RESOLUTION
OF THE BOARD OF SUPERVISORS OF THE COUNTY OF TUOLUMNE

WHEREAS, the public interest requires that the members of the Tuolumne County Board of Supervisors be fully informed on all facts relating to business under consideration, and that they have ample opportunity to thoroughly study all matters before taking action; and

WHEREAS, it is equally important that the members of the public be given due notice of business initiated, or under consideration, and be afforded the opportunity to appear to be heard or otherwise present their opinions for the Board's study and guidance before final action is taken on any matter; and

WHEREAS, in order to accomplish the objectives heretofore set forth and to expedite the business of the Board of Supervisors as well as to provide for orderly presentation of matters to be considered, it is necessary that rules be adopted setting forth the manner in which all matters shall be presented and considered.

NOW, THEREFORE, BE IT RESOLVED, pursuant to provisions of Section 25003 of the Government Code, that the following rules shall govern the presentation and consideration of all matters brought before the Tuolumne County Board of Supervisors; and

BE IT FURTHER RESOLVED, that Resolution No. 11-06 of the Board of Supervisors rules and regulations is hereby repealed.

SECTION 1. DEFINITIONS

As used in this resolution the following words are hereby defined:

1. “Clerk” shall mean the Clerk of the Board of Supervisors.

2. “Board” shall mean the Tuolumne County Board of Supervisors.

3. “Member” shall mean a member of the Tuolumne County Board of Supervisors.

4. “Public” shall mean all other persons including county department heads, employees, and the representatives of other governmental agencies.
5. "Chair" shall mean the member elected Chair of the Board of Supervisors pursuant to the provisions of Section 4 hereof. "Chair" shall also mean the Vice-Chair or other officer presiding in their absence.

6. "Vice-Chair" shall mean the member elected Vice-Chair of the Board of Supervisors pursuant to the provisions of Section 5 hereof.

7. "Board Action" shall mean action taken by motion, seconded and passed by the required majority of the members of the Board.

8. "Board Direction" shall mean a directive by the Chair as specified in Section 5(n) below.

9. "Emergency Situation" shall mean work stoppage or other activity which severely impairs public health, safety, or both, as determined by a majority of the members of the Board or crippling disaster which severely impairs public health, safety, or both, as determined by the Chair or by a majority of the members of the Board.

10. "Regular Meeting" shall be the meeting of the Board of Supervisors held on Tuesday of each week; provided that if any such Tuesday falls upon a holiday, the meeting shall be cancelled or, in the event there are five Tuesdays in a month, the fourth and fifth Tuesday's Board meetings shall be cancelled.

11. "Special Meeting" shall be the meeting called by the Chair or a majority of the members of the Board as provided by law, which is restricted to the business for which called.

12. "Minutes" shall mean the official record of Board proceedings.

13. "Question" shall mean a matter which has been moved, seconded and is ready for the vote of the members of the Board.

14. "Item" shall mean an individual statement on the agenda to be presented to the Board.

15. "Board Consensus" shall mean the unanimous affirmation of a Board direction.

16. "Consent Calendar" shall mean that section of business listed on the agenda which contains routine items to be voted on by one action of the Board.
SECTION 2. AGENDA

The agenda shall contain a brief general description of each item of business to be transacted or discussed. The Department Head, member of the Board, or other person requesting an item to be placed on the agenda shall be responsible to prepare agenda descriptions designed as to inform interested members of the public about the subject matter under consideration so that he or she can determine whether to monitor or participate in a meeting regarding it. The Clerk shall reject such agenda request that do not comply with this rule.

The agenda shall be divided into the following general category classifications of business. Categories maybe eliminated from any Agenda if there is no documentation supporting that category. Also, at the Chair’s discretion, items may be heard in a different order during the meeting, excluding the items that are scheduled as timed appointments

A. ORAL COMMUNICATION

The first item of business to be considered shall be “Oral Communications” which shall be a 15-minute time period during which any member of the audience may address the Board on any item which is within the subject matter jurisdiction of the Board, which is not already on the agenda. The “Oral Communications” section of the agenda may be extended for a second 15-minute time period at the discretion of the Chair. The Chair may limit the time allocated to each individual speaker. Individuals who speak will normally be limited to five minutes. Members of the audience interested in addressing the Board during the “Oral Communications” section of the agenda, may list their names on a speaker’s card available near the entrance to the Board of Supervisors Chambers and present the card to the Clerk prior to the start of a regular meeting.

B. CONSENT CALENDAR

The second item of business to be conducted shall be the “Consent Calendar” which lists routine items which may be acted on by the Board of Supervisors with no individual presentation or discussion required. Any member of the Board of Supervisors may remove one or more items from the Consent Calendar for consideration as a regular agenda item. The items remaining on the Consent Calendar shall then be enacted by one motion. Approval by the Board of consent items indicates that the staff recommendation was approved together with any conditions for requirements as stated by the staff in the recommendation. An announcement shall be made after the Consent Calendar is read by the Clerk, and before action is taken on any item, that the public may address any item on the Consent Calendar.
Examples of consent agenda items shall include but not be limited to the following:

- Approval of minutes
- Approval of contracts and agreements of a routine nature
- Routine right-of-way matters
- Notice of completion
- Reappointment to Committees/Commissions
- Other items of a routine nature

C. COMMITTEE AND COMMISSION APPOINTMENTS/REAPPOINTMENTS

The third item of business to be conducted shall be "Committee and Commission Appointments and Reappointments" where the Board will act on appointments or reappointments to Committees/Commissions that are more controversial matters, (e.g. if there is more than one application to consider for a single appointment.)

D. PROCLAMATIONS AND COMMENDATIONS

The fourth item of business to be conducted shall be the "Proclamations and Commendations" where the Board recognizes employees and members of the public on various accomplishments that benefit the County of Tuolumne. Board action shall take place prior to the presentation of the resolution or certificate of recognition to the recipient.

E. GENERAL BUSINESS BY DEPARTMENT

The fifth item of business to be conducted is "General Business by Department”. These are action items or presentations that are presented and sponsored by a specific department. There will be an opportunity for Board questions to staff, discussion amongst themselves, and public input. These items will be addressed individually and have individual motions reflecting the action taken by the Board.

F. REPORTS

The sixth item of business is "Reports”. Reports shall include oral or written items of information, which do not require Board action. Reports may be a brief summary by a Board member, County Administrator, County Counsel, or the Clerk of the Board of items of interest or information. No discussion shall occur.

G. APPOINTMENTS

The seventh item of business is "Appointments”. Appointments shall include public hearings, and appearances before the Board by any individual or group which, in the Clerk’s judgment at the time of preparing the agenda, will require the scheduling of a specific time for discussion before the Board. Appointments shall be scheduled only for items that are within the subject matter jurisdiction of the Board.
SECTION 3. AGENDA PREPARATION

All meetings of the Board of Supervisors are governed by the agenda, which must be published in accordance with the requirements of the Ralph M. Brown Act. Additionally, specific items on an agenda may contain other information as required by other State statues or the County Code. Each of these requirements should be clearly stated on the agenda itself, or contained within the staff work that accompanies the agenda.

a. All items to be placed on the agenda, including full backup documentation, should be presented to the Clerk not later than 12:00 noon on the Monday of the week preceding the regular meeting which the agenda is prepared. One (1) week preceding the meeting, but not later than 10:00 a.m. on the Thursday preceding the meeting concerned, the Clerk shall make available the agenda and provide a copy thereof to each member of the Board of Supervisors and to all local news media via the County website. In addition, one copy of the agenda shall be placed on the public bulletin board in front of the Administration Center, the Board Clerk’s office, and sent via e-mail to the County Library, and First Class Mail to all local post offices, for posting and post on the Tuolumne County website at www.tuolumnecounty.ca.gov.

In the event that Monday is a legal holiday, all items to be placed on the agenda shall be presented to the Clerk not later than 12:00 noon on the preceding Friday, and not later than 10:00 a.m. on the Thursday following, the Clerk shall prepare the agenda and provide copies thereof.

b. Agenda items shall be placed on the agenda by department and similar or related nature shall be grouped together. To assist the Board in preparing for each meeting and to assist the Clerk in preparing the agenda, the Board from time to time may by minute order direct the placement of items on the agenda. (e.g. Board directed continued item(s) to a specific date and/or time).

c. Backup documentation, including proposed ordinances, resolutions, proclamations, petitions and other documents or copies thereof, to be considered or adopted by the Board shall be furnished to the Clerk at the time the matter is placed on the agenda, and such documents shall be available for examination by members of the Board and public prior to the meeting.

d. The Clerk shall not place any item on the agenda for which he or she believes there is insufficient backup documentation.

e. The Clerk should not place any agreement, contract, lease, ordinance, and/or memorandum of understanding on the agenda unless it is approved as to form by the contractor (excluding Federal, State or other County agencies), and the County Counsel, or is accompanied by a waiver in writing from each indicating otherwise.
f. The Clerk shall not place any quasi-judicial action (e.g. hearings, orders, judgments or activities similar to those conducted by courts) on the agenda for which the Board has already taken action or which it has considered and declined to take action.

g. Unless required by law, the Clerk may refuse to place any item on the agenda if it is not within the Board's subject matter jurisdiction, lacks sufficient public interest, or otherwise does not merit Board consideration. The Clerk may consult with the Chair or County Counsel in considering an agenda request.

SECTION 4. CHAIR

a. A Chair and Vice-Chair of the Board shall be elected annually by the members at 12:00 noon at the first regular meeting held in January of each even numbered year, provided, that in odd numbered years, the Board shall convene for such purpose at a special meeting to be held at 12:00 noon on the first Monday after January 1, succeeding the election of members. The election of a Chair and Vice-Chair shall be the first order of business at said meetings.

At the time set for the election, the Chair shall surrender the gavel to the Clerk who shall act as Chair pro tem and conduct the election. Immediately following the election, the newly elected Chair and Vice-Chair shall assume office.

b. The terms of Chair and Vice-Chair shall be one year or until the election of their successors.

c. It is the policy of this Board of Supervisors that the office of the Chair and Vice-Chair shall be rotated among the members.

d. Should a vacancy occur in the office of Chair, the Vice-Chair shall be elected to the office. Such election shall not prohibit his succession to the office of Chair for the ensuing full term.

Should a vacancy occur in the office of Vice-Chair, a member shall be elected to the office. Such election shall not prohibit his succession to the office of Vice-Chair for the ensuing full term.

e. It is the Chair of the Legislative body who is responsible for applying the rules for the conduct of the meeting. The Chair, for all intents and purposes, determines the final ruling on the rules every time the Chair states an action. All decisions of the Chair are final, unless overruled by the Legislative body itself. It is also the primary role of the Chair to assure that the meeting is conducted properly. It is the usual courtesy of the Chair to play a less active role in the debate and discussion than other members of the Legislative body. This does not mean the Chair does not participate. However, the Chair generally should be the last to speak during debate and discussion. The Chair should not make a motion or second a motion, unless convinced that no other member of the Legislative body will do so. The exception to this rule would be to allow the Chair to make a motion for any program or project to be implemented within her/his district.
SECTION 5. BOARD PROCEDURES

a. A quorum of the Board shall consist of not less than three (3) members of the Board.

b. The Chair should use a consistent format for each agenda item.
   1. The Chair should call upon the Clerk of the Board to formally read the item for the public.
   2. The Chair should recognize, or call upon, the staff member, or appropriate person to provide a brief report on the item, including any recommendation(s).
   3. The Chair should open the discussion of the item to the members of the Board for questions of clarification or any technical questions. Members of the Board should refrain from entering into debate or making comments as to support or non-support of the item.
   4. The Chair should open the discussion to members of the public. All questions of the public should be directed to the Chair, with the Chair requesting any response for staff or another appropriate person. If numerous members of the public wish to speak, the Chair may limit the time of public speakers. At the conclusion of the public comments, the Chair should announce that public input has concluded.
   5. The Chair should return the matter to the Board and inquire if Board members have further questions of clarification or of a technical nature, as a result of the public comments.
   6. The Chair should invite a motion to be made, indicating the name of the maker of the motion.
   7. The Chair should request a second to the motion, indicating the name of the Board member making the second.
   8. The Chair should repeat the motion, or request the Clerk of the Board to do so, to ensure that members of the Board, staff and the public understand the motion.
   9. The Chair should invite the members of the Board to discuss or debate the motion. If there is no discussion or debate, the vote on the motion should occur immediately. After lengthy discussion and debate has ended, the Chair, or the Clerk of the Board, should repeat the motion to make sure everyone understands the motion and that the public is informed.
   10. The Chair calls for a vote and confirms the number of "aye" or "nay" votes, or any "abstain" votes for the public to hear, and lists the name of the Supervisor(s) who abstained or voted no.
   11. The Chair should announce whether the motion passed or failed.
c. Making of a Motion

Motions made by a Legislative body are the vehicles for decision-making. Generally it is best to have a motion (and a second to the motion) made before commencing discussion or debate of an agenda item. This provides focus for the discussion.

Motions are made in a two step process.
1. The Chair should recognize the Board member desiring to make the motion.
2. The motion maker should proceed by making the motion as "I move . . ."

The Chair generally initiates the motion by either inviting the members of the Board to make a motion as "A motion at this time would be in order", or suggesting a motion to the members of the Board as "A motion would be in order that the Board ..." As noted above the Chair has every right to make a motion as a member of the Board, but generally refrains from doing so unless convinced that no other member of the Board is willing to make a motion on the item.

There are three types of motions.
1. A basic motion. A motion that puts forward a specific recommendation or decision for the Board's consideration.
2. A motion to amend. A motion to change the basic motion that is before the Board.
3. A substitute motion. A motion to completely do away with the basic motion and place a new motion before the Board.

A motion to amend seeks to retain the basic motion before the Board, but with a modification. A substitute motion seeks to remove the basic motion before the Board and change the content and substance of the motion.

The decision as to whether a motion is really a motion to amend or a substitute motion is at the discretion of the Chair.

d. Multiple Motions

There may be up to three motions before the Board at the same time. The Chair may reject a fourth motion until the Chair has dealt with the three existing motions and has them resolved.

When there are more than one motion before the Board (motions and seconds), the vote should proceed with the last motion made. This rule applies regardless of motions being amendments or substitutes.
e. Debate and Discussion
The essential rule of motions is that they are subject to debate and discussion. Basic motions, motions to amend and substitute motions are all eligible, each in turn, for full discussion and debate by the Board. Discussion and debate may continue as long as members of the Board wish to continue, subject to the decision of the Chair that it is time to make a decision.

There are exceptions to the general rule of open debate and discussion. The exceptions all apply when the Board determines to make a decision. The following motions are not debatable. When such motions are made the Chair is obligated to call for an immediate vote without debate.

1. A motion to adjourn. If passed, this requires the Board to immediately adjourn to its next regularly scheduled meeting. A simple majority vote is required.
2. A motion to recess. If passed, this requires the Board to take an immediate recess. Normally, the Chair determines the length of the recess and informs the public. A simple majority vote is required.
3. A motion to table. If passed this requires the discussion of an agenda item to stop. The item is placed on hold. The motion may contain a specific time for the item to return to the Board, or; the motion may not contain a specific time for it to return for consideration. If there is not a time set for the item to return to the Board, the Board itself must take the item up at a future meeting and make a motion to take it off the table before it may be discussed. A simple majority vote is required.
4. A motion to limit debate. Usually stated as "I call the question", requires the Chair to ask for a second, stop debate, and vote on the motion to limit debate. A super majority vote (4/5th) is required (protecting the rights of the minority).
5. A motion to object to consideration of an item. If passed, this motion precludes the Board from even considering an item on the agenda. A super majority vote (4/5th) is required (protecting the rights of the minority).
6. A motion to close nominations. A motion to close nominations limits the right of the minority to nominate officers. A 4/5th vote is required
7. A motion to suspend the rules. This motion is debatable but requires a 4/5th vote to pass. Such a motion allows the Board to suspend its own rules, conduct or procedure for a particular purpose. A 4/5th vote is required. For a complete listing of agenda items requiring four or more votes, refer to Exhibit “A”.

f. Motion to Reconsider
A motion to reconsider is a unique motion requiring some explanation. The essence of parliamentary procedure is finality. After discussion and debate there must be closure of the issue. After a vote is taken the matter is determined, by the Board's own action, to be closed, subject to reconsideration if a proper motion is made.
A motion to reconsider requires a majority (3/5th) vote to pass, but there are two rules that apply only to a motion to reconsider.

1. Timing. A motion to reconsider must be made at the meeting where the item was first voted upon, or at the very next meeting of the Board. A motion to reconsider made at a later time is untimely. (The Board, however may always vote to suspend its rules and by a 4/5ths vote allow a motion to reconsider to be made at another time).

2. A motion to reconsider may only be made by specific members of the Board, meaning those members that voted in the majority on the original motion. The Chair must rule a motion to reconsider as out of order if a member of the Board that voted in the minority makes a motion to reconsider.

If the motion to reconsider passes, then the original matter is back before the Board, and a new original motion is then in order. The matter may be discussed and debated as if it were on the floor for the first time.

Quasi-Judicial Decisions
When the Board of Supervisors is acting as an administrative agency, the Board may not rehear or reconsider an item once a decision has been made. The General Rule is "In the absence of specific statutory authority, an administrative tribunal has no power to grant a rehearing or otherwise to reconsider a previous final decision" (2 California Jurisprudence 3d p. 483). If the Board follows the required procedures and makes a final and conclusive decision, the Board may not reconsider that decision at a later date. For a complete discussion of examples of Legislative versus Quasi-Judicial Acts, refer to Exhibit B.

Courtesy and Decorum
Rules of order are designed to create an atmosphere where the members of the Board and members of the public may attend to business efficiently and with full participation. A meeting of the Board is to conduct its meeting in public, not to conduct a public meeting. It is the primary duty of the Chair and the members of the Board to maintain common courtesy and decorum. It is always best for only one person to have the floor, and is always best for every speaker to be first recognized by the Chair before proceeding to speak. For a complete discussion on matters requiring a public hearing, refer to Exhibit C.

As noted above, it is the primary duty of the Chair to ensure that debate and discussion of an agenda item focuses on the item and the policy issue in question and not the personalities of the members of the Board or the public. The Chair has the right to cut off any debate or comment that is too personal, too loud, or too crude.

Debate and discussion must be focused, but free and open. In the interest of time the Chair may limit the time allotted to speakers, including members of the Board.
Necessary Board interruption of a speaker.

1. Privilege. The proper interruption is "point of privilege". The Chair would ask the interrupter to "state your point". Generally, appropriate points of order relate to anything that would interfere with the normal comfort of a meeting - the room being too hot or cold, the inability to hear and so forth.

2. Order. The proper interruption would be "point of order". The Chair would ask the interrupter to "state your point". Generally, appropriate points of order relate to anything that would not be considered appropriate conduct of the meeting.

3. Appeal. If the Chair makes a ruling with which a member of the Board disagrees, the member may appeal such a ruling. A motion and second are made, and if passed on a simple majority vote, the ruling of the Chair is reversed.

4. Call for order. A better way to state this is "Let's return to the agenda". If a member of the Board believes that the Board has drifted from the agenda such a call may be made. A vote is not required. The Chair simply reminds the Board members to return to the properly stated agenda item.

5. Withdraw a motion. During discussion or debate, the maker of a motion on the floor may, at any time, interrupt a speaker to withdraw a motion that the motion maker made. The motion is immediately deemed to be withdrawn.

   i. For a complete review of the budget adoption process, refer to Exhibit "D".

   j. The Clerk shall record in the minutes all appearances, presentations, and actions taken relative to appointments and business.

   k. Reports shall be entered in the minutes under an individual Board members, County Administrator, County Counsel, and the Clerk of the Board names.

   l. Board committee appointments shall be made by Board direction.

   m. All Recesses shall be taken by Chair direction and the Clerk shall record all recesses and reconvening times in the minutes. Any Board member required or that chooses to leave the chamber during a meeting shall do so as to not disturb the meeting, and the Clerk shall record time of the member's departure and the member's return in the minutes.

   n. Directions by the Chair shall be subject to objection by any member of the Board. A Chair direction shall be presumed to reflect general consent unless objected to at the time it is made. In the event of an objection, the business shall be subject to Board action.

   o. The minutes of each session of the Board shall be approved by Board action. Approval shall be prima-facie evidence of the accuracy and correctness of the minutes.
p. Adjournments shall be by declaration of the Chair after business is concluded. Any meeting may be adjourned to a subsequent defined date. An adjourned meeting shall be considered to be a continuance of the meeting from which adjourned, and subject to the limitations imposed upon said meeting. The Board shall not adjourn sine die.

SECTION 6. EMERGENCY SITUATIONS

On the determination by a majority vote of the Board that an emergency situation exists, the Board may take action on emergency situations not appearing on the posted agenda.

SECTION 7. MATTERS NOT ON THE AGENDA

The Board may take action on items of business not appearing on the posted agenda under either of the conditions stated below. Prior to discussing any item pursuant to this section, the Board shall publicly identify the item.

a. On a determination by a two-thirds vote of the Board, or, if less than two-thirds of its members are present, a unanimous vote of those members present, that there is a need to take immediate action and the need for action came to the attention of the County subsequent to the agenda being posted as specified in Section 3 hereof.

b. The item was posted, pursuant to Section 3 hereof, for a prior meeting of the Board occurring not more than seven (7) 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.

SECTION 8. PROCEDURAL RULES FOR THE CONDUCT OF PUBLIC HEARINGS

For any public hearing the order of business shall be the following:

1. Opening of the public hearing by declaration of Chair.
2. Presentation of staff report.
3. Presentation of correspondence and other evidence by staff.
4. Presentation of reports or evidence by staff or other county departments or public agencies.
5. Acknowledgment of communications.
6. Questions by the Board.
7. Proponents arguments and evidence.
8. Opponents arguments and evidence.
9. Neither for nor against.
10. Rebuttal by proponents.
11. Surrebuttal by opponents.
12. Close of public hearing by declaration of Chair.
13. Discussion by members of the Board. (There will be no further public input).
15. Discussion on the question.
16. Vote on the motion as outlined above in Section 5(c)-(f).

ADDITIONAL RULES

A. The Board of Supervisors may continue a public hearing to a new date, time or place to inspect the premises, allow additional interested parties to attend the hearing, gather additional evidence or otherwise assure all parties of a fair and impartial hearing. If a public hearing is continued, the continued hearing shall begin at the point from which it was continued.

B. A public hearing may be reopened by a majority vote of the Board.

C. Persons making a presentation during a public hearing may give their name and town and residence, and shall state whether they are appearing as individuals or representatives of a group. All members of the audience shall be given an opportunity to address the Board or Commission, but shall not address one another without permission from the Chair. If, in the opinion of the Chair, the matter has been thoroughly covered by verbal, written or visual evidence and further presentations are merely repetitious, the Chair may terminate the discussion and entertain a motion for disposition of the matter. Any person making a verbal presentation is encouraged to submit a written statement also.

D. When a planning staff report exists, such report shall be made public prior to or at the beginning of the hearing and shall be a matter of public record.

E. When any hearing is held on an application for a change of zone for parcels, a staff report with recommendations and the basis for such recommendations shall be included in the report of the hearing.

F. The Board may hold a regular meeting in a location other than in its chambers by an order previously made and entered in its minutes.

SECTION 9. DISORDERLY CONDUCT

In the event that any meeting is willfully interrupted by an individual, a group or groups of persons, so as to render the orderly conduct of such meeting unfeasible, the Chair may order the removal of the individual or individuals willfully interrupting the meeting. If order cannot be restored by the removal of the individual or individuals willfully interrupting the meeting, the Chair may order the meeting room cleared and continue in session. Only matters appearing on the agenda may be considered in such a session and duly accredited members of the press and other news media, except those participating in the disturbance, shall be allowed to attend. During such a session the Chair may re-admit an individual or individuals if it finds they were not responsible for willfully disturbing the orderly conduct of the meeting and his or their re-admission will not disrupt the continued orderly conduct of business.
SECTION 10. AUDIO RECORDING OF BOARD MEETINGS

A. Each regular and special meeting of the Board of Supervisors shall be audibly recorded by the Clerk.

B. Audio or video recordings of regular and special Board meetings shall be retained for two years. Specific tape recordings may be retained for longer periods of time at the direction of the Board of Supervisors.

C. Audio or video recordings of Board meetings shall be made available for public review in the Office of the Clerk of the Board.

ADOPTED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF TUOLUMNE ON: February 17, 2015

2nd Dist. Harvelt Dist.  
3rd Dist. Royce Absent: Dist.  
4th Dist. Gray Dist.  
5th Dist. Rodger Abstain: Dist.  

CHIEF DEPUTY CLERK OF THE BOARD OF SUPERVISORS

ATTEST: Chief Deputy Clerk of the Board of Supervisors

I hereby certify that according to the provisions of Government Code Section 25103, delivery of this document has been made.

ALICIA L. JAMAR
Clerk of the Board

By:
Exhibit A

AGENDA ITEMS REQUIRING FOUR OR MORE VOTES FOR PASSAGE

Listed below are items likely to appear on the Board of Supervisors agenda which require four or more votes. However, this list is not exhaustive and the law frequently changes so this is intended as a guide only.

A. Appropriation (Budget) Transfers

1. Approve a revision to the recommended budget after close of the hearing. (Gov. Code §29064)

2. Increase the general reserve any time during the fiscal year. (Gov. Code §29086)

3. Approve any increase or addition to the budget after the public hearing (note: this vote requirement concerns items that were not proposed in writing and filed with the Clerk of the Board before the close of the public hearing). (Gov. Code §29088)

4. The following transfers and revisions to the adopted appropriations require a four-fifths vote: (a) between funds; or (b) transfers from appropriation for contingencies. (Gov. Code §29125)

5. Adopt resolution necessary to appropriate and expend funds necessary to meet specific emergencies. (Gov. Code §29127)

6. Make available for appropriation any of the following: (a) restricted, committed, assigned, and unassigned fund balances, excluding reserves and non-spendable fund balance; (b) amounts that are either in excess of anticipated amounts or not specifically set forth in the budget derived from any actual or anticipated increases in financing sources. (Gov. Code §29130)

B. Board Agenda

1. To consider an item not on the agenda, the board must make findings that the need to take action arose after the agenda was posted. The vote on the matter requires at least four votes if five members are present; three votes if four are present and three votes if three are present. (Gov. Code §54954.2)

C. Planning Matters

1. Adopt as an urgency measure, an interim ordinance prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal the Board. Any extension of time on the interim ordinance also requires a four-fifths vote for adoption. (Gov. Code §65858)
Exhibit A

2. Adopt or amend a general plan element, zoning ordinance, building regulation or airport master plan that has been found by the Airport Land Use Commission to be inconsistent with the adopted Airport Land Use Plan. This requires a two-thirds vote. (Pub. Util. Code § 21676.)

D. General Matters

1. Authorize a change or alteration of a contract where the costs of such change or alteration does not exceed 10% of the original contract price, but does exceed the amounts specific in Public Contract Code sections 20121($4,000) and 21031($25,000). (Pub. Contract Code §20137)

2. Alter or change in any manner the plans and specifications previously adopted by the Board for the erection, alteration, construction, or repair of any public building or other public structure, where such alteration or change increases the cost. This requires a two-thirds vote. (Pub. Contract Code §20135)


4. Streets and Highways: Adopt a resolution that determines certain activities are of general county interest and county aid shall be extended to cities for city streets. (Sts. & Hy. Code §§1680, 1686)

5. City streets: Adopt a resolution that declares any highway lying in whole or in part within a city to be a county highway for one or more of the following purposes: acquisition of rights-of-way, construction, maintenance, improvement, or repair. (Sts. & Hy. Code §1700)

6. County roads: Acquisition or construction of a new county highway or improvement, repair, or maintenance of any existing county highway through use of the general fund monies. (Sts. & Hy. Code §1070)

7. Private roads: Adopt a resolution that determines that the general county interest demands the improvement or repair of a privately owned road with county funds. (Sts. & Hy. Code §969.5)

8. Road equipment, leasing of. (Sts. & Hy. Code §942)


10. Adopting a resolution declaring intent to sell or lease of county property. (Gov. Code §25526)
Exhibit A

11. Leasing of certain county property for certain specified usage (Gov. Code §25536); and amendment of lease or contract. (Gov. Code §25536.5)

12. Parks: resolution of intention to abandon all or part — unanimous vote required. (Gov. Code §25583)

13. Condemnation proceedings (eminent domain), resolution of necessity. This is a two-thirds vote of all members of the Board. (Code Civ. Proc. §1245.240)

14. County property, conveyance or exchange of to another governmental agency. (Gov. Code §25365)

15. County property, conveyance to cities for park purposes without reimbursement — unanimous vote of members present, (Gov. Code §§25550 and 25550.5); county aid to cities for park purposes (Gov. Code §25553); dedication of unused parklands — “four-fifths vote of all its members”. (Gov. Code §25560.4)

16. Property acquisition for airport purposes by purchase, condemnation or lease; resolution for county aide. (Gov. Code §26021)

17. Airports, contribution of funds to U.S. Government. (Gov. Code §26026)

18. Adopt a resolution finding the proceedings instituted to construct and acquire sewers, sewage disposal works and storm water drains are a necessary health measure. (Sts. & Hy. Code §2808)

19. County sanitation, maintenance and flood control district loans, establishment of revolving fund. (Gov. Code §23014)

20. Records, destruction of original records which have not been microfilmed. (Gov. Code §26202)

21. Delinquent Accounts — Assignment to a collection agency. (Gov. Code §26220)

22. Emergency ordinance for preservation of public peace, health or safety – to become effective immediately (normally requires 30 days for ordinance to become effective). (Gov. Code §25123 and Elec. Code §9141)

23. Destruction of records exposed to asbestos. (Gov. Code §26202.5)

24. Replacement of annual special audit with a biennial audit for special districts. Requires unanimous request of governing board, and unanimous approval of the Board of Supervisors. (Gov. Code §26909)
25. Employ counsel to assist district attorney, county counsel or other counsel for the county. This requires a two-thirds vote of all members. (Gov. Code §25203)

26. Cash sale or lease of any property, not required for public use, at a noticed public auction, four-fifths vote; sale or lease at an unadvertised, private sale can be authorized by simple majority, but only after the Board unanimously finds that the value of property does not exceed $500, monthly rental value is less than $75, or it is a product of a county farm. (Gov. Code §25363)

27. Conveyance of real property to hospital district for hospital purposes—requires unanimous vote. (Gov. Code §25368)

28. Adopting a resolution declaring a project can be performed more economically by county personnel, or in the Board’s opinion a contract to perform the project can be negotiated with the original bidders for a lower price. (Pub. Contract Code §20150.10)

29. Wildflower reserves. (Gov. Code §25600)

30. Conveyance to State or agricultural assoc. for fairground, park, playground or recreational purposes. (Gov. Code §50332)

31. Abolition of board of forestry. (Gov. Code §25638)

32. After rejection of bids, adopt a resolution that declares a project can be performed more economically by the employees of the public agency. (Pub. Contract Code §22038)

33. Adopting a resolution authorizing and designating any member of the Board to sign bonds (other than the chairperson). (Gov. Code §29917)
This page contains a detailed explanation of the distinction between legislative and quasi-judicial acts. It outlines the criteria and examples for determining whether an action is legislative, quasi-judicial, or another type of governmental function. The text includes a list of examples for each category, serving as a guide to help distinguish between these types of activities.
Exhibit B

f. Hearings, re: closure, suspension or revocation of permits, licenses or franchises

g. Nuisance abatement hearings


RECONSIDERATION OF AGENDA ITEMS

Questions concerning reconsideration often arise in connection with both legislative and administrative matters.

A. Legislative Actions

As a general rule, once final legislative action has been taken, any reconsideration of that action must follow the statutory requirements for the initial consideration. If a specific action may be taken by a legislative body only after a prescribed public notice and hearing, any reconsideration of the action must also comply with the prescribed notice and hearing procedure for original consideration. The principal reason for the rule is that once final action has been taken on an item various people acquire certain rights associated with the item. In land use matters in particular, private owners or others with interests in real property acquire property rights which may then not be affected by governmental action unless the individual’s due process rights are observed. (Horn v County of Ventura (1979) 24 Cal.3d 605.)

For example, the Planning and Zoning Law, Government Code section 65000 et seq., codifies these general principles of due process. General plans, general plan amendments and zoning regulations may only be adopted after a statutorily set procedure of notice and hearing. (Gov. Code §§65350 et seq., 65854 et seq.) There are no existing provisions in the Planning and Zoning Law expressly providing for the reconsideration of a final action on a general plan, general plan amendment or zone change.

If the Board desires to keep an item open for further consideration, the simplest method by which to accomplish this result would be to continue the hearing on the item so that interested members of the public will have notice that final action has not been taken. The continuance may be with or without a tentative decision having been made by the board.

B. Administrative (Adjudicatory or Quasi-judicial) Actions

Administrative (adjudicatory or quasi-judicial) actions or decisions are the result of board discretion exercised as a result of a proceeding in which by law a hearing is required to be given, evidence is required to be taken and determination of the facts is vested in the Board of Supervisors.
Exhibit B

Such actions include decisions on appeals of decisions by county officers or lower reviewing bodies (such as the planning commission) and may, for example, include appeals on special or conditional use permits, variances, certificates of compliance, parcel maps and tentative subdivision maps.

The Board’s authority in such appeals relating to land use matters is set forth in Government Code section 65903 and provides "...(p)rocedures for such appeals shall be as provided by local ordinance. Such Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from, and may make such order, requirement, decision, or determination as should be made, and such action shall be final."

California follows the rule that a final decision by an administrative hearing body may not be reconsidered unless reconsideration is authorized by the statutes governing the procedure of that body. (California Administrative Hearing Practice (Cont. Ed. Bar 1984), §§4.55 and 4.56, p.255; Save Oxnard Shores v. California coastal Commission (1986) 179 Cal.App.3d 140; and 72 Ops.Cal.Atty.Gen. 173 (1989).) “(W)here no specific authority is conferred by statute, an administrative board or agency has no inherent or implied power to reopen or reconsider a final decision and exhausts its jurisdiction when it announces such decision.” (Charles L. Harney Inc. v. State of California (1963) 217 Cal.App.2d 77; see also Azadigian v. Workers’ Compensation Appeals Board (1992) 7 Cal. App.4th 372 at 378.) Voting may only be changed before the final decision is announced or recorded. (56 Ops.Cal.Atty.Gen.224. (1973).)

Unless reconsideration is provided by the statutes, ordinance or other law pertaining to the proceedings of the administrative hearing body, the administrative decision becomes final when rendered and review is allowed only through court proceeding. (59 Ops.Cal.Atty.Gen. 123 (1976).) Reconsideration is also possible through stipulated court order.
MATTERS WHICH REQUIRE PUBLIC HEARINGS

The line between agenda items which require public hearings and those which do not has been blurred by the amendment to Government Code section 54954.3 which requires that members of the public must be allowed to address each and every agenda item. However, until the difference between nonpublic hearing items and public hearing items is clarified, or counties simply decide to provide a full public hearing on every item, full hearings should continue to be provided on at least the times discussed in this section.

Below is a list of some of the most commonly used sections which require public hearings:

1. Abandonment of county roads. (Sts. & Hy. Code §§ 954.5, 8320, 8324)
2. Final determination on the budget. (Gov. Code §§ 29063, 29080, 29081)
3. Zoning ordinances and amendments. (Gov. Code §65856)
4. General plan adoption and amendment. (Gov. Code §65355)
5. Actions on tentative maps. (Gov. Code §66452.5)
6. Adoption of specific plans. (Gov. Code §65453)
7. Establishment of agricultural preserves. (Gov. Code §51230)
8. Alteration of disestablishment of agricultural preserve boundaries. (Gov. Code §51232)
9. Cancellation of agricultural preserves. (Gov. Code §§51282, 51284)
10. Closing a county health facility, eliminating or reducing the level of health care services provided at a county health facility, leasing, selling or transfer of management of a county health facility. (Health & Saf. Code §1442.5; Beilensen Act Hearings)
11. Imposing and charging fees. (refer to Benchbook §2.8)
12. Imposing new or increased general tax or new or increased assessment – at least two hearings required. (Gov. Code §54954.6)

Additionally, while there appear to be no statutory requirements for public hearings for lot line adjustments, or for passage of an ordinance presented to the Board of Supervisors by an initiative petition, these are areas in which public hearings are generally conducted. Also, Government Code section 25131 speaks to passage of ordinances by the Board of Supervisors at their regular meetings, with the proviso that “this section does not apply to ordinances which by statute can be
Exhibit C

passed only after a public hearing.” Thus, a case-by-case approach must be employed in determining which ordinances require a public hearing before passage.

Less common items which require public hearings by the Board of Supervisors:

1. Formation of sanitation districts. (Health & Saf. Code §§4710-4712, 4714)
2. Formation of county waterworks districts. (Wat. Code §55130)
4. Maintenance Districts:
   (a) Formation of maintenance districts. (Sts. & Hy. Code §5825)
   (b) Protest of additional improvements within a maintenance district that is already formed. (Sts. & Hy. Code §5842)
   (c) Dissolution of a maintenance district. (Sts. & Hy. Code §5848)
5. Formation of irrigation district. (Wat. Code §20802)
6. Adopting or increasing development fees. (Gov. Code §66017, 66018)
7. Formation of pest abatement districts. (Health & Saf. Code §2828)
8. Conditional use permits, variances and other development permits and appeals thereof. (Gov. Code §65905)
9. Development Agreements. (Gov. Code §65867)
11. Formation of road maintenance districts. (Sts. & Hy. Code §1550.1)
12. Consideration of complaints against a public employee if public employee requests. (Gov. Code §54957)
13. Imposing and charging fees.
14. Imposing new or increased general tax or new or increased assessment -- at least two hearings required. (Gov. Code §54954.6)
OVERVIEW OF BUDGET MATTERS

(a) PROCEDURES FOR ADOPTING A COUNTY BUDGET.

Procedures for the preparation and adoption of the county budget are found in Government Code section 29000 et seq.

Most counties operate on a July 1- June 30 budget year. However, Government Code section 29088 requires a county to adopt a budget not later than August 30, or an extended date of October 2. Government Code section 29100 provides that the Board of Supervisors must adopt a tax rate on or before the first business day of September of each year, or an extended date of October 3.

The county budget process includes having the administrative head of each department file with the chief administrative officer an itemized statement of available financing and financing requirements for the coming year. (Gov. Code, §29040.) Upon receipt of these estimates, the administrative officer reviews the departmental budget requests and formulates recommendations. (Gov. Code, §29061.) On or before June 30, the administrative officer files his tabulation which constitutes the proposed budget, with the Board of Supervisors. (Gov. Code, §29062.)

Upon receipt of these recommendations on or before June 30, the Board of Supervisors makes whatever revisions, reductions or additions it deems appropriate. (Gov. Code, §29063.) On or before June 30, the Board of Supervisors is required to adopt an order approving the recommendation of the chief administrative officer, as submitted or as modified, which is then the proposed budget. (Gov. Code, § 29064.) On or before September 8, the proposed budget document shall be reproduced so that the general public may obtain copies. (Gov. Code, §29065.)

Not later than September 18, the Board of Supervisors is required to open public hearings on the proposed budget. (Gov. Code, §29080.) These hearings may be continued from day-to-day but must be concluded within 14 calendar days. (Gov. Code, §29081.)

The Board of Supervisors, by majority vote, may make additions and changes to the proposed budget up to the time the public hearing on the final budget is closed. After the hearing, changes may be made by majority vote if the change was submitted in writing to the clerk before the public hearing was closed, or if approved by the Board by four-fifths vote. (Gov. Code, §29064.) These changes may be recorded as changes to the final budget. (Gov. Code, §29088.)

After the close of the budget hearings and after making revisions of, deductions from, or increases or additions to, the proposed budget, the Board is required to pass a resolution adopting the final budget not later than October 2.
A copy of the completed budget must be filed in the office of the clerk and Controller by December 1 of each year (Gov. Code, §29093.)

(b) EXPENDITURES PENDING APPROVAL OF THE FINAL COUNTY BUDGET.

Unless the Board imposes more restrictive expenditure limitations pursuant to Government Code section 29124, subdivision (b), the following rules apply to expenditures in the new fiscal year pending approval of the final county budget:

1. From July 1 to the time the proposed budget is adopted, amounts deemed appropriated are based on the prior year's budget, excluding assets and transfers-out unless specifically approved by the Board. (Gov. Code, §29124, subd. (a) (3).)

2. From the time the proposed budget is adopted until the final budget is adopted, the amounts in the proposed budget are deemed appropriated except capital assets, transfers-out and new permanent employee positions are deemed appropriated only if specifically approved by the Board. (Gov. Code, §29124, subds. (a) (1) and (2).)

(c) BUDGET CHANGES AFTER THE FINAL BUDGET IS APPROVED.

Once the final budget is adopted, it constitutes the total spending program for the ensuing year. Thereafter, the Board, by four-fifths vote, may make transfers and revisions to the adopted appropriations between funds and from appropriation for contingencies. The Board, by majority vote, may make transfers and revisions between budget units within a fund if overall appropriations are not increased. The board may designate the administrative officer or auditor to approve transfers and revisions of appropriations within a budget unit if the overall appropriations of the budget unit are not increased. (Gov. Code, §29125.) By a four-fifths vote, the Board may appropriate and make expenditures for certain emergencies (Gov. Code, §29127); and the Board may make available for appropriation specified fund balances for which the Board has authority (Gov. Code, §29130). The Board may also cancel any appropriation that is not needed and transfer the amount cancelled to the appropriations for contingencies (Gov. Code, §29126), and it may cancel any appropriation that will not be realized (Gov. Code, §29126.1).

Every county officer is limited in the making of expenditures to the amounts set forth in the budget (Gov. Code, §29120), and is personally liable for any expenditure made knowingly in excess of such amounts (Gov. Code, §29121).