



# CITY OF SAN LUIS OBISPO

## CITY COUNCIL POLICIES AND PROCEDURES MANUAL



### **Adopted by the City Council**

April 20, 2004, Resolution No. 9554

### **Updated by the City Council**

May 2, 2006, Resolution No. 9794

November 16, 2008, Resolution No. 10041

January 3, 2012, Resolution No. 10323

May 8, 2012, Resolution No. 10354

February 5, 2013, Resolution No. 10422

May 20, 2014, Resolution No. 10524

September 1, 2015, Resolution No. 10664

August 20, 2019, Resolution No. 11039

April 6, 2021, Resolution No. 11237

April 19, 2022, Resolution No. 11318 and Resolution No. 11319

June 21, 2022, Resolution No. 11341

May 2, 2023, Resolution No. 11418

April 2, 2024, Resolution No. 11482

**COUNCIL POLICIES AND PROCEDURES  
TABLE OF CONTENTS**

**FOREWORD..... 4**

**CHAPTER ONE MEETING GUIDELINES & PROCEDURES ..... 5**

    1.1 MEETING SCHEDULE ..... 5

    1.2 AGENDA..... 7

    1.3 MEETING PROCEDURES..... 10

    1.4 MEETING COVERAGE ..... 18

    1.5 AB 2449 – TELECONFERENCING REGULATIONS..... 19

**CHAPTER TWO COUNCIL COMPENSATION ..... 21**

    2.1 SALARIES FOR MAYOR AND COUNCIL MEMBERS ..... 21

    2.2 RETIREMENT, MEDICAL, DENTAL, VISION AND LIFE INSURANCE..... 21

    2.3 PROFESSIONAL DEVELOPMENT ..... 22

    2.4 CITY BUSINESS AND MILEAGE REIMBURSEMENT ..... 22

    2.5 GENERAL PROCEDURES AND LIMITATIONS..... 22

    2.6 COUNCIL COMPENSATION COMMITTEE..... 24

**CHAPTER THREE COUNCIL POWERS & APPOINTMENTS..... 25**

    3.1 MAYOR POWER AND DUTIES..... 25

    3.2 APPOINTMENT OF VICE MAYOR..... 25

    3.3 FILLING COUNCIL VACANCIES..... 25

    3.4 ADMINISTERING OATHS: SUBPOENAS ..... 27

    3.5 LIMITATIONS..... 27

    3.6 METHOD OF ACTION BY COUNCIL ..... 28

    3.7 ORDINANCES ..... 28

    3.8 ACCEPTANCE OF GRANTS OR DEEDS ..... 28

    3.9 LEGISLATIVE ACTION PROGRAM ..... 28

    3.10 AMICUS CURIAE PARTICIPATION ..... 29

**CHAPTER FOUR THE BROWN ACT ..... 30**

    4.1 APPLICABILITY AND PENALTIES..... 30

    4.2 MAJOR PROVISIONS ..... 30

    4.3 SPECIAL MEETINGS ..... 32

    4.4 EMERGENCY MEETINGS ..... 32

4.5	ELECTRONIC MAIL (EMAIL), THE PUBLIC RECORDS ACT AND THE BROWN ACT .....	32
4.6	OTHER PROVISIONS .....	35
<b>CHAPTER FIVE COUNCIL/STAFF RELATIONSHIPS AND CONDUCT.....</b>		<b>36</b>
5.1	INTENT .....	36
5.2	GUIDELINES FOR COUNCIL MEMBERS.....	36
5.3	GUIDELINES FOR STAFF.....	36
5.4	ACCESS TO COMMUNICATIONS / TECHNOLOGY SYSTEMS .....	38
5.5	COUNCIL MAIL HANDLING .....	39
<b>CHAPTER SIX ADVISORY BODY PROCEDURES .....</b>		<b>42</b>
6.1	COUNCIL LIAISON SUBCOMMITTEE MEMBERS .....	42
6.2	COUNTY OR REGIONAL REPRESENTATION .....	43
6.3	OTHER COUNCIL SUBCOMMITTEES .....	43
6.4	ROLE OF ADVISORY BODY MEMBERS AT COUNCIL MEETINGS .....	43
6.5	ROLE OF CITY STAFF PERSONS .....	44
6.6	APPOINTMENT PROCEDURES .....	44
6.7	PROCESS.....	44
<b>CHAPTER SEVEN COUNCIL CONFIDENTIALITY POLICY .....</b>		<b>47</b>
7.1	PURPOSE AND PROHIBITION AGAINST DISCLOSURE .....	47
7.2	PUBLIC CENSURE FOR UNAUTHORIZED DISCLOSURE.....	47
7.3	DEFINITIONS .....	47
<b>CHAPTER EIGHT COUNCIL CENSURE POLICY .....</b>		<b>49</b>
8.1	PURPOSE OF CENSURE POLICY .....	49
8.2	DEFINITIONS .....	49
8.3	CENSURE PROCEDURE.....	49

## FOREWORD

San Luis Obispo is a "charter" city as contrasted to a "general law" city. Under California law, the authority of a general law city is derived only from the powers granted to it by the general laws adopted by the State Legislature pertaining to the organization and operation of a municipality, and from the police power (the right of the City to make laws governing health, safety, morals and welfare for the benefit of the community) granted to it by the State Constitution. On the other hand, a charter city's power is not defined or limited by the State's general laws. Instead, with respect to municipal affairs, a charter city's powers are defined by the city's own charter, subject only to the limitations of the State Constitution. As a result, charter cities usually have more operational latitude than do the more prevalent general law cities.

A charter serves as the city's "constitution" and may only be amended by a vote of the people.

San Luis Obispo's Charter was first adopted on May 1, 1876, and has been amended by popular vote on several occasions subsequently. In 1955, the Charter was amended to approve a Council-Mayor-City Manager form of government. The last charter revision occurred in September 2012.

The word "charter" and the notation, e.g. (Charter § 503) used within this document refer to the City Charter.

# **CHAPTER ONE**

## **MEETING GUIDELINES & PROCEDURES**

### **1.1 MEETING SCHEDULE**

#### **1.1.1 MEETINGS OF COUNCIL**

The Council shall provide by ordinance the time and place of holding meetings and the manner in which special meetings may be called. Public interest and convenience shall be primary considerations when decisions are made as to time, location and frequency.

Except as otherwise provided by law, all meetings of the Council shall be open to the public. (Charter § 502)

#### **1.1.2 REGULAR MEETINGS**

- 1.1.2.1. The regular business meetings of the Council shall be held on the first and third Tuesday of each month at the hour of five-thirty p.m. (5:30 p.m.) or at such other time as may be designated on the agenda giving notice of the business meeting and posted at the same time and in the same manner as required by State law. Regular closed session meetings of the Council shall be held on the first and third Tuesday of each month at the hour of four-thirty p.m. (4:30 p.m.) or at such other time as may be designated on the same agenda giving notice of the business meeting. In the event that a regular meeting of the council falls on a legal holiday, then the regular meeting shall be held at the same place and time on the next succeeding working day (Ord. 1623)
- 1.1.2.2. Regular meetings shall be held in the Council Chamber, 990 Palm Street, in the City of San Luis Obispo. (Ord. 677) Council meetings will also be streamed via teleconference when held in City Hall only.
- 1.1.2.3. It shall be the policy of the City Council to complete meetings, including closed sessions, by 11:00 p.m. unless a majority of the Council elects to continue past the adjournment hour. If at the hour of 11:00 p.m. the City Council has not concluded its business, the Council will review the balance of the agenda and determine whether to extend the meeting beyond the hour of 11:00 p.m., continue any remaining items, or adjourn the meeting to another date and time.
- 1.1.2.4. A regular meeting may be canceled by a majority vote of the Council.

### **1.1.3 STUDY SESSIONS (Open to the public)**

- 1.1.3.1. The purpose of these meetings shall be for informal discussions between staff, advisory bodies, consultants, the public, and the City Council regarding specific programs, projects or policies. Council may provide direction, but no formal action will be taken during a Study Session. Study Sessions may be conducted in a variety of formats, including Public Workshops.
- 1.1.3.2. Study Sessions will be held at a time and place within the City limits convenient to Council and advantageous for public participation.

### **1.1.4 SPECIAL MEETINGS**

- 1.1.4.1. Special meetings may be called by the Mayor or three members of the City Council on no less than 24 hour notice and as otherwise specified by Government Code § 54956. (Ord. 959)
- 1.1.4.2. Any special meeting held at a place other than City Hall shall be open to the public. Such meetings shall be held within the city limits. Notice requirements of the Brown Act shall be complied with for any such meetings; regular minutes shall be taken by the City Clerk and shall be available for public inspection. Meetings not held in City Hall will not be streamed through teleconference.

### **1.1.5 USE OF COUNCIL CHAMBER**

- 1.1.5.1. The City Manager, or designee, is responsible for maintaining a calendar on the use of the Council Chamber and all requests for reservations shall be cleared through the administrative office.
- 1.1.5.2. When a question arises regarding permission for any group to use the facility, the City Manager shall have authority to make the final decision. The following rules are established as a guide:
  - a. Use of the Council Chamber by City commissions, committees, and other advisory bodies shall take precedence over any other group or agency.
  - b. Favorable consideration shall be given to other governmental agencies and non-profit groups during regular business hours only, unless otherwise approved by the City Manager (see exception noted in Section 1.1.5.2.c). These groups will be charged for the use of the Council Chamber at the same rate charged governmental agencies and non-profit groups for use of the Community Room at the City/County Library. No events of a commercial nature shall be allowed. The Council Chamber will not be available for use by any non-City

organizations during non-business hours, unless otherwise approved by the City Manager (see exception noted in Section 1.1.5.2.c).

- c. With the approval of the City Manager, other local governmental agencies may use the Council Chamber for the purpose of live or teleconferencing public hearings and/or public meetings during regular or non-business hours. The fee charged shall be the same rate charged governmental agencies for use of the Community Room at the City/County Library, in addition to the cost for services provided by the City for teleconferencing operations.
- d. No admission shall be charged. No events featuring the service of food or drink shall be allowed.
- e. Regularly scheduled meetings by other agencies and groups shall be discouraged.
- f. Meetings being held to advocate the election or re-election of a particular candidate for political office shall not be allowed. However, the Council Chamber may be used for a Candidate and/or City Ballot Measure Forum where the public and all candidates and/or proponents/opponents to a City ballot measure or candidates for a particular public office have been invited. Any candidate/ ballot measure forums to be held in the Council Chamber shall not include City staff services.

## **1.2 AGENDA**

### **1.2.1 ESTABLISHING THE COUNCIL AGENDA**

The purpose of the agenda is to provide a framework within which Council meetings can be conducted and to effectively implement the approved Council Goals, Financial Plan and Budget, and also work programs, objectives, and business of the City as established by the present or earlier City Councils. Agenda items also include recommendations to the City Council from advisory bodies, land use and zoning actions or appeals, bid and purchasing procedures, and mandates from other levels of government. Staff shall work within the policy context established by the Council and will not arbitrarily place matters on the agenda that are outside the scope of existing work programs of the City, except as approved by the Mayor, and permitted under the Charter sanctioned instructions for the City Manager to inform and advise the Council of matters necessary to the proper operation and well-being of the City.

The process for determining the format and order of the agenda is based primarily on the order of business adopted by the City Council (See Section 1.2.7). The process for establishing the order of specific business and public hearing items is a collaborative one determined largely by anticipated public attendance (those matters involving greater audience attendance should be scheduled ahead of other items). On a rotating basis, individual members of the Council shall attend agenda review meetings with the City Manager and department heads held on the morning of the City Council meeting to discuss issues and to review upcoming agenda items. In addition, the City Manager, City Attorney and City Clerk review the agenda materials with the Mayor. The final agenda is set subject to the approval of the Mayor, after consultation with the City Manager, City Attorney and City Clerk.

### **1.2.2 PLACING AN ITEM ON THE AGENDA (COUNCIL MEMBER)**

Any Council Member may request an item be placed on a future agenda by submitting a request, orally or in writing, to consider the matter and by discussing the request during the Communications section of the regular agenda. Upon consensus of a majority of the Council, staff will prepare a staff report if formal Council action is required. An individual Council Member may place an urgency item on an agenda with a minimum of 72 hours legal notice and a memorandum from the Council Member to the Council and staff setting forth the substantive issues of the item. For the purpose of this paragraph, urgency shall arise in those limited situations where an item requires immediate action, and the need to take immediate action came to the attention of the Council Member subsequent to the distribution of the agenda.

### **1.2.3 PLACING AN ITEM ON THE AGENDA (ADVISORY BODIES)**

Recommendations made by advisory bodies, as part of their normal scope of duties and responsibilities, shall be timely placed on the City Council agenda by staff, who shall comply with the City's approved Council Agenda Preparation Policy. In the event that an advisory body desires to bring a matter of special consideration to the City Council (new ideas or concerns, for example), it may request that the item be placed on a future agenda by submitting a written request to the Council approved by a majority of the advisory body members and signed by the Chair. During Communications, any member of the Council may ask for consideration of the request, and upon consensus of a majority of the Council, a staff report will be prepared and approved by the City Manager or their designee.

### **1.2.4 PLACING AN ITEM ON THE AGENDA (THE PUBLIC)**

A member of the public may request an item be placed on a future agenda during the Public Comment period at the beginning of every Council meeting, or via other communication with Council Members, and upon



consensus of a majority of Council, a staff report will be prepared and approved by the City Manager or their designee.

### **1.2.5 EMERGENCY ITEMS**

Emergency items may be placed on the agenda only in accordance with State law. Generally, only those matters affecting public health or safety and coming to the attention of the Council after the regular notice deadlines may be considered an emergency in nature. A four-fifths vote of Council is necessary to add an emergency item.

### **1.2.6 RECONSIDERATION**

Resubmittal of issues previously acted upon is discouraged. However, in extraordinary situations, a request to reconsider an action taken by the City Council may be considered. The request must be presented by a Council Member who voted with the majority at the Council meeting at which the original vote was taken. The vote may be reconsidered during that meeting, but no later than the next Council meeting. Debate is limited to the question of whether or not there is a majority of the Council interested in reconsidering the matter. If a majority of the Council votes to reconsider an action, the matter will be placed on the next or future agenda.

### **1.2.7 ORDER OF BUSINESS shall be as follows:**

- 1.2.7.1. Council AB 2449 Requests for Teleconferencing
- 1.2.7.2. Call to Order
- 1.2.7.3. Roll Call
- 1.2.7.4. Pledge of Allegiance
- 1.2.7.5. Closed Session Report (if any)
- 1.2.7.6. City Manager's Report
- 1.2.7.7. Presentations /Appointments
- 1.2.7.8. Public Comment
- 1.2.7.9. Consent Agenda
- 1.2.7.10. Public Hearings and Business Items
- 1.2.7.11. Liaison Reports and Communications

### **1.2.8 NOTIFICATION AND ADVERTISING**

The City will advertise all matters of significant neighborhood or community public interest that appear on a City Council or Planning Commission agenda, as well as all matters where advertising is required by law. Said advertisements shall include location maps, project descriptions and posting of property, if required, written in plain English in order to fully inform all interested individuals.

All advertising shall be accomplished in an economical manner. All affidavits of publication shall be available to interested members of the public.

## **1.3 MEETING PROCEDURES**

### **1.3.1 PRESIDING OFFICER**

- 1.3.1.1. The Mayor is the Presiding Officer and acts as Chair at Council meetings. (Charter § 407)
- 1.3.1.2. In the absence or incapacity of the Mayor, the Vice Mayor will serve as Presiding Officer.
- 1.3.1.3. Seating arrangement of the Council:
  - 1.3.1.3.1. The Vice Mayor shall always be seated immediately next to the Mayor.
  - 1.3.1.3.2. The Mayor, with the approval of individual Council Members, shall establish other seating arrangements for regular Council meetings.
- 1.3.1.4. Signing of City Documents

The Mayor, unless unavailable, shall sign all ordinances, resolutions, contracts and other documents which have been adopted by the City Council and require an official signature, except when the City Manager has been authorized by Council action to sign documents. In the event the Mayor is unavailable, the Vice Mayor signature may be used.

### **1.3.2 QUORUM**

A majority of the Council Members shall constitute a quorum for the transaction of business. (Charter § 503)

### **1.3.3 DISCUSSION RULES**

- 1.3.3.1. Obtaining the floor:
  - 1.3.3.1.1. A member of the City Council or staff shall first address the Presiding Officer and gain recognition.
  - 1.3.3.1.2. Comments and questions shall be succinct and limited to the issue before Council.
  - 1.3.3.1.3. Cross exchange between Council Members and public should be avoided.
- 1.3.3.2. Questions to staff:

A Council Member shall, after recognition by the Presiding Officer, address questions to the designated staff member. Council

Members are encouraged to provide questions to staff prior to meetings and also to attend staff briefings on complex issues.

1.3.3.3. Interruptions:

1.3.3.3.1. Once recognized, a Council Member shall not be interrupted while speaking, except to make a point of order or personal privilege.

1.3.3.3.2. If a Council Member is called to order while speaking, the individual shall cease speaking until the question of order is determined.

1.3.3.3.3. Upon being recognized by the Presiding Officer, members of staff shall hold the floor until completion of their remarks or until recognition is withdrawn by the Presiding Officer.

1.3.3.4. Limitation on Discussion:

No Council Member shall speak more than once on a particular subject until every other Council Member has had the opportunity to speak. Council Members are encouraged to discuss items during the decision making process.

1.3.3.5. Tabling Procedure:

If a motion is made to table a matter, discussion will stop immediately and a vote on the motion to table will be called for.

1.3.3.6. Right of Protest:

A Council Member is never required to state reasons for dissent.

1.3.3.7. Rules of Procedure:

The Council shall determine its own rules of procedure. (Charter § 504)

1.3.3.8. Council Minutes:

If a Council Member wishes a stated opinion to be entered in the minutes, he/she should precede the statement with "for the record," or request the City Clerk to enter it into the record following the statement.

### **1.3.4 PARLIAMENTARY PROCEDURE**

Those rules in effect according to the City Council policy (State law and Robert's Rules of Order). The following summarizes the most frequently used actions.

### **1.3.5 PROTOCOL**

#### **1.3.5.1. Council Members and staff shall:**

1.3.5.1.1. Work earnestly to preserve appropriate order and decorum during all meetings.

1.3.5.1.2. Discourage side conversations, disruptions, interruptions or delaying efforts.

1.3.5.1.3. Inform the Presiding Officer when departing from a meeting.

1.3.5.1.4. Limit the use of personal electronic devices to urgent personal matters while seated at the dais during Council meetings.

1.3.5.1.5. During a public hearing, correspondence between Council Members or between a member of the public and the Council regarding the public hearing matter being considered by the City Council must occur in the open and any communications outside of the noticed public meeting on which the Council Member's decision is based should be disclosed during the public hearing.

1.3.5.2. Persons demonstrating rude, boisterous, or profane behavior will be called to order by the Presiding Officer. If such conduct continues, the Presiding Officer may call a recess, request the removal of such person(s) from the Council Chamber, adjourn the meeting, or take such other appropriate action as permitted by the Brown Act.

1.3.5.3. Only the City Council, staff, Advisory Body Chairs or designated representatives, and those authorized by the Presiding Officer shall be permitted to sit at the Council or staff tables.

#### **1.3.5.4. Enforcement of order:**

1.3.5.4.1. The Police Chief or their designee shall act as the Sergeant at Arms.

- 1.3.5.4.2. Any Council Member may request the Presiding Officer to enforce the rules of protocol. Upon motion and majority vote, the Presiding Officer shall be required to do so.

### **1.3.6 VOTING PROCEDURES**

- 1.3.6.1. When present, all Council Members shall vote, except in the case of a recusal due to a conflict of interest. Failure of a seated Council Member to vote will be construed as an affirmative vote. (Charter § 505)
- 1.3.6.2. No ordinance, resolution or motion shall be passed or become effective without receiving the affirmative vote of at least three members of the Council. (Charter § 506)
- 1.3.6.3. A conflict of interest shall be declared whenever appropriate and in compliance with State law and the Council Member will step down and not participate in the discussion or vote on the item.
- 1.3.6.4. A vote may be changed by a Council Member only immediately after the vote has been announced and prior to the introduction of the next agenda item.
- 1.3.6.5. The City Clerk shall restate the motion prior to the vote or request the motion maker to restate the motion if required for Council or public clarification.
- 1.3.6.6. A roll call (voice) vote shall be taken for each Council action. The City Clerk will call the roll for the roll call vote in the following manner: 1) Maker of the motion; 2) Member who has seconded the motion; 3) Additional Council Members in alphabetical order by last name; and 4) Mayor last. The City Clerk shall state for the record the name of any Council Member who is recused or has abstained, which abstention will be counted as a vote with the majority, unless legally required. The consent agenda will be considered a single action for purposes of the roll call vote.
- 1.3.6.7. A general consent vote may be taken at the discretion of the Presiding Officer, if there are no negative votes or objections by Council Members.
- 1.3.6.8. Upon the request of any member, the ayes and noes shall be taken and recorded on any vote. (Charter § 505)
- 1.3.6.9. The ayes and noes shall be taken upon the passage of all ordinances and resolutions and entered upon the journal of the proceedings of the Council. (Charter § 505)

- 1.3.6.10. Following the vote, the Mayor shall announce whether the questions have been carried or defeated.
- 1.3.6.11. Should a tie vote occur, the Council is required to continue the item by majority vote or make motions until an action receives three affirmative votes.
- 1.3.6.12. The Presiding Officer may publicly explain the effect of the vote for the audience or may direct a member of the staff to do so.

### **1.3.7 PUBLIC COMMENT (Written and Oral)**

Members of the public may address the City Council in a variety of ways. Written comments on agenda items are encouraged. As a courtesy to the Council, citizens are encouraged to present written comments at least one day prior to the meeting. This provides the Council with a greater opportunity to review and consider issues and/or concerns expressed in written communications prior to a meeting. Written comments received before, at or during a Council meeting are included in the public record and posted to the City's website. (GC § 54957.5) Agenda Correspondence, in general, are correspondence and other documents from the public, the City Council and City staff regarding Council agenda items received after the agenda packets have been distributed. Agenda Correspondences may take the following form: letters and emails from citizens; memos of clarification or revision from City staff; liaison reports from the City Council; communication items from City Council; late release or added-on agenda reports.

Agenda Correspondence shall be date-stamped. Agenda Correspondences are distributed by the City Clerk and made available for public review as they are received.

The Mayor will invite comments from the public in support of, or in opposition to, specific agenda items following the staff report. Oral communications on matters that are not on the agenda may be provided during the Public Comment period at the beginning of every regular meeting.

The following are guidelines for providing oral public comments:

- 1.3.7.1. Immediately prior to scheduled public hearings, members of the public may address the City Council on items that are not on the printed agenda, or items on the Consent Agenda. A time limit of three minutes is provided. A speaker may not yield time to another speaker. A speaker slip should be filed with the City Clerk, but is not required in order to speak.

- 1.3.7.2. For all hybrid (in-person and via teleconference) meetings, those requesting to speak in-person will be called first, then those requesting to speak via teleconference will be called. All requests to speak should be submitted prior to the start of the Public Comment period.
- 1.3.7.3. Pursuant to the Brown Act, action may not be taken on issues not listed on the agenda. Staff may be asked to follow up on such items.
- 1.3.7.4. Individuals desiring to speak on an item on the agenda shall:
  - 1.3.7.4.1. Address the Council from the podium or via teleconference after giving their name and city of residence. Speakers shall direct their comments to the Council, not the audience.
  - 1.3.7.4.2. Comment on the specific matter before the Council with reasons for the position taken.
  - 1.3.7.4.3. Limit comments to three (3) minutes until others have had opportunity to address the Council. The Presiding Officer with the consensus of Council Members, after all others have spoken, may allow additional brief comment from speakers who have already commented on the same agenda item. A speaker may not yield their time to another speaker.
  - 1.3.7.4.4. Shall register as Municipal Advocates, if they are testifying as paid representatives, as defined in the Municipal Code Section 2.64.020 and shall preface their comments by identifying themselves as municipal advocates (2.64.050 & 2.64.070).
  - 1.3.7.4.5. Shall avoid personal attacks, abusive language or other disruptive behavior.
  - 1.3.7.4.6. Applicants, applicant representatives, or appellants desiring to speak shall:
    - Submit speaker slips to the City Clerk.
    - Shall be permitted to speak first during the public comment portion of the public hearing for not more than ten (10) minutes.
    - Address the Council from the podium or via teleconference after giving their name and address, and/or the name and address of the

applicant/appellant they are representing. If the applicant/appellant's representative is a paid municipal advocate, they shall comply with Section 1.3.7.4.4 above.

- 1.3.7.5. After the comment period or public hearing is closed, no member of the public shall be permitted to address the Council or the staff from the audience, except at the discretion of the Presiding Officer.

### **1.3.8 PUBLIC USE OF VISUAL AIDS AT COUNCIL MEETINGS**

Members of the public who desire to utilize electronic visual aids to supplement their oral presentations are encouraged to provide display-ready material to the City Clerk by 12:00 noon on the day of the meeting. No data provided to the City Clerk later than 12:00 noon will be accepted. Staff may recommend that the presenter produce hard copies of their materials and present the copies to Council during their presentations.

- 1.3.8.1. Electronic presentations must be provided in a format that can be read on a standard PC-compatible computer running Microsoft Windows or Microsoft Office.
- 1.3.8.2. Upon receipt, the City Clerk will promptly transmit electronic visual aids to the City's Information Technology Division for a determination as to whether the material is free of viruses.
- 1.3.8.3. Staff shall preload and queue the electronic visual aid in the City's media system and display it when the public member is called upon to speak.
- 1.3.8.4. Members of the public shall not be permitted to connect equipment, devices, or storage media directly to the City's computer system during a live Council meeting.
- 1.3.8.5. Members of the public shall not be permitted to access the internet from the City's computer equipment.
- 1.3.8.6. Nothing in this Policy is intended to warrant or otherwise guarantee that electronic visual aids will successfully display at a City Council meeting. Members of the public are urged to have hard copies of their presentations available at the City Council meetings in the event a media system malfunction occurs.

### **1.3.9 CONSENT AGENDA**

The Consent Agenda is generally first on the Council agenda and is provided to expedite the meeting. Therefore, only items that are routine, relate to implementation of approved budget items or to City operations, are



second readings of ordinances, or are items to be later set for public hearing are to be placed on the Consent Agenda. Items of significant neighborhood or community public interest should be heard as a Public Hearing or Business item, and not placed on the Consent Agenda.

- 1.3.9.1. **Minor Questions.** A Council Member may ask questions on any item without it being pulled from the Consent Agenda. When a Council Member has a minor question for clarification concerning a consent item that will not involve extended discussion, the item may be pulled for clarification at the beginning of the meeting and the questions will be addressed along with the rest of the Consent Agenda. There should be no objections at this time. Council Members are encouraged to seek clarifications prior to the meeting (if at all possible).
- 1.3.9.2. **No Vote.** When a Council Member wishes to pull an item simply to register a dissenting vote, a request should be made that the item be pulled for separate vote without discussion. Such items will also be handled at the beginning of the meeting along with the rest of the Consent Agenda.
- 1.3.9.3. Any item may be pulled by a Council Member for discussion. A member of the public may request the Council to pull an item for discussion.
- 1.3.9.4. Pulled items shall be heard at the close of the Consent Agenda unless a majority of the Council chooses another time.

### **1.3.10 COMMUNICATIONS**

- 1.3.10.1. The purpose of this time is to allow staff and Council to provide an update or share information regarding a particular matter. Examples of appropriate communications would be information of general interest received from outside agencies, and comments or inquiries received from individuals or from the public, or requests to agendize future items.
- 1.3.10.2. If possible, written material connected with a particular communication item should be provided to the City Manager sufficiently in advance of the meeting to be distributed with the regular agenda materials.
- 1.3.10.3. State law provides that Council can take action only on such matters that have been noticed at least 72 hours in advance of the meeting, unless special circumstances are found to exist. Substantive debate or deliberation or formal action or approval on non-agendized items is not allowed, and such an item should be placed on the agenda of the next regular meeting.

- 1.3.10.4. The communications period should not exceed 15 minutes and speaking to a particular item should be limited to five minutes.

### **1.3.11 CLOSED SESSIONS (closed to the public)**

- 1.3.11.1. Closed Sessions are regulated pursuant to the Brown Act.
- 1.3.11.2. No member of the Council, employee of the City, or anyone else present shall disclose to any person the content or substance of any discussion which takes place in a closed session unless authorized by four fifths vote of the Council, or as otherwise required by law.
- 1.3.11.3. Confidential materials provided for Closed Sessions must be returned to the City Attorney by the conclusion of the Closed Session.

## **1.4 MEETING COVERAGE**

The purpose of cablecasting meetings of the San Luis Obispo City Council is to enhance the awareness and education of the general public regarding the actions and deliberations of the City Council.

- 1.4.1. Coverage of City Council meetings shall be gavel-to-gavel; whether presented to the public live or taped, Council coverage is not to be edited or subjected to editorial comment.
- 1.4.2. All regular City Council meetings shall be cablecast, except for meetings or portions of meetings which are closed to the public, or when the Council directs otherwise.
- 1.4.3. Cameras used for the gavel-to-gavel coverage shall be owned by the City and operated only by City employees or persons under contract with the City.
- 1.4.4. Cameras shall be operated so that they are focused only on the officially recognized speaker, and on any visually displayed information they may be showing.
- 1.4.5. "Reaction" shots will not be permitted.
- 1.4.6. The City Clerk's minutes shall remain the official record of Council proceedings.
- 1.4.7. To assure timely information for the public, Action Updates shall be posted on the City's website as soon as possible.

## **1.5 AB 2449 – TELECONFERENCING REGULATIONS**

### **1.5.1 QUORUM REQUIREMENT**

A quorum of the Council (three members) must participate at a singular physical meeting location identified on the agenda, which must be within the city limits and open to the public. This means that no more than two Council Members may utilize these AB 2449 teleconference provisions at one meeting. If fewer than three members could not be physically present at the beginning of a meeting, the meeting shall not be called to order.

### **1.5.2 LIMITATIONS ON USE**

Council Members may participate remotely under AB 2449 a limited number of times per year, depending on which exception was selected, “Just Cause” or “Emergency Circumstances.”

#### **1.5.2.1. Just Cause Exception.**

This exception may be used in cases of caregiving for a dependent; contagious illness; need related to a physical or mental disability; or official governmental travel. Capped at two (2) meetings per calendar year regardless of the Council’s meeting schedule.

#### **1.5.2.2. Emergency Circumstances Exception.**

This exception may be used in cases of a physical or family medical emergency that prevents a Council Member from attending in person. Capped at 20% of the regular meetings within a calendar year (four (4) City of San Luis Obispo Council meetings per year).

#### **1.5.2.3. Each agenda must describe how members of the public may observe or attend the meeting and offer public comment, including a way to attend via teleconference platform. Members of the public must be allowed to make public comments in real-time (in-person or through teleconference) during all allotted public comment periods.**

#### **1.5.2.4. Council Members wishing to attend by teleconference must make a request to the Council at the earliest possible opportunity, up to and including at the start of a meeting. The Council must act by majority vote, during the meeting, to approve or deny the request.**

#### **1.5.2.5. Council Members must also provide a “general description” of the circumstances relating to the member’s need to participate remotely, which need not be more than 20 words or disclose any personal medical information.**

- 1.5.2.6. Council Members must disclose, before any action is taken, whether any individuals 18 years of age or older are present in the room at the remote location, and the general nature of the member's relationship with the individual. This disclosure must take place during the meeting itself, even if the notification and description were given in advance.
- 1.5.2.7. Council Members participating remotely must participate through both audio and visual technology.
- 1.5.2.8. All votes taken at a meeting where a Council Member attends by teleconference, under provisions of AB 2449, must be taken by roll call vote.
- 1.5.2.9. Meeting proceeding must be suspended in the event of a disruption that prevents the transmittal of meeting video and audio to the public or prevents the receipt of public comment on the teleconference platform until meeting audio and video service are restored.

## **CHAPTER TWO COUNCIL COMPENSATION**

Council compensation and benefits are established every other year by Council action after the Council Compensation Committee conducts a biennial review and makes a recommendation (see Section 2.6).

### **2.1 SALARIES FOR MAYOR AND COUNCIL MEMBERS**

Compensation for services rendered in an official capacity shall be established by resolution duly adopted and consistent with the rules established in the Charter.

Effective the first full payroll period in January 2025, compensation for services rendered in an official capacity shall be provided as follows (Resolution No. 11482):

- The Mayor shall receive a monthly salary of \$2,923 and each City Council Member shall receive a monthly salary of \$2,319.
- Planning Commissioners shall receive \$86 per meeting, not to exceed \$347 per month.
- Architectural Review Commissioners shall receive \$86 per meeting, not to exceed \$347 per month.

#### **2.1.1 CONSUMER PRICE INDEX INCREASES**

In lieu of forming a Council Compensation Committee, Council may approve biennial Consumer Price Index (CPI) for All Urban Consumers in the Los Angeles, Long Beach and Anaheim metropolitan area increases applied to Council, Planning Commission, and Architectural Review Commission salaries, effective the first full pay period in January (Resolution No. 11318).

### **2.2 RETIREMENT, MEDICAL, DENTAL, VISION AND LIFE INSURANCE**

The Mayor and Council Members shall be entitled to City-funded participation in P.E.R.S. retirement. The City shall contribute an amount equivalent to that received by City department heads monthly towards the Mayor and Council Members' participation in PEMCHA, dental, vision, and life insurance. Any unexpended amount shall not be distributed to the Mayor and Council Members in cash. If the Mayor and Council Members elect to opt out of medical, dental, and vision that individual member will receive the opt-out amount equal to City department heads.

Individual Council Members may waive any or all of the compensation provided to them. Such a waiver shall affect only the individual choosing to waive compensation for the period of time specified by that individual. An individual waiver shall not be binding on any other current or future Council Member. Should any Council Member wish to make a change in their individual compensation, staff will process a personnel action form to effectuate this change.

## **2.3 PROFESSIONAL DEVELOPMENT**

Allowances shall be budgeted for the Mayor and each Council Member as follows:

### **2.3.1 PROFESSIONAL DEVELOPMENT - INCLUDING TRIPS AND MEETINGS**

For costs of professional development and educational conferences designed to improve understanding of and proficiency in municipal affairs. Said allowance shall be used for out-of-county expenses only and shall be reimbursed in accordance with accepted City Travel Guidelines.

### **2.3.2 START UP ALLOWANCE**

An additional professional development allowance shall be budgeted to each new Mayor and Council Member to help accelerate their comprehension of municipal and legislative operations during the first 12 months following the taking of office and the amounts shall be as set forth in the applicable financial plan adopted by the Council.

## **2.4 CITY BUSINESS AND MILEAGE REIMBURSEMENT**

Quarterly allowances shall be budgeted for the Mayor and each Council Member as stated in the Financial Plan.

### **2.4.1 CITY BUSINESS**

For costs incurred in connection with official City business. Said allowance shall be used for in-county expenses and shall include all meals, tickets, periodicals, dues, subscriptions, and similar miscellaneous expenses.

### **2.4.2 MILEAGE**

For official travel within the County of San Luis Obispo, reimbursement shall be made upon submittal of an official mileage expense form:

## **2.5 GENERAL PROCEDURES AND LIMITATIONS**

Appropriate budgetary practices and accounting controls shall be established to ensure that expenditures and reimbursements are in compliance with approved budget allocations. The Mayor and each Council Member is expected to plan business activities so as to stay within their budget. When exceptional circumstances require that additional amounts be allocated to accounts, formal Council action shall be required.

### **2.5.1 ACCOUNTING**

An account shall be established in the name of each Council Member with all expenditures charged to the individual Council Member or Mayor. If any account is depleted prior to the end of the fiscal year, additional allocations

shall require a specific action of the City Council. Claims for reimbursement as specified in Section 2.4, above, may be submitted monthly but the aggregate of three-monthly claims may not exceed the quarterly maximum. Receipts shall be submitted within the fiscal year. The Council budget shall be available for review in the City Clerk's Office and the Mayor and Council Members shall receive periodic statements.

#### **2.5.2 REIMBURSEMENT LIMITATION**

The City's adopted Travel Guidelines shall govern all expenditures for non local professional development and conferences. These guidelines include all non local official meals, tuition or fees, transportation to meeting sites, materials, and telephone usage.

#### **2.5.3 SPECIAL EXPENSES**

For occasions when the Mayor and/or a Council Member is designated by the City Council to represent the City at special meetings, reimbursement shall be made from an unallocated Travel Expense Account.

#### **2.5.4 OTHER GUIDELINES**

Any other travel-related issue not specifically governed in these Policies and Procedures shall be adjudicated in accordance with the City of San Luis Obispo adopted Travel Guidelines.

#### **2.5.5 DISCLOSURE AND REPORTING REQUIREMENTS**

The Political Reform Act of 1974 (Government Code sections 87200) requires local public officials to file a Statement of Economic Interest (Form 700) to disclose certain investments, interests in real property, sources of income, gifts, loans and business positions when assuming office, annually and when leaving office.

#### **2.5.6 COUNCIL VOLUNTEERS**

Council members may use interns/volunteers to help with various tasks related to council activities, including but not limited to research, constituent outreach, and administrative support. Interns/volunteers should not be used for any campaign-related activities. Council members have the discretion to show appreciation to their volunteers through letters of recommendation, gift cards, or through other means of supporting their professional development. Any City funds spent on intern/volunteer support will be funded through the council member's allocated professional development budget.

## **2.6 COUNCIL COMPENSATION COMMITTEE**

A seven-member review committee shall be appointed no later than the last City Council meeting in January in even-numbered years and shall bring its proposed recommendations in resolution form to the City Council no later than the first City Council meeting in May.

### **2.6.1 MEMBERSHIP**

The committee membership shall have as broad a representation as possible, including but not limited to, one previously elected official, one Personnel Board member, and one citizen at large.

### **2.6.2 REVIEW RESPONSIBILITY**

The committee shall review the full Council compensation package including salary, benefits, expense reimbursement, professional development allowances, and any other compensation provided the City Council. Review should include, but shall not be limited to:

- 1) Compensation of Council Members and Mayors of cities of similar population/budget size;
- 2) Compensation practices of both Charter and General Law cities;
- 3) Government Code provisions for General Law cities;
- 4) Council Member and Mayor responsibilities in San Luis Obispo at the time of the committee's review;
- 5) Any structural changes that may have occurred in municipal government either as a result of state legislation or by actions of the local electorate that may have added to, or deducted, from the duties and responsibilities of the Council Members and/or Mayor.



## **CHAPTER THREE COUNCIL POWERS & APPOINTMENTS**

### **3.1 MAYOR POWER AND DUTIES**

The Mayor shall preside at all meetings of the City Council and perform such other duties consistent with the office as may be imposed by the Council or by vote of the people. The Mayor shall be entitled to, and must vote when present, but shall possess no veto power. As presiding officer of the Council, the Mayor will faithfully communicate the will of the Council majority to the City Manager in matters of policy. (Charter § 407)

3.1.1. Meeting proceeding must be suspended in the event of a disruption that prevents the transmittal of meeting video and audio to the public or prevents the receipt of public comment on the teleconference platform until meeting audio and video service are restored.

3.1.2. The Mayor shall be recognized as the official head of the City for all ceremonial purposes and by the Governor for military purposes. In time of public danger or calamity, the Mayor shall take command of the public forces, maintain order, and enforce laws. (Charter § 407)

3.1.3. The Mayor may order flags flown on City property to be lowered to half-staff in mourning for any member of the community designated to have made significant contributions to the City of San Luis Obispo, in accordance with recognized customs or practices not inconsistent with state and federal law.

3.1.4. The Mayor shall exercise such other powers and perform such other duties as may be prescribed by law or ordinance or by resolution of the Council, except as limited by this Charter. (Charter § 407)

3.1.5. The Mayor may solemnize marriages while in office, (Family Code Section 400.1). All rules and regulations for the rental of City facilities would apply.

### **3.2 APPOINTMENT OF VICE MAYOR**

The appointment of the Vice Mayor shall be for a one-year term and is made on a rotational basis, the appointment going to the next senior member that has not yet served as Vice Mayor during their Council term. The Vice Mayor shall be appointed at the first meeting in December.

### **3.3 FILLING COUNCIL VACANCIES**

### **3.3.1 APPOINTMENT OR SPECIAL ELECTION**

Per City Charter Section 406, the Council shall by a majority vote of the remaining Council Members, appoint a replacement member to the Council within 30 days of the occurrence of the vacancy. If the Council fails to fill the vacancy within thirty (30) days of its occurrence, it shall call a special municipal election to fill the vacancy, to be held not sooner than ninety (90) days or not later than one hundred and fifty (150) days following the occurrence of the vacancy.

### **3.3.2 PUBLIC APPOINTMENT**

In order that the public may know how its business is being conducted, all phases of the Council process to appoint a replacement member to a vacancy shall be conducted in public.

### **3.3.3 ADVERTISE FOR APPLICANTS**

At least ten days before Council meets the first time to select a replacement member for a vacancy, the City shall advertise in a local newspaper of general circulation describing the vacancy and term thereof, requesting applications from those persons interested in being appointed. In the case of a vacancy due to a current Council Member elected to the Mayor's seat, the City Clerk may advertise the vacancy once the County Registrar of Voters has certified the election results.

### **3.3.4 QUALIFICATIONS**

Although the only two established minimum qualifications for appointment are (1) residency in the City for at least 30 days prior to appointment, and (2) elector status at the time of appointment (Charter § 403), each applicant shall submit a written statement of 500 words or less covering at least the following areas:

- 3.3.4.1. The Mayor may solemnize marriages while in office, (Family Code Section 400.1). All rules and regulations for the rental of City facilities would apply.
- 3.3.4.2. The amount of time available each week to devote to the Council.
- 3.3.4.3. Reasons for wanting to be appointed.
- 3.3.4.4. Involvement in community affairs and organizations, especially in the preceding 23-month period.
- 3.3.4.5. Personal qualifications for the position.
- 3.3.4.6. Prior experience in government, or areas associated with or doing business with government.

### **3.3.5 PUBLIC MEETING**

- 3.3.5.1. At a time(s) selected by the Council, a meeting open to the public shall be held by the Council to consider the selection of an applicant to fill the vacancy.
- 3.3.5.2. The applications shall be given to the Council and be available to the public at least four days before the opening of the meeting.
- 3.3.5.3. Members of the public may submit written comments regarding an application at any time up to 24 hours before the meeting begins.
- 3.3.5.4. At the meeting, each applicant wishing to serve should be present to verify that he/she would be willing to serve if appointed, and that he/she is a resident of the City. Each candidate will be given five minutes to make a presentation to Council.
- 3.3.5.5. Thereafter, all discussion shall be confined to the Council except for questions directed by the Council to staff or to members of the public.
- 3.3.5.6. Upon the conclusion of such discussion, the Mayor shall open the floor to nominations by the remaining Council Members. All nominations, seconding, and voting, shall be done audibly in public.
- 3.3.5.7. If Council is unable to reach consensus on the appointment and further consideration is required, Council may adjourn the initial meeting to a subsequent meeting within 30 days of the occurrence of the vacancy to attempt to reach a decision.

### **3.4 ADMINISTERING OATHS: SUBPOENAS**

Each member of the Council shall have the power to administer oaths and affirmations in any investigation or proceeding pending before the Council. The Council shall have the power and authority to compel the attendance of witnesses, to examine them under oath and compel the production of evidence before it. Subpoenas may be issued in the name of the City and be attested by the City Clerk. Disobedience of such subpoena or the refusal to testify (upon other than constitutional grounds), shall be deemed contempt and shall be punishable as provided by the general laws of the State. (Charter § 507)

### **3.5 LIMITATIONS**

No member of the Council shall be appointed to or serve as a voting member of any City advisory body, whether composed of citizen volunteers, City employees, or a combination of both. This is not to be construed as prohibiting members of the

Council from serving on Committees or Subcommittees of the Council itself, or of agencies representing other levels of government. (Charter § 508)

### **3.6 METHOD OF ACTION BY COUNCIL**

All action by the Council shall be taken only by means of ordinance, resolution, or oral motion duly made and passed.

Ordinances that prescribe rules applicable generally within the jurisdiction shall become a part of the Municipal Code and so remain until amended or voided. All municipal laws relating to taxation or to possible criminal action against an offender shall be in the form of ordinances.

Resolutions shall be serially numbered and filed sequentially in the Office of the City Clerk. Oral motions shall be recorded only in the minutes of any regular or special meeting of the Council. (Charter § 601)

### **3.7 ORDINANCES**

The consideration and adoption of ordinances shall be in accordance with the Charter and relevant State law. Ordinances not legally required to have a public hearing shall be set for a public hearing if the subject matter is controversial or of a special nature. Any Council Member, prior to the time required for notice and publication, may request the City Manager to set a public hearing on an ordinance.

No ordinance, resolution or other motion shall be passed or become effective without receiving the affirmative vote of at least three members of the Council. (Charter § 506)

### **3.8 ACCEPTANCE OF GRANTS OR DEEDS**

The Mayor and Vice Mayor of the City of San Luis Obispo are hereby authorized to accept and consent to the recording of any deed or grant conveying any interest in or easement upon real property to the City of San Luis Obispo.

### **3.9 LEGISLATIVE ACTION PROGRAM**

The City has adopted an aggressive legislative program to strengthen local government, promote City goals, and defend the City against legislative actions by state and federal governments that would weaken local government or take away traditional revenue sources. In order to respond promptly and proactively to fast-paced legislative changes, the City Council has authorized City staff to take positions on legislation provided the positions are consistent with the Legislative Action Priorities established annually by the City Council, and/or resolutions or recommendations of the League of California Cities.

### **3.10 AMICUS CURIAE PARTICIPATION**

The City is frequently requested to join as amicus curiae (friend of court) in cases of statewide significance to cities. Because of the often short time limits for filing amicus curiae briefs, the City Council has authorized the City Attorney to participate in such briefs, at no cost to the City, if the Legal Advisory Committee of the League of California Cities has urged participation. (Resolution No. 8443)

## **CHAPTER FOUR THE BROWN ACT**

### **4.1 APPLICABILITY AND PENALTIES**

The entire City organization conducts its business in compliance with the Ralph M. Brown Act, Government Code Section 54950, et al. The intent of the Act is to ensure that deliberations and actions of local public agencies are conducted in open and public meetings. The law provides for misdemeanor penalties for members of a body who violate the Act (GC § 54959). In addition, violations are subject to civil action (GC § 54960). A current copy of the Act will be provided to all Council Members assuming office, but the provisions that most directly affect the Council are summarized in this Chapter.

### **4.2 MAJOR PROVISIONS**

#### **4.2.1 APPLICABILITY**

The Act applies to Council, City staff and all bodies that advise Council. (GC § 54952.2)

#### **4.2.2 MEETINGS**

All meetings shall be open and public.

4.2.2.1 A meeting takes place whenever a quorum (three or more members) is present and information about the business of the body is received; discussions qualify for a meeting.

4.2.2.2 Serial meetings take place when any member of Council or City staff contact more than one other Council Member for the purpose of deliberating or acting upon an item pending before the City Council (does not apply to the public or media).

4.2.2.3 Correspondence that merely takes a position on an issue is acceptable. (GC § 54953)

#### **4.2.3 AGENDAS**

Agendas for regular meetings must be posted 72 hours in advance of the meeting and must meet statutory requirements. (GC § 54954.2)

#### **4.2.4 ACTIONS**

No action shall be taken on any item not appearing on the posted agenda. Exceptions:

- 4.2.4.1 An emergency situation exists (determined by a majority of the Council).
- 4.2.4.2 The need to take action came to the attention of the City subsequent to the agenda being posted (determined by 2/3 vote, i.e. 4 votes, of the Council; or if less than 2/3 are present, by unanimous vote).
- 4.2.4.3 The item was continued to another meeting that was scheduled and posted within five days of the original agenda. (GC § 54954.2)

#### **4.2.5 PUBLIC INPUT**

The public has an opportunity to address the Council on any item of interest to the public that is within the jurisdiction of the Council. The City has the right to establish time limits on speakers and the total time allocated for a particular issue. (GC § 54954.3)

#### **4.2.6 PUBLIC DISRUPTIONS**

The Presiding Officer may call a recess if a speaker or group of speakers become unruly and/or interferes with the orderly conduct of the meeting.

A portion or all of the public may be removed if willful disruption makes conducting the meeting "unfeasible"; the press may remain unless they participate in the disruption. (GC § 54957.9)

#### **4.2.7 CORRESPONDENCE**

All writings received and/or distributed for discussion or consideration at a public meeting are public records. (GC § 54957.5)

#### **4.2.8 CLOSED SESSIONS MAY BE HELD TO DISCUSS:**

- 4.2.8.1 Real Property. The purchase, sale, exchange or lease of real property with the City's negotiator; the real property and the person(s) with whom the City may negotiate must be announced in open session prior to the closed session. (GC § 54956.8)
- 4.2.8.2 Litigation pending or a significant exposure to litigation, or the decision to initiate litigation. The litigation or title must be identified in open session prior to the closed session unless the Council states that to do so would jeopardize its ability to conclude existing settlement negotiation or effectuate service of process. A confidential memorandum from the City Attorney must be submitted to Council no earlier than one week of the closed session. (GC § 54956.9)

- 4.2.8.3 Compensation (salaries and benefits) of employees. To review its position and instruct designated representatives. (GC § 54957.6)
- 4.2.8.4 Personnel. The appointment, employment, evaluation of performance, or dismissal, of a public employee, or to hear complaint against the employee, unless the employee requests a public hearing. (GC § 54957.6)

#### **4.3 SPECIAL MEETINGS**

Special Meetings may be called by the Mayor or a majority of the Council, with strict notification requirements delivered to the media and Council a minimum of 24 hours before the time of the meeting. (GC § 54956)

#### **4.4 EMERGENCY MEETINGS**

Emergency meetings may be called without the normal 24-hour notice and posting requirements if prompt action is required due to the disruption or threatened disruption of public facilities. Only work stoppages, crippling disasters or other activities that severely impair the public health and/or safety qualify for emergency meetings. (GC § 54956.5.)

#### **4.5 ELECTRONIC MAIL (EMAIL), THE PUBLIC RECORDS ACT AND THE BROWN ACT**

City email is no less a part of “official city business” than any other written correspondence, and there is no expectation of privacy for City email messages. Good judgment and common sense should therefore prevail at all times regarding its appropriate use. For further detail, please see the City’s “Electronic Mail Policy” and Chapter 5 of this manual.

City email is subject to disclosure under the Public Records Act and is subject to the requirements of the Brown Act. While the Brown Act does not prohibit the use of email to make individual contacts between members of the Council, or the public or staff, great care should be taken to avoid the use of email to contact a majority of the Council, either individually or serially, “in a connected plan to engage in collective deliberation on public business.”

##### **4.5.1 CITY EMAIL**

City email is no less a part of “official city business” than any other written correspondence, and there is no expectation of privacy for City email messages. Good judgment and common sense should therefore prevail at all times regarding its appropriate use. For further detail, please see the City’s “Electronic Mail Policy” and Chapter 5 of this manual.

City email is subject to disclosure under the Public Records Act and is subject to the requirements of the Brown Act. While the Brown Act does not prohibit the use of email to make individual contacts between members of



the Council, or the public or staff, great care should be taken to avoid the use of email to contact a majority of the Council, either individually or serially, “in a connected plan to engage in collective deliberation on public business.”

#### **4.5.2 PRIVATE SOCIAL MEDIA AND DIGITAL COMMUNICATIONS**

The City does not provide or support individual social media accounts for councilmembers. Councilmembers that maintain personal social and other digital media accounts should be aware that, similar to City email or any other written or recorded communication related to the official conduct of city business, digital communications, social media posts and messages by public officials regarding matters that are before the City for action or within City jurisdiction can be “official city business” subject to laws and policies regarding freedom of speech, records retention and production, and public transparency. Those laws and policies include, but are not necessarily limited to, the California and United States Constitution, the California Public Records Act, the Ralph M. Brown Act, and the City’s records retention regulations.

It is the intent of this policy to ensure that councilmembers are aware that digital and social media communications regarding public business that are conducted using private networks, accounts or devices may be subject to the same laws as other records of public business and that mishandling of such communications in violation of applicable laws may subject to councilmembers and the city to liability under applicable laws and may result in censure of a violating councilmember. This policy is intended to establish parameters for the management of public, private and political digital and social media accounts in compliance with applicable laws and in a manner that avoids the potential for public confusion regarding public, private and campaign related digital and social media activities of councilmembers.

A councilmember or mayor participating in digital or social media communications shall maintain and clearly delineate between separate accounts for official, and personal or campaign statements, taking precaution not to convey personal or campaign communications in a manner that suggests such communications represent the position of the City or the City Council as a whole. To avoid ambiguity, all statements, headings, profile pictures, or biographies on personal or campaign accounts shall not be made in the name of the position to which the councilmember or mayor was elected, shall clearly reflect that content on such accounts does not represent the official positions of the City or the City Council, and shall not display the City logo or any other official City mark or title. There is no California law requiring public officials to use only government accounts to conduct public business, but there should be no expectation of privacy if personal accounts are used to conduct public business.

Statements on official sites and accounts shall contain only official City positions, policies, or announcements, and all contents and messages communicated on such accounts are subject to the California Public Records Act. If a councilmember receives an electronic communication regarding city business on a personal account, they should copy that information to their official city account for transparency and ease of access for public records requests.

Digital records relating to public business are required to be in a manner capable of maintaining the record for the applicable retention period, including through the use of highlights, bins, or archives for temporary and disappearing stories, reels, posts, or otherwise. Likewise, public officials should avoid deleting comments or blocking individuals on official pages or sites they maintain. In the event that a councilmember deletes or removes content or blocks a user for threatening, harassing, or discriminatory content that the councilmember believes constitutes an imminent threat or violation of harassment or discrimination laws, a copy of the deleted or removed content shall be saved or retained consistent with city records retention policies and this policy. Social media content should be treated the same as any written document and retained in accordance with the City retention schedules or the minimum two-year period required under California Government Code.

#### **4.5.3 4.5.3 SOCIAL MEDIA AND BROWN ACT COMPLIANCE**

To avoid any violations of the Brown Act, consistent with the update provided by AB 992, councilmembers are permitted to use a social media platform to engage in conversations or communications on matters within the subject matter jurisdiction of the Council: (a) to answer questions; (b) to provide information to the public, and (c) to solicit information from the public. However, a majority of councilmembers may not use social media to “discuss among themselves” official business. AB 992 broadly defines the meaning of “discuss among themselves” to include any “communications made, posted, or shared on an internet-based social media platform between members of a legislative body, including comments or use of digital icons that express reactions to communications made by other members of the legislative body.” AB 992 prohibits a councilmember from communicating directly with the social media of any other member on a subject within the jurisdiction of the Council.

This social media guidance applies to all internet based social media platforms that are “open and accessible to the public,” including, but not limited to, blogs, podcasts, Snapchat, Instagram, Facebook, Twitter, Nextdoor, and Reddit.

#### **4.6 OTHER PROVISIONS**

The Brown Act provides for many other restrictions and requirements; this chapter is intended merely as a Council summary and overview of the Act, and nothing in this Chapter supersedes the provisions of the Brown Act. Since State law constantly changes, it is important to ensure Council has the latest information. Additional information may be obtained from the City Attorney and/or the City Clerk.

## **CHAPTER FIVE COUNCIL/STAFF RELATIONSHIPS AND CONDUCT**

### **5.1 INTENT**

The City Council as a whole retains full power to accept, reject, amend, influence, or otherwise guide and direct staff actions, decisions, recommendations, workloads and schedules, departmental priorities, and the conduct of City business.

This chapter addresses the relationship and conduct between Council Members and staff with the intent of the Council to: 1) affirm that governing shall be by will of the collective Council, and 2) establish guidelines for Council and staff to ensure orderly, consistent and open City government.

### **5.2 GUIDELINES FOR COUNCIL MEMBERS**

The Council shall recognize that the primary functions of staff are to execute Council policy and actions taken by the Council, and to keep the Council informed.

#### **5.2.1 REQUESTS FOR INFORMATION**

Individual Council Members as well as the Council as a whole shall be permitted complete freedom of access to any information requested of staff, and shall receive the full cooperation and candor of staff in being provided with any requested information.

Council Members shall make routine requests for information through the appropriate department head. Complex or comprehensive requests for information shall be made through the City Manager.

#### **5.2.2 DIRECTION TO STAFF**

Generally, Council Members shall make requests for work to be done through the City Manager. Individual members of the Council shall make no attempt to pressure or influence staff decisions, recommendations, workloads, schedules, or departmental priorities without the prior knowledge and approval of the Council as a whole.

### **5.3 GUIDELINES FOR STAFF**

Staff shall recognize that its primary function is to execute Council policy and to keep the Council informed. Staff shall present the Council with all relevant information, as well as alternatives, in an objective, succinct manner. The City Manager and staff are committed to treating each Council Member equally.

### **5.3.1 TIMELY RESPONSE**

City staff will make every effort to respond in a timely and professional manner to all requests made by individual Council Members for information or assistance, provided that, in the judgment of the City Manager the request is not of a magnitude, either in terms of workload or policy, which would require that it more appropriately be assigned to staff through the collective direction of the City Council. In terms of making this judgment, the following guidelines should be considered: The request should be specific and limited in scope so that staff can respond without altering other priorities and with only minimal delay to other assignments; the request should only impose a "one-time" work requirement, as opposed to an on-going work requirement; the response to the request should not require a significant allocation of staff resources (generally defined as consisting of more than one staff person, or a single staff person working on the issue in excess of 1-2 hours).

### **5.3.2 DIRECTION FROM COUNCIL**

Staff is obligated to take guidance and direction only from the Council as a whole or from the appropriate management superiors as may be the case. Staff is directed to reject any attempts by individual members of the Council to unduly influence or otherwise pressure them into making, changing or otherwise suppressing staff decisions or recommendations, or changing departmental work schedules and priorities. Staff shall report such attempts to influence them in confidence to the City Manager, who may inform the Council as a whole of such attempts.

### **5.3.3 STAFF SUPPORT TO INDIVIDUAL COUNCIL MEMBERS**

An exception to the above guidelines may be staff work required in support of a Council Member designated by the City Council to represent the City in an intergovernmental role (e.g., membership on Joint Powers Authority), or relative to a special assignment (e.g., a special task force).

### **5.3.4 INFORMATION DISTRIBUTION**

In cases where a staff response to an individual Council Member request involves written material that may be of interest to other Council Members, the City Manager will provide copies of the material to all other Council Members. In making this judgment, the City Manager will consider whether the information is significant or new or otherwise not available to the Council or of interest to the Council.

### **5.3.5 SIGNIFICANT INFORMATION**

Any information, service-related needs, or policy positions perceived as necessary by individual Council Members, which cannot be fulfilled per the above guidelines, should be raised by the individual Council Member under

the "Communications" category of a regularly scheduled City Council meeting. If so directed by the collective action of the Council, then staff will proceed to complete the work within Council-established deadlines.

#### **5.4 ACCESS TO COMMUNICATIONS / TECHNOLOGY SYSTEMS**

The City will provide each Council Member with equal and appropriate communications and technological devices to facilitate their public service and within the confines of the IT standards for hardware and software specifications.

##### **5.4.1 TELEPHONES**

The City will provide at their request, each Council Member with direct access to the City's telephone system from their homes. Information Technology (IT) staff will coordinate installation of a telephone line and a telephone with voicemail and fax capability for Council Member use at home while in office. The City's Telephone Use Policy applies to Council Member use of these telephones

##### **5.4.2 COMPUTER WORKSTATIONS & REMOTE ACCESS POLICY**

The City will provide each Council Member, at their request, with a complete computer workstation and related City-standard software for their home use while in office. These computers and software will be upgraded or replaced pursuant to the City's computer replacement policy. Council Member access and use of the City's IT is subject to all City guidelines concerning the use of its information technology resources. The most important of these are:

- The City information systems exist solely for the purpose of conducting City business, not intended for personal use.
- All data (including electronic mail messages) is owned by the City and subject to public disclosure.
- All software and hardware installations should be made by IT staff on City-owned machines only. Except for screensavers, personal software is not allowed on City workstations; and all application software must be owned by the City and used in compliance with all software licensing agreements.

All City information technology policies are included in the Information Technology Policies and Procedures Manual, which is available for Council Member review upon request.

### **5.4.3 SECURITY**

Each Council Member shall have a uniquely assigned user name and password for security purposes. While this cannot guarantee privacy, confidentiality, or data security, it is an important component of the City's overall system protection. Passwords should never be shared with others.

### **5.4.4 INTERNET ACCESS**

Council Members are authorized to use the City Internet connection, which includes electronic mail, for the purpose of conducting City business and communicating with the public. The City Internet Access and Use Policy is applicable to Council Members.

### **5.4.5 ELECTRONIC MAIL (EMAIL)**

Council Members will have access to the City electronic mail (Email) system that will allow Email communication internal to the City and with others via the Internet. Email correspondence sent and received by members of the City Council via the City website are public records and subject to disclosure. The City Electronic Mail Policy is applicable to Council Members.

### **5.4.6 SUPPORT RESPONSIBILITIES**

5.4.6.1 IT staff is responsible for installing all remote access hardware and software, including computer workstations, printers, telephones and fax machines, and for removing them at the end of the Council Member's term of office.

5.4.6.2 Administration will coordinate training on standard City application software, technical support and service, and provide related office supplies.

### **5.4.7 COUNCIL MEMBER RESPONSIBILITIES**

Council Members are responsible for using City information technology resources in accordance with the City's normal policies, procedures, and guidelines.

## **5.5 COUNCIL MAIL HANDLING**

All incoming mail addressed to the Mayor and Council Members, will be handled by the City Clerk's staff in the following manner:

### **5.5.1 PAPER AND ELECTRONIC MAIL, PUBLIC RECORD**

Both paper and electronic mail addressed to Council Members and delivered to City Hall, or any other City building or facility, or via any City equipment, account, or network, is presumed to be a public record, subject to retention and disclosure requirements as set forth in the City's Records Retention Policy and the California Public Records Act, unless an express legal exemption or privilege applies. Council Members shall consult with the City Attorney prior to withholding or destroying any document or correspondence received in connection with their service for the City, except as specified herein. Electronic mail is additionally subject to the City's Electronic Mail policy and Sections 5.4.2 and 5.4.5. Electronic mail will be retained and accessed in accordance with applicable laws and City Information Technology policies.

### **5.5.2 "PRIVATE, PERSONAL, CONFIDENTIAL" MAIL**

Paper mail addressed to an individual Council Member and marked "private," "personal" or "confidential" shall be date stamped on the envelope or package and shall be logged in by City Clerk's staff in a manner that records the date of receipt, method of delivery, sender (if reflected on the face of envelope or package received), and recipient. The original will then be placed in the addressee's City mailbox unopened. If mail has not been retrieved from the Council Member's mailbox within 2 business days, such mail shall be retrieved by City Clerk's staff and handled in accordance with Section 5.5.3.

5.5.2.1 Once opened and reviewed by the Council Member, any correspondence that reflects any comment, complaint, inquiry, or request that is or may be related to any matter of City business shall, within 2 business days, be copied as the Council Member deems appropriate and the original document delivered to the City Clerk for handling in accordance with Section 5.5.3. Personal notes (e.g. birthday or holiday cards) that do not implicate City business need not be provided to staff or retained pursuant to Section 5.5.3.

### **5.5.3 PROCESS FOR PAPER MAIL**

All paper mail sent to Council (either as a group or to each Council Member) will be opened, date stamped and the envelope will be stapled to the back of the correspondence. Copies of each correspondence will be scanned and distributed to Council via an email as soon as possible. The original will be filed in the City Clerk's office consistent with the City's document retention policy.



- 5.5.3.1 Any public correspondence received on behalf of Council that requires staff to follow up with a response on an issue unrelated to a current agenda item will be distributed to Council per Section 5.5.3. Once the written response is prepared by the appropriate department (normally within two weeks) it will be sent to the person who initiated correspondence with the City Council, and all Council Members will receive a copy of the response. Items that require staff follow-up include, but may not be limited to, complaints, information requests, service requests, or other similar correspondence. Responses should be provided in the manner they were received (e.g. an e-mail response is appropriate for e-mail received, and a written response is appropriate for letters received in the mail).
- 5.5.3.2 Any public correspondence received on behalf of Council that is related to a current agenda item will be handled via the Agenda Correspondence procedure as stated in Section 1.3.7.
- 5.5.3.3 Unsolicited mail, advertisements, magazines or journal publications, and other “junk mail” will be date stamped and placed in a Council Members inbox for pick up. These items will not be scanned or logged.
- 5.5.3.4 If City Clerk staff can verify that an email correspondence has been distributed to all Council Members, it will be handled and retained pursuant to Section 5.5.3 but will not be redistributed.

## **CHAPTER SIX ADVISORY BODY PROCEDURES**

### **6.1 COUNCIL LIAISON SUBCOMMITTEE MEMBERS**

#### **6.1.1 APPOINTMENTS TO COUNCIL SUBCOMMITTEES**

Subcommittee liaisons to advisory bodies are selected annually by the full Council, usually in December. The Mayor and Vice Mayor shall submit recommendations to the full Council, rotating nominations for Council Member Subcommittees, thereby ensuring an opportunity for each member to serve as liaison at least once on each advisory body, when possible. When terms of office do not allow each member to serve once, members with greatest seniority shall have first right of selection.

#### **6.1.2 ROLE**

Council liaisons do not serve as ex-officio members of the advisory bodies, but rather as a conduit to express the position of the Council and to gain a better understanding of the issues considered by the advisory body.

#### **6.1.3 COMMUNICATION**

The purpose of the liaison assignment is to facilitate communication between the Council and advisory body.

#### **6.1.4 EDUCATION**

Increase the Council's familiarity with the membership, programs, and issues of the advisory body.

#### **6.1.5 APPOINTMENT RECOMMENDATION**

Interview applicants and make recommendations for appointments to the full Council.

#### **6.1.6 ATTENDANCE**

From time to time, attend advisory body meetings for observation purposes only. Liaison members should be sensitive to the fact that they are not participating members of the advisory body but are there rather to create a linkage between the City Council and advisory body. In interacting with advisory bodies, Council Members are to reflect the majority view of the Council as a whole, rather than their own personal opinions.

## **6.2 COUNTY OR REGIONAL REPRESENTATION**

Annually, the Mayor shall make appointments to a variety of County and/or regional committees and boards. One member of the Council shall serve as a voting representative and one member shall serve as an alternate. (See 6.6.2 for appointment procedures.) Voting delegates shall reflect the majority view of the Council as a whole, rather than their own personal opinions.

## **6.3 OTHER COUNCIL SUBCOMMITTEES**

Council may establish subcommittees of no more than two members to address areas of concern and/or study.

## **6.4 ROLE OF ADVISORY BODY MEMBERS AT COUNCIL MEETINGS**

### **6.4.1 INTENT**

To honor advisory body deliberations, views and positions on issues before Council; enhance communications between Council and their advisory bodies; and allow participation and input by advisory body members

### **6.4.2 COUNCIL AGENDA REPORTS**

6.4.2.1 Recommendation Differences. For those rare occasions when the City Manager recommendation differs from an advisory body recommendation, the difference should be clearly noted in a separate paragraph following the City Manager recommendation. The Discussion section contains information relating to the advisory body recommendation.

6.4.2.2 The minutes of the advisory body item are included as an attachment to the Agenda Report.

### **6.4.3 COUNCIL MEETINGS**

6.4.3.1 On appeals or items brought by or through the advisory body, the Chair (or Vice Chair, when the Chair is not available) may be seated next to the department head. The department head makes the introduction; then the Chair of the advisory body makes a brief presentation, representing the position of the advisory body.

6.4.3.2 Other members of the advisory body are free to appear and give testimony before Council using the public microphone, after identifying whether they are speaking as a representative of the advisory body or as a private citizen.

#### **6.4.4 RECOMMENDATIONS**

Recommendations or Reports to Council must be in written form.

#### **6.5 ROLE OF CITY STAFF PERSONS**

Staff support and assistance may be provided or made available, but advisory bodies do not have supervisory authority over City employees. While they may work closely with advisory bodies, staff members remain responsible to their immediate supervisors and ultimately to the City Manager and Council. The members are responsible for the functions of the advisory body and the chairperson is responsible for committee compliance with the policies outlined in the Advisory Body Handbook.

Staff support includes preparation of a summary agenda after approval by the Chairperson, and preparation of agenda reports providing a brief background of the issue, a list of alternatives, recommendations, and appropriate backup material, if necessary. Members of advisory bodies are volunteers and should be treated with respect and courtesy. Advisory body members should have sufficient information to reach decisions based upon a clear explanation of the issues. The assigned staff person or designee serves as Secretary, taking minutes as needed.

It is important that advisory bodies wishing to communicate recommendations to the City Council do so through adopted or approved Council agenda procedures. Staff members shall assist the advising body Chair to insure appropriate legal review or City and state legislation is in compliance.

#### **6.6 APPOINTMENT PROCEDURES**

The following procedures shall be the policy of the City Council in regard to appointment of volunteer citizens to the various advisory bodies of the City.

##### **6.6.1 PURPOSE**

The establishment of these procedures shall insure that well-qualified, responsible and willing citizens are given the opportunity to serve the City and participate in the governing of their community. These procedures will apply to all appointments and reappointments to standing advisory bodies.

#### **6.7 PROCESS**

##### **6.7.1 QUALIFICATIONS**

6.7.1.1 With the following exceptions, only residents who are registered voters within the City limits are eligible to apply to an advisory body. Exceptions include the Tourism Business Improvement District (TBID) Board, one representative from the TBID Board serving on the Promotional Coordinating Committee, the Cal Poly employee and student representatives serving on the MTC, and

members of the Housing Authority. In addition, part- or full-time City officials and management employees are not eligible to apply.

- 6.7.1.2 The applicant must be at least 18 years of age at the time of appointment.
- 6.7.1.3 No member of the Council may be appointed to any office created by or the compensation of which is increased by the Council, while a member thereof, until one year after the expiration of the term for which elected. (Charter §409)

## **6.7.2 TERMS**

- 6.7.2.1 The term of office for each appointee to an advisory body shall be a maximum of four years. The length of a term is dictated by the principle that no more than two terms on any committee shall expire each year.
- 6.7.2.2 No appointee shall serve on the same advisory body for more than two consecutive, full terms, but may subsequently serve on another advisory body unless noted otherwise. Exceptions include the Housing Authority, Jack House Committee and Construction Board of Appeals, which do not have term limits.
- 6.7.2.3 After a one-year interval, persons may reapply to serve on the same advisory body.
- 6.7.2.4 Mid-term appointment to a vacant seat shall not preclude the appointee from serving two additional consecutive full terms, provided that the initial, partial term served is less than half of a full term.
- 6.7.2.5 Other Advisory Bodies. As a general policy, an applicant shall not be appointed to serve on more than one advisory body, except that a member may also serve on one technical or special-purpose committee at the same time he or she is serving on a non-technical or non-special-purpose committee. Except as noted, a member will be expected to resign from one body upon being appointed to another.

## **6.7.3 PROCESS**

- 6.7.3.1 Applications are obtained and filed with the City Clerk's Office.
- 6.7.3.2 In December of each year, the City Clerk shall advise the City Council of the terms that are due to expire on each advisory body. The City Clerk shall also notify each advisory member whose term is due to expire. Each of these members shall be given the

opportunity to apply for reappointment unless that member has already served two consecutive, full terms on that advisory body.

- 6.7.3.3 The City Clerk shall post/publish advertisements and take other recruitment steps in accordance with statutory requirements and as appropriate, inviting citizens to apply for vacant positions and provide instructions regarding the application process.
- 6.7.3.4 Applicants will be encouraged to read the Advisory Body Handbook and attend at least one meeting prior to the interview with the Council Liaison Subcommittee.
- 6.7.3.5 The subcommittee shall interview qualified applicants, inviting the advisory body Chair to attend (if the Chair is being considered for reappointment, the Council Liaison Subcommittee shall designate another representative). The City Clerk will provide the subcommittee with the Advisory Body Interview Template to assist with the interview process.
- 6.7.3.6 The Council Liaison Subcommittee shall submit recommendations for appointment to the entire Council. If a unanimous decision for recommendation to the full Council cannot be reached, the Council shall take a separate motion for each candidate proposed by each member of the Council Liaison Subcommittee.
- 6.7.3.7 Applicants not appointed will be so advised and their applications held for consideration in the event of a future vacancy for no less than one year. Should a vacancy occur on the committee to which they applied, the City Clerk's office will contact qualified applicants to determine whether they want to be reconsidered for the vacancy. However, advertisement of the vacancy must be made in accordance with statutory requirements and all applicants will be considered for the vacancy.

## **CHAPTER SEVEN COUNCIL CONFIDENTIALITY POLICY**

### **7.1 PURPOSE AND PROHIBITION AGAINST DISCLOSURE**

#### **7.1.1 PURPOSE AND INTENT**

In order to keep the City Council fully informed about pertinent legal issues that may impact the City Council's decision-making, the City Attorney and other attorneys retained to represent the City issue confidential legal opinions and/or conducts closed sessions when authorized to do so by the Brown Act. Unauthorized disclosures of confidential information obtained from such confidential communications harm the City by compromising the City's negotiating positions, diminishing the willingness of City staff and other Council Members to communicate fully and frankly with the City Attorney, and exposing the City to unwarranted litigation risks and significant damages awards against the City. It is the intent of the Council that the City's confidential information shall be maintained inviolate and that unauthorized disclosures of such information be deterred and/or censured.

#### **7.1.2 PROHIBITION AGAINST DISCLOSURE**

No person in receipt of Confidential Information, as defined herein, shall disclose or cause to be disclosed all or part of any confidential information to any unauthorized person.

### **7.2 PUBLIC CENSURE FOR UNAUTHORIZED DISCLOSURE**

Any Council Member disclosing or causing to be disclosed confidential information to any unauthorized person may be subject to public censure by the City Council. Any censure proceeding shall be conducted in accordance with a process established by the City Council and shall, at a minimum, ensure that no public censure will occur unless the accused Council Member has been provided with notice of the accusation of unauthorized disclosure, the facts supporting such accusation, and an opportunity to be heard regarding the allegations.

### **7.3 DEFINITIONS**

For purposes of this policy, the following words and phrases shall be defined as follows:

#### **7.3.1 CAUSE TO BE DISCLOSED**

Failure to exercise due care in maintaining the confidentiality of the Confidential Information, whether verbal or written.

## **7.3.2 CONFIDENTIAL INFORMATION**

- 7.3.2.1 Any information within the scope of a duly authorized closed session, whether provided orally or in writing, by any attorney, consultant, staff member or Council Member acting within the scope of the closed session (See Gov't. Code Section 54963); or
- 7.3.2.2 Any oral or written communications by or from the City Attorney, Assistant City Attorney, or any retained counsel representing the City's legal interests containing the attorney's legal opinions, advice, thoughts, mental impressions or conclusions that are given on behalf of the City.
- 7.3.2.3 Confidential Information does not include information that is: required by law to be reported out of closed session; authorized to be disclosed by a majority vote of the City Council; or otherwise authorized to be disclosed under the law.

## **7.3.3 UNAUTHORIZED PERSON**

- 7.3.3.1 With respect to confidential information communicated during a closed session, any person, other than a Council Member, not in attendance at the closed session; or
- 7.3.3.2 Any person to whom the oral or written confidential information is not directed or addressed; or
- 7.3.3.3 Any person who has a disqualifying conflict of interest in the subject matter of the confidential information.
- 7.3.3.4 Unauthorized person does not include Charter Officers and department heads and the staff of Charter Officers and department heads, when such persons have a need to know the confidential information in order to discharge the duties of their positions for the benefit of the City.



## **CHAPTER EIGHT COUNCIL CENSURE POLICY**

### **8.1 PURPOSE OF CENSURE POLICY**

In order to deter violations of law and serious violations of adopted City policies, the City Council may take formal action against its members for such misconduct in the form of censure.

### **8.2 DEFINITIONS**

#### **8.2.1 CENSURE**

Censure is a formal Resolution of City Council reprimanding one of its own members for specified conduct, generally a violation of law or of City policy where the violation of policy is considered to be a serious offense. Censure should not follow an occasional error in judgment, which occurs in good faith and is unintentional. Censure carries no fine or suspension of the rights of the member as an elected official, but a censure is a punitive action that serves as a punishment for wrongdoing.

### **8.3 CENSURE PROCEDURE**

**8.3.1** Any member of the City Council may submit, in writing to the Chair of the Personnel Board, a complaint and request for a censure hearing concerning an alleged violation of law or serious violation of City policies by another member.

**8.3.2** Prior to any formal action by the City Council to censure a member, the person against whom censure is sought is entitled to due process of law, which requires notice and the opportunity to be heard and to refute the evidence against him or her, by means of a censure hearing.

**8.3.3** The complaint shall contain specific factual allegations and any supporting evidence of specific conduct alleged to violate existing law or adopted City policies. The Personnel Board within 30 business days shall review the record and either (1) issue an advisory opinion to the Council; or (2) conduct further investigation and/or a hearing on the matter.

**8.3.4** A copy of the complaint and request for censure shall be provided to the accused Council Member as soon as possible following receipt, but in no event less than 72-hours prior to the meeting of the Personnel Board at which the complaint and request for a censure hearing will be considered.

**8.3.5** The Personnel Board shall consider whether additional investigation is necessary and, if so, shall appoint an ad hoc committee to complete the necessary investigation and make a written report of the investigation to the full Board.

- 8.3.6** The ad hoc committee will determine the process by which statements are taken. Witnesses may choose to provide a signed declaration under penalty of perjury attesting to his or her knowledge of the facts surrounding the allegations. If a witness is unwilling to submit such a declaration, the Council may issue a subpoena to compel the witness testimony before the Personnel Board, consistent with its subpoena power granted under the City Charter.
- 8.3.7** The Personnel Board and ad hoc committee, if necessary, shall be staffed by the Assistant City Attorney and such other administrative support staff as may be necessary to assist in its investigation and report to the Council.
- 8.3.8** Upon completion of its review of the complaint and any additional investigation the committee shall determine if, considering all the facts and evidence, there is sufficient evidence to believe or not believe that the alleged violation of law or serious violation of adopted City policy occurred. The Personnel Board shall make a written report to the Council stating the specific law or policy alleged to have been violated, and summarizing the complaint, evidence, and the results of any additional investigation. The Board shall also make a recommendation to the Council that the complaint is supported by sufficient evidence of a violation of law or serious violation of adopted City policy to warrant a censure hearing, or, alternatively, that the complaint is not supported by sufficient evidence of a violation of law or serious violation of adopted City policy to warrant a Council censure hearing.
- 8.3.9** If the Personnel Board determines that the allegations are supported by sufficient evidence and a censure hearing is warranted, the City Clerk shall be notified and shall set the matter for a public censure hearing before the City Council; if the Personnel Board concludes that the allegations are not supported by sufficient evidence and a censure hearing is not warranted, the Board's recommendation will be forwarded to the City Council and no further action taken, unless the City Council directs, by a majority consensus of the City Council during Council Communications, the matter to be placed on its agenda for further consideration. In either case, a copy of the final report shall be provided to the accused member at the same time it is provided to the City Council.
- 8.3.10** If a public hearing is set before the City Council, it shall be at least 14 days following the Personnel Board's recommendation in order to give the member subject to censure adequate time to review the allegations and evidence against him or her and prepare a defense, but no longer than 30 days from the date of the Personnel Board's recommendation.

**8.3.11** At the hearing, the subject member shall be given an opportunity to make an opening statement, closing statement, and to question his or her accusers. The hearing shall not be a formal adversarial hearing and the Rules of Evidence shall not apply to the proceeding. The subject member may choose to be represented and to designate his or her representative to speak on his or her behalf.

**8.3.12** A City Council decision to censure requires the adoption of a Resolution making findings, based on substantial evidence that the member has engaged in conduct that constitutes a violation of law or a serious violation of an adopted City policy. The Resolution must be affirmed by at least three affirmative votes of the Council. The accused Council Member shall not participate in the City Council's deliberations after the public hearing is closed or in any vote by the City Council on the proposed censure.