

**From:** Cosentino, Michael

**Sent:** Friday, December 10, 2021 11:58 AM

**To:** Baker, Maxfield <[MBaker@sanmarcostx.gov](mailto:MBaker@sanmarcostx.gov)>

**Cc:** Lumbreras, Bert <[BLumbreras@sanmarcostx.gov](mailto:BLumbreras@sanmarcostx.gov)>; Reyes, Stephanie <[SReyes@sanmarcostx.gov](mailto:SReyes@sanmarcostx.gov)>

**Subject:** RE: Agenda Items

Council Member Baker: I've copied, pasted, and highlighted the relevant provisions of the city code. The wording of subsection (c) that provides a deadline for two council members to make a request for place a discussion item on an agenda – “before the mayor sets the agenda for the meeting” - suggests that the request from those council members can and should be for a specific council meeting date.

The language in subsection (b), stating that the mayor may not remove an item “placed on an agenda as a discussion item by two council members under subsection (c) below” could lead someone to conclude that the mayor has no discretion to deny such a request nor to reschedule the discussion item to a different council meeting date. But that has not been the practice during the tenure of any of the mayors I have served with during my 14+ years as city attorney. Each mayor has met with the city manager to set the agenda and they have considered the number and complexity of other agenda items and the amount of time a particular discussion item requested by two council members is likely to require. Based on those considerations, there have been occasions in which a mayor has asked – either directly or through the city manager –if the two council members requesting a discussion item are willing to consider delaying the discussion to a subsequent meeting agenda.

The issue you've raised regarding the wording of Section 2.044 vs. the practice that has been followed by Mayor Hughson and mayors serving before her, is a worthy topic for discussion at a future council meeting.

- **Sec. 2.044. - Preparation of agenda.**

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- (a) The city manager is responsible for processing agenda materials for city council meetings. The city manager will submit agenda materials as appropriate for

review by the city attorney and the director of finance. The city secretary is responsible for preparing and posting the agenda and assembling and distributing the agenda packets.

(b) The tentative agenda for each city council meeting will be reviewed and approved by the mayor before finalization. The mayor may not remove an item placed on an agenda by prior direction of the council under subsection (c) below, or placed on an agenda as a discussion item by two council members under subsection (c) below.

(c) The mayor and council members will provide direction to the staff on ordinance revisions and similar matters of city council policy only after discussion by the council members at city council meetings or workshops. The mayor or two council members may direct the staff to place a discussion item on an agenda for a city council meeting or workshop. If two council members wish to direct placement of a discussion item on a meeting agenda, they must separately contact the staff, and the contacts must occur before the mayor sets the agenda for the meeting.

(Ord. No. 1996-15, § 2, 2-26-96; Ord. No. 1997-45, § 1, 8-25-97; Ord. No. 1998-55, § 1, 8-10-98; Ord. No. 2004-43, § 1, 8-9-04)



**Michael Cosentino**

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**From:** Baker, Maxfield <[MBaker@sanmarcostx.gov](mailto:MBaker@sanmarcostx.gov)>

**Sent:** Friday, December 10, 2021 10:26 AM

**To:** Cosentino, Michael <[MCosentino@sanmarcostx.gov](mailto:MCosentino@sanmarcostx.gov)>

**Subject:** Agenda Items

Hey Michael,

I was looking for clarification on agenda items requested by Council Members. As I was re-reading some of our rules it says that the Mayor cannot remove an item from the agenda if it was placed there by two Council Members or that was recommended by a majority of Council Members during a meeting, but they do have the power to decide when it gets placed on the

agenda.

What I'm wondering is if my colleague and I were more specific, asking that it be placed on "Agenda for X date", would they be required to keep it on that agenda, or would they still have the right to push it to whenever the CM and Mayor find it to be convenient?

Cheers,



**Maxfield Baker**

City Council Member | City Council

630 E. Hopkins St, San Marcos, TX 78666