



## Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** RICHARD DOYLE  
City Attorney

LEE PRICE, MMC  
City Clerk

**SUBJECT:** Code of Conduct Policy for  
Public Meetings in the Council  
Chambers and Committee  
Rooms

**DATE:** August 2, 2007

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### **RECOMMENDATION**

Adoption of a resolution approving a City Council Policy establishing a Code of Conduct for Public Meetings in the Council Chambers and Committee Rooms.

### **OUTCOME**

Approval of the proposed Code of Conduct Policy would establish rules of decorum for persons attending, bringing signs or other objects to, or participating in public meetings in the Council Chambers and Committee Rooms, including meetings of the City Council, Redevelopment Agency Board, their committees, and City Boards and Commissions.

### **BACKGROUND**

At the March 7, 2007 meeting of the Rules and Open Government Committee, the Committee directed staff to draft, for its consideration, a code of conduct for members of the public attending Council/Redevelopment Agency Board meetings.

On June 20, 2007, staff returned to the Rules and Open Government Committee with a proposed code of conduct. In its discussion, the Committee suggested expanding the reach of the code of conduct to apply to meetings of Council committees and City Boards and Commissions held in the Council Chambers and Committee Rooms and stating that failure to comply with the code of conduct or causing a disruption could lead to ejection from the meeting and/or arrest. The Committee recommended approval of the proposed code of conduct with the suggested changes.

The proposed Code of Conduct Policy is attached to this memorandum for review and discussion by the City Council. The draft incorporates the revisions as directed by the Rules and Open Government Committee, with one exception discussed below, and other minor clarifying changes.

## **ANALYSIS**

Section 502 of the City Charter provides that the Mayor has the authority to preserve order at all Council meetings, to remove or cause the removal of any person from a meeting for disorderly conduct, and to enforce the Council's rules. Pursuant to that authority, the Council's Rules of Conduct Resolution currently in effect contains provisions regulating disorderly conduct at Council meetings. The proposed Council Policy establishing a Code of Conduct for Public Meetings is broader in scope, covering rules of decorum for persons attending the meeting and/or addressing the legislative or policy body, and rules governing the display of signs and other objects. The Code of Conduct is also broader in that it would apply to all public meetings in the Council Chambers and Committee Rooms, not just meetings of the City Council.

At its June 20, 2007 meeting, the Rules and Open Government Committee suggested modifying the concluding language of the proposed Code of Conduct, which as originally drafted stated that "[f]ailure to comply with this Code of Conduct **and** disturbing, disrupting or impeding the orderly conduct of the meeting may result in removal from the meeting and/or possible arrest." (Emphasis added for illustration.) Specifically, the change suggested was to replace "and" with "or," such that a violation of the Code of Conduct that fell short of a disruption could result in the stated sanctions.

Upon review, however, it is recommended that the concluding sentence be modified again to state that "[f]ailure to comply with this Code of Conduct which will disturb, disrupt or impede the orderly conduct of the meeting may result in removal from the meeting and/or possible arrest." Consideration of relevant First Amendment case law cautions against allowing for the removal or arrest of persons who might violate the proposed Code of Conduct but do not cause a disturbance. Ejection from a public meeting and arrest, respectively, are serious sanctions that should be reserved for conduct that rises to the level of an actual disruption of the public meeting.

Members of the public have significant interests in attending and participating in public meetings of its legislative and policy bodies and in exercising their First Amendment rights. Balancing those interests and the governmental interest in the orderly conduct of its public meetings, courts have upheld the enforcement of rules of decorum that resulted in ejection or arrest when they were applied to persons causing an actual disturbance or disruption of the meeting.

## **POLICY ALTERNATIVES**

The Council's Rules of Conduct Resolution includes provisions defining disorderly conduct and discussing the authority to preserve order at Council meetings. If the Council chooses not to adopt the proposed Council Policy, the existing disorderly conduct rules will still apply to Council meetings.

**PUBLIC OUTREACH/INTEREST**

This memorandum and the resolution adopting the proposed Code of Conduct Policy are posted on the City's website for the August 14, 2007 Council Agenda.

**COORDINATION**

The Code of Conduct Policy was prepared in coordination with the Department of General Services, the Police Department, the Office of the City Clerk, and the Office of the City Attorney.

**COST IMPLICATIONS**

Currently there are no anticipated costs to implement the Code of Conduct.

**CEQA**

Not a project.

RICHARD DOYLE  
City Attorney

By Sandra Lee  
Sandra Lee  
Deputy City Attorney

Nancy Alford  
for LEE PRICE, MMC  
City Clerk

cc: Debra Figone

For questions please contact Sandra Lee, Deputy City Attorney, at (408) 535-1988.

RESOLUTION NO.

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE ADOPTING A COUNCIL POLICY ESTABLISHING A CODE OF CONDUCT FOR PUBLIC MEETINGS IN THE COUNCIL CHAMBERS AND COMMITTEE ROOMS**

**WHEREAS**, the City Council of the City of San Jose desires to ensure that public meetings in the Council Chambers and Committee Rooms are conducted in an open, orderly and safe manner; and

**WHEREAS**, the City Council desires to maintain an environment respectful of the rights of members of the public to attend, observe, and participate in public meetings of the City's legislative and policy bodies; and

**WHEREAS**, the City Council, for those purposes, desires to establish a code of conduct applicable to persons attending, bringing signs or other objects to, or participating in public meetings in the Council Chambers and Committee Rooms;

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:**

The City Council Policy entitled, "Code of Conduct for Public Meetings in the Council Chambers and Committee Rooms," which is attached hereto as "Exhibit A" and incorporated herein by this reference as though fully set forth herein, is hereby approved.

RD:SSL  
8/02/2007

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2007, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

\_\_\_\_\_  
CHUCK REED  
Mayor

ATTEST:

\_\_\_\_\_  
LEE PRICE, MMC  
City Clerk

**Code of Conduct for Public Meetings in the  
Council Chambers and Committee Rooms****Policy Number \_****PURPOSE**

The purpose of this policy is to establish rules of decorum for members of the public attending, bringing signs or other objects to, and/or addressing the legislative or policy body at meetings held in the Council Chambers and Committee Rooms, including meetings of the City Council, Redevelopment Agency Board and their committees, and City Boards and Commissions. The policy is intended to facilitate the conduct of public meetings in an open and orderly manner and in an environment safe for all persons in attendance.

**SCOPE OF APPLICATION**

This policy applies to persons attending public meetings in the Council Chambers and Committee Rooms.

**POLICY**

The Code of Conduct is intended to promote open meetings that welcome debate of public policy issues being discussed by the City Council, Redevelopment Agency Board, their Committees, and City Boards and Commissions in an atmosphere of fairness, courtesy, and respect for differing points of view.

**1. Public Meeting Decorum:**

- a) Persons in the audience will refrain from behavior which will disrupt the public meeting. This will include making loud noises, clapping, shouting, booing, hissing or engaging in any other activity in a manner that disturbs, disrupts or impedes the orderly conduct of the meeting.
- b) Persons in the audience will refrain from creating, provoking or participating in any type of disturbance involving unwelcome physical contact.
- c) Persons in the audience will refrain from using cellular phones and/or pagers while the meeting is in session.
- d) Appropriate attire, including shoes and shirts are required in the Council Chambers and Committee Rooms at all times.
- e) Persons in the audience will not place their feet on the seats in front of them.
- f) No food, drink, or chewing gum will be allowed in the Council Chambers and Committee Rooms.
- g) All persons entering the Council Chambers and Committee Rooms, including their bags, purses, briefcases and similar belongings, may be subject to search for weapons and other dangerous materials.

**Code of Conduct for Public Meetings in the  
Council Chambers and Committee Rooms****Policy Number \_****2. Signs, Objects or Symbolic Material:**

- a) Objects and symbolic materials, such as signs or banners, will be allowed in the Council Chambers and Committee Rooms, with the following restrictions:
  - No objects will be larger than 2 feet by 3 feet.
  - No sticks, posts, poles or other such items will be attached to the signs or other symbolic materials.
  - The items cannot create a building maintenance problem or a fire or safety hazard.
- b) Persons with objects and symbolic materials such as signs must remain seated when displaying them and must not raise the items above shoulder level, obstruct the view or passage of other attendees, or otherwise disturb the business of the meeting.
- c) Objects that are deemed a threat to persons at the meeting or the facility infrastructure are not allowed. City staff is authorized to remove items and/or individuals from the Council Chambers and Committee Rooms if a threat exists or is perceived to exist. Prohibited items include, but are not limited to: firearms (including replicas and antiques), toy guns, explosive material, and ammunition; knives and other edged weapons; illegal drugs and drug paraphernalia; laser pointers, scissors, razors, scalpels, box cutting knives, and other cutting tools; letter openers, corkscrews, can openers with points, knitting needles, and hooks; hairspray, pepper spray, and aerosol containers; tools; glass containers; and large backpacks and suitcases that contain items unrelated to the meeting.

**3. Addressing the Council, Redevelopment Agency Board, Committee, Board or Commission:**

- a) Persons wishing to speak on an agenda item or during open forum are requested to complete a speaker card and submit the card to the City Clerk or other administrative staff at the meeting.
- b) Meeting attendees are usually given two (2) minutes to speak on any agenda item and/or during open forum; the time limit is in the discretion of the Chair of the meeting and may be limited when appropriate. Applicants and appellants in land use matters are usually given more time to speak.
- c) Speakers should discuss topics related to City business on the agenda, unless they are speaking during open forum.
- d) Speakers' comments should be addressed to the full body. Requests to engage the Mayor, Council Members, Board Members, Commissioners or Staff in conversation will not be honored. Abusive language will not be tolerated.
- e) Speakers will not bring to the podium any items other than a prepared written statement, writing materials, or objects that have been inspected by security staff.
- f) If an individual wishes to submit written information, he or she may give it to the City Clerk or other administrative staff at the meeting.
- g) Speakers and any other members of the public will not approach the dais at any time without prior consent from the Chair of the meeting.

Failure to comply with this Code of Conduct which will disturb, disrupt or impede the orderly conduct of the meeting may result in removal from the meeting and/or possible arrest.

