

RESOLUTION NO. 2011-07R

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
AMENDING AND READOPTING RULES OF
PROCEDURE FOR CITY COUNCIL
MEETINGS AND CITY COUNCIL POLICIES

WHEREAS, the City Council of the City of Escondido, State of California, has previously adopted resolutions which provide Rules of Order and Procedure for City Council meetings and certain written policies governing Council procedures and methods of operation which are amended from time to time; and

WHEREAS, the Council wishes to re-adopt its Rules and Policies for the purpose of including certain amendments and clarifications.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Escondido, California, as follows:

1. That the above recitations are true.
2. That the following sections shall govern the City Council:

Section A: Rules of Order and Procedure

1. Time of Regular Meetings.

Unless the City Council schedules otherwise or cancels a meeting, the City Council shall hold regular meetings at 3:30 p.m. commencing with closed session items and thereafter at 4:30 p.m. commencing with a public session on each of the first four (4) Wednesdays of each calendar month at the City Hall.

2. Matters Covered.

For the purpose of efficiently focusing only on matters affecting the City of Escondido, the Council shall not consider any resolution, motion or matter which does not affect the conduct of the business of the City of Escondido or its corporate powers or duties as a municipal corporation nor shall the Council consider any resolution or motion supporting or disapproving any legislation or action pending in the Legislature of the State of California, the Congress of the United States or before any officer or agency of said State or nation unless such proposed legislation or action, if adopted, will affect the conduct of the municipal business or the powers and duties of the City of Escondido or its officers or employees as such.

3. Order of Business.

Regular business of the Council at the 4:30 p.m. public session shall be taken up for consideration in substantially the following order, except as may be otherwise ordered by the Mayor or Council:

- a. Moment of Reflection
- b. Flag Salute
- c. Roll Call
- d. Introductions/Proclamations/ Presentations
- e. Oral Communications
- f. Consent Calendar, including Affidavits of Publications, Mailing, Posting, Warrant Register & Minutes
- g. Ordinances and Resolutions
- h. Public Hearings

- i. Current Business Matters
- j. Briefing (Staff)
- k. Future Agenda Items
- l. Oral Communications
- m. Council/Commission Member Comments
- o. Adjournment

4. Consent Calendar Defined.

From time to time the Council may schedule a "workshop" style meeting. Such workshops shall comply with all applicable laws and shall be dedicated primarily to general information gathering and sharing, discussion and possible direction to staff. Final actions of the Council shall not take place at workshop sessions.

Those items on the Council agenda which are generally considered routine matter of business such as the approval of minutes, Treasurer's Quarterly Investment Report, bid awards, resolutions setting hearings, final maps and various leases and agreements are listed on the "Consent Calendar" and shall be adopted by one motion unless Council, staff or a member of the public requests specific items to be discussed and/or removed for separate action. Those items so approved under the heading "Consent Calendar" will appear in the Council minutes in their proper form, i.e., resolution accepting grant deed or easement, approval of minutes, award of bid, etc.

5. Oral Communications.

Time has been reserved near the beginning and end of each regular meeting agenda to provide an opportunity for members of the

public to directly address the Council on items of interest to the public. Comments on an item already appearing on the agenda shall only be taken at the time reserved for discussion of that agenda item. No action will be taken by the Council on items discussed under Oral Communications, except to refer the matter to staff or schedule for future action.

6. Council Member Comments.

The Council Member comments agenda item provides members of the Council an opportunity to raise items not currently before the Council for updates and briefing. No action or discussion shall occur on any such matter.

7. Council Action.

Upon motion being made and seconded by any Council member, a roll call vote shall be taken. A motion that fails to obtain a second or a majority vote shall die.

8. Manner of Addressing Council - Time Limit.

- a. Each person addressing the Council shall step up to the microphone, shall state their name and city of residence in an audible tone of voice for the record and, unless further time is granted by concurrence of the Council, shall limit their address to three (3) minutes. If significant numbers of persons desire to speak on a given item, the presiding officer shall limit speaking times. Longer time limits may be

permitted for an applicant, appellant, or spokesperson for a larger group, at the discretion of the presiding officer.

- b. Whenever any group of persons wishes to address the Council on the same subject matter, it shall be proper for the presiding officer to request that a spokesperson be chosen by the group to address the Council and, in case additional matters are to be presented at the time by any other member of the said group, to limit the number of persons so addressing the Council so as to avoid unnecessary repetitions before the Council.

9. Posting of Agenda.

At least 72 hours before a regular meeting, the City Clerk shall post a certified copy of the agenda specifying the time and location of the regular meeting in a place accessible so as to be available for review by members of the public.

10. Content of Agenda.

Under state law, the City Council is limited to consideration of items which are on a posted agenda. Items may be placed on an agenda only by city staff or upon the concurrence of two individual Council members. Council agenda items shall be coordinated with the City Manager, and in addition, a Council Member wishing to place a matter on the agenda for discussion and action shall first request the City Clerk (in writing or by electronic mail) to list the item under the category of "Future Agenda

Items." Only after the item has received the assent of two Council members and has appeared at least once as a "Future Agenda Item" may it appear on the regular Council agenda for discussion and action. To the fullest extent practicable, any items placed on the agenda by City staff shall also be listed under "Future Agenda Items" to assure the best possible advance notice of the nature of items and discussion which are upcoming.

11. Closing Time of Council Meetings.

No agenda item may be introduced after the hour of 10:00 p.m.; however, the meeting may be extended beyond 10:00 p.m. upon a majority vote of the Council members.

12. Processing of Motions.

- a. When a motion is made, it shall be stated clearly and concisely by its mover. After a motion is made and seconded, it shall be stated by the presiding officer before debate. A motion may be withdrawn by the mover without consent of the Council members.
- b. The presiding officer shall at any time by majority consent of the Council members, permit a Council member to propose the reordering of agenda items.
- c. If a question contains two or more divisible propositions, the presiding officer may, and upon request of a Council member shall, divide the same.

13. Precedence of Motions.

- a. When a motion is before the Council, no motion shall be entertained except (precedence in order indicated):
 - (1) To adjourn
 - (2) To fix hour of adjournment
 - (3) To lay on the table
 - (4) For the previous question
 - (5) To postpone to a certain day
 - (6) To refer
 - (7) To amend
 - (8) To postpone indefinitely

- b. A motion to adjourn shall be in order any time, except as follows:
 - (1) When repeated without intervening business or discussion
 - (2) When made as an interruption of a member while speaking
 - (3) When the previous question has been ordered
 - (4) While a vote is being taken

- c. A motion to adjourn "to another time" is debatable only as to the time to which the meeting is adjourned.

- d. A motion to table or lay on the table is not debatable and shall preclude all amendments or debate of the subject under consideration. If the motion shall prevail, the matter may be "taken from the table" only by adding it to the

agenda of the next regular meeting, to be discussed at the following regular meeting.

- e. A motion for previous question shall close debate on the main motion and shall be undebatable. The statement by a Councilperson of "question" does not accomplish the same purpose. If a motion fails, debate is reopened; if motion passes, then vote shall be taken on the main motion.
 - f. A motion to amend shall be in order and is debatable only as to amendment. A motion to amend an amendment shall not be in order. An amendment modifying the intention of a motion shall be in order but an amendment relating to a different matter shall not be in order. A substitute motion on the same subject shall be acceptable and amendments are to be voted first, then the main motion is amended.
 - g. A motion to postpone indefinitely shall be fully debatable and if the same is adopted, the principal motion shall be declared lost. A motion to postpone to a definite time shall be amendable and debatable as to propriety of postponement and time set.
 - h. A motion to refer shall not be debatable except for the propriety of referring.
14. Administrative Mandamus.

Persons who are dissatisfied with a decision of the City Council

may have the right to seek review of that decision by a court. In addition, the City has adopted Section 1094.6 of the Code of Civil Procedure which generally limits to ninety (90) days the time within which the decision of City boards and agencies may be judicially challenged.

15. Appeals; Continuances.

Any person appealing an action of a City Commission or City Staff to the City Council has a right to two two-week postponements of the initial hearing scheduled on the appeal. After exhaustion of this right, the appeal shall be considered withdrawn. This procedure shall not limit the ability of the City Council to continue a hearing which has commenced to a subsequent meeting to receive additional public testimony or information from City Staff.

16. Reconsideration.

Any member of the Council, voting in the majority on any action of the Council, may at the same meeting, or at a subsequent time, request the Council reconsider an action. A reconsideration request made by a member of the Council voting in the minority shall not be allowed, except when made more than one (1) year after the date of the original action.

All requests for reconsideration of a Council action shall be provided to each Council member, and the City Manager in writing or via electronic mail, and the request shall be placed on the next available agenda. In the event an item to be reconsidered requires public notice, it

shall be calendared and noticed after Council determines when reconsideration shall occur.

17. Personal Privilege.

The right of any Council member to address the Council on a question of personal privilege shall be limited to cases in which his/her integrity, character or motives are questioned.

18. Council Conduct.

No member of the Council shall act in such a manner as to call into disrepute the public image of the Council or which is discourteous to or results in the constant interruption of other members of the Council or members of the public.

19. Parliamentarian.

A majority vote of the Council shall generally control matters of procedure not addressed by this Resolution. The City Attorney shall decide all other questions of interpretations of these rules and any other questions of a parliamentary nature which may arise at a City Council meeting.

20. Voting and Non-Profit Entity Membership.

It shall be the policy of this Council that a council member who serves on the governing board of a non-profit entity shall not participate in the discussion or voting process to determine whether or not that non-profit entity receives City funds. In the event the request of a non-profit entity with a council member on its governing board is part of a larger

request involving several items, or is part of the budget process, a separate vote shall be taken to allow the necessary abstention.

21. Selection of Chairperson.

In the event that the Mayor and the Deputy Mayor are absent from a City Council meeting, the three remaining Council members present shall promptly determine which Council member will conduct and serve as the chairperson of the meeting.

Section B: City Council Policies.

1. Correspondence with Members of the City Council.

The purpose of this policy is to provide for a coordinated response to correspondence (i.e. letters, emails, and similar items) which is sent to the City generally, or in which the same correspondence is sent in identical fashion to all Council members. In such circumstances, the Council directs that the Mayor (or as appropriate the City Manager or City Attorney) shall answer such correspondence on behalf of the City, according to the procedure set forth below.

In addition to individual e-mail addresses, the City Manager's Office shall also establish a shared email address by which citizens may direct emails to all Council members at the same time. The shared email address shall be featured on the City's website and in other publications in such a manner as to allow citizens to use the address and thereby communicate with all Council members at the same time. All Council members shall have access to review items in the mailbox at all times. All

responses to such emails shall also be sent from the shared mailbox, such that all Council members may review such responses.

With respect to other communications, such as those involving other governmental entities, organizations, and related entities where such communication occurs between the entities rather than specific individuals, the Mayor shall respond on behalf of the City, with copies to all Council members. Matters involving routine city administrative issues shall generally be responded to by either the City Manager or City Attorney, as appropriate, on behalf of the City. With respect to correspondence that consists of invitations to events, the Mayor and Council shall coordinate such invitations with the City Manager's support staff.

Because substantial portions of City Council communication, whether electronic or written, is subject to California's Public Records laws, all City Council communications shall be coordinated with the City Manager for the purpose of compliance with various laws governing public records. All Council members using city computers shall be subject to the City's Administrative Directives regarding computer use.

2. Press Releases.

All press releases on behalf of the City shall be issued on City letterhead and only on behalf of the City generally or the entire City Council. Press releases shall be prepared and coordinated by the City Manager's Office.

3. Council Calendar.

The responsibility for managing the calendars of the City Council and the City Council members shall be delegated to the City Manager's secretary.

4. Audits.

Staff shall informally assist the City Council in a periodic accounting of individual expenditures for travel, phone use, etc.

5. Credit Card Use.

Credit cards are available for use by individual members of the City Council. Such credit cards shall be used only for official city business. Council members shall not use a City credit card, or be reimbursed for purchases of meals for others.

6. Council Travel Policy.

Council members shall be bound by all City policies, as expressed in Administrative Directives or otherwise, regarding travel on City business.

Elected officials shall provide brief reports on meetings attended at the City's expense at the next regular City Council meeting. If multiple elected officials attended, a joint report may be made. Reports may be provided in writing as part of the Agenda packet distribution.

The City Council generally has a fixed amount in the City Council budget. It shall be the policy of the council to see that each Council

member generally attempts to stay within approximately one-fifth of that entire budget.

7. Council Communication with Staff.

The Council members shall request information or give direction only to the City Manager or City Attorney. Requests for information should be directed to the City Manager although incidental or minor requests (not involving analysis or significant time), may be requested directly from department heads, with a copy to the City Manager. Requests which involve change of policy, expenditure of funds, or use of significant staff time shall be submitted to the full Council for approval. In the absence of the City Manager or the City Attorney, requests should be made to designated Assistants.

8. Review of Reimbursements.

The Director of Finance or a designee shall review all City Council requests for reimbursement of expenses for consistency with City policy on such expenses.

In all cases, Council members shall be bound by the same policies and procedures adopted and applicable for all City employees on a Citywide basis. To the extent such policies provide for per diem reimbursements, auto allowances, and related forms of reimbursement rather than receipt-specific reimbursement, it is hereby determined that such per diem or fixed amount reimbursements, so long as applicable to

all city employees, are the best and most efficient method of reimbursing expenses on an actual and necessary basis.

9. Council Salary.

To assure attention to the Council compensation allowable under state law, the City Council shall have an agenda item during a meeting in December of odd numbered years for the purpose of determining whether or not to take action regarding Council compensation.

Section C: City Council Ethics Policy.

1. Declaration of Policy.

The respected operation of democratic government emphasizes that elected officials be independent, impartial, and responsible to the people. It requires that they conduct themselves in a manner above reproach.

This Ethics Policy provides the following general guidelines and specific prohibitions to which elected Escondido City Officials must conform in pursuit of their assigned duties and responsibilities. This policy is in addition to all applicable provisions of state law, including the Brown Act, the Political Reform Act and implementing regulations, and all other laws governing the conduct of elected officials.

2. Disclosure of Closed Session Matter.

No member of the City Council shall disclose to any person, other than members of the Council, the City Attorney, the City Manager, or other City staff designated by the City Manager to handle such matters of

confidential City business, the content or substance of any information presented or discussed during a closed session meeting unless the City Council first authorizes such disclosure by the affirmative vote of three members.

3. Disclosure of Confidential Communications.

Except when disclosure is mandated by state or federal law, no member of the City Council shall disclose to any person, other than members of the Council, the City Attorney, or the City Manager, or other City staff designated by the City Manager to handle such matters of confidential City business, the content or substance of any confidential or privileged communication relating to matters of City business, received under circumstances where the confidential or privileged nature of the communication is reasonably conveyed, unless the City Council first authorizes such disclosure by the affirmative vote of three members of the City Council.

4. Conduct During Negotiations/Litigation.

The City Council is authorized to provide direction to specifically identified negotiators in a legally constituted closed session on matters involving pending litigation, real estate negotiations, and labor negotiations. If the City Council in closed session provides such direction to its negotiators, all contact with the negotiating party or the party's representative, shall be limited to, and made by, those individuals designated to handle the negotiations.

During a pending labor negotiation, no member of the City Council shall have any contact or discussion with the negotiating party or the party's representative regarding the subject matter of the pending negotiation. In addition, during pending litigation or real estate negotiations, no member of the City Council (unless they have been designated as a negotiator) shall have any contact or discussion with the litigating or negotiating party or the party's representative regarding the subject matter of the pending litigation or real estate negotiations.

No member of the City Council shall communicate or disclose to any person, other than members of the Council, the City Attorney, the City Manager, or other City staff designated by the City Manager to handle such matters of confidential City business, any discussion or information received in closed session regarding the negotiation or litigation.

Nothing in this section shall prohibit Council members from receiving written communications provided they are made available to all Council members, the City Manager, the City Attorney, and the City's designated negotiators on an equal basis.

5. Ex Parte Communications.

The purpose of this provision is to guarantee that all interested parties to any matter before the City Council have equal opportunity to express and represent their interests. Ex parte communications are those communications members of the City Council have with representatives of only one side of a matter outside the presence of other interested parties.

A communication concerning only the status of a pending matter shall not be regarded as an ex parte communication.

Any written or oral ex parte communication received by a member of the City Council in matters where all interested parties are entitled to an equal opportunity for a hearing shall be made a part of the record by the recipient.

6. **Violations and Penalties.**

Any violation of this Ethics Policy by a member of the City Council shall constitute official misconduct if determined by an affirmative vote of three members of the City Council in an open and public meeting. In addition to any criminal or civil penalties provided for by federal, state or other local law, any violation of this Ethics Policy shall constitute a cause for censure by City Council adoption of a Resolution of Censure.

PASSED, ADOPTED AND APPROVED by the City Council of the City of Escondido at a regular meeting thereof this 5th day of January, 2011 by the following vote to wit:

AYES : Councilmembers: DIAZ, GALLO, MORASCO, WALDRON, ABED

NOES : Councilmembers: NONE

ABSENT : Councilmembers: NONE

APPROVED:



SAM ABED, Mayor of the
City of Escondido, California

ATTEST:



MARSHA WHALEN, City Clerk of the
City of Escondido, California

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