?
- What is the harm the policy would be addressing? The Council should drill down on whatever the harm is that the City Council is trying to prevent and make sure the policy is narrowly tailored to the goal.

Council Member Vera:

- Concern regarding potential Brown Act issues if a Council Member is conversing about an agenda item during the meeting through the use of personal electronic devices.
- Agrees that enforcement is an issue. If there is not a way to enforce the policy, then what purpose does the policy serve.
- Instead of having a policy prohibiting use of personal electronic devices during meetings, perhaps the Council can consider issuing a dos and don'ts statement with respect to use of devices.

Campaign Activity in Council Chambers

Recent campaign-related public comments, and subsequent questions from the public about the appropriateness of such comments, prompted a reexamination of the City's past practice of

disallowing campaign activity in the City Council Chambers.

Historically, speakers who have “campaigned” from the podium (i.e., supporting/opposing ballot measures and council candidates at upcoming elections) have been admonished that campaigning is prohibited in the Council Chambers. This limitation originated from the old City Charter Section 902, which stated, in pertinent part: “No person shall engage in political activities within facilities used by the City for the conduct of government business.” This language was carried over to the current Charter Section 1404 as follows:

The officers and employees of the City shall not engage in, nor shall the facilities of the City be used for, improper political activities. The City Council shall have the authority to establish rules and regulations to implement this policy.

City staff has reviewed how other cities address this issue and found the following examples from cities that regulate campaign speech at City Council meetings:

- Policy of no campaign speech during public comment on the basis that sitting council members may not campaign from the dais; therefore, by disallowing the public to conduct campaign speech, everyone in the room is being treated equally.
- Policy of no campaign speech during public comment on the basis that the statements in favor or against a candidate or measure would be shown on the City’s cable television channel (and repeated throughout the week), the City’s website, YouTube, and Facebook which would be using City funds and equipment to advocate for or against a candidate and measure.
- Some other cities have responded they do not regulate the content of public comment, other than the subject matter limitation set forth in the Brown Act.

A city council meeting is a limited-purpose public forum and content restrictions to protect the scope of the forum are permissible, which is consistent with the Brown Act’s limitation of off-agenda public comment to be matters within a legislative body’s jurisdiction. If the City Council wishes to adopt a policy establishing that certain subject matters are not within its jurisdiction, it should do so in writing. Any such policy would need to be viewpoint neutral and consistently enforced.

Subcommittee Comments: The Subcommittee is not making a recommendation regarding this item and has deferred this matter to the full City Council for discussion and direction. However, the Subcommittee provided the following comments for Council consideration.

Mayor McMorrin:

- Comfortable with allowing all “political” comments, aside from “vote for” a certain person or certain measure, is fine.
- Okay for an individual to express what they are doing, i.e., “I’m voting for” statements.
- Concern is when the public is directing other members of the public on how to vote.

- Believes people should be able to discuss what is important to them and share their platform but should not be telling others how to vote.

Council Member Vera:

- Consistency is key, and it may be extremely difficult to stay on top of that if a policy is adopted.
- Unless the Council can be diligent and consistent, then it is probably better to not adopt such a policy.
- Thinks it may be difficult to distinguish the nuance of “vote for” versus “I’m voting for” comments.

Staff recommends the City Council discuss this issue and provide direction to the City Manager as deemed appropriate.

FISCAL ANALYSIS

There is no fiscal impact associated with the discussion/direction regarding this matter or introduction of the proposed Ordinance.

ATTACHMENTS

1. 2024-05-28_ATT 1_Proposed Ordinance Amending Certain Sections of CCMC Subchapter 3.01.100, et seq.
2. 2024-05-28_ATT 2_SB 1100 meeting disruptions
3. 2024-05-28_ATT 3_Other cities policies regarding the use of electronic devices

MOTION

That the City Council:

1. Introduce an ordinance amending certain sections of Subchapter 3.01.100, et seq. of the Culver City Municipal Code (CCMC) relating to decorum, meeting procedures and public participation;
2. Discuss the use of personal electronic devices during meetings and provide direction to the City Manager as deemed appropriate; and
3. Discuss “campaigning” in Council Chambers and provide direction to the City Manager as deemed appropriate.