

**SANTA BARBARA COUNTY
BOARD AGENDA LETTER**



Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Agenda Number:
Prepared on: 2/18/03
Department Name: County Administrator
Department No.: 012
Agenda Date: 9-16-03
Placement: Departmental
Estimate Time: 15 Min.
Continued Item: YES
If Yes, date from: 8/19/03

TO: Board of Supervisors

FROM: Michael F. Brown
County Administrator

STAFF CONTACT: Michael Allen - Chief Deputy Clerk of the Board
2245

SUBJECT: Resolution Amending Resolution No. 92-398 Regarding Board of Supervisors' Agenda Policies and Conduct of Meetings

Recommendation(s):

That the Board of Supervisors:

Adopt a resolution amending the Board of Supervisors' Agenda Policy and Conduct of Meetings and rescinding Resolution No. 92-398

Alignment with Board Strategic Plan:

The recommendation(s) are primarily aligned with Goal No. 3. A Strong, Professionally Managed County Organization and Goal No. 6. A County Government that is Accessible, Open, and Citizen-Friendly.

Executive Summary and Discussion:

At the Board of Supervisor's hearing of August 19, 2003 the Board directed staff to incorporate three amendments to the resolution. Attached, please find a revised resolution, in both clean and redlined versions, reflecting those changes. Specifically, your Board directed the following:

Section 6, Public Comment. The third sentence is amended to read as follows: "The total amount of time for public testimony shall be no more than 15 minutes, at the discretion of the Chair". This change is intended to provide appropriate flexibility in the conduct of the public comment period.

Section 6, Public Comment. The second to last sentence is amended to read as follows: “The Board shall not ~~take action~~ consider any item not appearing on the agenda unless the action is authorized through Ex-Agenda Procedures outlined in Section 9 of this resolution.” This change is intended to appropriately limit the amount of discourse on issues before the Board as a part of the Public Comment Period and not noticed for Board deliberation or action, per the Ralph M Brown Act.

Section 8, Addendum. The second sentence is amended to read as follows: “In order to be added as an Addendum, an item shall contain time sensitive information that precludes it from being placed on the next regularly scheduled Board agenda as demonstrated by the department director.” This change is intended to ensure accountability on the part of the requesting department that items added to the agenda as an addendum are time sensitive in nature.

In addition, the Board requested that staff analyze the policies related to Ex-Agenda items (Section 9), and specifically, if language should be added to Section 9 expressly granting the public the right to comment on whether or not an item should be added to the agenda as an Ex-Agenda item. The Board may but is not required to do so.

The Brown Act establishes guidelines regulating how the Board may determine whether an item shall be added as an Ex-Agenda item. According to the Brown Act, the Board may not act on any matter not appearing on the posted agenda except:

§ 54954.2. Posting of agenda

- (1) Upon a determination by a majority vote of the legislative body that an emergency situation exists, as defined in § 54956.5.
- (2) Upon a determination by a two-thirds vote ... that there is a need to take immediate action and that the need for action came to the attention of the local agency subsequent to the agenda being posted as specified in subdivision (a).
- (3) The item was posted pursuant to subdivision (a) for a prior meeting of the legislative body occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.

The Government Code does not address the public’s right to comment on whether an item should be accepted as an Ex-Agenda item. Once a matter has been accepted as an Ex-Agenda item, under the guidelines established in §54954.2(b)1 or 54954.2(b)2, the Board may take action on the item and shall afford the public an opportunity to comment on the matter.

In addition, the Brown Act affords the public the opportunity to speak on any matter within the Board’s jurisdiction during the Public Comment period. Specifically, the government code states:

§ 54954.3. Public testimony at regular meetings

- (a) Every agenda for regular meetings shall provide an opportunity for members of the public to

directly address the legislative body on any item of interest to the public, before or during the legislative body's consideration of the item, that is within the subject matter jurisdiction of the legislative body, provided that no action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by § 54954.2(b).”

According to the above section, an item that is being proposed as an Ex-Agenda is a matter that does not appear on the Board’s printed agenda, and the Board is therefore precluded from deliberating the issue until it votes whether or not to accept the item.

The requirements established by the Brown Act related to Ex-Agenda procedures are reflected in the language of the proposed resolution (Section 9). Consequently, staff recommends that the Board adopt the resolution as amended at the hearing of August 19, 2003(Attachment A).

Mandates and Service Levels:

The Board of Supervisors’ agenda policies and meeting conduct detailed herein complies with the Ralph M. Brown Act, Government Code Section(s) 54954 and 54953 (teleconferencing).

Fiscal and Facilities Impacts:

None

Special Instructions:

None

Concurrence:

County Counsel

Attachments:

Attachment A: Final Resolution

Attachment B: Resolution (Redline)

RESOLUTION OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA

IN THE MATTER OF BOARD OF) RESOLUTION NO. 03-
SUPERVISORS AGENDA POLICY)
AND CONDUCT OF MEETING)

WHEREAS, the Board of Supervisors is committed to encouraging participation in its actions by providing adequate notice of items it is to consider and allowing the public an opportunity to address the board; and

WHEREAS, the principal purpose of a prepared agenda is to assist the Board of Supervisors in the expeditious conduct of its business and to inform the public, news media, County departments, and other interested parties of matters scheduled for consideration by the Board at a particular meeting; and

WHEREAS, the Board of Supervisors is committed to complying with the provisions of the California Open Meetings Statute, (the Ralph M. Brown Act, Government Code Section 54950 et seq.)

NOW, THEREFORE, BE IT AND IT IS HEREBY ORDERED AND RESOLVED that the Board of Supervisors hereby adopts the following policy:

1. Agenda Preparation. Each item of business to be considered at a regular meeting must appear on the agenda for that meeting, except as provided in paragraph 9 of this Resolution. The agenda shall include a brief general description of each item of business to be transacted or discussed. The description should be calculated to reasonably inform the public as to the nature of the item. All written material pertaining to an item on the agenda of the Board of Supervisors must be submitted in compliance with procedures established by the Clerk of the Board office and delivered to the Clerk of the Board office no later than 4:30 p.m. on the Thursday, twelve days prior to the Board hearing. Where there is a holiday observed by the County preceding the date of the Board meeting, the Clerk of the Board may, upon giving reasonable notice, accelerate the deadline to provide adequate time for the preparation and distribution of the agenda.
2. Agenda Publication. The agenda for each regular meeting shall be available by 8:00 a.m. on the Thursday preceding the meeting. By that hour, copies shall be available to the news media and public in the Clerk of the Board office. Any person may have a copy of the agenda mailed by the Clerk of the Board by providing to the Clerk a self-addressed postage-prepaid envelope of sufficient size to accommodate the agenda and by payment of the required fee.
3. Agenda Posting. The agenda for each regular meeting shall be posted on a posting board at or near the public entrance to the County Administration Building, 105 East Anapamu St. and on a bulletin board outside of the Board hearing room. Agendas will also be available at Fourth and Fifth District

Supervisors' offices, located at the Betteravia Government Center, 511 East Lakeside Parkway, Santa Maria. The agenda will be made available on the County of Santa Barbara Website.

4. Public Hearing Notices. A public hearing on a specific agenda item shall be set for a specified time, and each written or published notice regarding that hearing shall announce its date and time.
5. Order of Business. Board of Supervisors' business at a regular meeting shall be conducted in the following order except as otherwise directed by the Board or the Chair:
 - Closed Session
 - Roll Call
 - Invocation
 - Pledge of Allegiance to the Flag
 - Approval of Minutes of prior meeting(s)
 - Administrative Agenda
 - Public Comment
 - Consideration of Ex Agenda Items (Chair's discretion)
 - Departmental Agenda
 - Planning Items and Public Hearings.
6. Public Comment. At each regular Board meeting after the Administrative Agenda, the Board shall allow any member of the public to address the Board on a matter within the jurisdiction of the Board of Supervisors. The public may address the Board via video teleconferencing from the Board Hearing Rooms located in the County Administration Building and the Betteravia Government Center by submitting a speaker slip to the Clerk of the Board. The total amount of time for public testimony shall be no more than 15 minutes, at the discretion of the Chair. The Chair, with consensus of the Board, may establish reasonable regulations including, but not limited to, limiting the amount of time allocated for public testimony on particular issues and for each speaker. Any person wishing to address the Board must complete and deliver to the Clerk of the Board a "Request to Speak" form prior to the time that the "Public Comment" period commences; the form shall include a description of the subject the speaker wishes to address. A speaker shall not be heard during the "Public Comment" portion of the meeting on a matter listed on the agenda. Comments on agenda items are appropriate during the period allotted for discussion of the specific item. The Board shall not consider any item not appearing on the agenda unless the action is authorized through Ex-Agenda Procedures outlined in Section 9 of this resolution. However, the Board hereby gives the Chair the authorization to refer matters raised during the "Public Comment" period to the appropriate staff.
7. Administrative Agenda. The Administrative Agenda shall be composed of items, which based on the department's request and County Administrator's Office recommendation, the Clerk of the Board determines will not require discussion. An Administrative Agenda item shall be open for discussion on the request of a member of the Board or member of the public. Items on the

Administrative Agenda are approved by one roll call vote of the Board members present.

8. Addendum. An item may be added to the agenda after the agenda has been posted but at least seventy-two hours prior to the regular meeting and may be considered by the Board as a regular agenda item. In order to be added as an Addendum, an item shall contain time sensitive information that precludes it from being placed on the next regularly scheduled Board agenda as demonstrated by the department head. All documentation should be submitted to the Clerk of the Board, allowing sufficient time for preparation of the Addendum, distribution and posting on the Internet to be accomplished prior to the end of business on Friday, prior to the Board meeting. The Board may then act upon the Addendum as a regular agenda item.
9. Ex Agenda Items. Except as provided in this paragraph, no action shall be taken at a regular meeting on any item that does not appear on the posted agenda. An item may be added to the agenda after the agenda has been posted, and within seventy-two hours of the hearing, upon a determination by a four fifths vote of the Board (or a unanimous vote if less than four of the Board is present); the vote shall be on a motion stating that the need to take action arose after the agenda was posted. Any such motion shall be accompanied by distribution of a written statement on a form provided by the Clerk of the Board office, to be included in the record, stating the facts upon which it can be determined that the need to take action arose after the agenda was posted. In addition, action may be taken on an item not on the posted agenda under the circumstances stated in Government Code Section 54954.2(b)(1) [emergency] and 54954.2(b)(3) [continued regular meetings].
10. Time Limits. The Chair, with consensus of the Board, may adopt reasonable regulations including, but not limited to, limiting the amount of time allocated for testimony on particular issues and for each individual speaker.
11. Public Hearings and Requests to Speak on Agenda Items. A person who wishes to address the Board shall complete a "Request to Speak" form and deliver it to the Clerk of the Board prior to the scheduled time for commencement of the item. The Chair may adopt reasonable regulations, as noted in Section 10 of this resolution. No person shall substantially repeat the testimony given by a previous speaker but may indicate concurrence with the views expressed earlier.
12. Continuances - The Board may grant a continuance for good cause upon request by board member or other interested person. Requests for continuance should be made in advance of the meeting, and in writing. The Clerk of the Board may note on the agenda that a request for a continuance will be made if known to that office at the time the agenda is prepared. If the Board grants a continuance a new date will be fixed and publicly announced.

Resolutions 72-1008, 86-642, 90-206 and 92-398 of the Board of Supervisors are hereby rescinded.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this _____ day of _____ 2003 by the following vote:

AYES:
NOES
ABSTAIN:
ABSENT:

ATTEST:

MICHAEL F. BROWN
CLERK OF THE BOARD

Chair, Board of Supervisors

By _____
Deputy Clerk of the Board

APPROVED AS TO FORM:
STEPHEN SHANE STARK
COUNTY COUNSEL

By _____
Deputy County Counsel

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ABSENT:

ATTEST:

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CLERK OF THE BOARD

Chair, Board of Supervisors

By _____
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APPROVED AS TO FORM:
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