



Folsom City Council Staff Report

MEETING DATE:	4/25/2023
AGENDA SECTION:	Consent Calendar
SUBJECT:	Resolution No. 11026 - A Resolution of the City Council Amending Rule 6, "Appeals", of Resolution No. 9689 Pertaining to Appeal Hearing Protocol
FROM:	City Attorney's Office

RECOMMENDATION / CITY COUNCIL ACTION

Staff respectfully recommends that the City Council pass and adopt Resolution No. 11026 - A Resolution of the City Council Amending Rule 6, "Appeals", of Resolution No. 9689 Pertaining to Appeal Hearing Protocol.

BACKGROUND / ISSUE

Resolution No. 9689 was adopted by the City Council in 2015 to formalize meeting protocol and procedures for appeals and public hearings to encourage greater public participation. One of the rules contained in Resolution No. 9689 is Rule 6, "Appeals", which prescribes the procedure for conducting appeal hearings.

The City Council typically hears appeals to decisions made by City commissions such as the Planning Commission or the Historic District Commission pertaining to private development projects. While Rule 6 allows the appellant to address the City Council, it does not provide for the project applicant to similarly address the City Council in the appeal hearing.

POLICY / RULE

Pursuant to Section 2.02 of the City Charter, all powers of the City shall be vested in the City Council except as otherwise provided by the Charter, and the City Council shall provide for the exercise of its powers and for the performance of all duties and obligations imposed on the City by law.

ANALYSIS

The appeal hearing protocol in Rule 6 of Resolution No. 9689 currently states as follows:

“Rule 6. Appeals. Where the City Council is the hearing body on an appeal, the following procedure shall apply.

The sequence of the hearing on matters appealed to the City Council shall be as follows:

- a. Open the Public Hearing;
- b. Staff Report;
- c. Appellant’s Presentation. Time limit – 10 minutes;
- d. Statements from the public. Time limit – 3 minutes per speaker;
- e. Appellant makes closing remarks to the City Council. Time limit - 5 minutes;
- f. Appellant and City staff may respond to questions from the City Council;
- g. Close public hearing;
- h. City Council discussion;
- i. City Council action on the matter or continue the matter to another date or time certain.

The sequence of and speaker’s time during the hearing on matters appeals to the City Council may be adjusted by the Presiding Officer in order to preserve an orderly and efficient hearing on the matter.”

Because Rule 6 does not provide project applicants in an appeal to address the City Council, this Resolution seeks to amend Rule 6 to afford both parties to an appeal (i.e., the appellant and the project applicant) with a fair and equal opportunity to present their positions and arguments and address the City Council. Members of the public may continue to address the City Council without change.

FINANCIAL IMPACT

The proposed Council action will have no impact on the City’s General Fund.

ENVIRONMENTAL REVIEW

This action is not considered a project under Section 15061(b)(3) of the California Environmental Quality Act Guidelines, and as such is exempt from environmental review.

ATTACHMENTS

1. Resolution No. 11026 - A Resolution of the City Council Amending Rule 6, “Appeals”, of Resolution No. 9689 Pertaining to Appeal Hearing Protocol

2. Resolution No. 9689

Respectfully submitted,

Steven Wang, City Attorney

Attachment 1

RESOLUTION NO. 11026

A RESOLUTION OF THE CITY COUNCIL AMENDING RULE 6, "APPEALS", OF RESOLUTION NO. 9689 PERTAINING TO APPEAL HEARING PROTOCOL

WHEREAS, the City Council adopted Resolution No. 9689 in 2015 to formalize meeting protocol and procedures for appeals and public hearings to encourage greater public participation; and

WHEREAS, one of the rules contained in Resolution No. 9689 is Rule 6, "Appeals", which prescribes the procedure for conducting appeal hearings; and

WHEREAS, the City Council typically hears appeal to decisions made by City commissions such as the Planning Commission or the Historic District Commission pertaining to private development projects; and

WHEREAS, the current Rule 6 allows the appellant to address the City Council but does not provide for the project applicant to similarly address the City Council in the appeal hearing; and

WHEREAS, due process and fundamental fairness in conducting the appeal hearing requires both sides to the appeal (i.e., the appellant and the project applicant) be afforded equal opportunity to present their positions and arguments and address the City Council.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Folsom that Rule 6 of Resolution No. 9689 is hereby deleted and replaced with the following:

Rule 6. Appeals. Where the City Council is the hearing body on an appeal, the following procedure shall apply.

The sequence of the hearing on matters appealed to the City Council shall be as follows:

- a. Open the Public Hearing;
- b. Presentation by City Staff;
- c. Presentation by the appellant. Time limit – 10 minutes (appellant may divide speaking time between various speakers, but cumulative total speaking time is 10 minutes);
- d. Presentation by the project applicant. Time limit – 10 minutes (project applicant may divide speaking time between various speakers, but cumulative total speaking time is 10 minutes);
- e. Statements from the public. Time limit – 3 minutes per speaker;
- f. Closing remarks by the appellant. Time limit - 5 minutes;

- g. Closing remarks by the project applicant. Time limit - 5 minutes;
- h. City staff, appellant, and project applicant respond to questions from the City Council;
- i. Close Public Hearing;
- j. City Council discussion;
- k. City Council action on the matter or continue the matter to another date or time certain.

The sequence of and speaker's time during the hearing on matters appeals to the City Council may be adjusted by the Presiding Officer to preserve an orderly and efficient hearing on the matter.

PASSED AND ADOPTED this 25th day of April, 2023 by the following roll-call vote:

AYES: Council Member(s):
NOES: Council Member(s):
ABSENT: Council Member(s):
ABSTAIN: Council Member(s):

Rosario Rodriguez, MAYOR

ATTEST:

Christa Freemantle, CITY CLERK

Attachment 2

RESOLUTION NO. 9689

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FOLSOM
RELATING TO CITY COUNCIL MEETINGS, PROCEEDINGS, AND BUSINESS**

WHEREAS, the City Council conducts its meetings in public, consistent with state law and according to a long established agenda process;

WHEREAS, the Council desires to formalize the agenda process and meeting protocol by Resolution and to adopt formal procedures for appeals and public hearings to encourage greater public participation and to process information to the public for the betterment of City operations; and

WHEREAS, the Council desires to establish rules to govern its meetings and declare its rules of procedure to the public.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Folsom does hereby establish the following rules for the conduct of its meetings, proceedings, and business.

Rule 1. Presiding Officer. The Mayor, or in the absence of the Mayor, the Vice Mayor shall take the chair at the hour set for the meeting and shall call the Council to order. In the absence of the Mayor and Vice Mayor, the Council may designate a senior member of the Council to serve as temporary Presiding Officer to facilitate the conduct of the meeting. Upon the arrival of the Mayor or the Vice Mayor, the temporary Presiding Officer shall relinquish the chair at the conclusion of the business item then before the Council.

Rule 2. Quorum. A majority of the Council constitutes a quorum for the transaction of business, but a lesser number may adjourn from time to time, and may continue any hearing scheduled for the approximate time and place of any meeting adjourned for lack of a quorum. If all Councilmembers are absent from any regular meeting, the City Clerk shall declare the meeting adjourned to a stated day, hour and place.

Rule 3. Business Matters. The business of the Council, at its meetings, may include the following major categories and shall be organized into an agenda to facilitate the conclusion of business within a reasonable period of time following public inquiries and comments on said items.

The agenda may consist of the following sections and be presented in this order, however, the Presiding Officer may in his or her discretion, rearrange the order:

A. Pledge of Allegiance to the Flag

B. Roll Call. The roll call shall be made by the City Clerk.

- C. Scheduled Presentations. This category shall include such items as ceremonial presentations, proclamations, introductions, and informational presentations.
- D. Business from the Floor. This item relates to matters within the jurisdiction of the City Council and for matters not on the regular agenda. No action is taken on business from the floor and limited discussion of these items shall occur.
1. The person wishing to address the Council shall stand to be recognized by the Presiding Officer and then proceed to the podium. The person addressing the Council shall be requested to complete a "blue card" and state his/her name and address for the record.
 2. The speaker shall be requested to address the Council for not more than three minutes, unless the Presiding Officer rules otherwise.
 3. Any such matter heard under this category also may be referred to the City Manager for investigation and either of disposition or report. No action or discussion occurs on a Business from the Floor item, however, requests to staff to follow up on an item may be provided by the City Council.
- E. Consent Calendar. This agenda category shall include items that are considered to be routine and ministerial business matters only. Such items may include, but are not limited to, approval of minutes, award of bids, award of contracts, approval of resolutions, second reading of ordinances, and other generally non-controversial matters.
1. One motion, duly seconded, will be considered adoption of all matters listed under the consent calendar, unless a member of the Council or the public specifically requests a specific item be removed from the consent calendar vote.
 2. Following the vote on the consent calendar, the business matter(s) removed from the consent calendar shall be considered and disposed of by motion and vote of the Council.
- F. Public Hearings. This category shall include advertised public hearings, which shall be commenced at the time specified for each said hearing, or as soon thereafter as is reasonably possible.
- G. Old Business. This category may include, but is not limited to such items as status reports, continued business matters, and other matters previously addressed by the City Council.
- H. New Business. This category may include, but is not limited to such items as written communications from the public or specific written request made of the Council, ordinances, and resolutions.

- I. City Manager Reports. This agenda category shall contain reports from the City Manager.
- J. Council Comments. This agenda category is set aside as a specific opportunity for each of the Councilmembers to address items of information for all, or requesting matters to be addressed by the City Manager or City staff members regarding items of public interest or of significance to the Councilmember. City Councilmembers will also address any travel at the public expense as required by law.
- K. Adjournment. This item may include adjournment of a meeting, adjournment to a Closed Session regarding personnel, litigation, labor relations, or instructions to negotiators, or adjournment to a specific future date and time.

Rule 4. Speakers Time and Spokesperson for a Group. Generally, a speaker on an item is afforded three (3) minutes for his/her presentation. The Presiding Officer may adjust a speaker's time in his/her discretion based on the item presented, number of speakers and other factors consistent with an orderly and efficient meeting. Whenever any group of persons wishes to address the Council on the same subject matter, the Presiding Officer may request that a spokesperson be chosen by the group to address the Council, and in case additional data or argument is to be presented at the time by any other member of said group, to limit the number of persons so addressing the Council and the scope of their remarks so as to avoid unnecessary repetitions before the Council. Speakers may not transfer any time remaining to another speaker.

Rule 5. Public Hearings. The following is the procedure for a Public Hearing before the City Council; however, the Presiding Officer may alter the order or procedure depending on the nature of the public hearing:

- a. Open the public hearing;
- b. Staff Report;
- c. Applicant's statement;
- d. Statements from the public;
- e. Close the public hearing;
- f. If determined by the Presiding Officer to be necessary, invite the applicant to address questions and/or issues raised during public hearing;
- g. City Council discussion;
- h. City Council action on the matter or continue the matter to another date or time certain or indefinitely.

Rule 6. Appeals. Where the City Council is the hearing body on an appeal, the following procedure shall apply.

The sequence of the hearing on matters appealed to the City Council shall be as follows:

- a. Open the Public Hearing;

- b. Staff Report;
- c. Appellant's Presentation. Time limit – 10 minutes;
- d. Statements from the public. Time limit – 3 minutes per speaker;
- e. Appellant make closing remarks to the City Council. Time limit – 5 minutes;
- f. Appellant and City staff may respond to questions from the City Council;
- g. Close public hearing;
- h. City Council discussion;
- i. City Council action on the matter or continue the matter to another date or time certain.

The sequence of and speaker's time during the hearing on matters appealed to the City Council may be adjusted by the Presiding Officer in order to preserve an orderly and efficient hearing on the matter.

Rule 7. Documents and Material Presented to the City Council.

Documentary Evidence. Any documents, writings, pictures, exhibits or other forms of tangible expression should be submitted to the City Council at the earliest opportunity. Once submitted to the City Council, submitted materials shall become the property of the City and part of the public record.

Persons desiring to submit documents or other information to the City Council shall submit the information to the City Clerk for the record and dissemination. Any person desiring to present information electronically by PowerPoint or other electronic means must present the information to the department responsible for the City Council item in the proper electronic format for City equipment at least 24 hours in advance of the City Council meeting so the City shall assure that it can safely be processed through the City's computer system and relates to the subject of the matter. The City may determine that some electronic information is not safe for the City's system and therefore, not permit access. The person requesting submittal may then present the information in paper copy.

Rule 8. Decorum. The Presiding Officer shall preserve decorum before the City Council.

- A. By Council. While the Council is in session, the members shall preserve order and decorum consistent with its adopted Ethics Policy.
- B. By Other Persons. The Presiding Officer may take appropriate action to prevent actions that pose a safety hazard to attendees, including limiting items that may be brought into the City Council Chambers.
- C. Disorderly Conduct. The Presiding Officer shall have the authority to preserve order at all meetings of the City Council, to request the City Manager to direct appropriate staff remove or cause the removal of any person from any meeting of the Council for conduct as hereinabove, to enforce the rules of the Council, and to restore order at the City Council meeting.

Rule 9. Council Voting. All votes taken by the City Council shall be taken as set out herein.

- A. General. A roll call vote shall be taken on the adoption of all items before the City Council, the results of which shall be entered in the minutes of the proceedings of the Council.
- B. Name Rotation. The Council may direct the City Clerk to rotate the order of Council names each meeting so that the position of each member of the Council, other than the Mayor, shall vary each meeting. The Mayor shall vote last in all votes.
- C. Tie Vote. In case of a tie vote on any motion, the motion shall be considered lost.

Rule 10. Rules of Order. As provided in Folsom Municipal Code Section 2.06.070(C) the Council shall be governed by the current edition of "Robert's Rules of Order".

Rule 11. Conflicts with Other Statutes or Ordinances. In the event of a conflict with state statutes governing the City of Folsom or ordinances adopted by the City Council, such statutes and ordinances shall be controlling over the Rules in this Resolution.

Any prior Resolutions relating to procedures and protocols governing meetings of the City Council are hereby repealed and all other Resolutions inconsistent herewith are hereby superseded.

PASSED AND ADOPTED on this 8th day of December 2015, by the following roll-call vote:

AYES: Council Member(s): Starsky, Howell, Miklos, Sheldon, Morin

NOES: Council Member(s): None

ABSENT: Council Member(s): None

ABSTAIN: Council Member(s): None



Andrew J. Morin, MAYOR

ATTEST:



Christa Saunders, CITY CLERK