



## CITY OF BANNING STAFF REPORT

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

**PREPARED BY:** Caroline Patton, Administrative City Clerk  
Doug Schulze, City Manager

**MEETING DATE:** October 8, 2024

**SUBJECT:** Consideration of Resolution 2024-164, Adopting the Revised Banning Procedural Manual

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### **RECOMMENDATION:**

Adopt Resolution 2024-164.

### **BACKGROUND:**

The City of Banning Manual of Procedural Guidelines ("Manual") was last updated on February 14, 2023 with the adoption of Resolution 2023-36. At that time, staff identified a number of deficiencies within the Manual that they would like to address at a future point. These proposed revisions to the Manual address those identified issues.

In addition to structural and verbiage updates, City staff revised the Manual to respond to several areas of concern raised by the City Council since the last revision. On September 10, 2024, the City Council held a Special Meeting - Workshop ("Workshop") to discuss the proposed revisions to the Manual. This workshop provided a forum for staff to explain the proposed changes, and for the City Council to discuss and provide direction on the proposed changes. This Workshop also provided the City Council with the opportunity to raise any other matters they would like to see addressed or revised in the Manual. The current version of the revised Manual that is attached to this staff report contains revisions that reflect the discussions and direction provided by City Council to staff.

### **JUSTIFICATION:**

As discussed during the Workshop, the specific proposed changes to the Manual include:

- Title was revised to be more succinct and clear.
- The word "contract" (only when referring to "contracts and agreements") has been removed as duplicative.
- Article 1 ("Scope of Manual") was revised to provide that: (i) the procedures in the Manual are in addition to Robert's Rules of Order ("Robert's Rules"); and (ii) if there is any conflict between Robert's Rules and the Manual, the provisions of the Manual shall govern.
- Section 3.5 ("Preparation of Agendas") was revised to clarify the process for Legislative Body members to place business items on the regular meeting agenda under "Items for Future Agendas (New Items; Existing Items)."  
Section 3.14 ("Minutes and Recordings") was revised to specify that the minutes are a record of the actions taken by the Legislative Body. This Section was also revised to prohibit Legislative Body members from attaching written comments to the minutes.
- In Section 4.1 ("Generally"), the reference to no minutes taken was removed as it contradicts language in the same section.

- In Section 5.1 (“Order of Business”), the listed order of business for meetings of the Legislative Body was revised to reflect the order of business provided on recent Banning City Council meeting agendas.
- Section 8.3 (“Email and Social Media Policy”) was revised to provide a social media policy for Legislative Body members. This social media policy complies with Assembly Bill 992, which amended certain provisions of the Brown Act to clarify allowable uses of social media under the Act.
- Section 8.5 (“City Manager”) was revised to include a subsection on the City operating under the city manager form of government. This subsection provides that City Councilmembers may not individually provide direction to the City Manager.
- Subsection 10.3(d) (“Reconsider”) was revised to limit the timeframe for making a motion to reconsider to the same meeting that the action was taken or at an adjourned meeting following the meeting at which the action was taken.
- Subsection 10.3(e) (“Adjournment”) was added to clarify the process for adjourning a meeting. Section 10.9 (“Curfew”) was added to the Manual to provide a 10:00 p.m. curfew for City Council meetings. This Section provides that no new matters shall be taken up after 10:00 p.m., except that the meeting may be extended in one-hour increments upon a majority vote of Council members present. This Section supersedes Resolution No. 2016-44.

### **DISCUSSION:**

During the Workshop on the Manual, Councilmember Flynn raised a concern regarding abstention vote-counting requirements. Section 11.3(c) of the current Manual provides that “[a] Legislative Body member abstaining on any other grounds than a conflict under the Political Reform Act shall be counted as present for purposes of a quorum and such abstentions are counted with the majority.” Regarding Section 11.3(c), please find a document attached to this staff report with examples of how other California cities address abstentions in their procedural manuals. As you’ll see, there are some cities that count an abstention (on grounds other than a conflict under the Political Reform Act) with the majority. Also, a couple of the examples in the attached document reference Rosenberg’s Rules of Order. Page 6 of Rosenberg’s Rules explains that the default rule is to count all votes that are “present and voting” (i.e., abstention votes are not counted as votes on a motion, but members who abstain are counted as “present” for purposes of determining quorum).

In terms of Councilmember Flynn’s comments on the abstention vote-counting requirements in Robert’s Rules, the somewhat relevant provisions from Robert’s Rules appear to be the following:

- Sec. 44:1 (Majority Vote – the Basic Requirement): “... it means more than half of the votes cast by persons entitled to vote, excluding blanks or abstentions ...”
- Sec. 44:9 (Modifications of Usual Bases for Decision): “Voting requirements based on the number of members present - a majority of those present ... etc., - ... are generally undesirable. Since an abstention in such cases has the same effect as a negative vote, these bases deny members the right to maintain a neutral position by abstaining. For the same reason, members present who fail to vote through indifference rather than through deliberate neutrality may affect the result negatively. When such a vote is required, however, the chair must count those present immediately after the affirmative vote is taken ...”

That said, the City Attorney's Office recommended not revising the current language of Section 11.3(c) (i.e., counting abstentions with the majority, if not due to a conflict under the PRA), unless the City Council provides direction to staff to revise this Section.

### **FISCAL IMPACT:**

Currently there are no fiscal impact of the proposed changes.

### **ALTERNATIVES:**

Do not adopt Resolution 2024-164 and provide alternate direction to staff.

**BUDGETED?:**

No

**CONTRACT/AGREEMENT:**

No

**ATTACHMENTS:**

1. [Resolution 2024-164, Manual of Procedural Guidelines.docx](#)
2. [Exhibit A - Banning Procedural Manual - CLEAN.docx](#)
3. [Redlined Banning Procedural Manual](#)
4. [2023 02 14\\_Manual of Procedural Guidelines\\_Resolution 2023-34.pdf](#)
5. [Section 11.3\\_Other Cities Comparison.docx](#)