

CITY COUNCIL POLICY AND PROCEDURES MANUAL



CITY COUNCIL POLICY AND PROCEDURES MANUAL

This manual includes policies and procedures that guide the City Council in carrying out their duties as the chief legislative body of the City of Irvine. These policies and procedures have been adopted through various actions including the Irvine Municipal Charter, City Council Ordinance, City Council Resolution, City Council minute order, and through adoption of this manual.

The City of Irvine and its City Council are guided by a number of legislative directives including, but not limited to the Irvine Municipal Code, the California Government Code, the “Brown Act” regarding public meetings, the California Fair Political Practices Commission Code of Regulations, Roberts Rules of Order, City of Irvine Rules of Ethical and Open Governance, City-wide administrative policies and procedures, and state and federal judicial rulings.

This manual is directed primarily towards operational areas that regularly impact the City Council. As such, it is recognized that this manual is not inclusive of all ordinances, resolutions and other legislative acts that have bearing on City Council operations.

The City Council Policy and Procedures Manual is updated on a regular basis and may be amended at any time by City Council direction.

January 9, 2024 Update

Table of Contents

Policy/Procedure

1. City Council Agendas and Meetings	5
2. City Council Meetings: Invocation.....	10
3. City Council Compensation and Expense Policy	11
4. City Council Travel	16
5. Council Services Office.....	18
6. Council Executive Assistant Program	21
7. Distribution of Written Legal Opinions from the City Attorney.....	27
8. Posting Deposition Transcripts on the City Website.....	29
9. Conflict of Interest.....	30
10. Political Activities of Public Employees	31
11. Proclamations, Commendations and Certificates of Recognition.....	33
12. Eligibility for Purchase of Tables and Tickets to Community Events	35
13. Community Partnership Fund Grant Program.....	37
14. Acceptance of Donations.....	39
15. Flag Protocol.....	41
16. Recognition of Significant Contributions by Persons Living or Deceased	43
17. Use of City Seal / Letterhead.....	46
18. Submittal of Information for Dissemination/Presentation at Public Meetings...	47
19. Mayor/Councilmember Office Operating Budgets	50
20. Legislative Affairs Program	53
21. Commission and Committee Bylaws	55

Appendix

City Charter

City Code: Division 2 (City Council)

Political Reform Act - Conflict of Interest

Open & Public V: A Guide to the Ralph M. Brown Act

Ballot Measures (2008-2018)

Measure C – Requiring a 2/3 Vote of the City Council to Propose Taxes

Measure V – Orange County Great Park Fiscal Transparency and Reforms Act

Measure W – Term Limits Measure

Measure R – Orange County Great Park Implementation and Ratification Act

Measure S – Personal Information and Privacy Act

Measure H – Irvine City Council Ethical Public Service



City Council Policy / Procedure

City Council Agendas and Meetings (Updated January 9, 2024)

Reference: Municipal Code: Div. 2
Municipal Code Div. 15
Minute Order: 1-9-24
Minute Order: 6-28-22
Resolution 23-24

In addition to procedures set forth in the Ralph M. Brown Act (Government Code § 54950 et seq.) and Divisions 2 and 15 of Title 1 of the Irvine Municipal Code, the following policies and procedures have been adopted by, and shall be followed by, the City Council and City commissions and committees with regard to agenda preparation and the conduct of public meetings.

1. Agendas

- a. ***Agenda Posting and Descriptions:*** The City Manager shall cause an agenda to be posted in accordance with the Irvine Municipal Code and the Ralph M. Brown Act (Government Code § 54950 et seq.). The agenda shall include a brief description of each item of business to be transacted or discussed at the meeting together with the time and location of the meeting. The description shall be sufficient to apprise interested persons of the subject matter of the discussion or the business to be conducted.
- b. ***Councilmember-Initiated Agenda Items:*** Councilmembers wishing to place items on City Council Agendas shall adhere to the following.

- i. Items Not Requiring a Staff Report:

Requests shall be presented in memorandum to the City Manager, with a copy to the Mayor and City Council, no less than one week prior to the next scheduled City Council meeting.

- ii. Items Requiring a Staff Report:

Requests shall be presented in a memorandum to the City Manager, with a copy to the Mayor and City Council, no less than two weeks prior to the next scheduled City Council Meeting.

c. **Order of Business:** The order of business at City Council meetings has been established pursuant to City Council Resolution No. 23-24, as follows:

- i. Call to Order
- ii. Roll Call
- iii. Study Sessions/Workshops/Scoping Sessions
- iv. Closed Sessions
- v. Pledge of Allegiance
- vi. Invocation
- vii. Presentations
- viii. Public Comments –Non-Agendized Items *
- ix. City Manager’s Report
- x. Announcements, Committee Reports, Council Reports
- xi. Additions and Deletions**
- xii. Consent Calendar***
- xiii. Public Hearings***
- xiv. Council Business***
- xv. Adjournment

**Public comments will be heard no sooner than 5:00 p.m.

*Additions to the agenda are limited by California Government Code Section 54954.2 (of the Brown Act).

*** Public comments will be heard on the Consent Calendar, on each Public Hearing item, and on each item of Council Business. In each case, public comments will be heard after the staff report/presentation (if any) and prior to City Council deliberations and action.

d. **Public Comments**

- i. **Public Comments –Non-Agenda Items:** Each meeting agenda shall include a single item providing for members of the public to address the City Council on items of interest to the public and within the subject matter jurisdiction of the City Council, but that are not otherwise on the agenda. If 20 or fewer comment requests are submitted, each speaker shall be limited to three minutes. If between 21 and 30 comment requests are submitted, each speaker shall be limited to two minutes. If more than 30 comment requests are submitted, each speaker shall be limited to 90 seconds. The time limit per speaker shall be established based on the number of comment requests submitted to the City Clerk before the first speaker is called. Comment requests submitted after the first speaker is called shall receive 90 seconds. These time limits may be shortened or extended, or a cumulative limit on the

time for all public speakers may be imposed, at the discretion of the Mayor or by a majority vote of the City Council.

The City Council shall not discuss items which are raised by the public as a part of the public comment period and not included within the posted agenda.

- ii. ***Public Comments – Consent Calendar, Public Hearings items, and Council Business items:*** Members of the public shall be permitted to speak on the Consent Calendar, each Public Hearing item, and each item of Council Business. In each case, public comments will be heard between the staff report/presentation (if any) and City Council deliberations and actions on each item. For each item, if 10 or fewer comment requests are submitted, each speaker shall be limited to three minutes. If between 11 and 15, inclusive, comment requests are submitted, each speaker shall be limited to two minutes. If more than 15 comment requests are submitted, each speaker shall be limited to 90 seconds. The time limit per speaker shall be established based on the number of comment requests submitted to the City Clerk before the first speaker is called for each item. Comment requests submitted after the first speaker is called shall receive 90 seconds. These time limits may be shortened or extended, or a cumulative limit on the time for all public speakers may be imposed, at the discretion of the Mayor or by a majority vote of the City Council.
- iii. ***Unused Time:*** For all categories of public comments, public speakers may not transfer unused time to another public speaker.
- iv. ***Groupings of Commenters:*** For all categories of public comments, whenever a group of persons wishes to address the City Council on the same subject matter, it shall be proper for the presiding officer to request that the group appoint a spokesperson to address the City Council. If the group does not appoint a spokesperson, or if members of the group other than the spokesperson, seek to address the City Council, the presiding officer may limit the numbers of such speakers so as to avoid unnecessary repetition before the City Council.
- v. ***Remote Participation:*** Members of the public shall be permitted to view public meetings and provide public comments on agenda items and non-agenda items via Zoom or other City-approved virtual platform(s). During public comments provided by Zoom or other city-approved virtual platform(s), the exclusive focus of the visual displayed to remote attendees shall be the City Council dais, except where multimedia materials have been provided for display.
- vi. ***Multi-Media:*** For all categories of public comments, when using multimedia presentations, the following rules shall apply: (1) the presentation shall be provided in a time and format specified by the City Clerk and described

on posted agendas, (2) multi-media presentations shall not include testimony from another person providing public comments, (3) a single multi-media presentation shall not be divided among multiple multi-media presenters, (4) unless otherwise directed by the Mayor or a majority vote of the City Council, all multi-media public comments shall be taken last in order.

- e. ***Announcements, Committee Reports, and Council Reports:*** Announcements, Committee Reports, and Council Reports shall be limited to a maximum of 15 minutes, 3 minutes per member of the City Council. In addition, the Mayor shall receive any necessary additional time to deliver announcements of community events and opportunities.
- f. ***Consent Agenda:*** Items of a routine nature will be considered under the Consent Calendar and will be acted upon as one item. Any member of the City Council shall have the right to remove any item from the Consent Calendar for separate discussion.
- g. ***Reordering:*** Recognizing the occasional need to rearrange the order of business, it shall be done at the discretion of the Mayor or by a majority vote of the City Council.
- h. ***City Council Questions, Comments, and Deliberation:*** City Council questions, comments, and deliberations shall be conducted in rounds, with each councilmember receiving an opportunity to speak in each round. Speaking time shall be limited to five minutes per councilmember per round. That time limit may be shortened or extended at the discretion of the Mayor or by a majority vote of the City Council.

2. Decorum

Public Safety will assign at least one (1) officer to remain present through all City Council meetings. His/her responsibilities will include: security; maintaining the peace at all times; enforcement of the no smoking regulation; escorting Councilmembers to their vehicles if need be; and general enforcement of any order given by the Chief of Police or City Manager. The officer shall at all times be noticeably visible to the public and City Council.

3. Seating Arrangements

The seating arrangement for the City Council shall be determined by the Mayor, unless overturned by a majority vote of the City Council. (Adopted by City Council action on 4-08-75.)

4. Motions

Whenever possible, motions of a substantive nature shall be drafted, copied and distributed on the dais at least one (1) hour prior to a City Council meeting at which the motion is to be considered. Councilmembers must be notified by phone or in person that new material awaits them. This distribution and notification notice does not automatically indicate that

appropriate time has been given for individual Councilmember's or staff's consideration, but serves to help address last minute information.

5. Voting

By City Council action roll call votes shall be taken by the use of electronic voting lights, unless otherwise mandated by law or directed by the Mayor.

6. Supplemental Information

Councilmembers who wish to present supplemental information at a City Council meeting, i.e., overheads, visuals, handouts, etc., should provide that information to the City Manager no less than 4 hours prior to the scheduled City Council meeting to ensure adequate time to arrange for the presentation.

7. Applicability to Commissions and Committees

These policies and procedures shall apply to all City commissions and committees (to the extent they are otherwise subject to the Brown Act). When applying these policies to City commissions and committees, the word "commissioner" or "committee member" shall be substituted for the word "councilmember" and the word "presiding officer" shall be substituted for the word "mayor." In the event of any inconsistency between these policies and any adopted rule or regulation of a City commission or committee (e.g., bylaws), this policy shall control.



City Council Policy / Procedure

City Council Meetings; Invocation

Reference: Minute Order 01-22-13

Invocation

The Irvine City Council has intermittently included an invocation on the City Council meeting agendas. In 2002, the California Court of Appeal ruled that certain invocations—those that constitute sectarian prayer—violate the Establishment Clause of the United States Constitution; and the California Supreme Court and the United States Supreme Court denied requests to hear the case. (*Rubin v. City of Burbank* (2002) 101 Cal. App. 4th 1194.) The purpose of this Policy is to ensure that invocations comply with the law so that we retain the right to open public meetings with words of inspiration and wisdom.

The City Council believes that the purpose of an invocation is to recognize the role that freedom of religion has played in the history of our country and the contribution that religious groups make to the quality of life in our community—and to neither promote nor disparage any denomination or particular religious belief. The City Council is confident that anyone who agrees to give an invocation consistent with this Policy will offer words that respect the laws and institutions that protect the freedoms that we enjoy.

The City Council has determined that invocations that comply with the following guidelines are consistent with the Rubin decision.

1. The tone, tenor and content of the invocation would not, to a reasonable person, be considered as advancing or disparaging a specific religion.
2. The invocation does not refer to terms associated with a specific religion, sect or deity such as “Jesus Christ,” “Allah” or “Our Father in Heaven.”
3. The invocation does not refer to a particular religious holiday, significant dates, holy day or religious event.
4. The person giving the invocation does not read or quote from any sectarian book, doctrine or material.

The City Clerk shall send a letter to each person who has agreed to give an invocation expressing the City Council’s appreciation for volunteering and confirming his/her intention to offer an invocation that is fully consistent with this Policy.



City Council Policy / Procedure

City Council Compensation and Expense Policy (Updated January 1, 2009)

Reference: Municipal Code Sec. 1-2-108
Resolution No. 06-22
Ordinance No. 08-04

Compensation

Compensation for City Council members shall be set, and from time to time shall be changed, in accordance with the compensation schedule for the Mayor and City Council members established in Government Code § 36516. Compensation for Councilmembers is \$880 per month as of January 1, 2009.

Expense Policy

1. Each City Councilmember shall be paid monthly, during his or her term of office, a lump sum automobile allowance in the amount of \$715 per month.
2. All other job-related expenses incurred by a City Councilmember or City legislative body member may be reimbursed subject to the following policy.
3. Authorized Expenses. City funds, equipment, supplies (including letterhead), titles and staff time must be used for authorized City business. The following types of expenses generally constitute authorized expenses, provided the other requirements of this policy are met:
 - a. Communicating with representatives of regional, state, and national government on City adopted policy positions;
 - b. Attending educational seminars designed to improve officials' skill and information levels;
 - c. Participating in regional, state, and national organizations whose activities affect the City's interests;
 - d. Recognizing service to the City (for example, thanking a long time official or employee with a retirement gift or celebration of nominal value and cost);
 - e. Attending City events;

- f. Implementing a City-approved strategy for attracting or retaining businesses to the City of Irvine, this will typically involve at least one staff member.

Expenses which exceed the budgeted annual limits established for each Councilmember and member of a City legislative body require the approval of the City Council.

Examples of personal expenses that the City will not reimburse include, but are not limited to:

- a. The personal portion of any trip;
- b. Political or charitable contributions or events;
- c. Family expenses, including partner's expenses when accompanying the Councilmember or member of a City legislative body on City-related business, as well as children or pet related expenses;
- d. Entertainment expenses, including theater, movies (either in-room or at a theater), sporting events (including gym, massage and /or golf related expenses), or other cultural events;
- e. Non-mileage personal automobile expenses, including repair, traffic citations, insurance and gasoline;
- f. Personal losses incurred while on City business.

Any questions regarding the propriety of a particular expense should be resolved by the City Council before the expense is incurred.

- 4. General Standards/Cost Control. The intent of this policy is to emphasize economy and practicality with reasonable subsistence and accommodations while on City business. The policy is not intended to address every issue, exception or contingency that may arise in the course of City travel or attendance at meetings. Accordingly, the basic standard that should prevail is to use good judgment in the use and stewardship of City funds. Any deviations from the policy should be approved by the City Council. To conserve City resources and keep expenses within community standards for public officials, Councilmembers and members of City legislative bodies should adhere to the guidelines provided within this policy.
- 5. Allowable Types of Expenses.
 - a. Transportation. The most economical mode and class of transportation reasonably consistent with scheduling needs and cargo space requirements must be used, using the most direct and time-efficient route. In the event that a more expensive transportation form or route is used, the cost borne by the City will be limited to the cost of the most economical, direct, efficient and reasonable transportation form unless

otherwise approved by the City Council. Government and group rates must be used when available.

- i. For members of City legislative bodies, automobile mileage is reimbursable at Internal Revenue Service rates presently in effect (see www.irs.gov). These rates are designed to compensate the driver for gasoline, insurance, maintenance, and other expenses associated with operating the vehicle. This amount does not include bridge and toll roads, which are also reimbursable with receipts.
 - ii. Airfares that are reasonable and economical shall be eligible for purposes of reimbursement. Airport parking may be used during travel on official City business and is reimbursable with receipts.
 - iii. If car rental is required, rental rates that are reasonable and economical shall be eligible for purposes of reimbursement. When determining the type of rental car to be used, consideration should be given to the economic standards set forth in this policy and the appropriate use and stewardship of City funds.
 - iv. Taxis or shuttle fares may be reimbursed, including a 15 percent gratuity per fare, when the cost of such fares is equal or less than the cost of car rentals, gasoline and parking combined, or when such transportation is necessary for time-efficiency.
- b. Lodging. Lodging expenses will be reimbursed or paid when travel on official City business reasonably requires an overnight stay. If such lodging is in connection with a conference, lodging expenses must not exceed the group rate published by the conference sponsor for the meeting in question if such rates are available at the time of booking. Travelers must request government rates, when available. If the group rate is not available, reimbursement at the IRS rate in effect at the time of travel shall apply (IRS Publication 463).
- c. Meals. Meal expenses, including beverages, and associated gratuities will be reimbursed subject to the maximum per diem for the meal as set by the IRS rate in effect at the time of travel. (see Cal. Gov't. Code 53232.2(c) and Publication 1542 at www.irs.gov or www.policyworks.gov/perdiem)
- d. Telephone/Fax/Cellular. City Councilmembers and members of City legislative bodies will be reimbursed for actual telephone and fax expenses incurred on City business. Telephone bills should identify which calls were made on City business. For cellular calls, when the Councilmember/member of City legislative body has a particular number of minutes included in his/her plan, the Councilmember/member of City legislative body can identify the percentage of calls made on public basis.

- e. Other expenses not already discussed in this policy, but reasonably incurred in the course of official City business, may be reimbursed with the approval of the City Manager or his/her designee and/or the City Council. Appropriate documentation should be provided with the reimbursement request. Expenses for which Councilmembers and members of City legislative bodies receive reimbursement from another agency are not reimbursable.
6. Methods of Payment. The City will pay all legitimate expenses for City-related business, including transportation, lodging, registration fees, meals, and any other expenses incurred for official City business and in accordance with these guidelines. There are three methods of payment that may be used for business related expenses, individually or in combination:
- a. Direct payments to vendors by check may be used to pay for specific costs related to the trip, usually for registration fees, lodging, and airfare.
 - b. The City does not issue individual credit cards to Councilmembers or members of City legislative bodies, however payments by a City credit card may be used to prepay travel expenses, including registration fees, lodging and airfare, or may be used to cover business expenses as they arise on the trip. City credit cards shall not be used for personal expenses, even if the Councilmember or member of the City legislative body subsequently reimburses the city.
 - c. Reimbursement to the Councilmember/City legislative body member with appropriate receipts for incurred expenses.
7. Expense Report Content and Submission Deadline. All credit card expenses and expense reimbursement requests must be submitted on an expense report form provided by the City. Expense reports must document that the expense in question met with the requirements of this policy. Officials must submit their expense reports within sixty (60) calendar days of an expense being incurred, accompanied by receipts documenting each expense. Inability to provide such documentation in a timely fashion may result in the expense being borne by the official.

In the event the official does not attend the trip and non-refundable expenses have been incurred for registration, lodging and/or travel, the non-attending official shall submit written explanation of the reasons for non-attendance to the City Manager. The City Manager shall determine if the public funds advanced must be reimbursed to the City. Any decision by the City Manager may be appealed to the City Council.

All expenses are subject to verification that they comply with this policy.

8. Report to City Council, Board, or Commission. In accordance with pre-existing City Council policy, Councilmembers shall provide a brief report in either written or verbal form, on meetings attended at City expense, at the next meeting of the City Council. Members of Boards or Commissions shall provide a brief report in either written or verbal form, on Brown Act meetings attended at City expense.
9. Compliance With Laws; Violations. City officials should keep in mind that some expenditures may be subject to reporting under the Political Reform Act and other laws. All agency expenditures are public records subject to disclosure under the Public Records Act and other applicable laws. Use of public resources or falsifying expense reports in violation of this policy may result in any or all of the following:
 - a. Loss of reimbursement privileges;
 - b. A demand for restitution from the City;
 - c. The agency's reporting the expenses as income to the elected official to state and federal authorities;
 - d. Civil penalties of up to \$1,000 per day and three times the value of the resources used;
 - e. Prosecution for the misuse of public resources.



City Council Policy / Procedure

City Council Travel

Reference: Resolution No. 01-139
Minute Order 2-14-06
Resolution No. 17-74

The City shall pay all allowable expenses of the City's elected and appointed officials for domestic and international travel on City business, including transportation, lodging, registration fees, meals, and other incidental expenses, if they are for official City business, fit within the City's policy guidelines, and comply with applicable regulations of the California Fair Political Practices Commission (FPPC). City business is defined as conferences, training sessions, meetings, economic development, and other official City business, including Sister and Friendship City programs, which is a direct result of employment with, or representation of, the City of Irvine. Please refer to City Council Policy/Procedure "Compensation and Expense Policy" for further clarification on allowable travel expenses.

The following criteria are utilized to determine whether City Council and/or appointed official travel related to official City business: (a) the conference or meeting is being held by an organization or agency of which the City is a member; (b) the purpose of the travel is City representation in support of a City Council approved program, or at the direction of the City Council; and (c) adequate funds are available within the approved individual City Council Business Expense budget or approved by the City Council separately.

In circumstances where travel expenses are paid by a source other than a state, local, or federal government agency, the requirements and restrictions of FPPC Regulation 18950.1 shall also apply. That regulation prohibits payment for food, lodging or travel to a member of the City Council (and appointed officials) "unless the transportation, lodging, and food is directly related to the official's public duties, is for a purpose that would otherwise be paid for with the agency's funds, is authorized in the same manner as transportation, lodging, and food using the agency's own funds, and otherwise meets the requirements of subdivision (a) of [FPPC Regulation 18950.1]." Subdivision (a) of Regulation 18950.1, in turn, allows payment for travel from sources other than a state, local, or federal government agency only if all of the following requirements are satisfied:

1. The payment is made directly to or coordinated with the City, and not made to the City official using the travel.
2. The payment is used for "official agency business" as defined in FPPC Regulation 18950.1(c).
3. The City determines the City official who will make use of the payment.

4. The payment provides no personal benefit to the City official who makes use of the payment.
5. The duration of the travel is limited to that necessary to accomplish the purpose for which the travel was provided as determined by the City using the same standards imposed for travel paid with City funds.
6. The City reports the payment as provided in FPPC Regulation 18950.1(f).

City Council members and appointed officials shall provide a brief report, in either written or verbal form, on meetings attended at City expense at the next regularly scheduled meeting of the City Council or City commission (as the case may be).

All travel requests that do not otherwise adhere to this Travel Policy shall be requested through a memorandum addressed to the City Manager for City Council consideration. The following information, at a minimum, shall be included in the request:

1. The purpose or specific benefit of the trip that would be achieved by sending a City official and/or supporting City staff.
2. The anticipated dates of the travel and destination(s).
3. Detailed financing information, including any cost that may be incurred by the City.
4. An explanation of Council Executive Assistant support, if requested.



City Council Policy / Procedure

Council Services Office

Reference: Municipal Code Sec. 1-5-102
Resolution No. 02-69

The Council Services Office provides support to the Mayor, members of the City Council, and Council Executive Assistants. The following summarizes procedures followed as part of this support.

Meetings

Meetings are scheduled for Councilmembers based upon their preferred schedules. Requests for City staff attendance at meetings should be made through the Council Services office. City Council calendars are not public records; however, they are made available to the City Manager and Council Services staff to facilitate scheduling.

Phone Calls

Phone messages are forwarded to Councilmembers as soon as possible after the call is received. Arrangements will be made with each Councilmember to establish the best procedure to expeditiously forward phone messages.

Each Councilmember has private voicemail on his/her City telephone line. Voicemail will not be accessed by Council Services staff; retrieval of voicemail messages is the responsibility of each individual Councilmember.

Files

The Council Services Office maintains chronological (chron) files of all correspondence generated by individual Councilmembers. Chron files are maintained for four (4) years as required by public records law. It is the responsibility of each individual Councilmember to maintain his/her own working files as they deem necessary.

Mail (Postal Service)

All mail relating to City business that is addressed to the Mayor, City Council or to individual Councilmembers, will be copied and distributed to the Mayor, to all Councilmembers, and to the City Manager and appropriate departmental staff. Copies of all City business-related mail are maintained in the City Clerk's Office for four (4) years as required by public records law.

Mail not related to City business is opened and distributed only to the addressee and no copies are made. Mail marked “personal” or “confidential” is given, unopened, to the addressee only.

Electronic Mail (Email)

Citizens may contact the City Council through three different email addresses.

1. Each Councilmember has a private email address on his/her City computer. Council Services staff does not access these personal email boxes; it is the responsibility of each individual Councilmember to retrieve their own email from their personal email boxes.
2. A generic City Council email box exists on the City’s web site, irvinecitycouncil@cityofirvine.org. Council Services staff accesses this email box and distributes in conformance with procedures listed under general mail (postal).
3. A generic City Council email box exists in the Council Services office, irvinecc@cityofirvine.org. Typically, this email box is used for citizens who wish to send invitations to the City Council electronically, but also at times receives general correspondence. Council Services staff accesses this email box and distributes in conformance with procedures listed under general mail (postal).

Email communication constitutes “preliminary drafts, notes, or interagency or intra-agency memoranda that are not retained by the public agency in the ordinary course of business” within the meaning of Government Code § 6254(a), unless the email communication is printed and retained in official City files. It is the City’s policy to automatically delete email after 30 days (City Council Resolution No. 02-69). Email that is saved in another computer file or is printed and filed as a hard copy becomes subject to all applicable public records requirements.

Invitations

Councilmembers are invited to a number of events each week. Council Services staff summarizes these invitations and, along with the original invitations, the list is forwarded to each Councilmember at the end of each work week. Councilmembers are asked to return their invitation list as soon as possible, noting which events they would like to attend, so staff can RSVP. Last minute invitations will be immediately forwarded to Councilmembers for a response.

City payment for tables, tickets and admission charges to events that Councilmembers attend is covered under the City Council policy on “Eligibility for Purchase of Tables and Admission Tickets to Community Events.”

Response Letters

City staff will prepare response letters for correspondence received by the City Council relating to City business. Letters received by the City Council or by individual Councilmembers will be routed to the appropriate operating department for a draft response. Response letters are prepared for signature within approximately two weeks.

If all Councilmembers receive the same letter, or if the letter is addressed to the “City Council” generically, the response will be prepared for the Mayor’s signature only. Individual response letters beyond the Mayor’s response letter are the responsibility of each individual Councilmember, should they desire to personally respond.

Requests for Information

Requests for information and assistance from City departments and staff should be made through the Council Manager’s Office. The Council Services Office will coordinate with the City Manager and will process and track these requests to insure that the most appropriate and timely response is provided.

Weekly Packets

Council agendas and mail packets will be put on the desk of the Mayor and each member of the City Council on the last day of the work week. These packets include, but are not limited to, weekly calendars, invitation lists, a weekly update from the City Manager, correspondence, and miscellaneous mail.



City Council Policy / Procedure

Council Executive Assistant Program (Updated May 25, 2021)

Reference: Resolution No. 19-57
Resolution No. 21-30

In 1984 the Council Aide program, now called the Council Executive Assistant (CEA) program, was established to assist the Mayor and members of the City Council with their duties of office. Council Executive Assistants perform a wide variety of highly responsible administrative, community relations, and field support duties under the direct supervision and administrative oversight of his or her respective appointing member of the City Council.

The policies and procedures were updated in 2021 as approved in Resolution 21-30. Resolution 21-30 approved updated job specifications and classifications for a Council Executive Assistant.

The Resolution and job description are attached, reflecting the Policies and Procedures of the Council Executive Assistant Program.

CITY COUNCIL RESOLUTION NO. 21-30

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
IRVINE, CALIFORNIA, PROVIDING ADMINISTRATIVE
POLICIES AND PROCEDURES FOR COUNCIL EXECUTIVE
ASSISTANTS

WHEREAS, the City Council of the City of Irvine established a Council Aide program, now called the Council Executive Assistant program, in September 1984; and

WHEREAS, the Council Executive Assistant program was created to assist the Mayor and members of the City Council with their official duties of office; and

WHEREAS, it is timely to update the policies and procedures to reflect the more contemporary and streamlined City Council operations and the growing and changing duties, obligations, and expectations of public office.

NOW, THEREFORE, the City Council of the City of Irvine DOES HEREBY RESOLVE as follows:

Section 1. The City Council of the City of Irvine hereby rescinds Resolution No. 19-57 and all previous actions relating to Council Executive Assistant policies and procedures, and adopts the following consolidated administrative policies and procedures for Council Executive Assistants.

Section 2. The job description for Council Executive Assistant is attached as Exhibit A and is hereby approved.

Section 3. The following guidelines shall apply to the Council Executive Assistant program.

- a. Council Executive Assistants are at-will City employees and subject to the personnel rules and regulations that apply to at-will City employees.
- b. Council Executive Assistants shall be selected by the City Council member with whom they shall work. Following that selection, the City Manager or her/his designee shall authorize the employment of the selected Council Executive Assistant subject to satisfying all City employee onboarding requirements and background checks.
- c. Once hired, each Council Executive Assistant will perform a wide variety of administrative, community relations, and field support duties under the direct supervision and administrative oversight of his or her respective appointing City Council member.

- d. The appointing City Council member for each Council Executive Assistant shall monitor and verify work schedules within annual budget allocations.
- e. Communication, inquiries, and requests from Council Executive Assistants are to be directed through the City Manager's Office and through department contacts as designated by the City Manager's Office.
- f. Council Executive Assistants have no authority to request, direct, assign, authorize, interfere with, or in any way compromise the work of any other City employee.
- g. Memos and correspondence authored, prepared, or executed by the Council Executive Assistants are to carry the initials of the Council Executive Assistant for reference purposes.

Section 4. Each Council Executive Assistant serves at the will and pleasure of his or her appointing City Council member. However, as the hiring authority of the City, the City Manager, or her/his designee, is authorized to engage, inform, or advise any Council Executive Assistant regarding administrative, employment, and management matters.

The City Manager is also authorized to correct, reprimand, restrict, or terminate the employment of any Council Executive Assistant, provided that the City Manager first confers with the City Council member with whom the Council Executive Assistant works.

Section 5. Council Executive Assistants are classified at Level 1, 2, 3, 4, Senior, Principal, Supervising Principal, and Chief of Staff and receive an hourly rate as established in the City's part-time and full-time salary resolutions.

Section 6. Funding for the Council Executive Assistant program will be considered during the biennial budget process and, if approved, included in individual City Council office operating budgets.

Section 7. Approved funds for the Council Executive Assistant program shall be used for Council Executive Assistant salaries and benefits, and for associated expenses, office equipment, and supplies. The transfer and/or expenditure of Council Executive Assistant funds for other City Council budget operating needs shall be in accordance with City's budget adjustment guidelines included in the adopted biennial budget and in the City Council office operating budgets policy.

Section 8. The City Manager's Office shall oversee administrative requirements of the Council Executive Assistant program including the hiring process, program budgeting in consultation with individual City Council members, and employee orientation as City employees, in coordination with the Human Resource and Innovation Department.

Section 9. The City Manager, or his/her designee, shall provide procedural guidance to Council Executive Assistants regarding correspondence, invitations, meeting requests, and other City Council administrative support operations including records retention requirements, to facilitate their effective and efficient use of City programs and systems in support of their respective appointing member of the City Council.

PASSED AND ADOPTED by the City Council of the City of Irvine at a special meeting held on the 25th day of May 2021.


MAYOR OF THE CITY OF IRVINE

ATTEST:


CITY CLERK OF THE CITY OF IRVINE

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS
CITY OF IRVINE)

I, CARL PETERSEN, City Clerk of the City of Irvine, HEREBY DO CERTIFY that the foregoing resolution was duly adopted at a special meeting of the City Council of the City of Irvine, held on the 25th day of May, 2021.

AYES:	5	COUNCILMEMBERS:	Agran, Carroll, Kim, Kuo, and Khan
NOES:	0	COUNCILMEMBERS:	None
ABSENT:	0	COUNCILMEMBERS:	None
ABSTAIN:	0	COUNCILMEMBERS:	None


CITY CLERK OF THE CITY OF IRVINE

EXHIBIT A

CITY COUNCIL EXECUTIVE ASSISTANT JOB SPECIFICATION

BASIC ASSIGNMENT

To provide a wide variety of responsible, confidential, and complex administrative, constituent, and field support as directed by individual members of the City Council in their official capacity.

DISTINGUISHING CHARACTERISTICS

Council Executive Assistants receive direction from and serve at the pleasure of individual City Councilmembers. The duties of this position involve the application of professional, administrative, public relations, and communication skills related to the operations of municipal government. Council Executive Assistants may be hired at the following levels: 1, 2, 3, 4, Senior, Principal, Supervising Principal, and Chief of Staff. The advanced level classes, Senior and Principal, are distinguished by meeting a requisite combination of educational and professional experience, as well as the performance of the full range of duties and/or overseeing the work of other Council Executive Assistants.

ESSENTIAL DUTIES AND RESPONSIBILITIES

- Conducts research and analysis and provides written and verbal information on topics related to City policies, procedures, operational programs, agenda items, etc. as requested by the appointing member of the City Council.
- Performs a wide variety of administrative and community relations duties for the appointing member of the City Council.
- Receives and responds to correspondence and inquiries, in-person, by phone, and email. Drafts letters, speeches, and other correspondence for their appointing member of the City Council.
- Coordinates and schedules appointments, meetings, and civic and community events, pursuant to established procedures.
- Researches, compiles, analyzes, and summarizes data on a variety of community and/or policy issues, including information pending for City Council policy consideration.
- Responsible for constituent services including responding to requests for information, answering questions, explaining city policies and procedures, and making appropriate referrals to department services.

- Attends City business related meetings with and/or on behalf of individual City Council members as requested; assembles and distributes meeting follow-up information as requested.
- Supervises other Council Executive Assistants, as directed.

KNOWLEDGE, SKILLS, & ABILITIES

Knowledge of:

- English usage, spelling, grammar, and punctuation.
- Modern office methods and standard office equipment usage.
- Computer software including word processing applications at an intermediate level.
- Record keeping principles and procedures
- City-wide policies and procedures.
- Community relations methods and techniques.
- Research techniques, methods, procedures, and report presentation.
- Microsoft Office Excel, PowerPoint, Word, and Outlook.

Ability to:

- Operate standard office equipment, including a personal computer and applicable software programs.
- Communicate clearly and concisely, both orally and in writing.
- Organize work activities to ensure responsibilities are carried out in a timely manner.
- Work independently and follow general directions.
- Maintain the confidentiality of privileged information
- Coordinate a variety of activities with other divisions, departments, and outside agencies.
- Establish and maintain effective and cooperative working relationships with those contacted in the course of work including a variety of City and other government officials, community groups, and the general public.
- Analyze situations carefully and adopt effective courses of action.
- Interpret and apply administrative and departmental policies, laws, and rules

MINIMUM QUALIFICATIONS

Education and Experience:

Any combination of education and experience that provides equivalent knowledge, skills, and abilities is qualifying. Higher classification levels may include, more typically, the equivalent to a high school diploma and coursework or Bachelor's Degree from an accredited college or university; plus two to four years of professional experience including supervisory experience, research and analysis, writing skills, and participation in a variety of business and community oriented activities and projects.



City Council Policy / Procedure

Distribution of Written Legal Opinions from the City Attorney

Reference: Resolution No. 16-61

Purpose

To provide clear direction regarding the distribution of City Attorney written legal opinions, henceforth, requested by a member of the Irvine City Council. For purpose of this policy, the term “City Attorney” shall refer to the City’s appointed City Attorney, or any attorney or law firm acting as official counsel and/or special counsel for the City.

Background

The City Attorney is the chief legal advisor to the City Council, the City Manager, and all City departments, offices, and agencies acts under the administrative direction of the City Manager. (Charter Section 701.) The City Attorney represents the City in all legal proceedings and performs such other duties as may be prescribed by the City Council. (Charter Section 701.) The client of the City Attorney is the City as a whole and not individual elected officials, members of boards or commissions, the City Manager or city staff.

Legal questions periodically arise concerning policy items and/or city matters of interest to the City Council. It is appropriate that the City Attorney provide legal analysis to members of the City Council, at their request and for their benefit as they consider City matters.

Policy/Procedure

1. City Council Request for a Confidential City Attorney Written Legal Opinion:
 - a. Members of the City Council requesting a written legal opinion from the City Attorney may submit the question to the City Manager, or directly to the City Attorney. The City Attorney will endeavor to answer the question and provide the opinion to the requesting member of the City Council, with a copy to the City Manager.
 - b. Whenever the City Attorney issues a written legal opinion or informal memorandum containing privileged information, the City Attorney shall label it as “Privileged and Confidential.” Written opinions may take the form of memorandum, correspondence, email or text messages, but shall not include verbal advice. A City Official receiving confidential advice from the City Attorney may not waive the confidentiality created by the attorney-client privilege unless authorized to do so by a majority vote of the City Council. Since the holder of the privilege is the City, the privilege belongs to the City rather than to any individual officer or employee.

2. Distribution of Confidential Written Legal Opinions to all City Councilmembers:
 - a. The City Attorney shall provide the confidential written legal opinions to the requesting member of the City Council, with a copy to the City Manager.
 - b. The City Manager will distribute the confidential written legal opinion to the remaining members of the City Council in the normal course of business in an envelope marked “confidential” in the weekly packet. Such opinions remain subject to the attorney client privilege, unless official City Council action directs otherwise for a specific document.
3. Dissemination of Confidential Written Legal Opinions to the Public:
 - a. To maximize transparency, a member of the City Council may request City Council consideration to make a confidential City Attorney written opinion publicly available upon a majority vote by the City Council.



City Council Policy / Procedure

Posting Deposition Transcripts on the City Website

Reference: California State Auditor Recommendation
Minute Order 07-25-17

Purpose

Establish best practices for posting deposition transcripts on the City's website.

Background

The California State Auditor recommended that the City establish a policy related to the timing of its posting deposition transcripts on the City's website, in a manner consistent with California Code of Civil Procedure 2025.520 and the City Council has committed to doing so.

Policy/Procedure

If the City Council determines that it is appropriate and/or necessary to publish online deposition transcripts produced in response to a request made by or to the City, such publication shall occur only after the deponent has had adequate opportunity to review and sign his/her deposition, or failed to sign, within the timeframes established in California Code of Civil Procedure Section 2025.520.



City Council Policy / Procedure

Conflict of Interest

Reference: Resolution No. 01-139

As elected officers, the Mayor and members of the City Council are subject to conflict of interest laws of the State of California. The Fair Political Practices Commission (FPPC) and the State Legislature have established rules related to conflicts of interest, Cal. Code Regs., Section 18704.2. A memo from the City Attorney in the Appendix provides a general overview of the laws regarding potential financial conflicts of interest of public officials. The applicability of the conflict of interest laws depends on the unique facts of each particular case. Questions regarding specific situations should be directed to the City Attorney, or to the Fair Political Practices Commission (“FPPC”).

Maps are provided to City Councilmembers and Planning Commissioners for the purpose of determining whether a conflict of interest exists in any particular matter coming before the City Councilmember or the Planning Commission as a direct result of the individual’s property proximity to a proposed project.

Real property in which the public official has an economic interest will be deemed “directly involved” where the realty is either the subject of the government action or is located within 500 feet of the real property that is the subject of the governmental action. Real property is the “subject of government action” in any of the following contexts: zoning; rezoning; annexation; de-annexation; land use entitlement; license; permit; taxes; fees; and public improvements (e.g., streets, water, sewer, etc.). (FPPC § 18704.2.)

The “City of Irvine Gift to a Public Agency Compliance Form” is adopted as the appropriate form to be completed in order to assure compliance with the written record requirement of Section 18944.2 of Title 2 of the California Code of Regulations. (City Council Resolution No. 01-139)



City Council Policy / Procedure

Political Activities of Public Employees

Reference: Resolution No. 84-30

In order to maintain the integrity of the City's governmental function, it is necessary and proper that the City, in its official capacity, maintain a neutral position during political campaigns, especially involving elections to the office of Mayor and City Council. The City Council has adopted rules and regulations relative to political activities of public employees on public premises and while on duty or in uniform.

The following rules and regulations are in effect to ensure that such a neutral position is maintained by restricting political activities by City officers and employees while on City premises, on duty and/or in uniform.

1. There shall be no active political campaigning or solicitations for contributions on City premises including the City Hall, the Public Safety Department, public parks, the Corporation Yard, the Animal Care Facility, or annexes thereof. Active political campaigning refers to verbal political advertising or campaigning and the carrying or posting of signs, pins, buttons, posters or banners within City offices.
2. No political signs, pins, buttons, posters or banners or other political advertisements (i.e., bumper stickers) shall be posted on or affixed to properties owned by the City, including City offices and automobiles.
3. Officers and employees of the City shall not directly or indirectly knowingly solicit political contributions from other officers or employees or from employment lists of the City.
4. City employees shall not engage in any political activities of a candidate during working hours. This prohibition includes wearing of campaign buttons, making telephone calls, or promoting a candidate in any manner.
5. City employees involved in political campaigns shall not participate in a campaign in any form or manner while wearing a City uniform or any insignia identifying them as employees or officers of the City of Irvine.

6. No person shall, on election day or any time that a voter may be casting a ballot, and within 100 feet of a polling place or an election official's office (City Clerk), be permitted to; circulate an initiative or similar type of petition; solicit a vote or speak to a voter on the subject of marking a ballot; place a sign relating to a voter's qualifications; or do any electioneering. Since the City Clerk is the election official, all activities listed in this paragraph apply to City Hall. Additionally, several City facilities are utilized as polling places and should be noted accordingly.

In addition, there are numerous regulations that apply to use of City facilities by candidates and organizations sponsoring candidate forums, posting of political signs, literature and flyers, etc., to be found in the Municipal Code and the Elections Code.



City Council Policy / Procedure

Proclamation, Commendations and Certificates of Recognition

Reference: Minute Order 4-12-05

Proclamations and Commendations

1. Proclamations proclaim a specific date or designate a certain time period in honor of a particular subject. Commendations commend an individual, organization, business, group or event. Proclamations and Commendations require formal City Council action and, once approved, are signed by the Mayor and become part of the official City record.
2. Subject matter for Proclamations and Commendations must fall into one of the following categories.
 - a. Organization or event must be of value or benefit to the community.
 - b. Non-profit organization.
 - c. Connection to the business of the City.
 - d. Locally-based business.
 - e. Business serving the City of Irvine or the majority of Orange County.
3. Businesses, organizations, groups or individuals being honored must not have any unpaid debts with the City.
4. The following guidelines shall apply to athletic-related sports teams and similar activities.
 - a. High school and older will be recognized City Council Commendations.
 - b. Middle school and younger will be recognized by Community Services Commission Commendations.
 - c. Teams or individuals should have reached the highest level of achievement in their respective sport or activity. This could be at the local, county, regional, area, state, national or international level, depending on the activity.
 - d. At the request of the City Council or Community Services Commission, teams or individuals that have reached a high level of achievement at the national or international level, but have not met the criteria above, may be recognized.

5. Commendations may be given to residents of Irvine who perform heroic acts and to non-residents who perform acts of heroism to save the life or property of a City resident.
6. Requests for Proclamations and Commendations should be presented to the City Clerk in writing a minimum of 14 days prior to the City Council meeting date.
7. The City Manager will consider requests not covered under these guidelines as to the significance of the request to the entire community, and proceed accordingly.
8. Final determination on the issuance of Proclamations and Commendations shall be the responsibility of the City Council.

Certificates of Recognition

Certificates of Recognition provide a vehicle for City Councilmembers to more easily recognize individuals and groups, beyond the more formal requirements of Proclamations and Commendations. Certificates are issued by individual Councilmembers at their own discretion and do not require formal City Council approval. Certificates of Recognition do not reflect official action taken by the City Council as a whole and, as such, are not part of the official City record. All Certificates of Recognition shall be processed through the Council Services Office. (Adopted by City Council action on 04-12-05)



City Council Policy / Procedure

Eligibility for Purchase of Tables and Admission Tickets to Community Events (Updated July 1, 2019)

Reference: Minute Order 06-14-05
Minute Order 10-24-17
Minute Order 06-11-19

Purpose:

To provide criteria for determining eligibility of use of City funds for purchase of tables and admission tickets to community events in conformance with the regulations promulgated by the California Fair Political Practices Commission (FPPC).

Policy:

The City will pay for the attendance of City Councilmembers, City Commissioners, and staff at functions and events held by local non-profit organizations that provide benefit to the Irvine community. The maximum cost of attendance at such events shall not exceed \$300 per individual. Examples include, but are not limited to, annual dinners, recognition events, award programs, and community fundraisers. City attendance may be facilitated through the purchase of a City table(s) or through the purchase of individual tickets, as the event warrants, as long as the cost per attendee does not exceed \$300 and the cost for the table does not exceed \$3,000. This amount shall be increased every five years, beginning on July 2, 2022, commensurate with the Bureau of Labor Statistics Consumer Price Index (CPI) data as follows: Los Angeles-Riverside-Orange County, CA; All Items; Not Seasonally Adjusted; five-year change, comparing May data for the then current year to May data from five years earlier.

This policy covers the cost of attendance at these events only and should not be construed as City sponsorship, either financial or non-financial, of the organization or the event. Should the City Council wish to officially sponsor or financially support an organization or event, beyond the \$300 per attendee provision of this policy, separate City Council action shall be required.

Procedure:

Funds for attendance at community events shall be budgeted in individual City Council business expense accounts and departmental business expense accounts. Requests to attend such events shall require City Manager or Departmental Director approval, as appropriate, to insure compliance with the provisions of this policy.

City Council approval for financial sponsorship beyond \$300 per attendee or \$3,000 per table shall be accomplished through specific identification of the organization/event and the dollar

amount of sponsorship in the City’s annual budget, or through separate and distinct action by the City Council to approve said sponsorship.



City Council Policy / Procedure

Community Partnership Fund Grant Program (Updated July 26, 2022)

Reference: Resolution 22-69
Updating Resolution 19-54
Updating Resolution 08-42

Purpose	The Community Partnership Fund Grant Program enables the City Council to consider a variety of qualifying nonprofit organizations' requests for financial assistance in the context of the City's priorities.
Program	The Community Partnership Fund Grant (CPF) Program should contribute information to the quality of life of Irvine residents and/or businesses as provided by nonprofit organizations that serve a charitable, health, safety, philanthropic, cultural, educational, or other quality of life-enhancing purpose. The City Council established the CPF program in 2008, providing an equal allocation to each City Councilmember.
Funding Allocation	At its discretion, the City Council will determine the level of funding during the biennial budget process; typically \$50,000 per fiscal year for CPF Grants. Each Councilmember is allocated funding annually for the Community Partnership Fund Grant Program. Allocated Community Partnership Fund funds shall be used in accordance with adopted program criteria.
Grant Implementation	<p>Each Councilmember will receive an equal annual allocation, typically \$10,000. Throughout the year, individual City Councilmembers will consider requests for financial assistance based upon the project proposal, community need and benefit, organization's background, and eligibility. Individual City Councilmembers shall submit nominations for grant awards over \$500 to qualifying nonprofit organizations pursuant to the City Council policy to request items be added to the agenda, for City Council approval.</p> <p>In the final year of a Councilmember's term, that Councilmember may nominate awards through November based on a prorated budget of 40%, typically up to \$4,000 for that fiscal year. The 60% balance, typically up to \$6,000, may be nominated for award by the Councilmember assuming office for the remaining months through June of that fiscal year.</p>
Nonprofit Organization	Qualifying nonprofit organizations must be incorporated as a nonprofit, charitable organization that is tax-exempt under Section 501(c)(3) of the

Eligibility Internal Revenue Code. Organizations will be required to submit documentation verifying nonprofit, tax-exempt status.

Funding Agreement All funding recipients will be required to provide written verification of nonprofit status, description of proposed funding, and a post-expenditure report to the City describing how the funds were spent and project accomplishments. Grant recipients receiving an individual award of \$1,000 or more will be required to enter into a Funding Agreement with the City that establishes terms and conditions for the use of funds, and reporting and compliance requirements.

City Council approval for CPF allocations will be administered as follows:

Over \$1,000:

Nominations will be submitted via agendizing memo and considered at the next scheduled City Council meeting. All grant award recipients receiving \$1,000 or more will be required to enter into a Funding Agreement with the City that establishes terms and conditions for the use of funds, and reporting and compliance requirements.

Up to \$1,000:

Nominations will be submitted via memo and considered at the next scheduled City Council meeting.

Up to \$500:

Nominations will be submitted via memo to the City Manager, copied to the City Council, and included on the weekly pending Registrar of Warrants and Wire Transfers.

History

- Resolution No. 08-42 – Adopted May 13, 2008
- Resolution No. 19-54 – Adopted June 11, 2019



City Council Policy / Procedure

Acceptance of Donations

Reference: Resolution No. 03-123

Purpose

To implement a citywide procedure for accepting and tracking donations made to the City.

Policy

City Council holds the authority to accept donations of money, materials, furniture, and equipment made by citizens, community organizations, and others, thereby officially designating them as City property.

To expedite the acceptance and acknowledgement of donations, the City Council authorizes the Department Directors to accept donations that do not require ongoing financial commitment, long-term commitment to a program or service, or matching funds. Those items requiring any expense by the City, ongoing financial commitment, long-term commitment to a program or service, or matching funds will be forwarded to the City Council for approval.

To ensure that the City Council is apprised of donations received, Department Directors will notify the City Council of receipt of donations in excess of \$5,000 via memo. Significant donations will be brought forward during the presentation portion of the agenda for City Council recognition.

Individual departments are responsible for maintaining a record of all donations received and shall present to the City Clerk a summary of all donations received within 60 days of the end of each fiscal year. The City Clerk will then compile a report for City Council of all donations received during each fiscal year.

Procedure

Department Directors will bring forward to the City Council under presentations any significant donations for proper recognition.

Departments accepting donations under \$1,000 shall follow department procedure for tracking and acknowledging donations. Donations received in excess of \$1,000 shall be reported on a completed "Donations Acceptance Request" form to be processed as follows:

The original of the Donation Acceptance Request form signed off by the Department Director will serve as the receipt for the donor and will include a specified dollar amount assigned to each donation by the donor.

Copies of the completed form will be filed with the receiving Department, Administrative Services Finance Division and the City Clerk.

Department Directors will notify the City Council via the memo of donations received in excess of \$5,000 upon receipt. Presentations will be coordinated with the City Clerk.



City Council Policy / Procedure

Flag Protocol (Updated June 11, 2019)

Reference: Resolution No. 19-65

PURPOSE: This policy provides the procedural guidance for the display of flags on City flagpoles, including flagpoles at the City of Irvine Civic Center, as well as the display of flags in the Mayor's office and Councilmembers' offices.

The City of Irvine shall follow the flag protocol and rules and regulations as set forth by U.S. Code. The references for flag protocol questions shall be <http://www.access.gpo.gov/uscode/title4/chapter.html>

or

<http://www.ushistory.org/betsy/flagetiq.html>.

The City Clerk's Office shall be the office that directs City flags to be flown at half-staff.

CIVIC CENTER FLAGS are defined as follows:

1. Piazza – U.S. Flag and California State Flag shall be flown on the permanent lighted flagpoles. In addition, a POW/MIA flag shall be permanently flown from a fixed standard on the wall adjacent to the Piazza entry to Civic Center.
2. City Council Chambers – U.S. Flag and California State Flag affixed to staffs in floor standards behind the dais, per protocol.
3. Meeting Rooms and Conference Rooms – rooms with public access, and able to seat 15 or more, shall each have a U.S. Flag and a California State Flag affixed to staffs in floor standards, per protocol.
4. Large Ceremonial Flag – see specific information below
5. Bunting – bunting is available for display in the Piazza area and is typically flown for one week around the following holidays:
 - a. President's Day
 - b. Memorial Day
 - c. Independence Day
 - d. Veteran's Day

LARGE CEREMONIAL FLAG – Displayed on days with remembrance significance as follows:

1. The large ceremonial flag shall be hoisted and flown on September 11, and shall be flown through Constitution Day, September 17.
2. In addition, it shall be flown for the following Federal Holidays:
 - a. Luther King’s Birthday (third Monday in January),
 - b. Lincoln’s Birthday (February 12),
 - c. Washington’s Birthday (third Monday in February),
 - d. Armed Forces Day (third Saturday in May)
 - e. Memorial Day (last Monday in May),
 - f. Flag Day (June 14),
 - g. Independence Day (July 4),
 - h. Veteran’s Day (November 11).
3. Except for Memorial Day, when it shall fly all day, the large ceremonial flag shall be taken down or not flown during times that flags are to fly at half-staff.
4. Fixed display lighting is available and will be utilized for all nighttime displays.

For display of the large Ceremonial Flag or the Piazza Bunting at times other than listed above, the request shall be forwarded to the Director of Community Services (or designee) for approval and implementation.

COMMEMORATIVE FLAG PROCEDURES:

1. The Mayor and each Councilmember shall be permitted to display up to three (3) flags in the Mayor’s office or Councilmember’s office, as applicable, which may consist of three of the following flags: (1) the flag of the United States of America, (2) the flag of the State of California, and (3) the flag of the City of Irvine, or (4) a commemorative flag at the personal selection of the Councilmember.
2. Only one commemorative flag may be displayed at one time.
3. Commemorative flags shall be displayed for a period of time that is reasonable or customary for the subject that is to be commemorated.
4. The City, and the Mayor and the City Councilmembers, shall not display a commemorative flag based on a request from a third party, nor shall the City, the Mayor, or the Councilmembers use flagpoles or offices to sponsor the expression of a third party.



City Council Policy / Procedure

Recognition of Significant Contributions by Persons Living or Deceased

Reference: Resolution No. 02-146

The following are guidelines to be utilized in providing recognition to living or deceased persons in the form of the naming of City facilities, including but not limited to all parks, streets, recreational amenities or structures (such as athletic fields and courts, recreation/community centers, public buildings, arts facilities, groves, gardens, etc.). (City Council Resolution No. 02-146)

Nominees:

1. Nominees shall be or have been an Irvine resident or employee in the City. A resident is defined as an individual who has lived, been employed, or attended school within the City of Irvine.
2. Nominees shall be or have been a community leader and have made a significant financial contribution toward the acquisition and/or development of the facility. "Facilities" include recreational or public structures, i.e., gardens, groves, fields, buildings, etc.
3. Consideration shall be given to those individuals not overly recognized in the past. Facilities shall be named in honor of individuals for which other facilities have not been previously named.
4. Consideration shall be given to nominees who have made outstanding contributions to the community as determined by the City Council. These contributions may be of service, land, funds, securities or valuable assets. "Community" includes educational, business, religious, service groups or employees, and not-for-profit organizations.

Process:

1. The Community Services Department shall receive all proposals to recognize individuals on City-owned lands.
2. Completed proposals will be agendized for the Community Services Commission, who shall assume the responsibility for making recommendations to the City Council for recognition.
3. The Community Services Commission may decide to solicit input from City committees of other Commissions prior to making their final recommendation.

4. Any costs involved in the naming of facilities, recreational amenities or structures other than those normally covered by the City (such as statues, signage, plaques etc.) will be borne by the applicant.
5. After City Council approval is received, and following receipt of any required monies, the City will initiate the implementation process.
6. A proposal form to be utilized to nominate a living person for formal recognition through the naming of a street, facility or amenity is available upon request.

The following establishes the process that enables individuals to recognize their friends and loved ones through donation of materials, furniture and equipment. This recognition takes the form of planting and dedication of trees in City parks, rosebushes, and opportunities to donate benches, fountains or related park equipment.

Process:

1. Any donation of funds, services, equipment or plantings shall be submitted to and approved by the Community Services Department, which will coordinate with the appropriate staff as to any determinations for the type or placement of the park improvement. The Community Services Commission and City Council shall be notified of all park improvement donations.
2. All costs for the purchase and installation of the improvement (and a plaque and/or dedication ceremony, if applicable) will be borne by the donor. Any surplus funds will be carried in an interest bearing special fund account for maintenance. Donations may be accepted at any time.
3. Donors may participate by funding the following: a rosebush; a 15-gallon, 5-6-foot tree or a 24-inch box, 12-13-foot tree purchased and planted by Public Works; larger or specimen trees per special arrangement with the Public Works Landscape Section in accordance with the approved park planting palette. Pricing will be determined by Public Works.
4. Donors may participate by funding park furniture and equipment such as benches, drinking fountains, tables etc. Equipment selections must be made in conjunction with Community Services Department staff and meet City standards. The Director of Community Services must approve any deviations from standard.
5. Donors of park improvements may provide recognition through a 3"x 5" or 4"x 6" bronze plaque purchased by the City and installed directly on a centrally located donor plaque; text is limited to "In Honor of ___" and dates or years.
6. Donors of major park improvement gifts (i.e., structure, play yard, courts) may elect to provide a dedicatory plaque not exceeding 10"x 12" with name, date and appropriate text not exceeding 25 words.

7. Small-plaque inscriptions will be approved by the Community Services Department. The Community Services Commission will approve large-plaque inscriptions upon recommendation by Community Services Department staff. No private advertising or permanent promotional signage is permitted.

The following establishes a process for individuals to recognize their friends and loved ones through monetary contributions to general operational costs, special equipment, scholarships and a variety of programs within the Community Services Department.

Process:

1. Donations of any amount shall be received by the Community Services Department, which will coordinate with the appropriate staff to forward funds to the designated section's interest-bearing special fund account. No administrative fees will be deducted from contributions received. Donors may specify in writing that funds be earmarked for general operational costs, special equipment or the scholarship program.
2. All donations of funds shall be mailed or hand delivered to the City of Irvine, Attention: Director of Community Services, One Civic Center Plaza, P.O. Box 19575, Irvine, CA 92623-9575. Donors shall designate which Community Services program will be the recipient of funds received, the name of the individual or group being honored, and a name and address of an individual to be notified of the contribution. Only checks and money orders will be accepted. All contributions are tax deductible.
3. The Community Services Department will acknowledge the donation and the amount in writing to the donor. The individual being honored will be notified of the contribution. The actual dollar amount given by the donor will not be revealed unless specified in writing by the donor.



City Council Policy / Procedure

Use of City Seal / Letterhead

Reference: Ordinance No. 82-12

It shall be unlawful for any person to make or use the seal of the City or any cut, facsimile or reproduction thereof, or make or use any seal or any design which is an imitation of said seal, or the design thereof, or which could be mistaken therefore or the design thereof, for any purpose other than for the official business of the City, its Council, officers or departments. (City Council Ordinance No. 82-12)

The use of City stationery with the incorporated City seal shall fall under the provisions of this policy.



City Council Policy / Procedure

Guidelines for the Submittal of Information by Members of the Public for Dissemination or Presentation at Public Meetings

Reference: Minute Order 03-11-08

Policies and procedures for the conduct of City Council meetings are delineated in the Irvine Municipal Code – Title 1, Division 2 pertaining to the City Council, and Title 1, Division 4 pertaining to City Commissions and Committees. These legislative bodies are subject to the Brown Act and rules of order and decorum as set forth in the Municipal Code and other official policies:

- City Council *
- Redevelopment Agency (RDA) *
- Industrial Development Authority (IDA) *
- Irvine Public Facilities Infrastructure Authority (IPFIA) *
- Orange County Great Park Corporation Board *
- Planning Commission
- Community Services Commission
- Finance Commission
- City Committees subject to the Brown Act

* Public meetings of these legislative bodies are held in the City Council Chamber and televised live.

Members of the public may speak on any item of interest under the general Public Comment portion of the agenda, so long as the item is within the subject matter jurisdiction of the legislative body. Further, the public must be allowed to speak on a specific item of business before or during the legislative body's consideration of it. Members of the public may desire to submit information in hard copy form, or present information in electronic form or audio-visual media to supplement their testimony before the legislative body.

This policy is to ensure that staff can facilitate these requests in a timely and efficient manner; to check for viruses, broadcast quality and compatibility of electronic media with the City's existing system; and to avoid unnecessary delays during public meetings. In addition, materials submitted by members of the public may contain information or images that may be deemed inappropriate. The opportunity for staff to review the materials prior to the meeting will allow the Mayor or respective board chair to provide a verbal warning to the public prior to the presentation.

Policy:

All supplemental agenda related materials, including but not limited to PowerPoint presentations, videos, photographs, e-mails, writings and hard copy documents presented by members of the public prior to or at a public meeting shall become part of the public record and will be kept on file in the City Clerk's Office according to retention schedules.

The deadlines noted below do not preclude members of the public from submitting agenda related information in hard copy or electronic form prior to a meeting date. The City Clerk or respective board secretary will ensure that the City Council or board members receive a copy of the information prior to consideration of the item.

In accordance with SB 343 (McLeod), all agenda related materials, documents and writings as described above which are related to any item on an open session agenda and which are distributed to a majority of the legislative body within 72 hours of a regular meeting will be made available for public inspection at the time the subject writing or document is distributed to a majority of the subject body at a designated location identified on the subject agenda.

City policy is to limit public testimony to three minutes per speaker (unless extended by the Mayor or Chair) which includes the presentation of electronic or audio visual information.

Members of the public are encouraged to arrive at the public meeting early and check in with the City Clerk or respective board secretary to finalize the details of their presentation and to complete a speaker's card.

No unauthorized laptop computers or other media devices will be connected to the City Council Chamber media system.

Media Types and Guidelines

1. Written Materials/handouts:

Any member of the public who desires to submit documentation in hard copy form may do so prior to the meeting or at the time he/she addresses the legislative body. Please provide 15 copies of the information to be submitted and file with the City Clerk or respective board secretary at the time of arrival to the meeting. This information will be disseminated to the legislative body at the time testimony is given.

2. Large Displays/Maps/Renderings:

Any member of the public who desires to display freestanding large displays or renderings in conjunction with their public testimony is asked to notify the City Clerk or respective board secretary no later than 12:00 noon on the day of the scheduled meeting so that an easel can be made available if necessary.

3. Electronic Documents/Audio-visuals:

Televised Public Meetings: Any member of the public who desires to display information electronically in conjunction with their public testimony is asked to submit the information to the Public Information Office (PIO) no later than 12:00 noon on the day of the scheduled meeting. To facilitate your request, contact the PIO Office at 949.724.6248 or the City Clerk's Office at 949.724.6205.

Information must be provided on CD, DVD, or VHS; or, emailed by 12:00 noon on the day of the scheduled meeting to pio@ci.irvine.ca.us. Members of the public will be asked to provide their name, identify the meeting and the agenda item to be addressed, and a day time phone number.

The PIO office will notify the person submitting the information as soon as possible prior to the meeting if the information cannot be accessed or if the version provided is incompatible with the City's system. If incompatibility cannot be resolved, an individual's laptop may be allowed to connect into the City's system. Every effort will be made by City staff to facilitate the presentation.

City staff will preload and queue the electronic information in the City's media system and display it when the public member is called upon to speak.

Non-Televised Public Meetings: Any member of the public who desires to display information electronically in conjunction with their public testimony is asked to submit the information to the respective board secretary or City Department that serves as the liaison to a particular commission or committee no later than 12:00 noon on the day of the scheduled meeting.



City Council Policy / Procedure

Mayor/Councilmember Office Operating Budgets (Updated June 13, 2023)

Reference: Municipal Code Sec. 1-2-108
Resolution No. 06-22
Ordinance No. 08-04
Resolution No. 19-54
Resolution No. 21-30

The Mayor and each Councilmember shall be allocated a budget as part of the two-year budget cycle, and shall be responsible for managing their budget. The budgets shall include funding for costs associated with office operations and constituent communication. This provides equitable accounting and flexibility for the Mayor and Councilmembers to utilize funds to support their unique needs and priorities, and to carry out the duties of their office.

1. Office Operating Budgets

- a. The Mayor/Councilmember Office Operating Budgets may be used for normal costs of office operations, constituent communications, including personnel, supplies, community events, and meetings. The purchase of tables or individual tickets for community events are eligible for purchase in accordance with the Eligibility for Purchase of Tables and Admission Tickets to Community Events Policy.
- b. Office Operating Budgets shall be used only for City related activities, and shall not be used for non-city related or election-related purposes.
- c. Expenditures must comply with applicable City Charter, Irvine Municipal Code, the Political Reform Act and its implementing regulations, and any related laws, procedures, or regulations.

2. City Council Departments Procedures for Purchases, Payments, and Personnel Transactions Workflow

- a. Purchases, expenditures, and personnel transactions must follow City rules and regulations. All purchases, expenditures, and personnel transactions must be routed through the City Manager's Office for approval to ensure conformance with purchasing, expenditure, and personnel procedures. The City Manager's Office's review is limited to ensuring compliance with City regulations.
- b. All Mayor/Councilmember department personnel transactions including hiring, promotions, pay changes, and terminations (for any reason) shall be processed through

the City Manager's Office, to ensure compliance with the City Charter, the Irvine Municipal Code, and any associated regulations.

- c. Mayor/Councilmember Office Operating Budgets cannot be exceeded in a fiscal year. Per the City's Budget Guidelines, allowable post-budget adjustments are those within each office operating budget that do not change the overall budgeted expenditures and must be administratively approved by the City Manager's Office. Any additional adjustments that would increase or decrease the overall adopted budget must be approved by the City Council.
- d. Unspent funds of the Mayor/Councilmember Office Operating Budgets at the end of each fiscal year will be carried forward to the following fiscal year.

3. City Council Shared Costs

- a. If shared supplies are purchased or costs are incurred on behalf of or for use by the City Council, the City Manager's Office will charge an equitable allocation to each Mayor/Councilmember Office Operating Budget. A detailed list of staff-purchased supplies is provided to the City Council and maintained by the City Manager's Office.

4. Monitoring

- a. The City Manager's Office, in conjunction with the Department of Administrative Services, will monitor Mayor /Councilmember Office Operating Budgets and provide a monthly report.

Office Operating Budget Allocation:

At its discretion, the City Council will determine the level of office operating budget funding during the biennial budget process for the following accounts and programs:

1. Council Executive Assistant (CEA) Program (Resolution No. 21-30)

Each Councilmember is allocated a budget for their CEAs salaries and benefits annually. CEAs assist the Mayor and Councilmembers with official duties of the office.

2. Business and Travel Expenses (Resolution No. 06-22)

Each Councilmember is allocated funding for business and travel expenses annually. Additional funding commensurate with the Mayor's duties of office will be approved in the biennial budget.

3. Community Partnership Fund Grant Program (Resolution No. 19-54)

Each Councilmember is allocated funding annually for the Community Partnership Fund Grant Program. Allocated Community Partnership Fund funds shall be used in accordance with adopted program criteria.

4. General Operations Budget (per adoption of biennial budget)

Each Councilmember receives funding for expenses associated with general supplies, postage, duplicating, wireless communication, and other efforts in support of the execution of their daily duties.

In the final year of a Mayor/Councilmember's term, that Mayor/Councilmember may expense funding in their operating budget through November based on a prorated office operating budget of 40 percent, for that fiscal year. The 60 percent balance may be expensed by the Councilmember assuming office for the remaining months of that fiscal year.



City Council Policy / Procedure

Legislative Affairs Program (Updated December 12, 2023)

Reference: Minute Order 12-12-23

Purpose

To establish a Legislative Affairs Program that addresses the dynamic trends of the federal and state legislative processes and advances the City's priorities on emerging issues.

Background

The City of Irvine is on a growth trajectory that necessitates a comprehensive approach to its state and federal advocacy efforts. The Legislative Affairs Program (Program) established by this Policy provides a means to advance and protect the City's interests on issues at the federal and state levels. The Program may consist of an adopted Legislative Platform, dedicated City staff, an ad hoc Legislative Affairs Subcommittee of the City Council, and collaboration with legislative advocacy firms, grant-writing firms, and local stakeholders.

Procedure

1. Division of Legislative Affairs

- a. The Division of Legislative Affairs will manage the Program and monitor federal and state legislation that may impact the City of Irvine.
- b. The Program will maintain a continuous, prompt, and transparent system for bringing new legislative information and grant opportunities to its attention.
- c. The Division of Legislative Affairs and members of the ad hoc Legislative Affairs Subcommittee will serve as the City's representatives to business and education stakeholders, other local governments, and state and federal agencies.

2. Ad Hoc City Council Legislative Affairs Subcommittee

- a. The ad hoc Legislative Affairs Subcommittee shall act in an advisory manner and should be comprised of the Mayor and Councilmember(s) totaling less than a quorum of the governing body. An ad hoc Legislative Affairs Subcommittee will be formed for calendar year 2024. Thereafter, on an annual basis the City Council will determine in January of each calendar year whether a subsequent ad hoc committee will be formed for that year.

- b. The subcommittee will guide the preparation of the City's Legislative Platform (Platform), for ultimate presentation to the full City Council for its review, revision, and approval.

3. Legislative Platform

- a. The Platform will be produced and updated annually for adoption by the City Council near the start of the legislative session in coordination with Councilmembers, Department Directors, and the City's legislative advocates.
- b. The Platform is a public document that may identify guiding principles and priorities for the year, approve methods of targeted issue advocacy, and foster robust stakeholder engagement and relationships.
- c. The Platform shall be designed to focus and enhance the ability of the City and its state and federal advocates to respond effectively to legislative proposals with a unified voice.
- d. The Platform shall be designed to streamline Irvine's grant-seeking efforts, bringing the potential for additional funding to City programs and projects.
- e. The Platform will serve as the basis for advocacy positions on regional, state, and federal legislative issues.
- f. The Platform will be published on the City's Legislative Affairs webpage, thereby increasing transparency, and allowing elected officials and residents to see what bill position the City may take and what priority projects the City aims to pursue.

The Program may also formalize efforts to build coalitions of support and engage with community partners and representatives. This includes intentional outreach to various stakeholder communities, advocacy days in Sacramento and Washington D.C., and support for initiatives.



City Council Policy / Procedure

Commission and Committee Bylaws (Updated November 14, 2023)

Reference: Minute Order 11-14-23

On November 14, 2023, the City Council approved two bylaws templates (one for commissions and one for committees). Henceforth, all commissions and committees shall utilize the appropriate template as the framework for their bylaws. The segments that are subject to revision based on the unique characteristics of an individual commission or committee are highlighted in yellow. All other segments of the template shall remain unchanged to ensure applicable policies and procedures are followed by all.

For commissions and committees with at-large members, adoption of a bylaws template shall not have the effect of extending the membership term of a current at-large member. A current at-large member's term shall expire on the date of expiration that was established at the time of appointment. All future at-large membership terms shall expire in accordance with the adopted bylaws, lasting the unexpired portion of their terms.

The templates are attached, reflecting the policies and procedures that govern the bylaws of all City commissions and committees.

**BY-LAWS
OF THE
_____ COMMITTEE
OF THE
CITY OF IRVINE**

680/048170-0302
19384697.2 a11/02/23

ATTACHMENT 1

PREAMBLE

The Bylaws of the [REDACTED] Committee of the City of Irvine (“Bylaws”) were adopted by the City Council of the City of Irvine pursuant to Resolution No. [REDACTED] and pursuant to Irvine Municipal Code (“IMC”) Sections 1-4-301 and [REDACTED].

1. [NAME OF COMMITTEE] COMMITTEE CREATION, TITLE, AND AUTHORITY

1.1 Creation: The [REDACTED] Committee (“Committee”) was created under and continues to exist under Divisions 4 and ___ of Title 1 of the IMC.

1.1.1 IMC Title 1, Division 4 generally governs or otherwise regulates the Committee’s powers, duties, limitations, and general purpose is attached to these Bylaws as APPENDIX A.

1.1.2 [DESCRIBE FORMATION DOCUMENTS; IMC, RESOLUTION, ETC.] specifically describes the creation, composition, appointment, duties, and meeting procedures for the Committee, and is attached as APPENDIX B.

1.1.3 IMC Title 1, Division 15 establishes generally applicable rules regarding public meetings, the conduct of public business, notice and agenda requirements, conduct at meetings, procedures for minutes and recordings, and other matters.

1.1.4 Title 1, Divisions 4, 15, and [REDACTED] are subject to change, consistent with City Council policies and State law, and each such Division shall take precedence over these bylaws and over any procedures adopted by the Committee.

1.2 Title: The Committee officially shall be known as the “[REDACTED].” The term “[REDACTED],” where used in these Bylaws, also shall refer to and mean the “[REDACTED].”

1.3 Duties: The Committee was formed pursuant to IMC section 1-4-301 to perform one or more specific assigned tasks, as follows:

1.3.1 [INSERT ASSIGNED TASKS FROM THE MUNICIPAL CODE AND/OR FROM THE RESOLUTION FORMING THE COMMITTEE AND/OR FROM OTHER DIRECTION PROVIDED BY THE CITY COUNCIL]

1.3.2 [INSERT ASSIGNED TASKS FROM THE MUNICIPAL CODE AND/OR FROM THE RESOLUTION FORMING THE COMMITTEE]

AND/OR FROM OTHER DIRECTION PROVIDED BY THE CITY COUNCIL.]

1.3.3 [INSERT ASSIGNED TASKS FROM THE MUNICIPAL CODE AND/OR FROM THE RESOLUTION FORMING THE COMMITTEE AND/OR FROM OTHER DIRECTION PROVIDED BY THE CITY COUNCIL.]

1.3.4 [INSERT ASSIGNED TASKS FROM THE MUNICIPAL CODE AND/OR FROM THE RESOLUTION FORMING THE COMMITTEE AND/OR FROM OTHER DIRECTION PROVIDED BY THE CITY COUNCIL.]

1.3.5 Perform such other duties or studies as may be directed by the City Council.

- 1.4 Individual Member Duties: It shall be the duty of each Committee Member to take an active part in the Committee's deliberations and to act in whatever capacity the Committee Member may be called. Absence from three consecutive meetings without the formal consent of the Committee shall be deemed to constitute the retirement of the Committee Member, and the position shall automatically be vacant and therefore subject to the vacancy procedures as set forth in Section 2.1.4 below.

2. MEMBERS, OFFICERS AND STAFF

2.1 Committee Members:

2.1.1 Appointment: The Committee shall be comprised of [REDACTED] members, all of which shall reside or work in the City. Committee members shall be appointed as follows: [INSERT PROTOCOL FOR APPOINTMENT OF COMMITTEE MEMBERS].

2.1.2 Staff Liaison: The City Manager or his/her designee shall appoint a staff member as liaison to the Committee.

2.1.3 Term and Removal: Each Committee member appointed by an individual City Council member serves at the will of such City Council member for a term expiring upon the expiration of such City Council member's term; provided, however, that a Committee member's term shall terminate on the date either that the Committee member resigns from office or that the appointing City Council member replaces the Committee member prior to the expiration of the Committee member's term. [INSERT IF THERE ARE AT LARGE MEMBERS] At large Committee members serve at the will of a majority of the City Council for a term that expires on February 1st of the next odd numbered year following such at-large Committee member's appointment.

- 2.1.4 Vacancy: Should any vacancy occur among the members of the Committee, the City Manager or his/her designee shall immediately notify the City Council member who appointed the Committee member [INSERT IF THERE ARE AT-LARGE MEMBERS] (or the Council as a whole, if a vacancy occurs for an at-large Committee member). Such City Council member [INSERT IF THERE ARE AT-LARGE MEMBERS] (or the Council as a whole, if a vacancy occurs for an at-large Committee member) shall fill the vacancy by appointment for the unexpired portion of the term.
- 2.1.5 Representation of Committee: No Committee member may speak on behalf of the Committee before any other board, commission, council, agency, or entity without prior authorization approved by a majority of the members of the Committee. Committee members shall represent themselves as members of the Committee speaking on their own behalf when presenting their views on Committee business that comes before any other commission, committee, board, or council of the City.
- 2.1.6 Disclosures: Committee members shall make such disclosures as are required by the Political Reform Act (Government Code Section 81000 *et seq.*) and other applicable state laws, and/or by resolutions or ordinances adopted by the City Council. Without limiting the foregoing, each Committee member shall file a Fair Political Practices Commission Statement of Economic Interest (Form 700) within thirty days after assuming office, annually thereafter for so long as they remain a Committee member, and promptly upon leaving office.
- 2.2 Officers: Officers of the Committee shall consist of a Chair and Vice Chair. The Chair and Vice Chair shall be elected by the membership of the Committee at the first regular meeting in January of each calendar year.
- 2.2.1 Chair: The Chair shall preside at all meetings and hearings of the Committee. The Chair may represent the Committee before the City Council or appoint other members to do so.
- 2.2.2 Vice Chair: The Vice Chair shall perform all of the duties of the Chair in the Chair's absence or disability and shall perform such other duties as may from time to time be assigned by the Chair.
- 2.2.3 Officer Vacancy: Should the Chair or Vice Chair cease to be a member of the Committee, the remaining Committee members shall elect a Chair or Vice Chair at the second regular meeting thereafter, by a majority vote of members present. The Chair or Vice Chair so elected shall serve in that office until the next regularly scheduled election of officers.

2.3 Staff:

2.3.1 Staff Liaison: The City Manager or his/her designee shall assign a staff liaison to the Committee who shall be an *ex-officio* member of the Committee and as such shall provide technical service to the Committee and shall attend all meetings.

2.3.2 City Manager and City Attorney: The City Manager and City Attorney shall be optional and as-needed advisors or consultants to the Committee and as such may be called upon as follows:

2.3.2.1. City Manager: Upon request of the Chair for specific matters.

2.3.2.2. City Attorney: Upon request of the Chair for specific matters and as a consultant to the professional staff.

2.3.3 Staff Direction: The Committee, or any one of its individual members, shall not direct the performance of significant staff work without the prior authorization of the City Manager.

3. MEETINGS AND AGENDAS

3.1 Agendas: All meetings of the Committee shall be noticed via posting of the agenda in accordance with the notice and agenda requirements set forth in the IMC, Title 1, Division 15. Except as provided in IMC Section 1-15-107 and/or as otherwise provided in Government Code § 54954.2, no action shall be taken on matters not appearing on the posted agenda.

3.2 Initiating an Agenda Item:

3.2.1 Committee Member-Initiated Items: Committee Members wishing to place items on the agenda shall adhere to the following:

3.2.1.1. Agendized items shall be within the scope of the duties specifically assigned to the Committee under IMC Section [redacted] and/or Section 1.3 of these Bylaws.

3.2.1.2. Agenda requests for items not requiring a staff report shall be presented in a memorandum to the staff liaison, with a copy to the Chair and members of the Committee, no later than noon, seven days prior to the next scheduled Committee meeting. No staff report will be provided for such items.

3.2.1.3. Agenda requests for items requiring a staff report shall be presented in a memorandum to the Staff Liaison, with a copy to the Chair and members of the Committee, no later than noon, fourteen days prior to the next scheduled Committee meeting.

3.2.2 Staff-Initiated Agenda Items: Staff may initiate such agenda items as are mandated by direction of the City Council, the IMC, City policy, and/or the processing of regular business of the City of Irvine with regard to matters assigned to the Committee under IMC Section [REDACTED] and/or Section 1.3 of these Bylaws.

3.3 Meetings:

3.3.1 Regular Meetings: Regular meetings of the Committee shall be held in the XXXX, [REDACTED], Irvine, California, and remotely via Zoom as and to the extent allowable under Government Code section 54953, at __ p.m., on the [WEEK OF THE MONTH] [DAY OF THE WEEK] of each month. Unless a majority of the members present votes otherwise, the meetings of the Committee shall adjourn at or before __ p.m. If the business of the Committee has not been completed by __ p.m., the Committee may vote to remain in session until all or a portion of its remaining business has been completed. All matters remaining after the Committee adjourns shall be continued to a subsequent regular meeting of the Committee.

3.3.2 Adjourned Meetings: Any regular meeting may be adjourned to a designated time and place and when so adjourned shall be considered as a regular meeting.

3.3.3 Special Meetings: Special meetings of the Committee may be called by the Chair or upon the written request of at least a majority of the Committee members. Special meetings shall be held at a time and place, and in the manner, required by IMC Title 1, Division 15.

3.3.4 Annual Meeting: The Annual Meeting of the Committee shall be the first regular meeting in January of each year. Such meeting shall commence with the election of a Chair and Vice Chair for the ensuing year and such other business as shall be scheduled by the Committee.

3.3.5 Meetings on Holidays: When a regular meeting falls on a holiday, the meeting shall be held on the next business day or on a day to which the previous meeting was adjourned.

- 3.3.6 Cancellation of Meetings: Whenever reasons exist, (for example, lack of a quorum, no business for Committee consideration, or other good and valid reason), a meeting may be canceled.
- 3.3.7 Additional Rules and Procedures; Order of Precedence: The meetings and procedures of the Committee shall be subject to and governed by the ordinances, resolutions, and applicable policies and procedures adopted by the City Council establishing rules and regulations for Committees. If and to the extent there is a conflict between these Bylaws and the rules and regulations applicable to Committee meetings established by the City Council, the rules and regulations for Committee meetings established by the City Council shall govern.

3.4 Meeting Procedures:

- 3.4.1 Duties of Presiding Officer: The Chair, or in the Chair's absence the Vice Chair, shall be the presiding officer, and shall assume the place and duties of such office immediately following selection. The Chair shall preserve strict order and decorum at all meetings of the Committee, state questions coming before the Committee, announce its decision on all subjects and decide all questions of order, subject, however, to an appeal to the Committee as a whole, in which event a majority vote of the Committee members present shall govern and conclusively determine such question of order. The Chair shall vote on all questions, and on roll call the Chair's name shall be called last. The seating arrangement for the Committee shall be determined by the Chair.
- 3.4.2 Regular Meeting Order of Business: All regular meetings shall be conducted in the order set forth in the following paragraphs. The Chair, or a majority of the Committee, may direct an agenda item to be taken out of order.
- 3.4.2.1 Call to Order: The meeting of the Committee shall be called to order by the Chair, in the Chair's absence, the Vice Chair.
- 3.4.2.2 Roll Call: The Recording Secretary shall record the attendance.
- 3.4.2.3 Pledge of Allegiance: The Chair or the Chair's designee shall lead the Pledge of Allegiance to the Flag of the United States of America.
- 3.4.2.4 Presentations: Presentations by Staff or others to the Committee.

- 3.4.2.5. Public Comment: The Chair shall ask if any person wishes to speak to the Committee on any item not listed on the agenda. Public comment time limitations and procedures are identical to the time limitations and procedures applicable to public comments before the City Council.
 - 3.4.2.6. Announcements, Committee Reports: The chair shall ask if the Staff Liaison or members of the Committee have announcements as required by Assembly Bill 1234 or as otherwise relevant to the assigned tasks of the Committee.
 - 3.4.2.7. Additions or Deletions to the Agenda: Additions may be made so long as such additions are in accordance with IMC Title 1, Division 15.
 - 3.4.2.8. Consent Calendar: Any item which does not require specific findings of fact as required by law, may be placed on the Consent Calendar. The approval of minutes shall be included within this category. Any Committee Member may withdraw an item from the Consent Calendar for discussion. After all requests for removal have been made, the Consent Calendar shall be voted on as a single item. A majority vote for approval of the Consent Calendar shall constitute the approval of each item thereon. Each removed item shall then be voted on individually.
 - 3.4.2.9. Committee Business: Items of Committee Business shall be considered in the following sequence: (i) the matter shall be called, (ii) staff shall provide a report, (iii) public comments on the item shall be received, subject to the same time limitations and procedures as are applicable to public comments before the City Council, (iv) the Committee shall deliberate on the item, and (v) the Committee shall consider appropriate motions on the item. A majority vote for approval of the item shall constitute approval of the item.
 - 3.4.2.10. Adjournment. The meeting shall be adjourned.
- 3.4.3 Decorum:
- 3.4.3.1. By Committee Members: While the Committee is in session, Committee Members must preserve order and decorum, and a Committee Member shall neither, by conversation or otherwise, delay or interrupt the proceeding or the peace of the Committee, disturb any member while speaking or refuse to obey the orders of the

Committee or the presiding officer, except as otherwise provided in these Bylaws.

- 3.4.3.2. By Other Persons: Each person who addresses the Committee shall do so in an orderly manner and shall not make personal, impertinent, slanderous or profane remarks to any member of the Committee, staff or general public. Any person who makes such remarks, or who utters loud, threatening, personal or abusive language, or engages in any other disorderly conduct which disrupts, disturbs or otherwise impedes the orderly conduct of any Committee meeting shall, at the discretion of the presiding officer or a majority of the Committee, be barred from further addressing the Committee at the meeting. If such conduct thereafter continues so as to disrupt the orderly conduct of the public's business, the Chair shall order the person removed from the Committee's meeting location. Aggravated cases may be prosecuted on appropriate complaint signed by the Chair, a member of the Committee or any other authorized City representative. The members of Committee may, pursuant to Government Code section 54957.9, order the meeting room cleared and continue with the session when the orderly conduct of the meeting becomes unfeasible and order cannot be restored.

3.5 Standing Rules:

- 3.5.1 Quorum: At any meeting of the Committee, a quorum shall consist of more than half of the filled seats of the Committee. No action shall be taken in the absence of a quorum, except that those members present shall be entitled by motion to adjourn the meeting to another date.

3.5.2 Voting:

- 3.5.2.1. One Vote Per Member: The Chair, Vice Chair, and each Committee member shall be entitled to one vote.

- 3.5.2.2. Proxy Vote: No proxy votes are permitted.

- 3.5.2.3. Roll Call: A roll call shall be taken upon the passage of all resolutions. Such votes shall be recorded in the minutes of the proceedings of the Committee. Upon the request of any Committee member, a roll call vote shall be taken and recorded on any vote. Whenever a roll call vote is in order, the Recording Secretary shall call the names of the members in alphabetical order, except that the name of the

presiding officer shall be called last; provided, however, that when a voting light system is available, the simultaneous use of the voting light system shall serve as the roll call vote.

- 3.5.2.4. Disqualification and Abstention from Voting: Except as otherwise provided by law, no member of the Committee shall be permitted to abstain from voting unless such disqualification shall be identified as a legal conflict of interest mandating such disqualification, or by unanimous vote of the remainder of the Committee present. Unapproved disqualifications and abstentions shall be recorded by the Recording Secretary in the minutes as an affirmative vote.
- 3.5.2.5. Majority Vote: A majority vote of the members present shall be necessary for the recommendation of any proposed action, resolution, or other voting matter except where otherwise set forth in these Bylaws or controlling law.
- 3.5.2.6. Tie Votes: Tie votes shall be recorded as a failure of action to pass. A tie vote on a motion defeats the motion.
- 3.5.2.7. Absence from Meeting: Any member absent from a meeting shall not be allowed to vote on any matter discussed at that meeting (and continued to a subsequent meeting) until said member has watched/listened to the official recording of the meeting, reviewed the minutes, if prepared, and all correspondence pertaining to the subject, and discussed the matter with staff.
- 3.5.2.8. Silence Constitutes an Affirmative Vote: Unless a member of the Committee has been permitted to and abstains from voting, pursuant to section 3.2.5.4 above, such member's silence shall be recorded as an affirmative vote.

3.5.3 Signature:

- 3.5.3.1. Minutes: The minutes of each Committee meeting shall be signed by the officer presiding over the meeting at which the minutes are approved.
- 3.5.3.2. Other Documents: In all other matters, the Chair shall have the power to execute, verify or attest to documents on behalf of this Committee.

- 3.5.4 Procedural Questions: The presiding officer shall rule on all procedural questions.
- 3.5.5 Suspension of Rules: The Committee may suspend any of these rules by a unanimous vote of the members present to the extent that such suspension does not conflict with controlling state law.
- 3.5.6 Rules of Debate:
- 3.5.6.1. Presiding Officer May Debate and Vote: The presiding officer may move, second and debate from the Chair, subject only to such limitations of debate as are by these rules imposed on all members of the Committee, and shall not be deprived of any of the rights and privileges of a member of the Committee by reason of acting as the presiding officer.
- 3.5.6.2. Getting the Floor; Improper References to be Avoided: Every member of the Committee desiring to speak shall address the Chair, and upon recognition by the presiding officer, shall confine their remarks to the question under debate, avoiding all personalities and indecorous language.
- 3.5.6.3. Interruptions: A member of the Committee, once recognized, shall not be interrupted when speaking unless it be a call to order, or as herein otherwise provided. A member of the Committee called to order shall cease speaking until the question of order be determined, and if in order, shall be permitted to proceed.
- 3.5.6.4. Motion to Reconsider: A motion to reconsider any action taken by the Committee may be made only on the day such action was taken. Such motion must be made by one of the prevailing side but may be seconded by any member of the Committee and may be made at any time and have precedence over all other motions. It shall be debatable. Nothing herein shall be construed to prevent any member of the Committee from making or remaking the same or other motion at a subsequent meeting of the Committee.
- 3.5.6.5. When Remarks of Committee Members Entered in Minutes: A member of the Committee shall have the right, upon request to the presiding officer, to have an abstract of his or her statement on any subject under consideration by the Committee entered in the minutes. Such an abstract shall contain the statement of each other Committee member who addresses the subject at that time.

3.5.6.6. When Synopsis of Debate Entered in Minutes: The Recording Secretary may be directed by the presiding officer, with consent of the Committee, to enter in the minutes a synopsis of the discussion on any subject under consideration by the Committee.

3.5.6.7. Rules of Order: Except as otherwise provided in these Bylaws, Robert's Rules of Order, Newly Revised shall govern the conduct their scope of the Committee's powers and duties under these Bylaws.

APPENDIX A

IRVINE MUNICIPAL CODE, TITLE 1, DIVISION 4

[THIS WILL INCLUDE CHAPTERS 1 AND 3]

APPENDIX B

FORMATION DOCUMENTS FOR COMMITTEE _]

**BY-LAWS
OF THE
_____ COMMISSION
OF THE
CITY OF IRVINE**

680/048170-0302
19384941.1 a11/02/23

ATTACHMENT 2

PREAMBLE

The Bylaws of the [REDACTED] Commission of the City of Irvine (“Bylaws”) were adopted by the City Council of the City of Irvine pursuant to Resolution No. [REDACTED] and pursuant to Irvine Municipal Code (“IMC”) Sections 1-4-301 and [REDACTED].

1. [NAME OF COMMISSION] COMMISSION CREATION, TITLE, AND AUTHORITY

1.1 Creation: The [REDACTED] Commission (“Commission”) was created under and continues to exist under Division 4 of Title 1 and Division __ of Title __ of the IMC.

1.1.1 IMC Title 1, Division 4 generally governs or otherwise regulates the Commission’s powers, duties, limitations, and general purpose is attached to these Bylaws as APPENDIX A.

1.1.2 IMC Title [REDACTED], Division [REDACTED] specifically describes the creation, composition, appointment, duties, and meeting procedures for the Commission, and is attached as APPENDIX B.

1.1.3 IMC Title 1, Division 15 establishes generally applicable rules regarding public meetings, the conduct of public business, notice and agenda requirements, conduct at meetings, procedures for minutes and recordings, and other matters.

1.1.4 Title 1, Divisions 4 and 15, and Title [REDACTED], Division [REDACTED] are subject to change, consistent with City Council policies and State law, and each such Division shall take precedence over these bylaws and over any procedures adopted by the Commission.

1.2 Title: The Commission officially shall be known as the “[REDACTED].” The term “[REDACTED],” where used in these Bylaws, also shall refer to and mean the “[REDACTED].”

1.3 Duties: The Commission was formed pursuant to IMC section 1-4-201 and IMC section [INSERT TITLE AND SECTION FOR FORMATION OF SPECIFIC COMMISSION]. The Commission is a continuing body operating in the following general areas of concern: [REDACTED]. The powers and duties of the Commission are as follows:

1.3.1 [INSERT ASSIGNED POWERS AND DUTIES FROM THE MUNICIPAL CODE AND/OR FROM THE RESOLUTION FORMING THE COMMISSION AND/OR FROM OTHER DIRECTION PROVIDED BY THE CITY COUNCIL]

1.3.2 [INSERT ASSIGNED POWERS AND DUTIES FROM THE MUNICIPAL CODE AND/OR FROM THE RESOLUTION FORMING THE COMMISSION AND/OR FROM OTHER DIRECTION PROVIDED BY THE CITY COUNCIL.]

1.3.3 [INSERT ASSIGNED POWERS AND DUTIES FROM THE MUNICIPAL CODE AND/OR FROM THE RESOLUTION FORMING THE COMMISSION AND/OR FROM OTHER DIRECTION PROVIDED BY THE CITY COUNCIL.]

1.3.4 [INSERT ASSIGNED POWERS AND DUTIES FROM THE MUNICIPAL CODE AND/OR FROM THE RESOLUTION FORMING THE COMMISSION AND/OR FROM OTHER DIRECTION PROVIDED BY THE CITY COUNCIL.]

1.3.5 Perform such other duties or studies as may be directed by the City Council.

1.4 Individual Member Duties: It shall be the duty of each Commission Member to take an active part in the Commission's deliberations and to act in whatever capacity the Commission Member may be called. Absence from three consecutive meetings without the formal consent of the Commission shall be deemed to constitute the retirement of the Commission Member, and the position shall automatically be vacant and therefore subject to the vacancy procedures as set forth in Section 2.1.4 below.

2. MEMBERS, OFFICERS AND STAFF

2.1 Commission Members:

2.1.1 Appointment: The Commission shall be comprised of [REDACTED] members, all of which shall reside in the City. Commission members shall be appointed as follows: [INSERT PROTOCOL FOR APPOINTMENT OF COMMISSION MEMBERS; BASELINE RULES ARE IN 1-4-202; BUT MAY BE OTHERWISE SPECIFIED BY ORDINANCE OR RESOLUTION.]

2.1.2 Staff Liaison: The City Manager or his/her designee shall appoint a staff member as liaison to the Commission.

2.1.3 Term and Removal: Each Commission member appointed by an individual City Council member serves at the will of such City Council member for a term expiring upon the expiration of such City Council member's term; provided, however, that a Commission member's term shall terminate on the date either that the Commission member resigns from office or that the appointing City Council member replaces the Commission member prior to the

expiration of the Commission member's term. [INSERT IF THERE ARE AT LARGE MEMBERS] At large Commission members serve at the will of a majority of the City Council for a term that expires on February 1st of the next odd numbered year following such at-large Commission member's appointment.

- 2.1.4 Vacancy: Should any vacancy occur among the members of the Commission, the City Manager or his/her designee shall immediately notify the City Council member who appointed the Commission member [INSERT IF THERE ARE AT-LARGE MEMBERS] (or the Council as a whole, if a vacancy occurs for an at-large Commission member). Such City Council member [INSERT IF THERE ARE AT-LARGE MEMBERS] (or the Council as a whole, if a vacancy occurs for an at-large Commission member) shall fill the vacancy by appointment for the unexpired portion of the term.
- 2.1.5 Compensation and Expenses: Each member of the Commission shall receive compensation (if at all) in a sum set by the City Council, and may be allowed reasonable travel and other expenses actually incurred while traveling or engaged in business authorized by or in connection with Commission duties.
- 2.1.6 Representation of Commission: No Commission member may speak on behalf of the Commission before any other board, commission, council, agency, or entity without prior authorization approved by a majority of the members of the Commission. Commission members shall represent themselves as members of the Commission speaking on their own behalf when presenting their views on Commission business that comes before any other commission, Commission, board, or council of the City.
- 2.1.7 Disclosures: Commission members shall make such disclosures as are required by the Political Reform Act (Government Code Section 81000 *et seq.*) and other applicable state laws, and/or by resolutions or ordinances adopted by the City Council. Without limiting the foregoing, each Commission member shall file a Fair Political Practices Commission Statement of Economic Interest (Form 700) within thirty days after assuming office, annually thereafter for so long as they remain a Commission member, and promptly upon leaving office.
- 2.2 Officers: Officers of the Commission shall consist of a Chair and Vice Chair. The Chair and Vice Chair shall be elected by the membership of the Commission at the first regular meeting in January of each calendar year.

- 2.2.1 Chair: The Chair shall preside at all meetings and hearings of the Commission. The Chair may represent the Commission before the City Council or appoint other members to do so.
- 2.2.2 Vice Chair: The Vice Chair shall perform all of the duties of the Chair in the Chair's absence or disability and shall perform such other duties as may from time to time be assigned by the Chair.
- 2.2.3 Officer Vacancy: Should the Chair or Vice Chair cease to be a member of the Commission, the remaining Commission members shall elect a Chair or Vice Chair at the second regular meeting thereafter, by a majority vote of members present. The Chair or Vice Chair so elected shall serve in that office until the next regularly scheduled election of officers.

2.3 Staff:

- 2.3.1 Staff Liaison: The City Manager or his/her designee shall assign a staff liaison to the Commission who shall be an *ex-officio* member of the Commission and as such shall provide technical service to the Commission and shall attend all meetings.
- 2.3.2 City Manager and City Attorney: The City Manager and City Attorney shall be optional and as-needed advisors or consultants to the Commission and as such may be called upon as follows:
 - 2.3.2.1. City Manager: Upon request of the Chair for specific matters.
 - 2.3.2.2. City Attorney: Upon request of the Chair for specific matters and as a consultant to the professional staff.
- 2.3.3 Staff Direction: The Commission, or any one of its individual members, shall not direct the performance of significant staff work without the prior authorization of the City Manager.

3. MEETINGS AND AGENDAS

- 3.1 Agendas: All meetings of the Commission shall be noticed via posting of the agenda in accordance with the notice and agenda requirements set forth in the IMC, Title 1, Division 15. Except as provided in IMC Section 1-15-107 and/or as otherwise provided in Government Code § 54954.2, no action shall be taken on matters not appearing on the posted agenda.
- 3.2 Initiating an Agenda Item:

3.2.1 Commission Member-Initiated Items: Commission Members wishing to place items on the agenda shall adhere to the following:

3.2.1.1. Agendized items shall be within the scope of the duties specifically assigned to the Commission under IMC Section [REDACTED] and/or Section 1.3 of these Bylaws.

3.2.1.2. Agenda requests for items not requiring a staff report shall be presented in a memorandum to the staff liaison, with a copy to the Chair and members of the Commission, no later than noon, seven days prior to the next scheduled Commission meeting. No staff report will be provided for such items.

3.2.1.3. Agenda requests for items requiring a staff report shall be presented in a memorandum to the Staff Liaison, with a copy to the Chair and members of the Commission, no later than noon, fourteen days prior to the next scheduled Commission meeting.

3.2.2 Staff-Initiated Agenda Items: Staff may initiate such agenda items as are mandated by direction of the City Council, the IMC, City policy, and/or the processing of regular business of the City of Irvine with regard to matters assigned to the Commission under IMC Section [REDACTED] and/or Section 1.3 of these Bylaws.

3.3 Meetings:

3.3.1 Regular Meetings: Regular meetings of the Commission shall be held in the [REDACTED], Irvine, California, and remotely via Zoom as and to the extent allowable under Government Code section 54953, at ___ p.m., on the [WEEK OF THE MONTH] [DAY OF THE WEEK] of each month. Unless a majority of the members present votes otherwise, the meetings of the Commission shall adjourn at or before ___ p.m. If the business of the Commission has not been completed by ___ p.m., the Commission may vote to remain in session until all or a portion of its remaining business has been completed. All matters remaining after the Commission adjourns shall be continued to a subsequent regular meeting of the Commission.

3.3.2 Adjourned Meetings: Any regular meeting may be adjourned to a designated time and place and when so adjourned shall be considered as a regular meeting.

3.3.3 Special Meetings: Special meetings of the Commission may be called by the Chair or upon the written request of at least a majority of the Commission members. Special meetings shall be held at a

time and place, and in the manner, required by IMC Title 1, Division 15.

3.3.4 Annual Meeting: The Annual Meeting of the Commission shall be the first regular meeting in January of each year. Such meeting shall commence with the election of a Chair and Vice Chair for the ensuing year and such other business as shall be scheduled by the Commission.

3.3.5 Meetings on Holidays: When a regular meeting falls on a holiday, the meeting shall be held on the next business day or on a day to which the previous meeting was adjourned.

3.3.6 Cancellation of Meetings: Whenever reasons exist, (for example, lack of a quorum, no business for Commission consideration, or other good and valid reason), a meeting may be canceled.

3.3.7 Additional Rules and Procedures; Order of Precedence: The meetings and procedures of the Commission shall be subject to and governed by the ordinances, resolutions, and applicable policies and procedures adopted by the City Council establishing rules and regulations for Commissions. If and to the extent there is a conflict between these Bylaws and the rules and regulations applicable to Commission meetings established by the City Council, the rules and regulations for Commission meetings established by the City Council shall govern.

3.4 Meeting Procedures:

3.4.1 Duties of Presiding Officer: The Chair, or in the Chair's absence the Vice Chair, shall be the presiding officer, and shall assume the place and duties of such office immediately following selection. The Chair shall preserve strict order and decorum at all meetings of the Commission, state questions coming before the Commission, announce its decision on all subjects and decide all questions of order, subject, however, to an appeal to the Commission as a whole, in which event a majority vote of the Commission members present shall govern and conclusively determine such question of order. The Chair shall vote on all questions, and on roll call the Chair's name shall be called last. The seating arrangement for the Commission shall be determined by the Chair.

3.4.2 Regular Meeting Order of Business: All regular meetings shall be conducted in the order set forth in the following paragraphs. The Chair, or a majority of the Commission, may direct an agenda item to be taken out of order.

- 3.4.2.1. Call to Order: The meeting of the Commission shall be called to order by the Chair, in the Chair's absence, the Vice Chair.
- 3.4.2.2. Roll Call: The Recording Secretary shall record the attendance.
- 3.4.2.3. Pledge of Allegiance: The Chair or the Chair's designee shall lead the Pledge of Allegiance to the Flag of the United States of America.
- 3.4.2.4. Presentations: Presentations by Staff or others to the Commission.
- 3.4.2.5. Public Comment: The Chair shall ask if any person wishes to speak to the Commission on any item not listed on the agenda. Public comment time limitations and procedures are identical to the time limitations and procedures applicable to public comments before the City Council.
- 3.4.2.6. Announcements, Commission Reports: The chair shall ask if the Staff Liaison or members of the Commission have announcements as required by Assembly Bill 1234 or as otherwise relevant to the assigned tasks of the Commission.
- 3.4.2.7. Additions or Deletions to the Agenda: Additions may be made so long as such additions are in accordance with IMC Title 1, Division 15.
- 3.4.2.8. Consent Calendar: Any item which does not require specific findings of fact as required by law, may be placed on the Consent Calendar. The approval of minutes shall be included within this category. Any Commission Member may withdraw an item from the Consent Calendar for discussion. After all requests for removal have been made, the Consent Calendar shall be voted on as a single item. A majority vote for approval of the Consent Calendar shall constitute the approval of each item thereon. Each removed item shall then be voted on individually.
- 3.4.2.9. Commission Business: Items of Commission Business shall be considered in the following sequence: (i) the matter shall be called, (ii) staff shall provide a report, (iii) public comments on the item shall be received, subject to the same time limitations and procedures as are applicable to public comments before the City Council, (iv) the Commission shall deliberate on the item, and (v) the

Commission shall consider appropriate motions on the item. A majority vote for approval of the item shall constitute approval of the item.

3.4.2.10. Adjournment. The meeting shall be adjourned.

3.4.3 Decorum:

3.4.3.1. By Commission Members: While the Commission is in session, Commission Members must preserve order and decorum, and a Commission Member shall neither, by conversation or otherwise, delay or interrupt the proceeding or the peace of the Commission, disturb any member while speaking or refuse to obey the orders of the Commission or the presiding officer, except as otherwise provided in these Bylaws.

3.4.3.2. By Other Persons: Each person who addresses the Commission shall do so in an orderly manner and shall not make personal, impertinent, slanderous or profane remarks to any member of the Commission, staff or general public. Any person who makes such remarks, or who utters loud, threatening, personal or abusive language, or engages in any other disorderly conduct which disrupts, disturbs or otherwise impedes the orderly conduct of any Commission meeting shall, at the discretion of the presiding officer or a majority of the Commission, be barred from further addressing the Commission at the meeting. If such conduct thereafter continues so as to disrupt the orderly conduct of the public's business, the Chair shall order the person removed from the Commission's meeting location. Aggravated cases may be prosecuted on appropriate complaint signed by the Chair, a member of the Commission or any other authorized City representative. The members of Commission may, pursuant to Government Code section 54957.9, order the meeting room cleared and continue with the session when the orderly conduct of the meeting becomes unfeasible and order cannot be restored.

3.5 Standing Rules:

3.5.1 Quorum: At any meeting of the Commission, a quorum shall consist of more than half of the filled seats of the Commission. No action shall be taken in the absence of a quorum, except that those members present shall be entitled by motion to adjourn the meeting to another date.

3.5.2 Voting:

- 3.5.2.1. One Vote Per Member: The Chair, Vice Chair, and each Commission member shall be entitled to one vote.
- 3.5.2.2. Proxy Vote: No proxy votes are permitted.
- 3.5.2.3. Roll Call: A roll call shall be taken upon the passage of all resolutions. Such votes shall be recorded in the minutes of the proceedings of the Commission. Upon the request of any Commission member, a roll call vote shall be taken and recorded on any vote. Whenever a roll call vote is in order, the Recording Secretary shall call the names of the members in alphabetical order, except that the name of the presiding officer shall be called last; provided, however, that when a voting light system is available, the simultaneous use of the voting light system shall serve as the roll call vote.
- 3.5.2.4. Disqualification and Abstention from Voting: Except as otherwise provided by law, no member of the Commission shall be permitted to abstain from voting unless such disqualification shall be identified as a legal conflict of interest mandating such disqualification, or by unanimous vote of the remainder of the Commission present. Unapproved disqualifications and abstentions shall be recorded by the Recording Secretary in the minutes as an affirmative vote.
- 3.5.2.5. Majority Vote: A majority vote of the members present shall be necessary for the recommendation of any proposed action, resolution, or other voting matter except where otherwise set forth in these Bylaws or controlling law.
- 3.5.2.6. Tie Votes: Tie votes shall be recorded as a failure of action to pass. A tie vote on a motion defeats the motion.
- 3.5.2.7. Absence from Meeting: Any member absent from a meeting shall not be allowed to vote on any matter discussed at that meeting (and continued to a subsequent meeting) until said member has watched/listened to the official recording of the meeting, reviewed the minutes, if prepared, and all correspondence pertaining to the subject, and discussed the matter with staff.
- 3.5.2.8. Silence Constitutes an Affirmative Vote: Unless a member of the Commission has been permitted to and abstains from

voting, pursuant to section 3.2.5.4 above, such member's silence shall be recorded as an affirmative vote.

3.5.3 Signature:

3.5.3.1. Official Signature: Any resolution of the Commission, duly recorded in the minutes, or where otherwise required by law, shall be signed by the officer presiding over the meeting at which the resolution was adopted.

In form, the official signature shall be substantially as follows:

_____ COMMISSION

(signature)

(name, title)

3.5.3.2. Minutes: The minutes of each Commission meeting shall be signed by the officer presiding over the meeting at which the minutes are approved.

3.5.3.3. Other Documents: In all other matters, the Chair shall have the power to execute, verify or attest to documents on behalf of this Commission.

3.5.4 Procedural Questions: The presiding officer shall rule on all procedural questions.

3.5.5 Suspension of Rules: The Commission may suspend any of these rules by a unanimous vote of the members present to the extent that such suspension does not conflict with controlling state law.

3.5.6 Rules of Debate:

3.5.6.1. Presiding Officer May Debate and Vote: The presiding officer may move, second and debate from the Chair, subject only to such limitations of debate as are by these rules imposed on all members of the Commission, and shall not be deprived of any of the rights and privileges of a member of the Commission by reason of acting as the presiding officer.

3.5.6.2. Getting the Floor; Improper References to be Avoided: Every member of the Commission desiring to speak shall address the Chair, and upon recognition by the presiding

officer, shall confine their remarks to the question under debate, avoiding all personalities and indecorous language.

- 3.5.6.3. Interruptions: A member of the Commission, once recognized, shall not be interrupted when speaking unless it be a call to order, or as herein otherwise provided. A member of the Commission called to order shall cease speaking until the question of order be determined, and if in order, shall be permitted to proceed.
- 3.5.6.4. Motion to Reconsider: A motion to reconsider any action taken by the Commission may be made only on the day such action was taken. Such motion must be made by one of the prevailing side but may be seconded by any member of the Commission and may be made at any time and have precedence over all other motions. It shall be debatable. Nothing herein shall be construed to prevent any member of the Commission from making or remaking the same or other motion at a subsequent meeting of the Commission.
- 3.5.6.5. When Remarks of Commission Members Entered in Minutes: A member of the Commission shall have the right, upon request to the presiding officer, to have an abstract of his or her statement on any subject under consideration by the Commission entered in the minutes. Such an abstract shall contain the statement of each other Commission member who addresses the subject at that time.
- 3.5.6.6. When Synopsis of Debate Entered in Minutes: The Recording Secretary may be directed by the presiding officer, with consent of the Commission, to enter in the minutes a synopsis of the discussion on any subject under consideration by the Commission.
- 3.5.6.7. Rules of Order: Except as otherwise provided in these Bylaws, Robert's Rules of Order, Newly Revised shall govern the conduct their scope of the Commission's powers and duties under these Bylaws.

APPENDIX A

IRVINE MUNICIPAL CODE, TITLE 1, DIVISION 4

[THIS WILL INCLUDE CHAPTERS 1 and 2]

APPENDIX B

IRVINE MUNICIPAL CODE, TITLE , DIVISION

CITY OF IRVINE

CITY CHARTER

CHARTER CITY OF IRVINE [11](#)

We, the People of the City of Irvine, State of California, do ordain and establish this Charter as the organic law of the City of Irvine under the Constitution of the State of California.

[ARTICLE I. - INCORPORATION AND SUCCESSION](#)

[ARTICLE II. - POWERS OF CITY](#)

[ARTICLE III. - FORM OF GOVERNMENT](#)

[ARTICLE IV. - THE CITY COUNCIL](#)

[ARTICLE V. - CITY MANAGER](#)

[ARTICLE VI. - CITY CLERK](#)

[ARTICLE VII. - OFFICERS AND EMPLOYEES](#)

[ARTICLE VIII. - COMMISSIONS, COMMITTEES AND AGENCIES](#)

[ARTICLE IX. - ELECTIONS](#)

[ARTICLE X. - FISCAL ADMINISTRATION](#)

[ARTICLE XI. - FRANCHISES](#)

[ARTICLE XII. - MISCELLANEOUS](#)

[CHARTER COMPARATIVE TABLE](#)

ARTICLE I. INCORPORATION AND SUCCESSION

Section 100. Name and boundaries.

The City of Irvine, hereinafter termed the City, shall continue to be a municipal corporation under its present name, "City of Irvine." The boundaries of the City shall be as established at the time this Charter takes effect, or as they may be changed thereafter in the manner authorized by law.

Section 101. Rights and liabilities of the City.

The City shall continue to own, possess, and control all rights and property of every kind and nature owned, possessed, or controlled by it at the time this Charter takes effect and shall be subject to all its legally enforceable debts, obligations, liabilities, and contracts.

Section 102. Ordinances, codes and other regulations.

All ordinances, codes, resolutions, rules, regulations, and portions thereof, in force at the time this Charter takes effect, and not in conflict or inconsistent herewith, shall continue in force until they shall have been duly repealed, amended, changed, or superseded by proper authority as provided herein.

Section 103. Officers and employees.

Subject to the provisions of this Charter, the present officers and employees of the City shall continue to perform the duties of their respective offices and employments under the same conditions as those of the existing offices and positions until the election or appointment and qualification of their successors, subject to such removal and control as herein provided.

Section 104. Pending actions and proceedings.

No action or proceeding, civil or criminal, pending at the time when this Charter takes effect, brought by or against the City or any officer, office, department or agency thereof, shall be affected or abated by the adoption of this Charter or anything herein contained.

ARTICLE II. POWERS OF CITY

Section 200. Powers.

The City shall have all powers possible for a City to have under the Constitution and laws of the State of California as fully and completely as though they were specifically enumerated in this Charter specifically, but not by way of limitation, the City shall have the power to make and enforce all laws and regulations with respect to municipal affairs, subject only to such restrictions and limitations as may be provided in this Charter and in the Constitution of the State of California. It shall also have the power to exercise any and all rights, powers and privileges heretofore or hereafter established, granted, or prescribed by any law of the State, by this Charter, or by other lawful authority, or which a municipal corporation might or could exercise under the Constitution of the State of California. The enumeration in this Charter of any particular power, duty or procedure shall not be held to be exclusive of, or any limitation or restriction upon, this general grant of power.

Section 201. Intergovernmental relations.

The City may exercise any of its powers or perform any of its functions, and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more cities, counties, states, or civil divisions or agencies thereof, or the United States or any agency thereof. In addition to the foregoing the City may delegate the exercise of its powers or the performance of any of its functions to any city, county, state, civil division or agency thereof or the United States or any agency thereof.

ARTICLE III. FORM OF GOVERNMENT

Section 300. Form of government.

The municipal government established by this Charter shall be known as the "Council-Manager" form of government.

ARTICLE IV. THE CITY COUNCIL

Section 400. Mayor and City Council.

The City Council, hereinafter termed "Council," shall consist of a Mayor and four (4) Council members elected to office from the City at large in the manner provided in this Charter. The Mayor shall serve a term of two (2) years. No Mayor shall serve for more than two (2) consecutive full terms in office. Other than as set forth herein, eligibility for office, compensation, vacancies and the filling of vacancies shall be the same for the office of Mayor as provided for the office of Council member by this Charter. The Mayor, in addition to serving as the presiding officer of the Council, shall have all of the rights, powers and duties of a Council member and shall be a member of the Council.

The term of office for a Council member shall be four (4) years. Alternatively, and successively, two (2) four-year terms shall be filled at one general municipal election and two (2) four-year terms at the next such election, consistent with the sequence of terms of Council members existing on the effective date hereof [June 7, 1988]. No Council member shall serve for more than two (2) consecutive full terms in office.

If at any general municipal election, one (1) or more Council member, whose term of office will not expire as of the election, and who would be required to vacate the office of Council member if elected to the office of Mayor, files as a candidate for the office of Mayor, the following procedure will be used to fill the contingent vacancy in the office of Council member that would arise if the sitting Council member were elected Mayor: To the extent legally possible, the ballot for the office of Council member, the official election materials and voter information pamphlet shall notify the voters that they may cast ballots for not more than three (3) candidates for the office of Council member; that at least two (2) Council offices shall be filled by election; and that if a Council member whose term of office will not expire as of the election is elected to the office of Mayor, the vacancy in the office of that Council member shall be filled by the candidate for Council member receiving the third highest number of votes at the same municipal election.

The term of the Mayor and a Council member shall commence at the next regularly scheduled meeting of the Council following certification of the election results by the election official or such earlier other date as may be established by ordinance of the City Council, and he or she shall serve until his or her successor qualifies. Any ties in voting and any determination with respect to which Council member is to fill which office shall be settled by the casting of lots. No person shall hold both the office of Mayor and Council member.

The Mayor and each Council member in the office at the time this Charter amendment takes effect [December 16, 1991] shall continue in office until the end of the term for which he or she was elected or appointed, unless elected to the office of Mayor, and until his or her successor qualifies subject to the right of the people to recall a Council member from office as provided herein.

As used herein the term "qualifies" shall mean, in addition to the provisions of the general law, having taken the oath of office following the election and his or her term of office shall have commenced.

(Amend. of 9-8-78; Amend. of 6-3-86; Amend. of 6-7-88; Amend. of 3-1-88, § 1; Amend. of 11-5-91)

Editor's note—

The amendment of [§ 400](#) adopted Sept. 8, 1978, was approved at an election held Nov. 7, 1978. It was filed with the secretary of state by chapter 6 of 1979. A further amendment was approved at an election held June 3, 1986. It was filed with the secretary of state Jan. 2, 1987, as Charter chapter 4, further amendment was adopted at an initiative referendum held Nov. 3, 1987, and filed with the secretary of state Feb. 16, 1988, as Charter chapter 1. The section was further amended at an election held June 7, 1988, and filed with the secretary of state July 15, 1988, as Charter chapter 12. The section was further amended

CHARTER - CITY OF IRVINE

at an election held Nov. 5, 1991, and filed by the secretary of state and became effective Dec. 16, 1991, as Charter chapter 25.

Section 401. Eligibility.

No persons shall be eligible to hold the office of Council member unless he or she is a legally registered voter and resident of the City.

Section 402. Compensation.

Compensation for Council member is hereby set, and from time to time shall be changed, in accordance with the provisions of the Government Code relating to salaries of Council members in general law cities. Such compensation may be increased or decreased other than as set forth above by an affirmative vote of a majority of the voters voting on the proposition at any election.

Section 403. Vacancies, forfeiture of office. Filling of vacancies.

- (a) A vacancy shall exist on the Council, and shall be declared by the Council, upon the occurrence of any of the events enumerated in the provisions of the Government Code pertaining to vacancies in public offices.
- (b) A declaration by the Council of a vacancy resulting from forfeiture of office shall be subject to judicial review, provided that within two weeks after such declaration an appropriate action, or proceeding for review is filed in a court having jurisdiction of the action or proceeding. During the pendency of any such action or proceeding, anyone appointed by the Council or elected by the people to fill such vacancy shall have all the rights, duties, and powers of a Council member and shall continue in such office as provided herein unless and until said court rules the declaration of the Council invalid and such ruling has become final.
- (c) The method of filing vacancies on the City Council shall be as prescribed by ordinance of the City Council.

Section 404. Powers vested in the Council.

All powers of the City shall be vested in the Council except as otherwise provided in this Charter.

Section 405. Council organization, meetings and rules of order.

Officers of the Council (other than the elected Mayor), the time, place and the method of calling meetings, the rules of order for the conduct of proceedings by the City Council and the order of succession in the event of a vacancy in the office of Mayor shall be as established by ordinance of the City Council.

(Amend. of 3-1-88, § 2)

Editor's note—

An amendment to [§ 405](#) was approved at an initiative referendum held Nov. 3, 1987; filed with the secretary of state Feb. 16, 1988, as Charter chapter 1; and was adopted by the council Mar. 1, 1988.

Section 406. Citizen participation.

Subject to the rules governing the conduct of Council meetings, any citizen, personally or through counsel, shall have the right to present grievances at any regular meeting of the Council, or offer suggestions for the betterment of municipal affairs.

Section 407. Adoption of ordinances and resolutions.

With the exception of ordinances which take effect upon adoption pursuant to this Article, no ordinance shall be adopted by the Council on the day of its introduction, nor within five days thereafter. An ordinance effective upon adoption as provided herein may be introduced and adopted at the same time. All ordinances shall be read by title only either at the time of introduction or at the time of adoption unless three members of the Council request that the ordinance be read in full. In the event that any ordinance is altered after its introduction, it shall not be finally adopted except at a meeting held not less than five days after the date upon which such ordinance was altered. Correction of a typographical or clerical error shall not constitute an alteration within the meaning of the foregoing sentence.

Unless otherwise required by this Charter, the affirmative votes of at least three members of the Council shall be required for the enactment of any ordinance, resolution or order for the payment of money.

All ordinances and resolutions of the City Council shall be signed by the Chairman of the Council and attested by the City Clerk.

Any ordinance declared by the Council to be necessary as an emergency measure for preserving the public peace, health, or safety and containing a statement of the reasons for its urgency, may be introduced and adopted at one and the same meeting if it is passed by at least four affirmative votes.

Section 408. Ordinances. Posting.

The City Clerk shall cause each ordinance to be posted in at least three public places in the City in lieu of publication unless publication is requested by the City Council or otherwise required by law.

Section 409. Adoption of Codes by Reference.

Detailed regulations pertaining to any subject, when arranged as a comprehensive code, may be adopted by reference by the passage of an ordinance for such purpose. Such code need not be posted or published in the manner required for the enactment of ordinances. Any or all ordinances of the City may be compiled, consolidated, revised, indexed, including such restatement and substantive change as is necessary in the interest of clarity, and arranged as a comprehensive ordinance code. Such ordinance code may be adopted by reference as provided herein. Copies of any adopted code of regulations shall be made available for purchase at a reasonable price.

Section 410. Ordinances. When Effective.

An ordinance shall become effective after the thirtieth day following its adoption, or at any later date specified therein, except the following, which shall take effect upon adoption:

- (a) An ordinance calling or otherwise relating to an election.
- (b) An ordinance declaring the amount of money necessary to be raised by taxation, fixing the rate of taxation, levying the annual tax upon property, or levying any other tax.
- (c) An emergency ordinance adopted in the manner provided for in this Article.

ARTICLE V. CITY MANAGER

Section 500. City Manager. Selection and qualifications.

There shall be a City Manager who shall be the chief administrative officer of the City. The Council shall appoint the person who it believes to be best qualified on the basis of executive and administrative qualifications, with special reference to experience in, and knowledge of, accepted practice in respect to the duties of the office as set forth in this Charter.

Section 501. City Manager. Appointment, removal, powers and duties.

The appointment, removal, powers and duties of the City Manager shall be as established by ordinance of the City Council.

ARTICLE VI. CITY CLERK

Section 600. City Clerk.

There shall be a City Clerk who shall be appointed by and serve at the pleasure of the Council.

Section 601. Powers and duties.

The City Clerk or a duly authorized representative shall:

- (a) Attend all meetings of the Council and be responsible for the recording and maintaining of a full and true record of all of the proceedings of the Council in books that shall bear appropriate titles and be devoted to such purpose.
- (b) Maintain separate books, in which shall be recorded respectively all ordinances and resolutions, with the certificate of the Clerk annexed to each document stating that said document is the original or a correct copy, and with respect to an ordinance, stating that said ordinance has been posted or published in accordance with this Charter. All of said books shall be properly indexed and open to public inspection.
- (c) Maintain separate books in which a record shall be made of all written contracts and official bonds.
- (d) Be the custodian of the seal of the City.
- (e) Administer oaths or affirmations, take affidavits and depositions pertaining to the affairs and business of the City, and certify copies of official records.
- (f) Conduct all City elections.
- (g) Perform such other duties as may be prescribed by the Council.

ARTICLE VII. OFFICERS AND EMPLOYEES

Section 700. Administrative departments.

- (a) The Council may establish City departments, offices or agencies in addition to those created by this Charter and may prescribe the functions of all departments, offices, and agencies.
- (b) Except as otherwise provided by this Charter, all departments, offices, and agencies under the direction and supervision of the City Manager shall be administered by an officer appointed by and subject to the direction and supervision of the City Manager. With the consent of the Council, the City Manager may serve as the departmental administrator of one or more such departments, offices, or agencies or may appoint one person as the departmental administrator of two or more of them.
- (c) The Council may provide for the number, titles, and compensation of all officers and employees.

Section 701. City Attorney. Powers and duties.

There shall be a City Attorney who shall be appointed and subject to removal by a majority vote of the Council. The City Attorney shall serve as chief legal adviser to the Council, the City Manager, and all City departments, offices, and agencies and shall be under the administrative direction of the City Manager. The City Attorney shall represent the City in all legal proceedings and shall perform such other duties as may be prescribed by the Council.

Section 702. Treasurer.

There shall be a Treasurer who shall be appointed and may be removed by the Council. The Treasurer shall be under the administrative direction of the City Manager and shall perform those duties required by law, and provided by ordinance or resolution.

Section 703. Departmental administrators. Appointive powers.

Each departmental administrator shall have the power to appoint, supervise, suspend, or remove such assistants, deputies, subordinates, and employees as are provided for by the Council for the department, subject to approval of the City Manager and subject to the provisions of the personnel rules and regulations adopted by the City Council.

Section 704. Administering oaths.

Each departmental administrator and such of the deputies thereof as he or she may designate shall have the power to administer oaths and affirmations in connection with any official business pertaining to his or her department.

Section 705. Official bonds.

The Council shall fix by ordinance or resolution the amounts and terms of the official bonds of all officers or employees who are required by ordinance or resolution to give such bonds. All bonds shall be executed by a responsible corporate surety, shall be approved as to form by the City Attorney, and shall be filed with the City Clerk. Premiums on official bonds shall be paid by the City.

There shall be no personal liability upon, or any right to recover against, a superior officer, or his or her bond, for any wrongful act or omission of his or her subordinate, unless such superior officer was a party to, or conspired in, such wrongful act or omission.

ARTICLE VIII. COMMISSIONS, COMMITTEES AND AGENCIES

Section 800. In general.

The commissions and committees heretofore established by the Council shall continue to exist and exercise the powers and perform the duties conferred upon them; provided, however, that the Council may abolish any and all of said commissions and committees and may alter the structure, membership, powers and duties thereof.

In addition, the Council may create such other agencies as in its judgment are required and may grant to them such powers and duties as are not inconsistent with the provisions of this Charter.

Section 801. Appropriations.

The Council shall include in its annual budget such appropriations of funds as the Council shall determine to be sufficient for the efficient and proper functioning of commissions, committees and agencies.

Section 802. The appointment, removal, terms of office and procedural rules.

The election, appointment, removal, and terms of office of commissions, committee and agency members and the rules and regulations pertaining to the conduct of commission, committee or agency business shall be as prescribed by ordinance or resolution of the City Council.

Section 803. Existing membership.

The members of the commissions and committees holding office when this Charter takes effect shall continue to hold office thereafter until their respective terms of office shall expire and until their successors are appointed and qualify, subject to being removed from office as provided herein.

Section 804. Compensation. Vacancies.

The members of commissions and agencies shall receive such compensation as may be specified by the Council and shall also receive reimbursement for necessary traveling and other expenses incurred on official duty when such expenditures are authorized by the Council.

ARTICLE IX. ELECTIONS

Section 900. General municipal elections.

Commencing with the general municipal election in 1992, general municipal elections for the election of officers and for such other purposes as the Council may prescribe shall be held in the City on the first Tuesday after the first Monday in November of even-numbered years, except as otherwise provided by ordinance of the City Council.

(Amend. of 9-8-78; Amend. of 11-6-90)

Editor's note—

The amendment to [§ 900](#) adopted Sept. 8, 1978, was approved at an election held Nov. 7, 1978. It was filed with the secretary of state as Charter chapter 6 of 1979. The amendment approved at an election held Nov. 6, 1990, was filed with the secretary of state as Charter chapter 6 of 1990. It was subsequently adopted by council action on Apr. 9, 1991.

Section 901. Special municipal elections.

Other municipal elections shall be known as special municipal elections and may be called from time to time by the Council.

Section 902. Procedure for holding elections.

Unless otherwise provided by ordinance hereafter enacted, all elections shall be held in accordance with the provisions of the Elections Code for the holding of municipal elections, so far as the same are not in conflict with this Charter.

Section 903. Initiative, referendum and recall.

There are hereby reserved to the voters of the City the power of the initiative and referendum and of the recall of municipal elective officers. The provisions of the Elections Code governing the initiative and referendum and the recall of municipal officers shall apply so far as the same are not in conflict with this Charter.

ARTICLE X. FISCAL ADMINISTRATION

Section 1000. Fiscal year.

The fiscal year of the City government shall begin on the first day of July of each year and end on the thirtieth day of June of the following year. The Council may by ordinance change the fiscal year.

Section 1001. Submission of budget and budget message.

The City Manager shall submit to the City Council a proposed budget for the ensuing fiscal year, and an accompanying message at such time as the City Council shall prescribe. The budget will be adopted by the City Council before the beginning of the fiscal year.

Section 1002. General tax limits.

The Council shall not levy a property tax for general municipal purposes in excess of the maximum rate applicable to the City on the effective date of this Charter; provided, however, that a tax in excess of such rate may be levied if authorized for general law cities by the general laws of the State or if authorized by the affirmative votes of a majority of the voters voting on a proposition to increase such levy. The number of years that such additional levy is to be made shall be specified in such proposition. Nothing herein contained shall preclude the Council from establishing separate taxing areas within the City for the levy of property taxes, nor preclude the levy of a tax in excess of such maximum rate if authorized by the general laws of the State or if authorized by the affirmative votes of a majority of the voters within the area voting on a proposition to increase such levy.

Section 1003. Tax procedure.

The procedure for the assessment, levy, and collection of taxes may be prescribed by ordinance of the Council; and in the absence of such an ordinance the procedure applicable thereto shall be that prescribed by the general laws of the State.

Section 1004. Contracts on public works.

Every project involving an expenditure of more than Four Thousand Dollars (or such other amount as may be prescribed by ordinance) for the construction of public works shall be let by the Council by contract to the lowest responsible bidder after notice by publication in the official newspaper by one or more insertions, the first of which shall be at least ten days before the time for opening bids. The Council may reject any and all bids presented and may readvertise in its discretion. The Council, after rejecting bids, or if no bids are received, may declare and determine that, in its opinion, based on estimates approved by the City Manager, the work in question may be performed better or more economically by the City with its own employees and, after the adoption of a resolution to this effect by at least four affirmative votes, may proceed to have said work done without further observance of the provisions of this section.

Such contracts may be let and such purchases made without advertising for bids, if such work shall be deemed by the Council to be of urgent necessity for the preservation of life, health, or property, and shall be authorized by resolution passed by at least four affirmative votes of the Council and containing a declaration of the facts constituting such urgency.

Section 1005. Presentation and audit of demands.

Any demand against the City must be in writing and may be in the form of a bill, invoice, payroll, or formal demand. Each such demand shall be presented to the Director of Finance who shall examine the same. If the amount thereof is legally due and there remains an unexhausted balance of an appropriation against which the same may be charged, he or she shall approve such demand and draw his or her warrant on the Treasurer therefor, payable out of the proper fund.

The Director of Finance shall transmit such demand, with his or her approval or rejection thereof endorsed thereon, and warrant, if any, to the City Manager. The City Manager shall cause the same to be transmitted to the Council which may then approve or disapprove payment thereof.

Section 1006. Registering warrants.

Warrants on the Treasurer which are not paid for lack of funds shall be registered. All registered warrants shall be paid in the order of their registration when funds therefor are available and shall bear interest from the date of registration at such rate as shall be fixed by the Council by resolution.

Section 1007. Claims against the City.

The provisions of the general laws of the date establishing conditions precedent to the commencement of any action or proceeding or bringing suit against the City, its officers, and employees shall govern, except as modified by the City Council.

Section 1008. Independent audit.

The City Council shall employ a certified public accountant who shall, at such times as may be specified by the City Council examine the books, records, inventories and reports of all officers and employees who receive, handle, or disburse public funds and all such other officers, employees, or departments as the City Council may direct. As soon as practicable after the end of the fiscal year, a final certified audit and report shall be submitted by such accountant to the City Council, one copy thereof to be distributed to each member, one to the City Manager, Director of Finance, Treasurer, and City Attorney, respectively, and three additional copies to be placed on file in the office of the City Clerk where they shall be available for inspection by the general public.

ARTICLE XI. FRANCHISES

Section 1100. Granting of franchises.

The Council may grant a franchise to any person, partnership, corporation, or other legal entity capable of exercising the privilege conferred, whether operating under an existing franchise or not, and may prescribe the terms, conditions, and limitations of such grant, including the compensation to be paid to the City therefor. The Council may prescribe by ordinance or resolution the method or procedure for granting franchises, together with additional terms and conditions for making such grants. In the absence of such provision the method provided by the general laws of the State shall apply.

Section 1101. Term of franchise.

No franchise shall be granted for a longer period than twenty-five years, unless there be reserved to the City the right to take over at any time the works, plant, and property constructed under the grant at their physical valuation and without compensation for franchise or good will.

Section 1102. Eminent domain.

No franchise or grant of a franchise shall in any way or to any extent impair or affect the right of the City to acquire the property of the possessor thereof by purchase or condemnation, and nothing therein contained shall be construed to contract away or to modify or abridge, either for a term or in perpetuity, the City's right of eminent domain with respect to the property of the possessor of any franchise. Every franchise granted by the City is granted upon the condition, whether expressed in the grant or not, that such franchise shall not be given any value before any court or other public authority in any proceeding of any character in excess of any amount actually paid by the grantee to the City at the time of the grant.

Section 1103. Procedure for granting franchises.

Before granting any franchise, the City Council shall adopt a resolution declaring its intention to grant same and stating the name of the proposed grantee, the character of the proposed franchise, and the terms and conditions upon which it is proposed to be granted. Such resolution shall fix and set forth the day, hour, and place when and where any person having an interest in or objecting to the granting of such franchise may appear before the Council and be heard thereon. Said resolution shall be published at least once, not less than ten days prior to said hearing, in the official newspaper. After hearing all persons desiring to be heard, the Council may by ordinance deny or grant the franchise on the terms and conditions specified in the resolution. No ordinance granting a franchise shall be adopted as an emergency ordinance.

ARTICLE XII. MISCELLANEOUS

Section 1200. Definitions.

Unless the provision or the context otherwise requires, as used in this Charter:

- (a) "Shall" is mandatory, and "may" is permissive.
- (b) "City" is the City of Irvine and "department," "board," "commission," "committee," "agency," "officer," or "employee" is a department, board, commission, committee, agency, officer, or employee, as the case may be, of the City of Irvine.
- (c) "City Code" is the Code of the City of Irvine.
- (d) "Council" is the City Council of the City.
- (e) "Council member" is a member of the Council.
- (f) "Departmental administrator" is the person in charge of a City department or function.
- (g) "Government Code" is the California Government Code as it exists upon adoption of this Charter, or is thereafter amended.
- (h) "Law" includes ordinance.
- (i) "State" is the State of California.
- (j) "Voter" is a legally registered voter.

Section 1201. Violations.

A violation of this Charter or of any ordinance of the City shall constitute a misdemeanor and may be prosecuted in the name of the People of the State of California or may be redressed by civil action filed by the City. The maximum fine or penalty for any violation of a City ordinance shall be the same as established by the general laws for a misdemeanor.

Section 1202. Validity.

If any provision of this Charter, or the application thereof to any person or circumstance, is held invalid, the remainder of the Charter, and the application of such provision to other persons or circumstances, shall not be affected thereby.

CITY OF IRVINE

CITY CODE: DIVISION 2

CITY COUNCIL

TITLE 1 - GENERAL SERVICES

Division 2 CITY COUNCIL

Division 2 CITY COUNCIL

[CHAPTER 1. - IN GENERAL](#)

[CHAPTER 2. - FILLING VACANCIES](#)

[CHAPTER 3. - RULES OF ORDER](#)

[CHAPTER 4. - CAMPAIGN FINANCING](#)

[CHAPTER 5. - MAILED BALLOT ELECTIONS](#)

TITLE 1 - GENERAL SERVICES

Division 2 - CITY COUNCIL

CHAPTER 1. IN GENERAL

Sec. 1-2-101. Time and place of meetings.

- A. Regular meetings of the City Council shall be held on the second and fourth Tuesdays of each month, and shall convene at the hour of 4:00 p.m., or immediately following any Irvine Redevelopment Agency meeting. When the day for any regular meeting of the Council falls on a legal holiday, no meeting shall be held on such holiday; but such meeting shall be held at the same hour on the next succeeding day which is not a holiday.
- B. All meetings of the City Council shall be held at the Irvine City Council Chambers, One Civic Center Plaza, Irvine, California. However, any such meeting may be adjourned to another time, date and place certain within the City.

(Ord. No. 140, § 1, 6-10-75; Code 1976, § I.B-101; Ord. No. 179, § 1, 11-23-76; Ord. No. 85-22, § 1, 8-20-85; Ord. No. 89-13, § 1, 5-23-89; Ord. No. 91-7, § 1, 4-9-91; Ord. No. 94-1, § 1, 2-9-94; Ord. No. 00-01, § 1, 2-8-00)

Charter reference— Council meetings, § 405.

Sec. 1-2-102. Special meetings.

Special meetings may be called by the Mayor or a majority of the members of the City Council on 24 hours' notice, pursuant to Government Code § 54956. Only matters contained in such notice may be considered and only urgency ordinances may be adopted. No regular ordinances or orders for payment of money shall be considered at such special meetings.

(Ord. No. 140, § 2, 6-10-75; Code 1976, § I.B-102; Ord. No. 169, § 1, 6-22-76)

Sec. 1-2-103. Public meetings.

All meetings must be open to the public except "closed session" matters, as provided by law. Such closed sessions may be held only during the course of a duly called meeting.

(Ord. No. 140, § 3, 6-10-75; Code 1976, § I.B-103)

Sec. 1-2-104. Reorganizations; appointments.

The City Council shall choose one of its members as Mayor Pro Tempore at the same meeting at which the City Council election results are certified in even-numbered years, and at its first regular meeting in December of odd-numbered years.

(Ord. No. 140, § 6, 6-10-75; Code 1976, § I.B-104; Ord. No. 169, § 2, 6-22-76; Ord. No. 236, § 1, 3-13-79; Ord. No. 88-10, § 1, 5-10-88; Ord. No. 92-17, § 3, 9-22-92; Ord. No. 09-11, § 1, 9-22-09)

Sec. 1-2-105. Canvass of returns, installation of new members, declaration of election; resolution.

Upon receipt of the certification of the results of the election from the County Registrar of Voters after each general municipal election, the Mayor shall call a meeting of the City Council to canvass the returns and install its newly elected members. The City Council shall declare elected the persons having the highest number of votes given for each office. Upon the completion of the canvass and before installing

TITLE 1 - GENERAL SERVICES

Division 2 - CITY COUNCIL

the new members, the City Council shall pass a resolution reciting the fact of the election and such other matters as are enumerated in Elections Code § 22933.

(Code 1976, § I.B-105; Ord. No. 240, § 1, 3-27-79)

Sec. 1-2-106. Reserved.

Sec. 1-2-107. Compensation for City Council members—Determination.

Compensation for City Council members shall be set, and from time to time shall be changed, in accordance with the compensation schedule for Council members established in Government Code § 36516.

(Code 1976, § I.B-106; Ord. No. 84-13, 8-14-84)

Sec. 1-2-108. Same—Amount.

Compensation for City Councilmembers shall be \$880 per month.

(Code 1976, § I.B-107; Ord. No. 88-1, § 1, 1-12-88; Ord. No. 98-13, § 1, 10-13-98; Ord. No. 05-11, § 1, 6-28-05; Ord. of 08-04, § 1, 6-24-08)

Sec. 1-2-109. Recruitment.

It shall be the City's policy to recruit the best qualified persons available regardless of race, religion, color, creed, national origin, ancestry, sex, marital status, age, or medical condition, or physical or mental disability, unless based upon a bona fide occupational qualification. While recognizing the need or introduction of persons from outside City employment at all levels, the policy of the City is to transfer and promote persons already employed by the City when their personal qualifications, training, work performance and work experience are determined to be comparable to applicants from other sources. The Personnel Officer shall determine whether the recruitment shall be open or promotional, on the basis of assuring an adequate number of candidates with appropriate skills to constitute a competitive merit process.

(Added during 1998 recodification)

Sec. 1-2-110. Committee assignments.

It is encouraged that appointments to regional boards be given consideration on an annual basis to allow all members of the City Council to have an opportunity to represent the City in such a capacity. Appointments will be voted upon each January.

(Ord. No. 06-01, § 2, 1-24-06)

Sec. 1-2-111. Audit of City contracts.

The City Manager shall have the authority to initiate an audit of any City contract when he or she has a reasonable belief that established City policies or the terms of the contract have been breached.

(Ord. No. 06-01, § 3, 1-24-06)

TITLE 1 - GENERAL SERVICES

Division 2 - CITY COUNCIL

CHAPTER 2. FILLING VACANCIES

Sec. 1-2-201. Definitions.

Unless expressly defined herein, the definitions of words and phrases used in this chapter shall be as defined in the California Elections Code.

(Code 1976, § I.B-200; Ord. No. 93-13, § 1, 10-12-93)

Sec. 1-2-202. Methods of filling vacancy.

- A. The voters of the City may, by petition, require that any vacancy on the City Council be filled only by election. If such a petition, complying with the requirements of this chapter and signed by not less than seven percent of the voters of the City according to the County Clerk's last official report of registration to the Secretary of State, is filed with the City Clerk on or before 5:00 p.m. on the 30th day following the posting of the notice of vacancy on the City Council pursuant to [section 1-2-204](#), the vacancy may be filled only by an election.
- B. At a meeting held within 30 days of the conclusion of the time period for filing petitions as set forth in subdivision A, the City Council shall determine the manner in which the vacancy shall be filled in accordance with subdivision C or D hereof.
- C. If the City Council determines based on the report of the City Clerk prepared pursuant to [section 1-2-209](#), that an adequate petition requesting an election has been properly filed, the vacancy shall be filled only by an election; and the City Council shall thereupon call an election to fill the vacancy. The election shall be called and scheduled on the first available date that the City Council determines in its discretion to be appropriate, but the election date shall be at least 114 days from the date on which the City Council calls the election.
- D. If the City Council determines based on the report of the City Clerk prepared pursuant to [section 1-2-209](#) that no adequate petition requesting an election has been properly filed, the City Council may fill any such vacancy by appointment or by calling an election, in accordance with the provisions of Government Code § 36512.

(Code 1976, § I.B-201; Ord. No. 93-13, § 1, 10-12-93)

Sec. 1-2-203. Term of office.

A person appointed or elected to fill a vacancy holds office for the unexpired term of the former incumbent.

(Code 1976, § I.B-202; Ord. No. 93-13, § 1, 10-12-93)

Sec. 1-2-204. Notice of vacancy.

Immediately upon the determination that there is a vacancy on the City Council, the City Clerk shall post notices at all places within the City for the posting of public notices, setting forth a summary of the provisions of this chapter and the date and time by which petitions hereunder must be filed with the City Clerk.

(Code 1976, § I.B-203; Ord. No. 93-13, § 1, 10-12-93)

TITLE 1 - GENERAL SERVICES

Division 2 - CITY COUNCIL

Sec. 1-2-205. Form of petition.

The petition required by the provisions of this chapter shall consist of the following:

A. The following statement:

"WHEREAS, Title I, Division 2, Chapter 2, of the Irvine City Code provides that the registered voters of the City may petition the City Council to require the filling of a vacancy on the City Council by election;" and

"WHEREAS, the undersigned is aware of the fact that prior to such election and the canvassing of the returns thereof said office shall remain vacant;"

"NOW, THEREFORE, the undersigned petitioners hereby petition the City Council of the City of Irvine pursuant to [Title 1](#), Division 2, Chapter 2 of the Irvine City Code to require an election to fill the vacancy on the City Council."

B. Signature lines with designated spaces immediately adjacent thereto for the signer's printed name, and place of residence, giving street and number, and if no street or number exists, then a designation of the place of residence which will enable the location to be readily ascertained.

C. A prominent statement in bold type at the bottom of each page clearly specifying that only currently registered voters with a residence address within the City of Irvine may sign.

D. A space at least one inch wide shall be left blank after each name space for the use of the City Clerk in verifying the petitions.

E. The part of a petition for the voters' signatures, printed names and residence addresses and the blank spaces for verification purposes shall be numbered consecutively commencing with the number one and continuing through the number of signature spaces allotted to each section. The petition format shall be substantially as follows:

(Print Name) 1 _____ (Signature) _____	(Residence Address ONLY) _____ City _____	
(Print Name) 2 _____ (Signature) _____	(Residence Address ONLY) _____ City _____	

Proponents may commence to circulate the petition among the voters of the City for signatures by any registered voter of the City after the City Clerk has posted the notice of vacancy pursuant to this chapter.

(Code 1976, § I.B-204; Ord. No. 93-13, § 1, 10-12-93)

TITLE 1 - GENERAL SERVICES

Division 2 - CITY COUNCIL

Sec. 1-2-206. Reserved.

Sec. 1-2-207. Withdrawal of signature.

Any voter who has signed the petition shall have his or her signature withdrawn from such petition upon filing a written request therefor with the City Clerk prior to the day the petition is filed.

(Code 1976, § I.B-205; Ord. No. 93-13, § 1, 10-12-93)

Sec. 1-2-208. Affidavit for petition.

A. Before any petition may be accepted by the City Clerk for filing under the provisions of this chapter, the petition, or each separate section thereof, shall have attached to it an affidavit signed by a voter of the City which shall state according to the best information and belief of the affiant, the following:

1. That each signature appearing on each section of the petition is the genuine signature of the person whose name it purports to be;
2. That each signer of the petition or section thereof, was, at the time of placing such signature on the petition, a registered qualified voter of the City;
3. That the affiant personally observed each signer placing thereon his or her signature the date thereof, and his or her residence address, by street and number, or if no street or number exists, then a designation of such place of residence which will enable its location to be easily ascertained;
4. The dates between which the affiant personally collected the signatures affixed to the petition, or each separate section thereof;
5. That the affiant has complied with all laws and rules of any government entity with jurisdiction in circulating the petition and obtaining signatures thereon.

B. Such affidavit shall be in substantially the following form:

"I, _____, residing at _____ a registered voter of the City of Irvine, circulated the foregoing petition and personally saw all of the signatures appended thereto along with the residence addresses and dates of signing. To the best of my knowledge and belief they are the signatures of the persons whose names they purport to be and each signatory on the foregoing petition, at the time of signing, was a currently registered voter with a residence address within the City of Irvine.

"The signatures were obtained between _____ 19 _____ and _____ 19 _____ I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

"In circulating the foregoing petition and collecting the signatures thereon, I have complied with all laws, rules, and regulations of any governmental entity with jurisdiction over this matter.

"Executed by me at _____ California, this _____ / _____ / _____ day of _____ / _____ / _____ 19 _____."

(Code 1976, § I.B-206; Ord. No. 93-13, § 1, 10-12-93)

Sec. 1-2-209. Duties of Clerk.

Upon filing of the petition, the Clerk shall ascertain whether the number of signatures equals or is in excess of the minimum number of signatures required by this chapter, disregarding signatures which are

TITLE 1 - GENERAL SERVICES

Division 2 - CITY COUNCIL

not the genuine signatures of the persons whose name the same purport to be, signatures of persons who are not in fact registered qualified voters of the City on the date of the filing of the petition and signatures which do not bear in immediate proximity thereto a street address as hereinabove described. The City Clerk shall examine and verify the signatures in accordance with the procedures set forth in Elections Code §§ 9114 and 9115, as amended from time to time. The City Clerk shall report as to the sufficiency of the petition and the number of signatures thereon at a meeting of the City Council conducted during the 30-day period following the final date for the filing of petitions under this chapter.

(Code 1976, § I.B-207; Ord. No. 93-13, § 1, 10-12-93)

Sec. 1-2-210. Filing of petition.

All sections of the petition shall be filed with the City Clerk at one time during normal office hours and no petition section or page submitted subsequently shall be accepted by the City Clerk.

(Code 1976, § I.B-208; Ord. No. 93-13, § 1, 10-12-93)

Sec. 1-2-211. Petition not a public record.

Pursuant to Government Code § 6253.5, the petition is not a public record. All petitions filed pursuant to this chapter shall be retained and destroyed in accordance with the procedures set forth in Elections Code § 17200, as amended from time to time.

(Code 1976, § I.B-209; Ord. No. 93-13, § 1, 10-12-93)

Sec. 1-2-212. Reserved.

Sec. 1-2-213. Order of succession.

Should the office of Mayor become vacant during his or her term of office, the Mayor Pro Tempore in office at the time the vacancy occurs shall be appointed Mayor for the remainder of the mayoral term. The resulting vacancy on the City Council shall be filled as prescribed by ordinance of the City Council. The Mayor Pro Tempore appointed Mayor in this instance would forfeit any time remaining in his or her Council term beyond the term of the Office of Mayor to which he or she is appointed.

(Code 1976, § I.B-210; Ord. No. 93-13, § 1, 10-12-93)

TITLE 1 - GENERAL SERVICES

Division 2 - CITY COUNCIL

CHAPTER 3. RULES OF ORDER

Sec. 1-2-301. Agenda.

Except as otherwise provided in Government Code § 54954.2, no action shall be taken on matters not appearing on the posted agenda.

(Ord. No. 140, § 4, 6-10-75; Code 1976, § I.B-301)

Sec. 1-2-302. Order of business.

Promptly at the hour set by law on the day of each regular meeting the members of the City Council, the City Manager, the City Clerk and the City Attorney shall take their regular stations in the Council chambers and the business of the Council shall be taken up for consideration and disposition in the order established by resolution of the City Council.

(Ord. No. 140, § 5, 6-10-75; Code 1976, § I.B-302)

Sec. 1-2-303. Duties of the presiding officer—Generally.

The Mayor, or in the Mayor's absence the Mayor Pro Tempore, shall be the presiding officer, and shall assume the place and duties of such office immediately following election. The Mayor shall preserve strict order and decorum at all meetings of the Council, state questions coming before the Council, announce its decision on all subjects and decide all questions of order, subject, however, to an appeal to the Council as a whole, in which event a majority vote of the Council members present shall govern and conclusively determine such question of order. The Mayor shall vote on all questions, and on roll call his or her name shall be called last. The seating arrangement for the City Council shall be determined by the Mayor, unless such determination is overturned by a majority vote of the City Council.

(Code 1976, § I.B-303; Ord. No. 169, § 3, 6-22-76)

Sec. 1-2-304. Same—Execution of documents.

The Mayor shall sign all ordinances and resolutions adopted and contracts approved by the Council at meetings at which the Mayor is in attendance. In the event of the Mayor's absence, the Mayor Pro Tempore shall sign such documents as having been adopted and approved during the meeting at which the Mayor Pro Tempore presided.

(Ord. No. 140, § 7, 6-10-75; Code 1976, § I.B-304; Ord. No. 169, § 4, 6-22-76)

Sec. 1-2-305. Call to order.

The Mayor, or in the Mayor's absence the Mayor Pro Tempore, shall take the chair at the hour appointed for the meeting, and shall call the Council to order. In the absence of the Mayor and the Mayor Pro Tempore, the City Clerk or the City Clerk's assistant shall call the Council to order, whereupon a temporary Mayor shall be elected by the Council members present. Upon the arrival of the Mayor or the Mayor Pro Tempore, the temporary Mayor shall relinquish the chair at the conclusion of the business then before the Council.

(Ord. No. 140, § 8, 6-10-75; Code 1976, § I.B-305; Ord. No. 169, § 5, 6-22-76)

TITLE 1 - GENERAL SERVICES

Division 2 - CITY COUNCIL

Sec. 1-2-306. Reserved.

Sec. 1-2-307. Roll call.

Before proceeding with the business of the Council, the City Clerk shall call the roll of the Council members, and the names of those present shall be entered in the minutes.

(Ord. No. 140, § 9, 6-10-75; Code 1976, § I.B-306)

Sec. 1-2-308. Quorum.

A majority of the Council constitutes a quorum for the transaction of business. When there is no quorum the Mayor, Mayor Pro Tempore, or any member of the Council shall adjourn such meeting; or if no member of the Council is present, the City Clerk shall adjourn the meeting.

(Ord. No. 140, § 10, 6-10-75; Code 1976, § I.B-307; Ord. No. 169, § 6, 6-22-76)

Sec. 1-2-309. Preparation of minutes.

The minutes of the Council shall be kept by the City Clerk with a record of each particular type of business transacted set off in paragraphs, with proper subheadings; provided that the City Clerk shall be required to make a record only of such business as was actually passed by a vote of the Council, and shall not be required to record any remarks of a member of the Council, or of any other person, except at the special request of a member of the Council (Section 1-2-311.E is applicable); provided, further, that a record shall be made of the names of persons addressing the Council, the title of the subject matter to which the remarks related, and whether they spoke in support of or in opposition to such matter.

(Ord. No. 140, § 11, 6-10-75; Code 1976, § I.B-308; Ord. No. 04-07, § 1, 8-24-04)

Sec. 1-2-310. Approval of minutes.

Unless the reading of the minutes of a Council meeting is requested by a member of the Council such minutes may be approved without reading if the City Clerk previously has furnished each member of the Council with a copy thereof. Nothing may be added to the minutes except that they may be amended by a majority vote of the Council members to reflect correctly the business of the Council at such meeting.

(Ord. No. 140, § 12, 6-10-75; Code 1976, § I.B-309)

Sec. 1-2-311. Rules of debate.

- A. *Presiding officer may debate and vote.* The presiding officer may move, second and debate from the chair, subject only to such limitations of debate as are by these rules imposed on all members of the Council, and shall not be deprived of any of the rights and privileges of a member of the Council by reason of acting as the presiding officer.
- B. *Getting the floor; improper references to be avoided.* Every member of the Council desiring to speak shall address the chair, and upon recognition by the presiding officer, shall confine their remarks to the question under debate, avoiding all personalities and indecorous language.
- C. *Interruptions.* A member of the Council once recognized shall not be interrupted when speaking unless it be a call to order, or as herein otherwise provided. A member of the Council called to order shall cease speaking until the question of order be determined, and if in order, shall be permitted to proceed.

TITLE 1 - GENERAL SERVICES

Division 2 - CITY COUNCIL

- D. *Motion to reconsider.* A motion to reconsider any action taken by the Council may be made only on the day such action was taken. Such motion must be made by one of the prevailing side, but may be seconded by any member of the Council and may be made at any time and have precedence over all other motions. It shall be debatable. Nothing herein shall be construed to prevent any member of the Council from making or remaking the same or other motion at a subsequent meeting of the Council.
- E. *When remarks of Council entered in minutes.* A member of the Council shall have the right, upon request to the presiding officer, to have an abstract of his or her statement on any subject under consideration by the Council entered in the minutes. Such an abstract shall contain the statement of each other Council member who addresses the subject at that time.
- F. *When synopsis of debate entered in minutes.* The City Clerk may be directed by the presiding officer, with consent of the Council, to enter in the minutes a synopsis of the discussion on any subject under consideration by the Council.
- G. *Disqualification and abstention.* Except as otherwise provided by law, no member of the City Council shall be permitted to abstain from voting unless such disqualification shall have been approved by the City Attorney or by unanimous vote of the remainder of the Council present. Unapproved disqualifications and abstentions shall be recorded by the City Clerk as an affirmative vote.
- H. *Tied votes deemed denial.* All tied votes shall be deemed to be denials.
- I. *Silence constitutes affirmative vote.* Unless a member of the Council has been permitted to and abstains from voting or is otherwise prohibited by law from voting, pursuant to subsection G hereof, such member's silence shall be recorded as an affirmative vote.
- J. *Rules of order.* Except as otherwise provided in this chapter, "Robert's Rules of Order, Newly Revised," shall govern the conduct of the meetings of the Council. However, no ordinance, resolution, proceeding or other action of the City Council shall be invalidated, or the legality thereof, otherwise affected, by the failure or omission to observe or follow said rules.

(Ord. No. 140, § 13, 6-10-75; Code 1976, § I.B-310)

Sec. 1-2-312. Reserved.

Sec. 1-2-313. Addressing the Council.

- A. *Securing permission, right to address Council.* Any person desiring to address the Council shall first secure the permission of the presiding officer so to do; provided, however, that under the following headings of business, unless the presiding officer rules otherwise, any qualified and interested person shall have the right to address the Council upon obtaining recognition by the presiding officer:
 - 1. *Staff reports.* Interested parties or their authorized representatives may address the Council with regard to written communications referred to in the report of the City Manager or any department head.
 - 2. *Public hearings.* Interested persons or their authorized representatives may address the Council in regard to matters then under consideration.
 - 3. *Oral communications.* Taxpayers or residents of the City, or their authorized representatives, may address the Council by oral communication on any matter concerning the City's business, or any matter over which the Council has control; provided, however, that preference shall be given to those persons who have notified the City Clerk of their desire to speak in order that the same may appear on the agenda of the Council.
- B. *Manner of addressing of Council; time limit, spokesman for group.* Each person addressing the Council on agenda items shall step up to the microphone in front of the rail, give his or her name and address in an audible tone of voice for the record, and limit his or her comments to three

TITLE 1 - GENERAL SERVICES

Division 2 - CITY COUNCIL

minutes, unless further time is granted by the presiding officer. With respect to public comments on items on the consent calendar, or public comments on non-agendized items, each person addressing the Council shall limit his or her remarks to three minutes, unless further time is granted by the presiding officer. All remarks shall be addressed to the Council as a body and not to any member thereof. No person, other than a member of the Council, and the person having the floor, shall be permitted to enter into any discussion without the permission of the presiding officer.

Whenever a group of persons wishes to address the Council on the same subject matter, it shall be proper for the presiding officer to request that a spokesperson be chosen by the group to address the Council and, in case additional matters that have been presented at the time by any other member of said group, to limit the numbers of persons addressing the Council, so as to avoid unnecessary repetition before the Council.

- C. *Addressing the Council after close of public hearing.* After a public hearing has been closed and before action is taken by the Council, no person shall address the Council without first securing the permission of the presiding officer so to do.

(Ord. No. 140, § 14, 6-10-75; Code 1976, § I.B-311; Ord. No. 02-02, § 1, 2-12-02)

Sec. 1-2-314. Decorum.

- A. *By Council members.* While the Council is in session, the members must preserve order and decorum; and a member shall neither, by conversation or otherwise, delay or interrupt the proceedings or the peace of the Council or disturb any member while speaking or refuse to obey the orders of the Council or the presiding officer, except as otherwise herein provided.
- B. *By other persons.* Persons who substantially impair or disturb a City Council meeting by intentionally committing acts in violation of the provisions hereof or of implicit customs or usages governing the conduct of City Council meetings shall be advised of such violation and requested to curtail such acts by the presiding officer. If after such advice and request, such persons refuse or fail to curtail such acts, the presiding officer may cause any peace officer present to eject them from the Council chamber or place them under arrest and be charged with a violation of Penal Code [§ 403](#). The members of Council may, pursuant to Government Code § 54957.9, order the meeting room cleared and continue with the session when the orderly conduct of the meeting becomes unfeasible and order cannot be restored.

(Ord. No. 140, § 15, 6-10-75; Code 1976, § I.B-312)

Sec. 1-2-315. Legislation, contracts.

- A. *Preparation of ordinances.* All ordinances adopted by the City Council shall be prepared by the City Attorney. No ordinance shall be prepared by the City Attorney for presentation to the Council unless ordered by a majority vote of the Council, or the City Manager, or initiated or prepared by the City Attorney. Nothing herein, however, shall prohibit a member of the Council from presenting an ordinance to the Council for consideration.
- B. *Prior approval by administrative staff.* All ordinances, resolutions and contract documents, before presentation to the Council, shall have been approved as to form and legality by the City Attorney or his or her authorized representative where there are substantive matters of administration involved.
- C. *Introduction.* Ordinances, resolutions and other matters or subjects requiring action by the City Council must be introduced and sponsored by a member of the Council, except that the Mayor, City Manager, or City Attorney may present ordinances, resolutions or other matters or subjects to the Council, and any member of the Council may assume sponsorship thereof by moving that such ordinances, resolutions or other matters or subjects be adopted; otherwise, they shall be considered.

TITLE 1 - GENERAL SERVICES

Division 2 - CITY COUNCIL

(Ord. No. 140, § 16, 6-10-75; Code 1976, § I.B-313; Ord. No. 169, § 7, 6-22-76; Ord. No. 234, § 1, 2-27-79)

Sec. 1-2-316. Voting.

A roll call vote shall be taken upon the passage of all ordinances, resolutions and orders for the payment of money, and entered in the minutes of the proceedings of the Council. Upon request of any Council member, a roll call vote shall be taken and recorded on any vote. Whenever a recorded or roll call vote of the Council is in order, the City Clerk shall call the names of the members in alphabetical order, except that the name of the presiding officer shall be called last.

(Ord. No. 140, § 17, 6-10-75; Code 1976, § I.B-314)

Sec. 1-2-317. Nonmunicipal matters.

The City Council will not consider or act upon matters of a nonmunicipal nature, such as political endorsements, measures submitted to voters and bond issue or tax overrides of other agencies. While individual members of the Council may take public positions concerning nonmunicipal affairs, they shall not do so during or as part of any City meeting or official function.

(Ord. No. 140, § 18, 6-10-75; Code 1976, § I.B-315)

Sec. 1-2-318. Reserved.

Sec. 1-2-319. Motion to adjourn.

A motion to adjourn always shall be in order, and shall be decided without debate.

(Ord. No. 140, § 19, 6-10-75; Code 1976, § I.B-316)

CHAPTER 4. CAMPAIGN FINANCING [11](#)

Sec. 1-2-401. Name.

This chapter shall be known and may be cited as the City of Irvine Campaign Financing Law.

(Ord. No. 95-10, § 2, 9-12-95; Ord. No. 97-12, § 1, 6-24-97)

Sec. 1-2-402. Purpose.

The purpose of this chapter is to ensure an environment in the City of Irvine wherein all candidates for elective office are placed on an equal plan relative to the amount of campaign contributions received by them, and further to ensure that the amount contributed by any person does not materially influence the outcome of any election. To achieve this purpose, this chapter imposes a maximum limitation on the amount of campaign contributions which may be received from a single source for an election campaign.

(Ord. No. 95-10, § 2, 9-12-95; Ord. No. 97-12, § 1, 6-24-97)

Sec. 1-2-403. Relation to Political Reform Act.

This chapter is intended to be a supplement to and in no way be in conflict with the Political Reform Act. Unless otherwise defined in this chapter, words and phrases shall have the same meaning here as that given to them by the Political Reform Act.

(Ord. No. 95-10, § 2, 9-12-95; Ord. No. 97-12, § 1, 6-24-97)

Sec. 1-2-404. Contribution limitations.

- A. No person other than the candidate shall make, and no candidate or campaign treasurer shall solicit or accept from any person, any contribution which will cause the total amount contributed by such person in any election cycle for that City candidate to exceed \$300 as adjusted in accordance with [section 1-2-405](#)
- B. Any person, including any committee, that makes any independent expenditure during an election cycle in support of or opposition to any City candidate, shall not accept any contribution(s) from any person which exceeds in the aggregate the amount set forth in this section for that election cycle.

Note—Section 1-2-404(B) was challenged in a federal court lawsuit. The Ninth Circuit Court of Appeals determined that contribution limits for independent expenditure committees are subject to judicial review under the strict scrutiny standard. (*Lincoln Club v. City of Irvine* (9th Cir. 2001) 292 F.3d 934.) Afterward, the City entered into a stipulated judgment not to enforce the provisions of [Section 1-2-404\(B\)](#). However, because [Section 1-2-404\(B\)](#) was enacted by the voters (Initiative Ordinance 96-01), it cannot be formally repealed without approval of the voters. Therefore, its provisions remain in the Municipal Code, although they are not subject to enforcement.

- C. The provisions of this section shall not apply to a City candidate's contribution of his or her personal funds or community property funds to his or her own campaign committee, but shall apply to contributions from the separate property of a City candidate's spouse.

(Ord. No. 95-10, § 2, 9-12-95; Initiative Ord. No. 96-01, 11-5-96; Ord. No. 97-12, § 1, 6-24-97)

TITLE 1 - GENERAL SERVICES

Division 2 - CITY COUNCIL

Sec. 1-2-405. Adjustment of campaign contribution limits and candidates loans.

The campaign contribution limitations set forth in section 1-2-404A shall be adjusted at the beginning of each mayoral election cycle as follows:

- A. The base for computing the adjustment shall be the consumer price index (all items) for the Los Angeles-Anaheim-Riverside area, published by the United States Department of Labor, Bureau of Labor Statistics ("index"), which is published for the month of November, 1994 ("beginning index"). If the index published for November immediately prior to each mayoral election cycle ("adjustment index") is greater or less than the beginning index, the maximum campaign contribution or candidate loan limitation for any election occurring subsequent thereto shall be set by multiplying the maximum campaign contribution or candidate loan limitation set forth in this chapter by a fraction, the numerator of which is the adjustment index and the denominator of which is the beginning index and rounding the resultant figure to the nearest \$10.
- B. If the index is changed so that the base year differs from that used in the beginning index, the index shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. If the index is discontinued or revised, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same results as would be obtained if the index had not been discontinued or revised.

(Ord. No. 95-10, § 2, 9-12-95; Initiative Ord. No. 96-01, 11-5-96; Ord. No. 97-12, § 1, 6-24-97)

Sec. 1-2-406. Definitions.

Unless the particular provisions or context otherwise requires, the definitions and provision contained in this Section shall govern the construction, meaning, and application of words and phrases used in this chapter:

- (a) *City candidate* shall mean any person who is a candidate for the office of mayor or member of the city council of the city.
- (b) *Election cycle* shall mean as follows:
 - (1) For purposes of a candidate for the office of mayor of the city, the term "election cycle" shall mean any two-year period commencing on January 1 following a city election for the office of mayor, and concluding on December 31 following the next succeeding city election for the office of mayor.
 - (2) For purposes of a candidate for the office of member of the city council of the city, the term "election cycle" shall mean any four-year period commencing on January 1 following a city election for the office of a councilmember and concluding on December 31 following the next succeeding city election for that office.
 - (3) For purposes of a special election for the office of mayor or a member of the city council of the city, the term "election cycle" shall mean any period commencing on the date on which the city council calls a special election, and concluding on the last day of the month following the month of that special election.
- (c) *Political Reform Act* shall mean the Political Reform Act of 1974, as amended, Government Code Section 81000, et seq., as it may be amended from time to time.

(Ord. No. 04-07, § 2, 8-24-04)

TITLE 1 - GENERAL SERVICES
Division 2 - CITY COUNCIL

FOOTNOTE(S):

--- (1) ---

Editor's note— Prior to amendment by Ord. No. 95-10, adopted Sept. 12, 1995, the provisions of this chapter derived from Ord. No. 202, adopted Dec. 13, 1977; Initiative Ord. No. 81-1, adopted Nov. 3, 1981; Initiative Ord. No. 87-1, adopted Nov. 3, 1987; and Ord. No. 92-11, adopted July 14, 1992. ([Back](#))

TITLE 1 - GENERAL SERVICES

Division 2 - CITY COUNCIL

CHAPTER 5. MAILED BALLOT ELECTIONS

Sec. 1-2-501. City Council authorization for mailed ballot elections.

The City Council shall have the authority, when it so declares by resolution, to conduct any particular election by mailed ballot. The City Council may call for a mailed ballot election in connection with a general municipal election or a special municipal election.

(Ord. No. 97-03, § 1(I.B-501), 3-25-97)

Sec. 1-2-502. Commencement and completion of mailing of ballots.

When conducting a mailed ballot election, the City Clerk shall not commence to mail the combined sample ballot and mailed ballot prior to the 29th day before the election, and the City Clerk shall complete the mailing by the tenth day before the election.

(Ord. No. 97-03, § 1(I.B-502), 3-25-97)

Sec. 1-2-503. Return of mailed ballots.

In order to be tabulated and counted in connection with the election, mailed ballots shall be returned to the City Clerk either by mail, by document delivery service, or in person by 5:00 p.m. local time on the day of the election.

(Ord. No. 97-03, § 1(I.B-503), 3-25-97)

Sec. 1-2-504. The California Election Code governs conduct of mailed ballot elections.

Except as otherwise provided in sections [1-2-502](#) and [1-2-503](#), the City shall conduct mailed ballot elections to the extent applicable in accordance with Election Code § 3000 et seq., as such code may from time to time be amended.

(Ord. No. 97-03, § 1(I.B-504), 3-25-97)

5.2 Political Reform Act – Conflict of Interest

The Political Reform Act (PRA) was adopted by the voters of California as an initiative (Proposition 9) in 1974. The Fair Political Practices Commission (FPPC) is the enforcement agency for the Political Reform Act. One of the PRA's main purposes is to prevent financial conflicts of interest on the part of public officials. The Act requires public officials to disclose all financial interests, such as investments, interests in real estate or sources of income, which the official may possibly affect by the exercise of his or her official duties. If a public official has a conflict of interest, the PRA may require the official to disqualify himself or herself from making or participating in a government decision, or using his or her official position to influence a government decision.

What is a Conflict of Interest?

The Political Reform Act of 1974, which is codified as Government Code Section 87100 et seq., provides that no public official at any level of State or local government shall make, participate in making, or in any way attempt to use his/her official position to influence a governmental decision in which he/she knows or has reason to know he/she has a financial interest.

An official has a financial interest in a decision within the meaning of Section 87100 of the PRA if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official or a member of his or her immediate family or on:

- 1) Any business entity in which the public official has a direct or indirect investment worth two thousand dollars (\$2,000.00) or more.
- 2) Any real property in which the public official has a direct or indirect investment worth two thousand dollars (\$2,000.00) or more.
- 3) Any source of income, other than gifts and other loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status aggregating five hundred dollars (\$500) or more in value provided to, received by or promised to the public official within twelve months prior to the time when the decision is made.

- 4) Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management.
- 5) Any donor, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred fifty (\$250) or more in value provided to, received by, or promised to the public official within twelve months prior to the time when the decision is made.

For purposes of Section 87100, indirect investment or interest means any investment or interest owned by the spouse or dependent child of a public official, by an agent on behalf of a public official, or by a business entity or trust in which the official, the official's agents, spouse, and dependent children own (directly, indirectly, or beneficially) a ten percent interest or greater.

How does the Political Reform Act prevent Conflicts of Interest?

- 1) By Disclosure: The Political Reform Act requires every public official to disclose all financial interests, such as investments, interests in real estate (real property), or sources of income, which the official may possibly affect by the exercise of his or her official duties. "Gifts" as defined by the PRA that you receive or accept may also be subject to disclosure. Gifts aggregating \$50 or more in a calendar year generally must be disclosed. No public official may accept gifts aggregating \$420 or more in a calendar year from the same source. (This amount is adjusted every two years.) In addition, you may be subject to disqualification as a result of accepting gifts over that amount from the same source within the twelve month period before the proposed decision. Disclosure is made on a form called a "Statement of Economic Interests Form (Form 700).

Form 700 filings are administered and retained on file by the City Clerk and are deemed a public record. Office holders, as well as candidates for public office and designated City employees, use the Fair Political Practices Commission's Form 700 Statement of Economic Interests to disclose their financial interests upon assuming office and annually thereafter.

- 2) By Disqualification: If a public official has a conflict of interest, the Political Reform Act requires the official to disqualify himself or herself from making or participating in a governmental decision, or using his or her official position to influence a governmental decision.

How can a public official determine if he or she has a Conflict of Interest?

Having a conflict of interest is not necessarily forbidden or illegal. It is the failure to disclose and/or the participation through voting or attempting to influence on issues where one has a conflict that contributes to the illegal action, subjecting the individual to possible criminal and civil penalties, and nullifying the action of the City.

When a City Council or Redevelopment Agency Boardmember suspects that he or she may have a conflict of interest, the City Attorney may be consulted. The official may be referred to the FPPC for guidance or an opinion because the advice of the City Attorney cannot be relied on to excuse a violation of the PRA.

“Your Duty to File” and “Can I Vote?” are resources provided by the FPPC and are included in [Appendix F](#) and [Appendix G](#) for reference. These resources provide a general overview of the laws regarding potential financial conflicts of interest of public officials as well as reporting requirements. The applicability of the conflict of interest laws depends on the unique facts of each particular case. Questions regarding specific situations may be directed to the City Attorney or the FPPC.

Staff will provide maps to City Council and Redevelopment Agency members for the purpose of determining whether a conflict of interest exists in any particular matter coming before the legislative body as a direct result of the proximity of the individual’s property to a proposed project.

Real property in which the public official has an economic interest will be deemed “directly involved” where the real property is either the subject of the government action, or is located within 500 feet of the real property that is the subject of the governmental action. Real property is the “subject of government action” in any of the following contexts (FPPC § 18704.2):

- Zoning
- Rezoning
- Annexation
- De-annexation
- Land use entitlement
- License
- Permit
- Taxes
- Fees
- Public improvements (e.g., streets, water, sewer, etc.).

Open & Public V

A GUIDE TO THE RALPH M. BROWN ACT

REVISED APRIL 2016



AGENDA ITEM

1. PUBLIC COMMENT: The City Council values your comments; however, pursuant to the Brown Act, Council cannot take action on items not listed on the posted agenda. The public comment period is limited to 20 minutes, with 2 minutes allotted for each speaker. This public comment period is to address the City Council on Consent Calendar items, other agenda items (if the member of the public cannot be present at the time the item is considered) or items of genera...

CURRENT SPEAKER: Larry Block

ACKNOWLEDGEMENTS

The League thanks the following individuals for their work on this publication:

Brown Act Committee

Michael Jenkins, Committee Chair
City Attorney, Hermosa Beach, Rolling Hills and West Hollywood

Michael W. Barrett
City Attorney, Napa

Damien Brower
City Attorney, Brentwood

Ariel Pierre Calonne
City Attorney, Santa Barbara

Veronica Ramirez
Assistant City Attorney, Redwood City

Malathy Subramanian
City Attorney, Clayton and Lafayette

Paul Zarefsky
Deputy City Attorney, San Francisco

Gregory W. Stepanicich
*1st Vice President, City Attorneys' Department
City Attorney Fairfield, Mill Valley, Town of Ross*

League Staff

Patrick Whitnell, *General Counsel*

Koreen Kelleher, *Assistant General Counsel*

Corrie Manning, *Senior Deputy General Counsel*

Alison Leary, *Deputy General Counsel*

Janet Leonard, *Legal Assistant*



Open & Public V

A GUIDE TO THE RALPH M. BROWN ACT

REVISED APRIL 2016

CHAPTER 1: IT IS THE PEOPLE'S BUSINESS	5
CHAPTER 2: LEGISLATIVE BODIES	11
CHAPTER 3: MEETINGS	17
CHAPTER 4: AGENDAS, NOTICES, AND PUBLIC PARTICIPATION	29
CHAPTER 5: CLOSED SESSIONS	41
CHAPTER 6: REMEDIES	55

TABLE OF CONTENTS

CHAPTER 1: IT IS THE PEOPLE’S BUSINESS	5
The right of access	6
Broad coverage	6
Narrow exemptions	7
Public participation in meetings	7
Controversy	8
Beyond the law — good business practices.....	8
Achieving balance	9
Historical note	9
CHAPTER 2: LEGISLATIVE BODIES.....	11
What is a “legislative body” of a local agency?	12
What is <u>not</u> a “legislative body” for purposes of the Brown Act?	14
CHAPTER 3: MEETINGS.....	17
Brown Act meetings.....	18
Six exceptions to the meeting definition	18
Collective briefings.....	21
Retreats or workshops of legislative bodies.....	21
Serial meetings.....	21
Informal gatherings	24
Technological conferencing	24
Location of meetings.....	25
CHAPTER 4: AGENDAS, NOTICES, AND PUBLIC PARTICIPATION	29
Agendas for regular meetings.....	30
Mailed agenda upon written request.....	31
Notice requirements for special meetings	32
Notices and agendas for adjourned and continued meetings and hearings	32
Notice requirements for emergency meetings	32
Notice of compensation for simultaneous or serial meetings	33
Educational agency meetings	33
Notice requirements for tax or assessment meetings and hearings	33

Non-agenda items.....	34
Responding to the public	34
The right to attend and observe meetings	35
Records and recordings	36
The public’s place on the agenda	37
CHAPTER 5: CLOSED SESSIONS	41
Agendas and reports.....	42
Litigation.....	43
Real estate negotiations	45
Public employment	46
Labor negotiations	47
Labor negotiations — school and community college districts	48
Other Education Code exceptions	48
Joint Powers Authorities	48
License applicants with criminal records	49
Public security.....	49
Multijurisdictional law enforcement agency	49
Hospital peer review and trade secrets.....	49
Other legislative bases for closed session.....	50
Who may attend closed sessions	50
The confidentiality of closed session discussions	50
CHAPTER 6: REMEDIES	55
Invalidation	56
Applicability to Past Actions	57
Civil action to prevent future violations.....	57
Costs and attorney’s fees	58
Criminal complaints	58
Voluntary resolution.....	59



Chapter 1

IT IS THE PEOPLE’S BUSINESS

The right of access.....	6
Broad coverage	6
Narrow exemptions	7
Public participation in meetings	7
Controversy.....	8
Beyond the law — good business practices	8
Achieving balance	9
Historical note.....	9

Chapter 1

IT IS THE PEOPLE'S BUSINESS



The right of access

Two key parts of the Brown Act have not changed since its adoption in 1953. One is the Brown Act's initial section, declaring the Legislature's intent:

"In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly."

"The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created."¹

The people reconfirmed that intent 50 years later in the November 2004 election by adopting Proposition 59, amending the California Constitution to include a public right of access to government information:

"The people have the right of access to information concerning the conduct of the people's business, and, therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny."²

The Brown Act's other unchanged provision is a single sentence:

"All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter."³

That one sentence is by far the most important of the entire Brown Act. If the opening is the soul, that sentence is the heart of the Brown Act.

Broad coverage

The Brown Act covers members of virtually every type of local government body, elected or appointed, decision-making or advisory. Some types of private organizations are covered, as are newly-elected members of a legislative body, even before they take office.

Similarly, meetings subject to the Brown Act are not limited to face-to-face gatherings. They also include any communication medium or device through which a majority of a legislative body

PRACTICE TIP: The key to the Brown Act is a single sentence. In summary, all meetings shall be **open and public** except when the Brown Act authorizes otherwise.

discusses, deliberates or takes action on an item of business outside of a noticed meeting. They include meetings held from remote locations by teleconference.

New communication technologies present new Brown Act challenges. For example, common email practices of forwarding or replying to messages can easily lead to a serial meeting prohibited by the Brown Act, as can participation by members of a legislative body in an internet chatroom or blog dialogue. Communicating during meetings using electronic technology (such as laptop computers, tablets, or smart phones) may create the perception that private communications are influencing the outcome of decisions; some state legislatures have banned the practice. On the other hand, widespread cablecasting and web streaming of meetings has greatly expanded public access to the decision-making process.

Narrow exemptions

The express purpose of the Brown Act is to assure that local government agencies conduct the public's business openly and publicly. Courts and the California Attorney General usually broadly construe the Brown Act in favor of greater public access and narrowly construe exemptions to its general rules.⁴

Generally, public officials should think of themselves as living in glass houses, and that they may only draw the curtains when it is in the public interest to preserve confidentiality. Closed sessions may be held only as specifically authorized by the provisions of the Brown Act itself.

The Brown Act, however, is limited to meetings among a majority of the members of multi-member government bodies when the subject relates to local agency business. It does not apply to independent conduct of individual decision-makers. It does not apply to social, ceremonial, educational, and other gatherings as long as a majority of the members of a body do not discuss issues related to their local agency's business. Meetings of temporary advisory committees — as distinguished from standing committees — made up solely of less than a quorum of a legislative body are not subject to the Brown Act.

The law does not apply to local agency staff or employees, but they may facilitate a violation by acting as a conduit for discussion, deliberation, or action by the legislative body.⁵

The law, on the one hand, recognizes the need of individual local officials to meet and discuss matters with their constituents. On the other hand, it requires — with certain specific exceptions to protect the community and preserve individual rights — that the decision-making process be public. Sometimes the boundary between the two is not easy to draw.

Public participation in meetings

In addition to requiring the public's business to be conducted in open, noticed meetings, the Brown Act also extends to the public the right to participate in meetings. Individuals, lobbyists, and members of the news media possess the right to attend, record, broadcast, and participate in public meetings. The public's participation is further enhanced by the Brown Act's requirement that a meaningful agenda be posted in advance of meetings, by limiting discussion and action to matters listed on the agenda, and by requiring that meeting materials be made available.

Legislative bodies may, however, adopt reasonable regulations on public testimony and the conduct of public meetings, including measures to address disruptive conduct and irrelevant speech.

PRACTICE TIP: Think of the government's house as being made of glass. The curtains may be drawn only to further the public's interest. A local policy on the use of laptop computers, tablets, and smart phones during Brown Act meetings may help avoid problems.

Controversy

Not surprisingly, the Brown Act has been a source of confusion and controversy since its inception. News media and government watchdogs often argue the law is toothless, pointing out that there has never been a single criminal conviction for a violation. They often suspect that closed sessions are being misused.

Public officials complain that the Brown Act makes it difficult to respond to constituents and requires public discussions of items better discussed privately — such as why a particular person should not be appointed to a board or commission. Many elected officials find the Brown Act inconsistent with their private business experiences. Closed meetings can be more efficient; they eliminate grandstanding and promote candor. The techniques that serve well in business — the working lunch, the sharing of information through a series of phone calls or emails, the backroom conversations and compromises — are often not possible under the Brown Act.

As a matter of public policy, California (along with many other states) has concluded that there is more to be gained than lost by conducting public business in the open. Government behind closed doors may well be efficient and business-like, but it may be perceived as unresponsive and untrustworthy.

PRACTICE TIP: Transparency is a foundational value for ethical government practices. The Brown Act is a floor, not a ceiling, for conduct.

Beyond the law — good business practices

Violations of the Brown Act can lead to invalidation of an agency's action, payment of a challenger's attorney fees, public embarrassment, even criminal prosecution. But the Brown Act is a floor, not a ceiling for conduct of public officials. This guide is focused not only on the Brown Act as a minimum standard, but also on meeting practices or activities that, legal or not, are likely to create controversy. Problems may crop up, for example, when agenda descriptions are too brief or vague, when an informal get-together takes on the appearance of a meeting, when an agency conducts too much of its business in closed session or discusses matters in closed session that are beyond the authorized scope, or when controversial issues arise that are not on the agenda.

The Brown Act allows a legislative body to adopt practices and requirements for greater access to meetings for itself and its subordinate committees and bodies that are more stringent than the law itself requires.⁶ Rather than simply restate the basic requirements of the Brown Act, local open meeting policies should strive to anticipate and prevent problems in areas where the Brown Act does not provide full guidance. As with the adoption of any other significant policy, public comment should be solicited.



A local policy could build on these basic Brown Act goals:

- A legislative body's need to get its business done smoothly;
- The public's right to participate meaningfully in meetings, and to review documents used in decision-making at a relevant point in time;
- A local agency's right to confidentially address certain negotiations, personnel matters, claims and litigation; and
- The right of the press to fully understand and communicate public agency decision-making.

An explicit and comprehensive public meeting and information policy, especially if reviewed periodically, can be an important element in maintaining or improving public relations. Such a policy exceeds the absolute requirements of the law — but if the law were enough, this guide would be unnecessary. A narrow legalistic approach will not avoid or resolve potential controversies. An agency should consider going beyond the law, and look at its unique circumstances and determine if there is a better way to prevent potential problems and promote public trust. At the very least, local agencies need to think about how their agendas are structured in order to make Brown Act compliance easier. They need to plan carefully to make sure public participation fits smoothly into the process.

Achieving balance

The Brown Act should be neither an excuse for hiding the ball nor a mechanism for hindering efficient and orderly meetings. The Brown Act represents a balance among the interests of constituencies whose interests do not always coincide. It calls for openness in local government, yet should allow government to function responsively and productively.

There must be both adequate notice of what discussion and action is to occur during a meeting as well as a normal degree of spontaneity in the dialogue between elected officials and their constituents.

The ability of an elected official to confer with constituents or colleagues must be balanced against the important public policy prohibiting decision-making outside of public meetings.

In the end, implementation of the Brown Act must ensure full participation of the public and preserve the integrity of the decision-making process, yet not stifle government officials and impede the effective and natural operation of government.

Historical note

In late 1951, *San Francisco Chronicle* reporter Mike Harris spent six weeks looking into the way local agencies conducted meetings. State law had long required that business be done in public, but Harris discovered secret meetings or caucuses were common. He wrote a 10-part series on “Your Secret Government” that ran in May and June 1952.

Out of the series came a decision to push for a new state open meeting law. Harris and Richard (Bud) Carpenter, legal counsel for the League of California Cities, drafted such a bill and Assembly Member Ralph M. Brown agreed to carry it. The Legislature passed the bill and Governor Earl Warren signed it into law in 1953.

The Ralph M. Brown Act, known as the Brown Act, has evolved under a series of amendments and court decisions, and has been the model for other open meeting laws — such as the Bagley-Keene Act, enacted in 1967 to cover state agencies.

Assembly Member Brown is best known for the open meeting law that carries his name. He was elected to the Assembly in 1942 and served 19 years, including the last three years as Speaker. He then became an appellate court justice.

PRACTICE TIP: The Brown Act should be viewed as a tool to facilitate the business of local government agencies. Local policies that go beyond the minimum requirements of law may help instill public confidence and avoid problems.

ENDNOTES:

- 1 California Government Code section 54950
- 2 California Constitution, Art. 1, section 3(b)(1)
- 3 California Government Code section 54953(a)
- 4 This principle of broad construction when it furthers public access and narrow construction if a provision limits public access is also stated in the amendment to the State's Constitution adopted by Proposition 59 in 2004. California Constitution, Art. 1, section 3(b)(2).
- 5 California Government Code section 54952.2(b)(2) and (c)(1); *Wolfe v. City of Fremont* (2006) 144 Cal.App.4th 533
- 6 California Government Code section 54953.7

Updates to this publication responding to changes in the Brown Act or new court interpretations are available at www.cacities.org/opengovernment. A current version of the Brown Act may be found at www.leginfo.ca.gov.



Chapter 2

LEGISLATIVE BODIES

What is a “legislative body” of a local agency? 12

What is not a “legislative body” for purposes of the Brown Act? 14

Chapter 2

LEGISLATIVE BODIES

The Brown Act applies to the legislative bodies of local agencies. It defines “legislative body” broadly to include just about every type of decision-making body of a local agency.¹



What is a “legislative body” of a local agency?

A “legislative body” includes:

- **The “governing body”** of a local agency² and certain of its subsidiary bodies; “or any other local body created by state or federal statute.”² This includes city councils, boards of supervisors, school boards and boards of trustees of special districts. A “local agency” is any city, county, city and county, school district, municipal corporation, successor agency to a redevelopment agency, district, political subdivision or other local public agency.³ A housing authority is a local agency under the Brown Act even though it is created by and is an agent of the state.⁴ The California Attorney General has opined that air pollution control districts and regional open space districts are also covered.⁵ Entities created pursuant to joint powers agreements are also local agencies within the meaning of the Brown Act.⁶

- **Newly-elected members** of a legislative body who have not yet assumed office must conform to the requirements of the Brown Act as if already in office.⁷ Thus, meetings between incumbents and newly-elected members of a legislative body, such as a meeting between two outgoing members and a member-elect of a five-member body, could violate the Brown Act.

Q. On the morning following the election to a five-member legislative body of a local agency, two successful candidates, neither an incumbent, meet with an incumbent member of the legislative body for a celebratory breakfast. Does this violate the Brown Act?

A. *It might, and absolutely would if the conversation turns to agency business. Even though the candidates-elect have not officially been sworn in, the Brown Act applies. If purely a social event, there is no violation but it would be preferable if others were invited to attend to avoid the appearance of impropriety.*

- **Appointed bodies** — whether permanent or temporary, decision-making or advisory — including planning commissions, civil service commissions and other subsidiary committees, boards, and bodies. Volunteer groups, executive search committees, task forces, and blue ribbon committees created by formal action of the governing body are legislative bodies. When the members of two or more legislative bodies are appointed to serve on an entirely separate advisory group, the resulting body may be subject to the

PRACTICE TIP: The prudent presumption is that an advisory committee or task force is subject to the Brown Act. Even if one clearly is not, it may want to comply with the Brown Act. Public meetings may reduce the possibility of misunderstandings and controversy.

Brown Act. In one reported case, a city council created a committee of two members of the city council and two members of the city planning commission to review qualifications of prospective planning commissioners and make recommendations to the council. The court held that their joint mission made them a legislative body subject to the Brown Act. Had the two committees remained separate; and met only to exchange information and report back to their respective boards, they would have been exempt from the Brown Act.⁸

- **Standing committees** of a legislative body, irrespective of their composition, which have either: (1) a continuing subject matter jurisdiction; or (2) a meeting schedule fixed by charter, ordinance, resolution, or formal action of a legislative body.⁹ Even if it comprises less than a quorum of the governing body, a standing committee is subject to the Brown Act. For example, if a governing body creates long-term committees on budget and finance or on public safety, those are standing committees subject to the Brown Act. Further, according to the California Attorney General, function over form controls. For example, a statement by the legislative body that the advisory committee “shall not exercise continuing subject matter jurisdiction” or the fact that the committee does not have a fixed meeting schedule is not determinative.¹⁰ “Formal action” by a legislative body includes authorization given to the agency’s executive officer to appoint an advisory committee pursuant to agency-adopted policy.¹¹
- The governing body of any **private organization** either: (1) created by the legislative body in order to exercise authority that may lawfully be delegated by such body to a private corporation, limited liability company or other entity; or (2) that receives agency funding and whose governing board includes a member of the legislative body of the local agency appointed by the legislative body as a full voting member of the private entity’s governing board.¹² These include some nonprofit corporations created by local agencies.¹³ If a local agency contracts with a private firm for a service (for example, payroll, janitorial, or food services), the private firm is not covered by the Brown Act.¹⁴ When a member of a legislative body sits on a board of a private organization as a private person and is not appointed by the legislative body, the board will not be subject to the Brown Act. Similarly, when the legislative body appoints someone other than one of its own members to such boards, the Brown Act does not apply. Nor does it apply when a private organization merely receives agency funding.¹⁵

Q: The local chamber of commerce is funded in part by the city. The mayor sits on the chamber’s board of directors. Is the chamber board a legislative body subject to the Brown Act?

A: *Maybe. If the chamber’s governing documents require the mayor to be on the board and the city council appoints the mayor to that position, the board is a legislative body. If, however, the chamber board independently appoints the mayor to its board, or the mayor attends chamber board meetings in a purely advisory capacity, it is not.*

Q: If a community college district board creates an auxiliary organization to operate a campus bookstore or cafeteria, is the board of the organization a legislative body?

A: *Yes. But, if the district instead contracts with a private firm to operate the bookstore or cafeteria, the Brown Act would not apply to the private firm.*

- **Certain types of hospital operators.** A lessee of a hospital (or portion of a hospital)

PRACTICE TIP: It can be difficult to determine whether a subcommittee of a body falls into the category of a standing committee or an exempt temporary committee. Suppose a committee is created to explore the renewal of a franchise or a topic of similarly limited scope and duration. Is it an exempt temporary committee or a non-exempt standing committee? The answer may depend on factors such as how meeting schedules are determined, the scope of the committee’s charge, or whether the committee exists long enough to have “continuing jurisdiction.”

first leased under Health and Safety Code subsection 32121(p) after January 1, 1994, which exercises “material authority” delegated to it by a local agency, whether or not such lessee is organized and operated by the agency or by a delegated authority.¹⁶

What is not a “legislative body” for purposes of the Brown Act?

- A temporary advisory committee composed **solely of less than a quorum** of the legislative body that serves a limited or single purpose, that is not perpetual, and that will be dissolved once its specific task is completed is not subject to the Brown Act.¹⁷ Temporary committees are sometimes called *ad hoc* committees, a term not used in the Brown Act. Examples include an advisory committee composed of less than a quorum created to interview candidates for a vacant position or to meet with representatives of other entities to exchange information on a matter of concern to the agency, such as traffic congestion.¹⁸
- Groups advisory to a single decision-maker or appointed by staff are not covered. The Brown Act applies only to committees created by formal action of the legislative body and not to committees created by others. A committee advising a superintendent of schools would not be covered by the Brown Act. However, the same committee, if created by formal action of the school board, would be covered.¹⁹

Q. A member of the legislative body of a local agency informally establishes an advisory committee of five residents to advise her on issues as they arise. Does the Brown Act apply to this committee?

A. *No, because the committee has not been established by formal action of the legislative body.*

Q. During a meeting of the city council, the council directs the city manager to form an advisory committee of residents to develop recommendations for a new ordinance. The city manager forms the committee and appoints its members; the committee is instructed to direct its recommendations to the city manager. Does the Brown Act apply to this committee?

A. *Possibly, because the direction from the city council might be regarded as a formal action of the body notwithstanding that the city manager controls the committee.*

- Individual decision makers who are not elected or appointed members of a legislative body are not covered by the Brown Act. For example, a disciplinary hearing presided over by a department head or a meeting of agency department heads are not subject to the Brown Act since such assemblies are not those of a legislative body.²⁰
- Public employees, each acting individually and not engaging in collective deliberation on a specific issue, such as the drafting and review of an agreement, do not constitute a legislative body under the Brown Act, even if the drafting and review process was established by a legislative body.²¹
- County central committees of political parties are also not Brown Act bodies.²²

ENDNOTES:

1 *Taxpayers for Livable Communities v. City of Malibu* (2005) 126 Cal.App.4th 1123, 1127

- 2 California Government Code section 54952(a) and (b)
- 3 California Government Code section 54951; Health and Safety Code section 34173(g) (successor agencies to former redevelopment agencies subject to the Brown Act). But see Education Code section 35147, which exempts certain school councils and school site advisory committees from the Brown Act and imposes upon them a separate set of rules.
- 4 *Torres v. Board of Commissioners of Housing Authority of Tulare County* (1979) 89 Cal.App.3d 545, 549-550
- 5 71 Ops.Cal.Atty.Gen. 96 (1988); 73 Ops.Cal.Atty.Gen. 1 (1990)
- 6 *McKee v. Los Angeles Interagency Metropolitan Police Apprehension Crime Task Force* (2005) 134 Cal. App.4th 354, 362
- 7 California Government Code section 54952.1
- 8 *Joiner v. City of Sebastopol* (1981) 125 Cal.App.3d 799, 804-805
- 9 California Government Code section 54952(b)
- 10 79 Ops.Cal.Atty.Gen. 69 (1996)
- 11 *Frazer v. Dixon Unified School District* (1993) 18 Cal.App.4th 781, 793
- 12 California Government Code section 54952(c)(1). Regarding private organizations that receive local agency funding, the same rule applies to a full voting member appointed prior to February 9, 1996 who, after that date, is made a non-voting board member by the legislative body. California Government Code section 54952(c)(2)
- 13 California Government Code section 54952(c)(1)(A); *International Longshoremen's and Warehousemen's Union v. Los Angeles Export Terminal, Inc.* (1999) 69 Cal.App.4th 287, 300; *Epstein v. Hollywood Entertainment Dist. II Business Improvement District* (2001) 87 Cal.App.4th 862, 876; see also 85 Ops.Cal.Atty.Gen. 55 (2002)
- 14 *International Longshoremen's and Warehousemen's Union v. Los Angeles Export Terminal* (1999) 69 Cal. App.4th 287, 300 fn. 5
- 15 "The Brown Act, Open Meetings for Local Legislative Bodies," California Attorney General's Office (2003), p. 7
- 16 California Government Code section 54952(d)
- 17 California Government Code section 54952(b); see also *Freedom Newspapers, Inc. v. Orange County Employees Retirement System Board of Directors* (1993) 6 Cal.4th 821, 832.
- 18 *Taxpayers for Livable Communities v. City of Malibu* (2005) 126 Cal.App.4th 1123, 1129
- 19 56 Ops.Cal.Atty.Gen. 14, 16-17 (1973)
- 20 *Wilson v. San Francisco Municipal Railway* (1973) 29 Cal.App.3d 870, 878-879
- 21 *Golightly v. Molina* (2014) 229 Cal.App.4th 1501, 1513
- 22 59 Ops.Cal.Atty.Gen. 162, 164 (1976)

Updates to this publication responding to changes in the Brown Act or new court interpretations are available at www.cacities.org/opengovernment. A current version of the Brown Act may be found at www.leginfo.ca.gov.



Chapter 3

MEETINGS

Brown Act meetings	18
Six exceptions to the meeting definition.....	18
Collective briefings.....	21
Retreats or workshops of legislative bodies.....	21
Serial meetings	21
Informal gatherings	24
Technological conferencing	24
Location of meetings	25

Chapter 3

MEETINGS



The Brown Act only applies to meetings of local legislative bodies. The Brown Act defines a meeting as: "... and any congregation of a majority of the members of a legislative body at the same time and location, including teleconference location as permitted by Section 54953, to hear, discuss, deliberate, or take any action on any item that is within the subject matter jurisdiction of the legislative body."¹ The term "meeting" is not limited to gatherings at which action is taken but includes deliberative gatherings as well. A hearing before an individual hearing officer is not a meeting under the Brown Act because it is not a hearing before a legislative body.²

Brown Act meetings

Brown Act meetings include a legislative body's regular meetings, special meetings, emergency meetings, and adjourned meetings.

- **"Regular meetings"** are meetings occurring at the dates, times, and location set by resolution, ordinance, or other formal action by the legislative body and are subject to 72-hour posting requirements.³
- **"Special meetings"** are meetings called by the presiding officer or majority of the legislative body to discuss only discrete items on the agenda under the Brown Act's notice requirements for special meetings and are subject to 24-hour posting requirements.⁴
- **"Emergency meetings"** are a limited class of meetings held when prompt action is needed due to actual or threatened disruption of public facilities and are held on little notice.⁵
- **"Adjourned meetings"** are regular or special meetings that have been adjourned or re-adjourned to a time and place specified in the order of adjournment, with no agenda required for regular meetings adjourned for less than five calendar days as long as no additional business is transacted.⁶

Six exceptions to the meeting definition

The Brown Act creates six exceptions to the meeting definition:⁷

Individual Contacts

The first exception involves individual contacts between a member of the legislative body and any other person. The Brown Act does not limit a legislative body member acting on his or her own. This exception recognizes the right to confer with constituents, advocates, consultants, news reporters, local agency staff, or a colleague.

Individual contacts, however, cannot be used to do in stages what would be prohibited in one step. For example, a series of individual contacts that leads to discussion, deliberation, or action among a majority of the members of a legislative body is prohibited. Such serial meetings are discussed below.

Conferences

The second exception allows a legislative body majority to attend a conference or similar gathering open to the public that addresses issues of general interest to the public or to public agencies of the type represented by the legislative body.

Among other things, this exception permits legislative body members to attend annual association conferences of city, county, school, community college, and other local agency officials, so long as those meetings are open to the public. However, a majority of members cannot discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within their local agency's subject matter jurisdiction.

Community Meetings

The third exception allows a legislative body majority to attend an open and publicized meeting held by another organization to address a topic of local community concern. A majority cannot discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within the legislative body's subject matter jurisdiction. Under this exception, a legislative body majority may attend a local service club meeting or a local candidates' night if the meetings are open to the public.



“I see we have four distinguished members of the city council at our meeting tonight,” said the chair of the Environmental Action Coalition. “I wonder if they have anything to say about the controversy over enacting a slow growth ordinance?”

The Brown Act permits a majority of a legislative body to attend and speak at an open and publicized meeting conducted by another organization. The Brown Act may nevertheless be violated if a majority discusses, deliberates, or takes action on an item during the meeting of the other organization. There is a fine line between what is permitted and what is not; hence, members should exercise caution when participating in these types of events.

- Q.** The local chamber of commerce sponsors an open and public candidate debate during an election campaign. Three of the five agency members are up for re-election and all three participate. All of the candidates are asked their views of a controversial project scheduled for a meeting to occur just after the election. May the three incumbents answer the question?
- A.** Yes, because the Brown Act does not constrain the incumbents from expressing their views regarding important matters facing the local agency as part of the political process the same as any other candidates.



Other Legislative Bodies

The fourth exception allows a majority of a legislative body to attend an open and publicized meeting of: (1) another body of the local agency; and (2) a legislative body of another local agency.⁸ Again, the majority cannot discuss among themselves, other than as part of the scheduled meeting, business of a specific nature that is within their subject matter jurisdiction. This exception allows, for example, a city council or a majority of a board of supervisors to attend a controversial meeting of the planning commission.

Nothing in the Brown Act prevents the majority of a legislative body from sitting together at such a meeting. They may choose not to, however, to preclude any possibility of improperly discussing local agency business and to avoid the appearance of a Brown Act violation. Further, aside

from the Brown Act, there may be other reasons, such as due process considerations, why the members should avoid giving public testimony or trying to influence the outcome of proceedings before a subordinate body.

- Q.** The entire legislative body intends to testify against a bill before the Senate Local Government Committee in Sacramento. Must this activity be noticed as a meeting of the body?
- A.** *No, because the members are attending and participating in an open meeting of another governmental body which the public may attend.*
- Q.** The members then proceed upstairs to the office of their local Assembly member to discuss issues of local interest. Must this session be noticed as a meeting and be open to the public?
- A.** *Yes, because the entire body may not meet behind closed doors except for proper closed sessions. The same answer applies to a private lunch or dinner with the Assembly member.*

Standing Committees

The fifth exception authorizes the attendance of a majority at an open and noticed meeting of a standing committee of the legislative body, provided that the legislative body members who are not members of the standing committee attend only as observers (meaning that they cannot speak or otherwise participate in the meeting).⁹

- Q.** The legislative body establishes a standing committee of two of its five members, which meets monthly. A third member of the legislative body wants to attend these meetings and participate. May she?
- A.** *She may attend, but only as an observer; she may not participate.*

Social or Ceremonial Events

The final exception permits a majority of a legislative body to attend a purely social or ceremonial occasion. Once again, a majority cannot discuss business among themselves of a specific nature that is within the subject matter jurisdiction of the legislative body.

Nothing in the Brown Act prevents a majority of members from attending the same football game, party, wedding, funeral, reception, or farewell. The test is not whether a majority of a legislative body attends the function, but whether business of a specific nature within the subject matter jurisdiction of the body is discussed. So long as no such business is discussed, there is no violation of the Brown Act.

Grand Jury Testimony

In addition, members of a legislative body, either individually or collectively, may give testimony in private before a grand jury.¹⁰ This is the equivalent of a seventh exception to the Brown Act's definition of a "meeting."

Collective briefings

None of these exceptions permits a majority of a legislative body to meet together with staff in advance of a meeting for a collective briefing. Any such briefings that involve a majority of the body in the same place and time must be open to the public and satisfy Brown Act meeting notice and agenda requirements.

Retreats or workshops of legislative bodies

Gatherings by a majority of legislative body members at the legislative body's retreats, study sessions, or workshops are covered under the Brown Act. This is the case whether the retreat, study session, or workshop focuses on long-range agency planning, discussion of critical local issues, or team building and group dynamics.¹¹



Q. The legislative body wants to hold a team-building session to improve relations among its members. May such a session be conducted behind closed doors?

A. *No, this is not a proper subject for a closed session, and there is no other basis to exclude the public. Council relations are a matter of public business.*

Serial meetings

One of the most frequently asked questions about the Brown Act involves serial meetings. At any one time, such meetings involve only a portion of a legislative body, but eventually involve a majority. The Brown Act provides that "[a] majority of the members of a legislative body shall not, outside a meeting ... use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the legislative body."¹² The problem with serial meetings is the process, which deprives the public of an opportunity for meaningful observation of and participation in legislative body decision-making.

The serial meeting may occur by either a “daisy chain” or a “hub and spoke” sequence. In the daisy chain scenario, Member A contacts Member B, Member B contacts Member C, Member C contacts Member D and so on, until a quorum has discussed, deliberated, or taken action on an item within the legislative body’s subject matter jurisdiction. The hub and spoke process involves at least two scenarios. In the first scenario, Member A (the hub) sequentially contacts Members B, C, and D and so on (the spokes), until a quorum has been contacted. In the second scenario, a staff member (the hub), functioning as an intermediary for the legislative body or one of its members,



communicates with a majority of members (the spokes) one-by-one for discussion, deliberation, or a decision on a proposed action.¹³ Another example of a serial meeting is when a chief executive officer (the hub) briefs a majority of members (the spokes) prior to a formal meeting and, in the process, information about the members’ respective views is revealed. Each of these scenarios violates the Brown Act.

A legislative body member has the right, if not the duty, to meet with constituents to address their concerns. That member also has the right to confer with a colleague (but not with a majority of the body, counting the member) or appropriate staff about local agency business. An employee or official of a local agency may engage in separate conversations or communications outside of an open and noticed meeting “with members of a legislative body in order to answer questions or provide information regarding a matter that is within the subject matter jurisdiction of

the local agency if that person does not communicate to members of the legislative body the comments or position of any other member or members of the legislative body.”¹⁴

The Brown Act has been violated, however, if several one-on-one meetings or conferences leads to a discussion, deliberation, or action by a majority. In one case, a violation occurred when a quorum of a city council, by a letter that had been circulated among members outside of a formal meeting, directed staff to take action in an eminent domain proceeding.¹⁵

A unilateral written communication to the legislative body, such as an informational or advisory memorandum, does not violate the Brown Act.¹⁶ Such a memo, however, may be a public record.¹⁷

The phone call was from a lobbyist. “Say, I need your vote for that project in the south area. How about it?”

“Well, I don’t know,” replied Board Member Aletto. “That’s kind of a sticky proposition. You sure you need my vote?”

“Well, I’ve got Bradley and Cohen lined up and another vote leaning. With you I’d be over the top.”

Moments later, the phone rings again. “Hey, I’ve been hearing some rumbles on that south area project,” said the newspaper reporter. “I’m counting noses. How are you voting on it?”

Neither the lobbyist nor the reporter has violated the Brown Act, but they are facilitating

a violation. The board member may have violated the Brown Act by hearing about the positions of other board members and indeed coaxing the lobbyist to reveal the other board members' positions by asking "You sure you need my vote?" The prudent course is to avoid such leading conversations and to caution lobbyists, staff, and news media against revealing such positions of others.

The mayor sat down across from the city manager. "From now on," he declared, "I want you to provide individual briefings on upcoming agenda items. Some of this material is very technical, and the council members don't want to sound like idiots asking about it in public. Besides that, briefings will speed up the meeting."

Agency employees or officials may have separate conversations or communications outside of an open and noticed meeting "with members of a legislative body in order to answer questions or provide information regarding a matter that is within the subject matter jurisdiction of the local agency if that person does not communicate to members of the legislative body the comments or position of any other member or members of the legislative body."¹⁸ Members should always be vigilant when discussing local agency business with anyone to avoid conversations that could lead to a discussion, deliberation or action taken among the majority of the legislative body.

"Thanks for the information," said Council Member Kim. "These zoning changes can be tricky, and now I think I'm better equipped to make the right decision."

"Glad to be of assistance," replied the planning director. "I'm sure Council Member Jones is OK with these changes. How are you leaning?"

"Well," said Council Member Kim, "I'm leaning toward approval. I know that two of my colleagues definitely favor approval."

The planning director should not disclose Jones' prospective vote, and Kim should not disclose the prospective votes of two of her colleagues. Under these facts, there likely has been a serial meeting in violation of the Brown Act.

- Q.** The agency's website includes a chat room where agency employees and officials participate anonymously and often discuss issues of local agency business. Members of the legislative body participate regularly. Does this scenario present a potential for violation of the Brown Act?
- A.** Yes, because it is a technological device that may serve to allow for a majority of members to discuss, deliberate, or take action on matters of agency business.
- Q.** A member of a legislative body contacts two other members on a five-member body relative to scheduling a special meeting. Is this an illegal serial meeting?
- A.** No, the Brown Act expressly allows a majority of a body to call a special meeting, though the members should avoid discussing the merits of what is to be taken up at the meeting.

PRACTICE TIP: When briefing legislative body members, staff must exercise care not to disclose other members' views and positions.

Particular care should be exercised when staff briefings of legislative body members occur by email because of the ease of using the “reply to all” button that may inadvertently result in a Brown Act violation.

Informal gatherings

Often members are tempted to mix business with pleasure — for example, by holding a post-meeting gathering. Informal gatherings at which local agency business is discussed or transacted violate the law if they are not conducted in conformance with the Brown Act.¹⁹ A luncheon gathering in a crowded dining room violates the Brown Act if the public does not have an opportunity to attend, hear, or participate in the deliberations of members.

Thursday at 11:30 a.m., as they did every week, the board of directors of the Dry Gulch Irrigation District trooped into Pop’s Donut Shoppe for an hour of talk and fellowship. They sat at the corner window, fronting on Main and Broadway, to show they had nothing to hide. Whenever he could, the managing editor of the weekly newspaper down the street hurried over to join the board.

A gathering like this would not violate the Brown Act if board members scrupulously avoided talking about irrigation district issues — which might be difficult. This kind of situation should be avoided. The public is unlikely to believe the board members could meet regularly without discussing public business. A newspaper executive’s presence in no way lessens the potential for a violation of the Brown Act.

- Q.** The agency has won a major victory in the Supreme Court on an issue of importance. The presiding officer decides to hold an impromptu press conference in order to make a statement to the print and broadcast media. All the other members show up in order to make statements of their own and be seen by the media. Is this gathering illegal?
- A.** *Technically there is no exception for this sort of gathering, but as long as members do not state their intentions as to future action to be taken and the press conference is open to the public, it seems harmless.*



Technological conferencing

Except for certain nonsubstantive purposes, such as scheduling a special meeting, a conference call including a majority of the members of a legislative body is an unlawful meeting. But, in an effort to keep up with information age technologies, the Brown Act specifically allows a legislative body to use any type of teleconferencing to meet, receive public comment and testimony, deliberate, or conduct a closed session.²⁰ While the Brown Act contains specific requirements for conducting a teleconference, the decision to use teleconferencing is entirely discretionary with the body. No person has a right under the Brown Act to have a meeting by teleconference.

“Teleconference” is defined as “a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either

audio or video, or both.”²¹ In addition to the specific requirements relating to teleconferencing, the meeting must comply with all provisions of the Brown Act otherwise applicable. The Brown Act contains the following teleconferencing requirements:²²

- Teleconferencing may be used for all purposes during any meeting;
- At least a quorum of the legislative body must participate from locations within the local agency’s jurisdiction;
- Additional teleconference locations may be made available for the public;
- Each teleconference location must be specifically identified in the notice and agenda of the meeting, including a full address and room number, as may be applicable;
- Agendas must be posted at each teleconference location, even if a hotel room or a residence;
- Each teleconference location, including a hotel room or residence, must be accessible to the public and have technology, such as a speakerphone, to enable the public to participate;
- The agenda must provide the opportunity for the public to address the legislative body directly at each teleconference location; and
- All votes must be by roll call.

Q. A member on vacation wants to participate in a meeting of the legislative body and vote by cellular phone from her car while driving from Washington, D.C. to New York. May she?

A. *She may not participate or vote because she is not in a noticed and posted teleconference location.*

The use of teleconferencing to conduct a legislative body meeting presents a variety of issues beyond the scope of this guide to discuss in detail. Therefore, before teleconferencing a meeting, legal counsel for the local agency should be consulted.

Location of meetings

The Brown Act generally requires all regular and special meetings of a legislative body, including retreats and workshops, to be held within the boundaries of the territory over which the local agency exercises jurisdiction.²³

An open and publicized meeting of a legislative body may be held outside of agency boundaries if the purpose of the meeting is one of the following:²⁴

- Comply with state or federal law or a court order, or attend a judicial conference or administrative proceeding in which the local agency is a party;
- Inspect real or personal property that cannot be conveniently brought into the local agency’s territory, provided the meeting is limited to items relating to that real or personal property;

Q. The agency is considering approving a major retail mall. The developer has built other similar malls, and invites the entire legislative body to visit a mall outside the jurisdiction. May the entire body go?

A. *Yes, the Brown Act permits meetings outside the boundaries of the agency for specified reasons and inspection of property is one such reason. The field trip must be treated as a meeting and the public must be allowed to attend.*

- Participate in multiagency meetings or discussions; however, such meetings must be held within the boundaries of one of the participating agencies, and all of those agencies must give proper notice;
- Meet in the closest meeting facility if the local agency has no meeting facility within its boundaries, or meet at its principal office if that office is located outside the territory over which the agency has jurisdiction;
- Meet with elected or appointed federal or California officials when a local meeting would be impractical, solely to discuss a legislative or regulatory issue affecting the local agency and over which the federal or state officials have jurisdiction;
- Meet in or nearby a facility owned by the agency, provided that the topic of the meeting is limited to items directly related to the facility; or
- Visit the office of its legal counsel for a closed session on pending litigation, when to do so would reduce legal fees or costs.²⁵

In addition, the governing board of a school or community college district may hold meetings outside of its boundaries to attend a conference on nonadversarial collective bargaining techniques, interview candidates for school district superintendent, or interview a potential employee from another district.²⁶ A school board may also interview members of the public residing in another district if the board is considering employing that district's superintendent.

Similarly, meetings of a joint powers authority can occur within the territory of at least one of its member agencies, and a joint powers authority with members throughout the state may meet anywhere in the state.²⁷

Finally, if a fire, flood, earthquake, or other emergency makes the usual meeting place unsafe, the presiding officer can designate another meeting place for the duration of the emergency. News media that have requested notice of meetings must be notified of the designation by the most rapid means of communication available.²⁸



Endnotes:

- 1 California Government Code section 54952.2(a)
- 2 *Wilson v. San Francisco Municipal Railway* (1973) 29 Cal.App.3d 870
- 3 California Government Code section 54954(a)
- 4 California Government Code section 54956
- 5 California Government Code section 54956.5
- 6 California Government Code section 54955
- 7 California Government Code section 54952.2(c)
- 8 California Government Code section 54952.2(c)(4)
- 9 California Government Code section 54952.2(c)(6)
- 10 California Government Code section 54953.1
- 11 “*The Brown Act*,” California Attorney General (2003), p. 10
- 12 California Government Code section 54952.2(b)(1)
- 13 *Stockton Newspaper Inc. v. Redevelopment Agency* (1985) 171 Cal.App.3d 95
- 14 California Government Code section 54952.2(b)(2)
- 15 *Common Cause v. Stirling* (1983) 147 Cal.App.3d 518
- 16 *Roberts v. City of Palmdale* (1993) 5 Cal.4th 363
- 17 California Government Code section 54957.5(a)
- 18 California Government Code section 54952.2(b)(2)
- 19 California Government Code section 54952.2; 43 Ops.Cal.Atty.Gen. 36 (1964)
- 20 California Government Code section 54953(b)(1)
- 21 California Government Code section 54953(b)(4)
- 22 California Government Code section 54953
- 23 California Government Code section 54954(b)
- 24 California Government Code section 54954(b)(1)-(7)
- 25 94 Ops.Cal.Atty.Gen. 15 (2011)
- 26 California Government Code section 54954(c)
- 27 California Government Code section 54954(d)
- 28 California Government Code section 54954(e)

Updates to this publication responding to changes in the Brown Act or new court interpretations are available at www.cacities.org/opengovernment. A current version of the Brown Act may be found at www.leginfo.ca.gov.



Chapter 4

AGENDAS, NOTICES, AND PUBLIC PARTICIPATION

Agendas for regular meetings	30
Mailed agenda upon written request	31
Notice requirements for special meetings	32
Notices and agendas for adjourned and continued meetings and hearings	32
Notice requirements for emergency meetings	32
Notice of compensation for simultaneous or serial meetings	33
Educational agency meetings	33
Notice requirements for tax or assessment meetings and hearings	33
Non-agenda items	34
Responding to the public	34
The right to attend and observe meetings	35
Records and recordings	36
The public's place on the agenda	37

Chapter 4

AGENDAS, NOTICES, AND PUBLIC PARTICIPATION



Effective notice is essential for an open and public meeting. Whether a meeting is open or how the public may participate in that meeting is academic if nobody knows about the meeting.

Agendas for regular meetings

Every regular meeting of a legislative body of a local agency — including advisory committees, commissions, or boards, as well as standing committees of legislative bodies — must be preceded by a posted agenda that advises the public of the meeting and the matters to be transacted or discussed.

The agenda must be posted at least 72 hours before the regular meeting in a location “freely accessible to members of the public.”¹ The courts have not definitively interpreted the “freely accessible” requirement. The California Attorney General has interpreted this

provision to require posting in a location accessible to the public 24 hours a day during the 72-hour period, but any of the 72 hours may fall on a weekend.² This provision may be satisfied by posting on a touch screen electronic kiosk accessible without charge to the public 24 hours a day during the 72-hour period.³ While posting an agenda on an agency’s Internet website will not, by itself, satisfy the “freely accessible” requirement since there is no universal access to the internet, an agency has a supplemental obligation to post the agenda on its website if: (1) the local agency has a website; and (2) the legislative body whose meeting is the subject of the agenda is either (a) a governing body, or (b) has members that are compensated, with one or more members that are also members of a governing body.⁴

Q. May the meeting of a governing body go forward if its agenda was either inadvertently not posted on the city’s website or if the website was not operational during part or all of the 72-hour period preceding the meeting?

A. *At a minimum, the Brown Act calls for “substantial compliance” with all agenda posting requirements, including posting to the agency website.⁵ Should website technical difficulties arise, seek a legal opinion from your agency attorney. The California Attorney General has opined that technical difficulties which cause the website agenda to become inaccessible for a portion of the 72 hours preceding a meeting do not automatically or inevitably lead to a Brown Act violation, provided the agency can demonstrate substantial compliance.⁶ This inquiry requires a fact-specific examination of whether the agency or its legislative body made “reasonably effective efforts to notify interested persons of a public meeting” through online posting and other available means.⁷ The Attorney General’s opinion suggests that this examination would include an evaluation of how long a technical problem persisted, the efforts made to correct the problem or otherwise ensure that the public was informed, and the actual effect the problem had on public*

awareness, among other factors.⁸ The City Attorneys' Department has taken the position that obvious website technical difficulties do not require cancellation of a meeting, provided that the agency meets all other Brown Act posting requirements and the agenda is available on the website once the technical difficulties are resolved.

The agenda must state the meeting time and place and must contain “a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session.”⁹ Special care should be taken to describe on the agenda each distinct action to be taken by the legislative body, and avoid overbroad descriptions of a “project” if the “project” is actually a set of distinct actions that must each be separately listed on the agenda.¹⁰

PRACTICE TIP: Putting together a meeting agenda requires careful thought.

Q. The agenda for a regular meeting contains the following items of business:

- Consideration of a report regarding traffic on Eighth Street; and
- Consideration of contract with ABC Consulting.

Are these descriptions adequate?

A. *If the first is, it is barely adequate. A better description would provide the reader with some idea of what the report is about and what is being recommended. The second is not adequate. A better description might read “consideration of a contract with ABC Consulting in the amount of \$50,000 for traffic engineering services regarding traffic on Eighth Street.”*

Q. The agenda includes an item entitled City Manager’s Report, during which time the city manager provides a brief report on notable topics of interest, none of which are listed on the agenda.

Is this permissible?

A. *Yes, so long as it does not result in extended discussion or action by the body.*

A brief general description may not be sufficient for closed session agenda items. The Brown Act provides safe harbor language for the various types of permissible closed sessions. Substantial compliance with the safe harbor language is recommended to protect legislative bodies and elected officials from legal challenges.

Mailed agenda upon written request

The legislative body, or its designee, must mail a copy of the agenda or, if requested, the entire agenda packet, to any person who has filed a written request for such materials. These copies shall be mailed at the time the agenda is posted. If requested, these materials must be made available in appropriate alternative formats to persons with disabilities.

A request for notice is valid for one calendar year and renewal requests must be filed following January 1 of each year. The legislative body may establish a fee to recover the cost of providing the service. Failure of the requesting person to receive the agenda does not constitute grounds for invalidation of actions taken at the meeting.¹¹



Notice requirements for special meetings

There is no express agenda requirement for special meetings, but the notice of the special meeting effectively serves as the agenda and limits the business that may be transacted or discussed.

Written notice must be sent to each member of the legislative body (unless waived in writing by that member) and to each local newspaper of general circulation, and radio or television station that has requested such notice in writing. This notice must be delivered by personal delivery or any other means that ensures receipt, at least 24 hours before the time of the meeting.

The notice must state the time and place of the meeting, as well as all business to be transacted or discussed. It is recommended that the business to be transacted or discussed be described in the same manner that an item for a regular meeting would be described on the agenda — with a brief general description. As noted above, closed session items should be described in accordance with the Brown Act's safe harbor provisions to protect legislative bodies and elected officials from challenges of noncompliance with notice requirements.

The special meeting notice must also be posted at least 24 hours prior to the special meeting using the same methods as posting an agenda for a regular meeting: (1) at a site that is freely accessible to the public, and (2) on the agency's website if: (1) the local agency has a website; and (2) the legislative body whose meeting is the subject of the agenda is either (a) a governing body, or (b) has members that are compensated, with one or more members that are also members of a governing body.¹²

Notices and agendas for adjourned and continued meetings and hearings

A regular or special meeting can be adjourned and re-adjourned to a time and place specified in the order of adjournment.¹³ If no time is stated, the meeting is continued to the hour for regular meetings. Whoever is present (even if they are less than a quorum) may so adjourn a meeting; if no member of the legislative body is present, the clerk or secretary may adjourn the meeting. If a meeting is adjourned for less than five calendar days, no new agenda need be posted so long as a new item of business is not introduced.¹⁴ A copy of the order of adjournment must be posted within 24 hours after the adjournment, at or near the door of the place where the meeting was held.

A hearing can be continued to a subsequent meeting. The process is the same as for continuing adjourned meetings, except that if the hearing is continued to a time less than 24 hours away, a copy of the order or notice of continuance must be posted immediately following the meeting.¹⁵

Notice requirements for emergency meetings

The special meeting notice provisions apply to emergency meetings, except for the 24-hour notice.¹⁶ News media that have requested written notice of special meetings must be notified by telephone at least one hour in advance of an emergency meeting, and all telephone numbers provided in that written request must be tried. If telephones are not working, the notice requirements are deemed waived. However, the news media must be notified as soon as possible of the meeting and any action taken.



News media may make a practice of having written requests on file for notification of special or emergency meetings. Absent such a request, a local agency has no legal obligation to notify news media of special or emergency meetings — although notification may be advisable in any event to avoid controversy.

Notice of compensation for simultaneous or serial meetings

A legislative body that has convened a meeting and whose membership constitutes a quorum of another legislative body, may convene a simultaneous or serial meeting of the other legislative body only after a clerk or member of the convened legislative body orally announces: (1) the amount of compensation or stipend, if any, that each member will be entitled to receive as a result of convening the meeting of the other legislative body; and (2) that the compensation or stipend is provided as a result of convening the meeting of that body.¹⁷

No oral disclosure of the amount of the compensation is required if the entire amount of such compensation is prescribed by statute and no additional compensation has been authorized by the local agency. Further, no disclosure is required with respect to reimbursements for actual and necessary expenses incurred in the performance of the member's official duties, such as for travel, meals, and lodging.

Educational agency meetings

The Education Code contains some special agenda and special meeting provisions.¹⁸ However, they are generally consistent with the Brown Act. An item is probably void if not posted.¹⁹ A school district board must also adopt regulations to make sure the public can place matters affecting the district's business on meeting agendas and to address the board on those items.²⁰

Notice requirements for tax or assessment meetings and hearings

The Brown Act prescribes specific procedures for adoption by a city, county, special district, or joint powers authority of any new or increased tax or assessment imposed on businesses.²¹ Though written broadly, these Brown Act provisions do not apply to new or increased real property taxes or assessments as those are governed by the California Constitution, Article XIII C or XIII D, enacted by Proposition 218. At least one public meeting must be held to allow public testimony on the tax or assessment. In addition, there must also be at least 45 days notice of a public hearing at which the legislative body proposes to enact or increase the tax or assessment. Notice of the public meeting and public hearing must be provided at the same time and in the same document. The public notice relating to general taxes must be provided by newspaper publication. The public notice relating to new or increased business assessments must be provided through a mailing to all business owners proposed to be subject to the new or increased assessment. The agency may recover the reasonable costs of the public meetings, hearings, and notice.

The Brown Act exempts certain fees, standby or availability charges, recurring assessments, and new or increased assessments that are subject to the notice and hearing requirements of the Constitution.²² As a practical matter, the Constitution's notice requirements have preempted this section of the Brown Act.



Non-agenda items

The Brown Act generally prohibits any action or discussion of items not on the posted agenda. However, there are three specific situations in which a legislative body can act on an item not on the agenda:²³

- When a majority decides there is an “emergency situation” (as defined for emergency meetings);
- When two-thirds of the members present (or all members if less than two-thirds are present) determine there is a need for immediate action and the need to take action “came to the attention of the local agency subsequent to the agenda being posted.” This exception requires a degree of urgency. Further, an item cannot be considered under this provision if the legislative body or the staff knew about the need to take immediate action before the agenda was posted. A new need does not arise because staff forgot to put an item on the agenda or because an applicant missed a deadline; or
- When an item appeared on the agenda of, and was continued from, a meeting held not more than five days earlier.

The exceptions are narrow, as indicated by this list. The first two require a specific determination by the legislative body. That determination can be challenged in court and, if unsubstantiated, can lead to invalidation of an action.

“I’d like a two-thirds vote of the board, so we can go ahead and authorize commencement of phase two of the East Area Project,” said Chair Lopez.

“It’s not on the agenda. But we learned two days ago that we finished phase one ahead of schedule — believe it or not — and I’d like to keep it that way. Do I hear a motion?”

The desire to stay ahead of schedule generally would not satisfy “a need for immediate action.” Too casual an action could invite a court challenge by a disgruntled resident. The prudent course is to place an item on the agenda for the next meeting and not risk invalidation.

“We learned this morning of an opportunity for a state grant,” said the chief engineer at the regular board meeting, “but our application has to be submitted in two days. We’d like the board to give us the go ahead tonight, even though it’s not on the agenda.”

A legitimate immediate need can be acted upon even though not on the posted agenda by following a two-step process:

- First, make two determinations: 1) that there is an immediate need to take action, and 2) that the need arose after the posting of the agenda. The matter is then placed on the agenda.
- Second, discuss and act on the added agenda item.

Responding to the public

The public can talk about anything within the jurisdiction of the legislative body, but the legislative body generally cannot act on or discuss an item not on the agenda. What happens when a member of the public raises a subject not on the agenda?

PRACTICE TIP: Subject to very limited exceptions, the Brown Act prohibits any action or discussion of an item not on the posted agenda.

While the Brown Act does not allow discussion or action on items not on the agenda, it does allow members of the legislative body, or its staff, to “briefly respond” to comments or questions from members of the public, provide a reference to staff or other resources for factual information, or direct staff to place the issue on a future agenda. In addition, even without a comment from the public, a legislative body member or a staff member may ask for information, request a report back, request to place a matter on the agenda for a subsequent meeting (subject to the body’s rules or procedures), ask a question for clarification, make a brief announcement, or briefly report on his or her own activities.²⁴ However, caution should be used to avoid any discussion or action on such items.



Council Member Jefferson: I would like staff to respond to Resident Joe’s complaints during public comment about the repaving project on Elm Street — are there problems with this project?

City Manager Frank: The public works director has prepared a 45-minute power point presentation for you on the status of this project and will give it right now.

Council Member Brown: Take all the time you need; we need to get to the bottom of this. Our residents are unhappy.

It is clear from this dialogue that the Elm Street project was not on the council’s agenda, but was raised during the public comment period for items not on the agenda. Council Member A properly asked staff to respond; the city manager should have given at most a brief response. If a lengthy report from the public works director was warranted, the city manager should have stated that it would be placed on the agenda for the next meeting. Otherwise, both the long report and the likely discussion afterward will improperly embroil the council in a matter that is not listed on the agenda.

The right to attend and observe meetings

A number of Brown Act provisions protect the public’s right to attend, observe, and participate in meetings.

Members of the public cannot be required to register their names, provide other information, complete a questionnaire, or otherwise “fulfill any condition precedent” to attending a meeting. Any attendance list, questionnaire, or similar document posted at or near the entrance to the meeting room or circulated at a meeting must clearly state that its completion is voluntary and that all persons may attend whether or not they fill it out.²⁵

No meeting can be held in a facility that prohibits attendance based on race, religion, color, national origin, ethnic group identification, age, sex, sexual orientation, or disability, or that is inaccessible to the disabled. Nor can a meeting be held where the public must make a payment or purchase in order to be present.²⁶ This does not mean, however, that the public is entitled to free entry to a conference attended by a majority of the legislative body.²⁷

While a legislative body may use teleconferencing in connection with a meeting, the public must be given notice of and access to the teleconference location. Members of the public must be able to address the legislative body from the teleconference location.²⁸

Action by secret ballot, whether preliminary or final, is flatly prohibited.²⁹

All actions taken by the legislative body in open session, and the vote of each member thereon, must be disclosed to the public at the time the action is taken.³⁰

Q: The agenda calls for election of the legislative body's officers. Members of the legislative body want to cast unsigned written ballots that would be tallied by the clerk, who would announce the results. Is this voting process permissible?

A: *No. The possibility that a public vote might cause hurt feelings among members of the legislative body or might be awkward — or even counterproductive — does not justify a secret ballot.*

The legislative body may remove persons from a meeting who willfully interrupt proceedings.³¹ Ejection is justified only when audience members actually disrupt the proceedings.³² If order cannot be restored after ejecting disruptive persons, the meeting room may be cleared. Members of the news media who have not participated in the disturbance must be allowed to continue to attend the meeting. The legislative body may establish a procedure to re-admit an individual or individuals not responsible for the disturbance.³³

Records and recordings

The public has the right to review agendas and other writings distributed by any person to a majority of the legislative body in connection with a matter subject to discussion or consideration at a meeting. Except for privileged documents, those materials are public records and must be made available upon request without delay.³⁴ A fee or deposit as permitted by the California Public Records Act may be charged for a copy of a public record.³⁵

Q: In connection with an upcoming hearing on a discretionary use permit, counsel for the legislative body transmits a memorandum to all members of the body outlining the litigation risks in granting or denying the permit. Must this memorandum be included in the packet of agenda materials available to the public?

A: *No. The memorandum is a privileged attorney-client communication.*

Q: In connection with an agenda item calling for the legislative body to approve a contract, staff submits to all members of the body a financial analysis explaining why the terms of the contract favor the local agency. Must this memorandum be included in the packet of agenda materials available to the public?

A: *Yes. The memorandum has been distributed to the majority of the legislative body, relates to the subject matter of a meeting, and is not a privileged communication.*



A legislative body may discuss or act on some matters without considering written materials. But if writings are distributed to a majority of a legislative body in connection with an agenda item, they must also be available to the public. A non-exempt or otherwise privileged writing distributed to a majority of the legislative body less than 72 hours before the meeting must be made available for inspection at the time of distribution at a public office or location designated for that purpose; and the agendas for all meetings of the legislative body must include the address of this office or location.³⁶ A writing distributed during a meeting must be made public:

- At the meeting if prepared by the local agency or a member of its legislative body; or
- After the meeting if prepared by some other person.³⁷

Any tape or film record of an open and public meeting made for whatever purpose by or at the direction of the local agency is subject to the California Public Records Act; however, it may be erased or destroyed 30 days after the taping or recording. Any inspection of a video or tape recording is to be provided without charge on a video or tape player made available by the local agency.³⁸ The agency may impose its ordinary charge for copies that is consistent with the California Public Records Act.³⁹

In addition, the public is specifically allowed to use audio or video tape recorders or still or motion picture cameras at a meeting to record the proceedings, absent a reasonable finding by the legislative body that noise, illumination, or obstruction of view caused by recorders or cameras would persistently disrupt the proceedings.⁴⁰

Similarly, a legislative body cannot prohibit or restrict the public broadcast of its open and public meetings without making a reasonable finding that the noise, illumination, or obstruction of view would persistently disrupt the proceedings.⁴¹

The public's place on the agenda

Every agenda for a regular meeting must allow members of the public to speak on any item of interest, so long as the item is within the subject matter jurisdiction of the legislative body. Further, the public must be allowed to speak on a specific item of business before or during the legislative body's consideration of it.⁴²

Q. Must the legislative body allow members of the public to show videos or make a power point presentation during the public comment part of the agenda, as long as the subject matter is relevant to the agency and is within the established time limit?

A. *Probably, although the agency is under no obligation to provide equipment.*

Moreover, the legislative body cannot prohibit public criticism of policies, procedures, programs, or services of the agency or the acts or omissions of the legislative body itself. But the Brown Act provides no immunity for defamatory statements.⁴³



PRACTICE TIP: Public speakers cannot be compelled to give their name or address as a condition of speaking. The clerk or presiding officer may request speakers to complete a speaker card or identify themselves for the record, but must respect a speaker's desire for anonymity.

Q. May the presiding officer prohibit a member of the audience from publicly criticizing an agency employee by name during public comments?

A. *No, as long as the criticism pertains to job performance.*

Q. During the public comment period of a regular meeting of the legislative body, a resident urges the public to support and vote for a candidate vying for election to the body. May the presiding officer gavel the speaker out of order for engaging in political campaign speech?

A. *There is no case law on this subject. Some would argue that campaign issues are outside the subject matter jurisdiction of the body within the meaning of Section 54954.3(a). Others take the view that the speech must be allowed under paragraph (c) of that section because it is relevant to the governing of the agency and an implicit criticism of the incumbents.*



The legislative body may adopt reasonable regulations, including time limits, on public comments. Such regulations should be enforced fairly and without regard to speakers' viewpoints. The legislative body has discretion to modify its regulations regarding time limits on public comment if necessary. For example, the time limit could be shortened to accommodate a lengthy agenda or lengthened to allow additional time for discussion on a complicated matter.⁴⁴

The public does not need to be given an opportunity to speak on an item that has already been considered by a committee made up exclusively of members of the legislative body at a public meeting, if all interested members of the public had the opportunity to speak on the item before or during its consideration, and if the item has not been substantially changed.⁴⁵

Notices and agendas for special meetings must also give members of the public the opportunity to speak before or during consideration of an item on the agenda but need not allow members of the public an opportunity to speak on other matters within the jurisdiction of the legislative body.⁴⁶

Endnotes:

- 1 California Government Code section 54954.2(a)(1)
- 2 78 Ops.Cal.Atty.Gen. 327 (1995)
- 3 88 Ops.Cal.Atty.Gen. 218 (2005)
- 4 California Government Code sections 54954.2(a)(1) and 54954.2(d)
- 5 California Government Code section 54960.1(d)(1)
- 6 ___ Ops.Cal.Atty.Gen.___, No. 14-1204 (January 19, 2016) 16 Cal. Daily Op. Serv. 937 (Cal.A.G.), 2016 WL 375262
- 7 *North Pacific LLC v. California Coastal Commission* (2008) 166 Cal.App.4th 1416, 1432
- 8 ___ Ops.Cal.Atty.Gen.___, No. 14-1204 (January 19, 2016) 16 Cal. Daily Op. Serv. 937 (Cal.A.G.), 2016 WL 375262, Slip Op. at p. 8
- 9 California Government Code section 54954.2(a)(1)
- 10 *San Joaquin Raptor Rescue v. County of Merced* (2013) 216 Cal.App.4th 1167 (legislative body's approval of CEQA action (mitigated negative declaration) without specifically listing it on the agenda violates Brown Act, even if the agenda generally describes the development project that is the subject of the CEQA analysis.)

- 11 California Government Code section 54954.1
- 12 California Government Code sections 54956(a) and (c)
- 13 California Government Code section 54955
- 14 California Government Code section 54954.2(b)(3)
- 15 California Government Code section 54955.1
- 16 California Government Code section 54956.5
- 17 California Government Code section 54952.3
- 18 Education Code sections 35144, 35145 and 72129
- 19 *Carlson v. Paradise Unified School District* (1971) 18 Cal.App.3d 196
- 20 California Education Code section 35145.5
- 21 California Government Code section 54954.6
- 22 See Cal.Const.Art.XIIIC, XIIID and California Government Code section 54954.6(h)
- 23 California Government Code section 54954.2(b)
- 24 California Government Code section 54954.2(a)(2)
- 25 California Government Code section 54953.3
- 26 California Government Code section 54961(a); California Government Code section 11135(a)
- 27 California Government Code section 54952.2(c)(2)
- 28 California Government Code section 54953(b)
- 29 California Government Code section 54953(c)
- 30 California Government Code section 54953(c)(2)
- 31 California Government Code section 54957.9.
- 32 *Norse v. City of Santa Cruz* (9th Cir. 2010) 629 F.3d 966 (silent and momentary Nazi salute directed towards mayor is not a disruption); *Acosta v. City of Costa Mesa* (9th Cir. 2013) 718 F.3d 800 (city council may not prohibit “insolent” remarks by members of the public absent actual disruption).
- 33 California Government Code section 54957.9
- 34 California Government Code section 54957.5
- 35 California Government Code section 54957.5(d)
- 36 California Government Code section 54957.5(b)
- 37 California Government Code section 54957.5(c)
- 38 California Government Code section 54953.5(b)
- 39 California Government Code section 54957.5(d)
- 40 California Government Code section 54953.5(a)
- 41 California Government Code section 54953.6
- 42 California Government Code section 54954.3(a)
- 43 California Government Code section 54954.3(c)
- 44 California Government Code section 54954.3(b); *Chaffee v. San Francisco Public Library Com.* (2005) 134 Cal.App.4th 109; 75 Ops.Cal.Atty.Gen. 89 (1992)
- 45 California Government Code section 54954.3(a)
- 46 California Government Code section 54954.3(a)

Updates to this publication responding to changes in the Brown Act or new court interpretations are available at www.cacities.org/opengovernment. A current version of the Brown Act may be found at www.leginfo.ca.gov.



Chapter 5

CLOSED SESSIONS

Agendas and reports.....	42
Litigation.....	43
Real estate negotiations	45
Public employment	46
Labor negotiations	47
Labor negotiations — school and community college districts.....	48
Other Education Code exceptions.....	48
Joint Powers Authorities.....	48
License applicants with criminal records	49
Public security.....	49
Multijurisdictional law enforcement agency	49
Hospital peer review and trade secrets	49
Other legislative bases for closed session	50
Who may attend closed sessions	50
The confidentiality of closed session discussions.....	50

Chapter 5

CLOSED SESSIONS

A closed session is a meeting of a legislative body conducted in private without the attendance of the public or press. A legislative body is authorized to meet in closed session only to the extent expressly authorized by the Brown Act.¹



As summarized in Chapter 1 of this Guide, it is clear that the Brown Act must be interpreted liberally in favor of open meetings, and exceptions that limit public access (including the exceptions for closed session meetings) must be narrowly construed.² The most common purposes of the closed session provisions in the Brown Act are to avoid revealing confidential information (e.g., prejudicing the city's position in litigation or compromising the privacy interests of employees). Closed sessions should be conducted keeping those narrow purposes in mind. It is not enough that a subject is sensitive, embarrassing, or controversial. Without specific authority in the Brown Act for a closed session, a matter to be considered by a legislative body must be discussed in public. As an example, a board of police commissioners cannot meet in closed session to provide general policy guidance to a police chief, even though some matters are sensitive and the commission considers their disclosure contrary to the public interest.³

PRACTICE TIP: Some problems over closed sessions arise because secrecy itself breeds distrust. The Brown Act does not require closed sessions and legislative bodies may do well to resist the tendency to call a closed session simply because it may be permitted. A better practice is to go into closed session only when necessary.

In this chapter, the grounds for convening a closed session are called “exceptions” because they are exceptions to the general rule that meetings must be conducted openly. In some circumstances, none of the closed session exceptions apply to an issue or information the legislative body wishes to discuss privately. In these cases, it is not proper to convene a closed session, even to protect confidential information. For example, although the Brown Act does authorize closed sessions related to specified types of contracts (e.g., specified provisions of real property agreements, employee labor agreements, and litigation settlement agreements),⁴ the Brown Act does not authorize closed sessions for other contract negotiations.

Agendas and reports

Closed session items must be briefly described on the posted agenda and the description must state the specific statutory exemption.⁵ An item that appears on the open meeting portion of the agenda may not be taken into closed session until it has been properly agendized as a closed session item or unless it is properly added as a closed session item by a two-thirds vote of the body after making the appropriate urgency findings.⁶

The Brown Act supplies a series of fill in the blank sample agenda descriptions for various types of authorized closed sessions, which provide a “safe harbor” from legal attacks. These sample

agenda descriptions cover license and permit determinations, real property negotiations, existing or anticipated litigation, liability claims, threats to security, public employee appointments, evaluations and discipline, labor negotiations, multi-jurisdictional law enforcement cases, hospital boards of directors, medical quality assurance committees, joint powers agencies, and audits by the California State Auditor's Office.⁷

If the legislative body intends to convene in closed session, it must include the section of the Brown Act authorizing the closed session in advance on the agenda and it must make a public announcement prior to the closed session discussion. In most cases, the announcement may simply be a reference to the agenda item.⁸

Following a closed session, the legislative body must provide an oral or written report on certain actions taken and the vote of every elected member present. The timing and content of the report varies according to the reason for the closed session and the action taken.⁹ The announcements may be made at the site of the closed session, so long as the public is allowed to be present to hear them.

If there is a standing or written request for documentation, any copies of contracts, settlement agreements, or other documents finally approved or adopted in closed session must be provided to the requestor(s) after the closed session, if final approval of such documents does not rest with any other party to the contract or settlement. If substantive amendments to a contract or settlement agreement approved by all parties requires retyping, such documents may be held until retyping is completed during normal business hours, but the substance of the changes must be summarized for any person inquiring about them.¹⁰

The Brown Act does not require minutes, including minutes of closed sessions. However, a legislative body may adopt an ordinance or resolution to authorize a confidential "minute book" be kept to record actions taken at closed sessions.¹¹ If one is kept, it must be made available to members of the legislative body, provided that the member asking to review minutes of a particular meeting was not disqualified from attending the meeting due to a conflict of interest.¹² A court may order the disclosure of minute books for the court's review if a lawsuit makes sufficient claims of an open meeting violation.

Litigation

There is an attorney/client relationship, and legal counsel may use it to protect the confidentiality of privileged written and oral communications to members of the legislative body — outside of meetings. But protection of the attorney/client privilege cannot by itself be the reason for a closed session.¹³

The Brown Act expressly authorizes closed sessions to discuss what is considered pending litigation. The rules that apply to holding a litigation closed session involve complex, technical definitions and procedures. The essential thing to know is that a closed session can be held by the body to confer with, or receive advice from, its legal counsel when open discussion would prejudice the position of the local agency in litigation in which the agency is, or could become, a party.¹⁴ The litigation exception under the Brown Act is narrowly construed and does not permit activities beyond a legislative body's conferring with its own legal counsel and required support staff.¹⁵ For example, it is not permissible to hold a closed session in which settlement negotiations take place between a legislative body, a representative of an adverse party, and a mediator.¹⁶

PRACTICE TIP: Pay close attention to closed session agenda descriptions. Using the wrong label can lead to invalidation of an action taken in closed session if not substantially compliant.

The California Attorney General has opined that if the agency’s attorney is not a participant, a litigation closed session cannot be held.¹⁷ In any event, local agency officials should always consult the agency’s attorney before placing this type of closed session on the agenda in order to be certain that it is being done properly.

Before holding a closed session under the pending litigation exception, the legislative body must publicly state the basis for the closed session by identifying one of the following three types of matters: existing litigation, anticipated exposure to litigation, or anticipated initiation of litigation.¹⁸

Existing litigation

Q. May the legislative body agree to settle a lawsuit in a properly-noticed closed session, without placing the settlement agreement on an open session agenda for public approval?

A. *Yes, but the settlement agreement is a public document and must be disclosed on request. Furthermore, a settlement agreement cannot commit the agency to matters that are required to have public hearings.*

Existing litigation includes any adjudicatory proceedings before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator. The clearest situation in which a closed session is authorized is when the local agency meets with its legal counsel to discuss a pending matter that has been filed in a court or with an administrative agency and names the local



agency as a party. The legislative body may meet under these circumstances to receive updates on the case from attorneys, participate in developing strategy as the case develops, or consider alternatives for resolution of the case. Generally, an agreement to settle litigation may be approved in closed session. However, an agreement to settle litigation cannot be approved in closed session if it commits the city to take an action that is required to have a public hearing.¹⁹

Anticipated exposure to litigation against the local agency

Closed sessions are authorized for legal counsel to inform the legislative body of a significant exposure to litigation against the local agency, but only if based on “existing facts and circumstances” as defined by the Brown Act.²⁰ The legislative body may also meet under this exception to determine whether a closed session is authorized based on information provided by legal counsel or staff. In general, the “existing facts and

circumstances” must be publicly disclosed unless they are privileged written communications or not yet known to a potential plaintiff.

Anticipated initiation of litigation by the local agency

A closed session may be held under the exception for the anticipated initiation of litigation when the legislative body seeks legal advice on whether to protect the agency’s rights and interests by initiating litigation.

Certain actions must be reported in open session at the same meeting following the closed

session. Other actions, as where final approval rests with another party or the court, may be announced when they become final and upon inquiry of any person.²¹ Each agency attorney should be aware of and make the disclosures that are required by the particular circumstances.

Real estate negotiations

A legislative body may meet in closed session with its negotiator to discuss the purchase, sale, exchange, or lease of real property by or for the local agency. A “lease” includes a lease renewal or renegotiation. The purpose is to grant authority to the legislative body’s negotiator on price and terms of payment.²² Caution should be exercised to limit discussion to price and terms of payment without straying to other related issues such as site design, architecture, or other aspects of the project for which the transaction is contemplated.²³



Q. May other terms of a real estate transaction, aside from price and terms of payment, be addressed in closed session?

A. *No. However, there are differing opinions over the scope of the phrase “price and terms of payment” in connection with real estate closed sessions. Many agency attorneys argue that any term that directly affects the economic value of the transaction falls within the ambit of “price and terms of payment.” Others take a narrower, more literal view of the phrase.*

The agency’s negotiator may be a member of the legislative body itself. Prior to the closed session, or on the agenda, the legislative body must identify its negotiators, the real property that the negotiations may concern²⁴ and the names of the parties with whom its negotiator may negotiate.²⁵

After real estate negotiations are concluded, the approval and substance of the agreement must be publicly reported. If its own approval makes the agreement final, the body must report in open session at the public meeting during which the closed session is held. If final approval rests with another party, the local agency must report the approval and the substance of the agreement upon inquiry by any person, as soon as the agency is informed of it.²⁶

“Our population is exploding, and we have to think about new school sites,” said Board Member Jefferson.

“Not only that,” interjected Board Member Tanaka, “we need to get rid of a couple of our older facilities.”

“Well, obviously the place to do that is in a closed session,” said Board Member O’Reilly. “Otherwise we’re going to set off land speculation. And if we even mention closing a school, parents are going to be in an uproar.”

A closed session to discuss potential sites is not authorized by the Brown Act. The exception is limited to meeting with its negotiator over specific sites — which must be identified at an open and public meeting.

PRACTICE TIP: Discussions of who to appoint to an advisory body and whether or not to censure a fellow member of the legislative body must be held in the open.

Public employment

The Brown Act authorizes a closed session “to consider the appointment, employment, evaluation of performance, discipline, or dismissal of a public employee or to hear complaints or charges brought against the employee.”²⁷ The purpose of this exception — commonly referred to as the “personnel exception” — is to avoid undue publicity or embarrassment for an employee or applicant for employment and to allow full and candid discussion by the legislative body; thus, it is restricted to discussing individuals, not general personnel policies.²⁸ The body must possess the power to appoint, evaluate, or dismiss the employee to hold a closed session under this exception.²⁹ That authority may be delegated to a subsidiary appointed body.³⁰

An employee must be given at least 24 hours notice of any closed session convened to hear specific complaints or charges against him or her. This occurs when the legislative body is reviewing evidence, which could include live testimony, and adjudicating conflicting testimony offered as evidence. A legislative body may examine (or exclude) witnesses,³¹ and the California Attorney General has opined that, when an affected employee and advocate have an official or essential role to play, they may be permitted to participate in the closed session.³² The employee has the right to have the specific complaints and charges discussed in a public session rather than closed session.³³ If the employee is not given the 24-hour prior notice, any disciplinary action is null and void.³⁴

However, an employee is not entitled to notice and a hearing where the purpose of the closed session is to consider a performance evaluation. The Attorney General and the courts have determined that personnel performance evaluations do not constitute complaints and charges, which are more akin to accusations made against a person.³⁵

Q. Must 24 hours notice be given to an employee whose negative performance evaluation is to be considered by the legislative body in closed session?

A. *No, the notice is reserved for situations where the body is to hear complaints and charges from witnesses.*

Correct labeling of the closed session on the agenda is critical. A closed session agenda that identified discussion of an employment contract was not sufficient to allow dismissal of an employee.³⁶ An incorrect agenda description can result in invalidation of an action and much embarrassment.

For purposes of the personnel exception, “employee” specifically includes an officer or an independent contractor who functions as an officer or an employee. Examples of the former include a city manager, district general manager or superintendent. Examples of the latter include a legal counsel or engineer hired on contract to act as local agency attorney or chief engineer.

Elected officials, appointees to the governing body or subsidiary bodies, and independent contractors other than those discussed above are not employees for purposes of the personnel exception.³⁷ Action on individuals who are not “employees” must also be public — including discussing and voting on appointees to committees, or debating the merits of independent contractors, or considering a complaint against a member of the legislative body itself.

The personnel exception specifically prohibits discussion or action on proposed compensation in closed session, except for a disciplinary reduction in pay. Among other things, that means there can be no personnel closed sessions on a salary change (other than a disciplinary reduction) between any unrepresented individual and the legislative body. However, a legislative body may address the compensation of an unrepresented individual, such as a city manager, in a closed session as part of a labor negotiation (discussed later in this chapter), yet another example of the importance of using correct agenda descriptions.

Reclassification of a job must be public, but an employee's ability to fill that job may be considered in closed session.

Any closed session action to appoint, employ, dismiss, accept the resignation of, or otherwise affect the employment status of a public employee must be reported at the public meeting during which the closed session is held. That report must identify the title of the position, but not the names of all persons considered for an employment position.³⁸ However, a report on a dismissal or non-renewal of an employment contract must be deferred until administrative remedies, if any, are exhausted.³⁹

"I have some important news to announce," said Mayor Garcia. "We've decided to terminate the contract of the city manager, effective immediately. The council has met in closed session and we've negotiated six months severance pay."

"Unfortunately, that has some serious budget consequences, so we've had to delay phase two of the East Area Project."

This may be an improper use of the personnel closed session if the council agenda described the item as the city manager's evaluation. In addition, other than labor negotiations, any action on individual compensation must be taken in open session. Caution should be exercised to not discuss in closed session issues, such as budget impacts in this hypothetical, beyond the scope of the posted closed session notice.

Labor negotiations

The Brown Act allows closed sessions for some aspects of labor negotiations. Different provisions (discussed below) apply to school and community college districts.

A legislative body may meet in closed session to instruct its bargaining representatives, which may be one or more of its members,⁴⁰ on employee salaries and fringe benefits for both represented ("union") and non-represented employees. For represented employees, it may also consider working conditions that by law require negotiation. For the purpose of labor negotiation closed sessions, an "employee" includes an officer or an independent contractor who functions as an officer or an employee, but independent contractors who do not serve in the capacity of an officer or employee are not covered by this closed session exception.⁴¹

These closed sessions may take place before or during negotiations with employee representatives. Prior to the closed session, the legislative body must hold an open and public session in which it identifies its designated representatives.

PRACTICE TIP: The personnel exception specifically prohibits discussion or action on proposed compensation in closed session except for a disciplinary reduction in pay.

PRACTICE TIP: Prior to the closed session, the legislative body must hold an open and public session in which it identifies its designated representatives.

During its discussions with representatives on salaries and fringe benefits, the legislative body may also discuss available funds and funding priorities, but only to instruct its representative. The body may also meet in closed session with a conciliator who has intervened in negotiations.⁴²

The approval of an agreement concluding labor negotiations with represented employees must be reported after the agreement is final and has been accepted or ratified by the other party. The report must identify the item approved and the other party or parties to the negotiation.⁴³ The labor closed sessions specifically cannot include final action on proposed compensation of one or more unrepresented employees.

Labor negotiations — school and community college districts

Employee relations for school districts and community college districts are governed by the Rodda Act, where different meeting and special notice provisions apply. The entire board, for example, may negotiate in closed sessions.

Four types of meetings are exempted from compliance with the Rodda Act:

1. A negotiating session with a recognized or certified employee organization;
2. A meeting of a mediator with either side;
3. A hearing or meeting held by a fact finder or arbitrator; and
4. A session between the board and its bargaining agent, or the board alone, to discuss its position regarding employee working conditions and instruct its agent.⁴⁴

Public participation under the Rodda Act also takes another form.⁴⁵ All initial proposals of both sides must be presented at public meetings and are public records. The public must be given reasonable time to inform itself and to express its views before the district may adopt its initial proposal. In addition, new topics of negotiations must be made public within 24 hours. Any votes on such a topic must be followed within 24 hours by public disclosure of the vote of each member.⁴⁶ The final vote must be in public.

Other Education Code exceptions

The Education Code governs student disciplinary meetings by boards of school districts and community college districts. District boards may hold a closed session to consider the suspension or discipline of a student, if a public hearing would reveal personal, disciplinary, or academic information about the student contrary to state and federal pupil privacy law. The student's parent or guardian may request an open meeting.⁴⁷

Community college districts may also hold closed sessions to discuss some student disciplinary matters, awarding of honorary degrees, or gifts from donors who prefer to remain anonymous.⁴⁸ Kindergarten through 12th grade districts may also meet in closed session to review the contents of the statewide assessment instrument.⁴⁹

Joint Powers Authorities

The legislative body of a joint powers authority may adopt a policy regarding limitations on disclosure of confidential information obtained in closed session, and may meet in closed session to discuss information that is subject to the policy.⁵⁰

PRACTICE TIP: Attendance by the entire legislative body before a grand jury would not constitute a closed session meeting under the Brown Act.

License applicants with criminal records

A closed session is permitted when an applicant, who has a criminal record, applies for a license or license renewal and the legislative body wishes to discuss whether the applicant is sufficiently rehabilitated to receive the license. The applicant and the applicant's attorney are authorized to attend the closed session meeting. If the body decides to deny the license, the applicant may withdraw the application. If the applicant does not withdraw, the body must deny the license in public, immediately or at its next meeting. No information from the closed session can be revealed without consent of the applicant, unless the applicant takes action to challenge the denial.⁵¹

Public security

Legislative bodies may meet in closed session to discuss matters posing a threat to the security of public buildings, essential public services, including water, sewer, gas, or electric service, or to the public's right of access to public services or facilities over which the legislative body has jurisdiction. Closed session meetings for these purposes must be held with designated security or law enforcement officials including the Governor, Attorney General, district attorney, agency attorney, sheriff or chief of police, or their deputies or agency security consultant or security operations manager.⁵² Action taken in closed session with respect to such public security issues is not reportable action.



Multijurisdictional law enforcement agency

A joint powers agency formed to provide law enforcement services (involving drugs; gangs; sex crimes; firearms trafficking; felony possession of a firearm; high technology, computer, or identity theft; human trafficking; or vehicle theft) to multiple jurisdictions may hold closed sessions to discuss case records of an on-going criminal investigation, to hear testimony from persons involved in the investigation, and to discuss courses of action in particular cases.⁵³

The exception applies to the legislative body of the joint powers agency and to any body advisory to it. The purpose is to prevent impairment of investigations, to protect witnesses and informants, and to permit discussion of effective courses of action.⁵⁴

Hospital peer review and trade secrets

Two specific kinds of closed sessions are allowed for district hospitals and municipal hospitals, under other provisions of law.⁵⁵

1. A meeting to hear reports of hospital medical audit or quality assurance committees, or for related deliberations. However, an applicant or medical staff member whose staff privileges are the direct subject of a hearing may request a public hearing.
2. A meeting to discuss "reports involving trade secrets" — provided no action is taken.

A "trade secret" is defined as information which is not generally known to the public or competitors and which: 1) "derives independent economic value, actual or potential" by virtue of its restricted knowledge; 2) is necessary to initiate a new hospital service or program or facility; and 3) would, if prematurely disclosed, create a substantial probability of depriving the hospital of a substantial economic benefit.

The provision prohibits use of closed sessions to discuss transitions in ownership or management, or the district's dissolution.⁵⁶



PRACTICE TIP: Meetings are either open or closed. There is nothing “in between.”⁶²

Other legislative bases for closed session

Since any closed session meeting of a legislative body must be authorized by the Legislature, it is important to carefully review the Brown Act to determine if there is a provision that authorizes a closed session for a particular subject matter. There are some less frequently encountered topics that are authorized to be discussed by a legislative body in closed session under the Brown Act, including: a response to a confidential final draft audit report from the Bureau of State Audits,⁵⁷ consideration of the purchase or sale of particular pension fund investments by a legislative body of a local agency that invests pension funds,⁵⁸ hearing a charge or complaint from a member enrolled in a health plan by a legislative body of a local agency that provides Medi-Cal services,⁵⁹ discussions by a county board of supervisors that governs a health plan licensed pursuant to the Knox-Keene Health Care Services Plan Act related to trade secrets or contract negotiations

concerning rates of payment,⁶⁰ and discussions by an insurance pooling joint powers agency related to a claim filed against, or liability of, the agency or a member of the agency.⁶¹

Who may attend closed sessions

Meetings of a legislative body are either fully open or fully closed; there is nothing in between. Therefore, local agency officials and employees must pay particular attention to the authorized attendees for the particular type of closed session. As summarized above, the authorized attendees may differ based on the topic of the closed session. Closed sessions may involve only the members of the legislative body and only agency counsel, management and support staff, and consultants necessary for consideration of the matter that is the subject of closed session, with very limited exceptions for adversaries or witnesses with official roles in particular types of hearings (e.g., personnel disciplinary hearings and license hearings). In any case, individuals who do not have an official role in the closed session subject matters must be excluded from closed sessions.⁶³

Q. May the lawyer for someone suing the agency attend a closed session in order to explain to the legislative body why it should accept a settlement offer?

A. *No, attendance in closed sessions is reserved exclusively for the agency’s advisors.*

The confidentiality of closed session discussions

The Brown Act explicitly prohibits the unauthorized disclosure of confidential information acquired in a closed session by any person present, and offers various remedies to address breaches of confidentiality.⁶⁴ It is incumbent upon all those attending lawful closed sessions to protect the confidentiality of those discussions. One court has held that members of a legislative body cannot be compelled to divulge the content of closed session discussions through the discovery process.⁶⁵ Only the legislative body acting as a body may agree to divulge confidential closed session information; regarding attorney/client privileged communications, the entire body is the holder of the privilege and only the entire body can decide to waive the privilege.⁶⁶

Before adoption of the Brown Act provision specifically prohibiting disclosure of closed session communications, agency attorneys and the Attorney General long opined that officials have a fiduciary duty to protect the confidentiality of closed session discussions. The Attorney General issued an opinion that it is “improper” for officials to disclose information received during a closed session regarding pending litigation,⁶⁷ though the Attorney General has also concluded that a local agency is preempted from adopting an ordinance criminalizing public disclosure of closed session discussions.⁶⁸ In any event, in 2002, the Brown Act was amended to prescribe particular remedies for breaches of confidentiality. These remedies include injunctive relief; and, if the breach is a willful disclosure of confidential information, the remedies include disciplinary action against an employee, and referral of a member of the legislative body to the grand jury.⁶⁹

The duty of maintaining confidentiality, of course, must give way to the responsibility to disclose improper matters or discussions that may come up in closed sessions. In recognition of this public policy, under the Brown Act, a local agency may not penalize a disclosure of information learned during a closed session if the disclosure: 1) is made in confidence to the district attorney or the grand jury due to a perceived violation of law; 2) is an expression of opinion concerning the propriety or legality of actions taken in closed session, including disclosure of the nature and extent of the illegal action; or 3) is information that is not confidential.⁷⁰

The interplay between these possible sanctions and an official’s first amendment rights is complex and beyond the scope of this guide. Suffice it to say that this is a matter of great sensitivity and controversy.

“I want the press to know that I voted in closed session against filing the eminent domain action,” said Council Member Chang.

“Don’t settle too soon,” reveals Council Member Watson to the property owner, over coffee. “The city’s offer coming your way is not our bottom line.”

The first comment to the press may be appropriate if it is a part of an action taken by the City Council in closed session that must be reported publicly.⁷¹ The second comment to the property owner is not — disclosure of confidential information acquired in closed session is expressly prohibited and harmful to the agency.

PRACTICE TIP: There is a strong interest in protecting the confidentiality of proper and lawful closed sessions.

ENDNOTES:

- 1 California Government Code section 54962
- 2 California Constitution, Art. 1, section 3
- 3 61 Ops.Cal.Atty.Gen. 220 (1978); but see California Government Code section 54957.8 (multijurisdictional law enforcement agencies are authorized to meet in closed session to discuss the case records of ongoing criminal investigations, and other related matters).
- 4 California Government Code section 54957.1
- 5 California Government Code section 54954.5
- 6 California Government Code section 54954.2
- 7 California Government Code section 54954.5
- 8 California Government Code sections 54956.9 and 54957.7
- 9 California Government Code section 54957.1(a)
- 10 California Government Code section 54957.1(b)
- 11 California Government Code section 54957.2
- 12 *Hamilton v. Town of Los Gatos* (1989) 213 Cal.App.3d 1050; 2 Cal.Code Regs. section 18707
- 13 *Roberts v. City of Palmdale* (1993) 5 Cal.4th 363
- 14 California Government Code section 54956.9; *Shapiro v. Board of Directors of Center City Development Corp.* (2005) 134 Cal.App.4th 170 (agency must be a party to the litigation).
- 15 82 Ops.Cal.Atty.Gen. 29 (1999)
- 16 *Page v. Miracosta Community College District* (2009) 180 Cal.App.4th 471
- 17 “*The Brown Act*,” California Attorney General (2003), p. 40
- 18 California Government Code section 54956.9(g)
- 19 *Trancas Property Owners Association v. City of Malibu* (2006) 138 Cal.App.4th 172
- 20 Government Code section 54956.9(e)
- 21 California Government Code section 54957.1
- 22 California Government Code section 54956.8
- 23 *Shapiro v. San Diego City Council* (2002) 96 Cal.App.4th 904; see also 93 Ops.Cal.Atty.Gen. 51 (2010) (redevelopment agency may not convene a closed session to discuss rehabilitation loan for a property already subleased to a loan recipient, even if the loan incorporates some of the sublease terms and includes an operating covenant governing the property); 94 Ops.Cal.Atty.Gen. 82 (2011) (real estate closed session may address form, manner and timing of consideration and other items that cannot be disclosed without revealing price and terms).
- 24 73 Ops.Cal.Atty.Gen. 1 (1990)
- 25 California Government Code sections 54956.8 and 54954.5(b)
- 26 California Government Code section 54957.1(a)(1)
- 27 California Government Code section 54957(b)
- 28 63 Ops.Cal.Atty.Gen. 153 (1980); but see *Duvall v. Board of Trustees* (2000) 93 Cal.App.4th 902 (board may discuss personnel evaluation criteria, process and other preliminary matters in closed session but only if related to the evaluation of a particular employee).
- 29 *Gillespie v. San Francisco Public Library Commission* (1998) 67 Cal.App.4th 1165; 85 Ops.Cal.Atty.Gen. 77 (2002)
- 30 *Gillespie v. San Francisco Public Library Commission* (1998) 67 Cal.App.4th 1165; 80 Ops.Cal.Atty. Gen. 308 (1997). Interviews of candidates to fill a vacant staff position conducted by a temporary committee appointed by the governing body may be done in closed session.

- 31 California Government Code section 54957(b)(3)
- 32 88 Ops.Cal.Atty.Gen. 16 (2005)
- 33 *Morrison v. Housing Authority of the City of Los Angeles* (2003) 107 Cal.App.4th 860
- 34 California Government Code section 54957(b); but see *Bollinger v. San Diego Civil Service Commission* (1999) 71 Cal.App.4th 568 (notice not required for closed session deliberations regarding complaints or charges, when there was a public evidentiary hearing prior to closed session).
- 35 78 Ops.Cal.Atty.Gen. 218 (1995); *Bell v. Vista Unified School District* (2000) 82 Cal.App.4th 672; *Furtado v. Sierra Community College* (1998) 68 Cal.App.4th 876; *Fischer v. Los Angeles Unified School District* (1999) 70 Cal.App.4th 87
- 36 *Moreno v. City of King* (2005) 127 Cal.App.4th 17
- 37 California Government Code section 54957
- 38 *Gillespie v. San Francisco Public Library Commission* (1998) 67 Cal.App.4th 1165
- 39 California Government Code section 54957.1(a)(5)
- 40 California Government Code section 54957.6
- 41 California Government Code section 54957.6(b); see also 98 Ops.Cal.Atty.Gen. 41 (2015) (a project labor agreement between a community college district and workers hired by contractors or subcontractors is not a proper subject of closed session for labor negotiations because the workers are not “employees” of the district).
- 42 California Government Code section 54957.6; and 51 Ops.Cal.Atty.Gen. 201 (1968)
- 43 California Government Code section 54957.1(a)(6)
- 44 California Government Code section 3549.1
- 45 California Government Code section 3540
- 46 California Government Code section 3547
- 47 California Education Code section 48918; but see *Rim of the World Unified School District v. Superior Court* (2003) 104 Cal.App.4th 1393 (Section 48918 preempted by the Federal Family Educational Right and Privacy Act in regard to expulsion proceedings).
- 48 California Education Code section 72122
- 49 California Education Code section 60617
- 50 California Government Code section 54956.96
- 51 California Government Code section 54956.7
- 52 California Government Code section 54957
- 53 *McKee v. Los Angeles Interagency Metropolitan Police Apprehension Crime Task Force* (2005) 134 Cal. App.4th 354
- 54 California Government Code section 54957.8
- 55 California Government Code section 54962
- 56 California Health and Safety Code section 32106
- 57 California Government Code section 54956.75
- 58 California Government Code section 54956.81
- 59 California Government Code section 54956.86
- 60 California Government Code section 54956.87
- 61 California Government Code section 54956.95
- 62 46 Ops.Cal.Atty.Gen. 34 (1965)
- 63 82 Ops.Cal.Atty.Gen. 29 (1999)

- 64 Government Code section 54963
- 65 *Kleitman v. Superior Court* (1999) 74 Cal.App.4th 324, 327; see also California Government Code section 54963.
- 66 *Roberts v. City of Palmdale* (1993) 5 Cal.4th 363
- 67 80 Ops.Cal.Atty.Gen. 231 (1997)
- 68 76 Ops.Cal.Atty.Gen. 289 (1993)
- 69 California Government Code section 54963
- 70 California Government Code section 54963
- 71 California Government Code section 54957.1

Updates to this publication responding to changes in the Brown Act or new court interpretations are available at www.cacities.org/opengovernment. A current version of the Brown Act may be found at www.leginfo.ca.gov.



Chapter 6

REMEDIES

Invalidation.....	56
Applicability to Past Actions	57
Civil action to prevent future violations	57
Costs and attorney’s fees	58
Criminal complaints.....	58
Voluntary resolution.....	59

Chapter 6

REMEDIES



Certain violations of the Brown Act are designated as misdemeanors, although by far the most commonly used enforcement provisions are those that authorize civil actions to invalidate specified actions taken in violation of the Brown Act and to stop or prevent future violations. Still, despite all the safeguards and remedies to enforce them, it is ultimately impossible for the public to monitor every aspect of public officials' interactions. Compliance ultimately results from regular training and a good measure of self-regulation on the part of public officials. This chapter discusses the remedies available to the public when that self-regulation is ineffective.

Invalidation

Any interested person, including the district attorney, may seek to invalidate certain actions of a legislative body on the ground that they violate the Brown Act.¹ Violations of the Brown Act, however, cannot be invalidated if they involve the following types of actions:

- Those taken in substantial compliance with the law. No Brown Act violation is found when the given notice substantially complies with the Brown Act, even when the notice erroneously cites to the wrong Brown Act section, but adequately advises the public that the Board will meet with legal counsel to discuss potential litigation in closed session;²
- Those involving the sale or issuance of notes, bonds or other indebtedness, or any related contracts or agreements;
- Those creating a contractual obligation, including a contract awarded by competitive bid for other than compensation for professional services, upon which a party has in good faith relied to its detriment;
- Those connected with the collection of any tax; or
- Those in which the complaining party had actual notice at least 72 hours prior to the regular meeting or 24 hours prior to the special meeting, as the case may be, at which the action is taken.

Before filing a court action seeking invalidation, a person who believes that a violation has occurred must send a written "cure or correct" demand to the legislative body. This demand must clearly describe the challenged action and the nature of the claimed violation. This demand must be sent within 90 days of the alleged violation or 30 days if the action was taken in open session but in violation of Section 54954.2, which requires (subject to specific exceptions) that only properly agendaized items are acted on by the governing body during a meeting.³ The legislative body then has up to 30 days to cure and correct its action. If it does not act, any lawsuit must be filed within the next 15 days. The purpose of this requirement is to offer the body an opportunity to consider whether a violation has occurred and to weigh its options before litigation is filed.

Although just about anyone has standing to bring an action for invalidation,⁴ the challenger must show prejudice as a result of the alleged violation.⁵ An action to invalidate fails to state a cause of action against the agency if the body deliberated but did not take an action.⁶

Applicability to Past Actions

Any interested person, including the district attorney, may file a civil action to determine whether past actions of a legislative body occurring on or after January 1, 2013 constitute violations of the Brown Act and are subject to a mandamus, injunction, or declaratory relief action.⁷ Before filing an action, the interested person must, within nine months of the alleged violation of the Brown Act, submit a “cease and desist” letter to the legislative body, clearly describing the past action and the nature of the alleged violation.⁸ The legislative body has 30 days after receipt of the letter to provide an unconditional commitment to cease and desist from the past action.⁹ If the body fails to take any action within the 30-day period or takes an action other than an unconditional commitment, a lawsuit may be filed within 60 days.¹⁰

The legislative body’s unconditional commitment must be approved at a regular or special meeting as a separate item of business and not on the consent calendar.¹¹ The unconditional commitment must be substantially in the form set forth in the Brown Act.¹² No legal action may thereafter be commenced regarding the past action.¹³ However, an action of the legislative body in violation of its unconditional commitment constitutes an independent violation of the Brown Act and a legal action consequently may be commenced without following the procedural requirements for challenging past actions.¹⁴

The legislative body may rescind its prior unconditional commitment by a majority vote of its membership at a regular meeting as a separate item of business not on the consent calendar. At least 30 days written notice of the intended rescission must be given to each person to whom the unconditional commitment was made and to the district attorney. Upon rescission, any interested person may commence a legal action regarding the past actions without following the procedural requirements for challenging past actions.¹⁵

Civil action to prevent future violations

The district attorney or any interested person can file a civil action asking the court to:

- Stop or prevent violations or threatened violations of the Brown Act by members of the legislative body of a local agency;
- Determine the applicability of the Brown Act to actions or threatened future action of the legislative body;
- Determine whether any rule or action by the legislative body to penalize or otherwise discourage the expression of one or more of its members is valid under state or federal law; or
- Compel the legislative body to tape record its closed sessions.

PRACTICE TIP: A lawsuit to invalidate must be preceded by a demand to cure and correct the challenged action in order to give the legislative body an opportunity to consider its options. The Brown Act does not specify how to cure or correct a violation; the best method is to rescind the action being complained of and start over, or reaffirm the action if the local agency relied on the action and rescinding the action would prejudice the local agency.



It is not necessary for a challenger to prove a past pattern or practice of violations by the local agency in order to obtain injunctive relief. A court may presume when issuing an injunction that a single violation will continue in the future where the public agency refuses to admit to the alleged violation or to renounce or curtail the practice.¹⁶ Note, however, that a court may not compel elected officials to disclose their recollections of what transpired in a closed session.¹⁷

Upon finding a violation of the Brown Act pertaining to closed sessions, a court may compel the legislative body to tape record its future closed sessions. In a subsequent lawsuit to enforce the Brown Act alleging a violation occurring in closed session, a court may upon motion of the plaintiff review the tapes if there is good cause to think the Brown Act has been violated, and make public the relevant portion of the closed session recording.

Costs and attorney's fees

Someone who successfully invalidates an action taken in violation of the Brown Act or who successfully enforces one of the Brown Act's civil remedies may seek court costs and reasonable attorney's fees. Courts have held that attorney's fees must be awarded to a successful plaintiff unless special circumstances exist that would make a fee award against the public agency unjust.¹⁸ When evaluating how to respond to assertions that the Brown Act has been violated, elected officials and their lawyers should assume that attorney's fees will be awarded against the agency if a violation of the Act is proven.

An attorney's fee award may only be directed against the local agency and not the individual members of the legislative body. If the local agency prevails, it may be awarded court costs and attorney's fees if the court finds the lawsuit was clearly frivolous and lacking in merit.¹⁹

Criminal complaints

A violation of the Brown Act by a member of the legislative body who acts with the improper intent described below is punishable as a misdemeanor.²⁰

A criminal violation has two components. The first is that there must be an overt act — a member of a legislative body must attend a meeting at which action is taken in violation of the Brown Act.²¹

"Action taken" is not only an actual vote, but also a collective decision, commitment or promise by a majority of the legislative body to make a positive or negative decision.²² If the meeting involves mere deliberation without the taking of action, there can be no misdemeanor penalty.

A violation occurs for a tentative as well as final decision.²³ In fact, criminal liability is triggered by a member's participation in a meeting in violation of the Brown Act — not whether that member has voted with the majority or minority, or has voted at all.

The second component of a criminal violation is that action is taken with the intent of a member "to deprive the public of information to which the member knows or has reason to know the public is entitled" by the Brown Act.²⁴

PRACTICE TIP: Attorney's fees will likely be awarded if a violation of the Brown Act is proven.

As with other misdemeanors, the filing of a complaint is up to the district attorney. Although criminal prosecutions of the Brown Act are uncommon, district attorneys in some counties aggressively monitor public agencies' adherence to the requirements of the law.

Some attorneys and district attorneys take the position that a Brown Act violation may be pursued criminally under Government Code section 1222.²⁵ There is no case law to support this view; if anything, the existence of an express criminal remedy within the Brown Act would suggest otherwise.²⁶

Voluntary resolution

Arguments over Brown Act issues often become emotional on all sides. Newspapers trumpet relatively minor violations, unhappy residents fume over an action, and legislative bodies clam up about information better discussed in public. Hard lines are drawn and rational discussion breaks down. The district attorney or even the grand jury occasionally becomes involved. Publicity surrounding alleged violations of the Brown Act can result in a loss of confidence by constituents in the legislative body. There are times when it may be preferable to consider re-noticing and rehearing, rather than litigating, an item of significant public interest, particularly when there is any doubt about whether the open meeting requirements were satisfied.

At bottom, agencies that regularly train their officials and pay close attention to the requirements of the Brown Act will have little reason to worry about enforcement.

ENDNOTES:

- 1 California Government Code section 54960.1. Invalidation is limited to actions that violate the following sections of the Brown Act: section 54953 (the basic open meeting provision); sections 54954.2 and 54954.5 (notice and agenda requirements for regular meetings and closed sessions); 54954.6 (tax hearings); 54956 (special meetings); and 54956.5 (emergency situations). Violations of sections not listed above cannot give rise to invalidation actions, but are subject to the other remedies listed in section 54960.1.
- 2 *Castaic Lake Water Agency v. Newhall County Water District* (2015) 238 Cal.App.4th 1196, 1198
- 3 California Government Code section 54960.1 (b) and (c)(1)
- 4 *McKee v. Orange Unified School District* (2003) 110 Cal. App.4th 1310, 1318-1319
- 5 *Cohan v. City of Thousand Oaks* (1994) 30 Cal.App.4th 547, 556, 561
- 6 *Boyle v. City of Redondo Beach* (1999) 70 Cal.App.4th 1109, 1116-17, 1118
- 7 Government Code Section 54960.2(a); Senate Bill No. 1003, Section 4 (2011-2012 Session)
- 8 Government Code Sections 54960.2(a)(1), (2)
- 9 Government Code Section 54960.2(b)



- 10 Government Code Section 54960.2(a)(4)
- 11 Government Code Section 54960.2(c)(2)
- 12 Government Code Section 54960.2(c)(1)
- 13 Government Code Section 54960.2(c)(3)
- 14 Government Code Section 54960.2(d)
- 15 Government Code Section 54960.2(e)
- 16 *California Alliance for Utility Safety and Education (CAUSE) v. City of San Diego* (1997) 56 Cal.App.4th 1024; *Common Cause v. Stirling* (1983) 147 Cal.App.3d 518, 524; *Accord Shapiro v. San Diego City Council* (2002) 96 Cal. App. 4th 904, 916 & fn.6
- 17 *Kleitman v. Superior Court* (1999) 74 Cal.App.4th 324, 334-36
- 18 *Los Angeles Times Communications, LLC v. Los Angeles County Board of Supervisors* (2003) 112 Cal. App.4th 1313, 1327-29 and cases cited therein
- 19 California Government Code section 54960.5
- 20 California Government Code section 54959. A misdemeanor is punishable by a fine of up to \$1,000 or up to six months in county jail, or both. California Penal Code section 19. Employees of the agency who participate in violations of the Brown Act cannot be punished criminally under section 54959. However, at least one district attorney instituted criminal action against employees based on the theory that they criminally conspired with the members of the legislative body to commit a crime under section 54949.
- 21 California Government Code section 54959
- 22 California Government Code section 54952.6
- 23 61 Ops.Cal.Atty.Gen.283 (1978)
- 24 California Government Code section 54959
- 25 California Government Code section 1222 provides that “[e]very wilful omission to perform any duty enjoined by law upon any public officer, or person holding any public trust or employment, where no special provision is made for the punishment of such delinquency, is punishable as a misdemeanor.”
- 26 The principle of statutory construction known as *expressio unius est exclusio alterius* supports the view that section 54959 is the exclusive basis for criminal liability under the Brown Act.

Updates to this publication responding to changes in the Brown Act or new court interpretations are available at www.cacities.org/opengovernment. A current version of the Brown Act may be found at www.leginfo.ca.gov.



1400 K Street, Suite 400, Sacramento, CA 95814
Phone: (916) 658-8200 | Fax: (916) 658-8240
www.cacities.org | www.cacities.org/events | www.westerncity.com



CITY COUNCIL ORDINANCE NO. 18-08
(Approved by the Voters on June 5, 2018)

AN ORDINANCE OF THE PEOPLE OF THE CITY OF
IRVINE, CALIFORNIA, AMENDING THE CITY CHARTER
OF THE CITY OF IRVINE TO REQUIRE A 2/3 VOTE OF
THE CITY COUNCIL TO PROPOSE TAXES

NOW, THEREFORE, the City Council of the City of Irvine, California DOES
HEREBY ORDAIN as follows:

SECTION 1: Text of Charter Amendment. The City Charter of the City of Irvine is hereby amended as follows (underlining showing additions and ~~strike-through~~ showing deletions):

Section 904. City Council Sponsored Tax Proposals – 2/3 Vote Requirement.

Notwithstanding any conflicting provision of this Charter, no City Council sponsored proposal to impose, extend or increase a tax shall be presented at an election unless the ordinance or resolution proposing to impose, extend or increase such tax is approved by at least a two-thirds vote of the total members of the City Council. As used in this section, the term "tax" shall mean both a "general tax" and a "special tax" as defined in Article XIIC, Section 1, subdivisions (a) and (d), respectively, of the California Constitution.

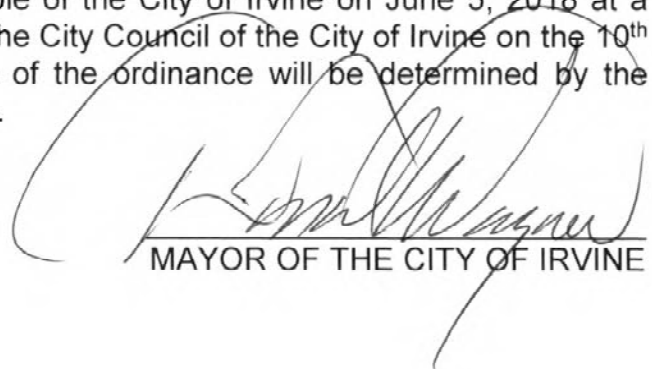
SECTION 2: Ballot Description. As provided in Government Code section 34458.5, the following ballot description is included in this proposed Charter Amendment measure:

CHARTER AMENDMENT (Section 904): This Charter Amendment measure would amend the City Charter to add Section 904. Proposed Section 904 would require any tax proposal sponsored by the City Council that imposes, extends or increases a tax to be approved by at least a two-thirds vote of the total membership of the City Council in order to be presented to the voters at an election, whereas presently only a majority vote of the City Council is required to place most tax measures on the ballot for voter consideration. The term "tax" in proposed Section 904 means both "general" and "special" taxes as defined in Article XIIC of the California Constitution. A "general tax" is defined in the California Constitution as a tax imposed for general governmental purposes. A "special tax" is defined in the California Constitution as a tax imposed for specific purposes, including a tax imposed for a specific purpose which is placed into a general fund. This amendment does not give the City Council power to raise its compensation or that of other City officials without voter approval.

SECTION 3: Severability. It is the intent of the people that the provisions of this Charter Amendment measure are severable and that if any provision of this Charter Amendment measure, or the application thereof to any person or circumstance, is held invalid such invalidity shall not affect any other provision or application of this Charter Amendment measure which can be given effect without the invalid provision or application.

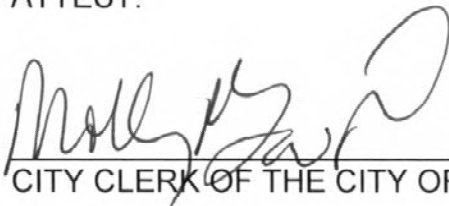
SECTION 4: Effective Date. This Charter Amendment measure shall become effective in the manner allowed by law.

ADOPTED by the vote of the people of the City of Irvine on June 5, 2018 at a Special Municipal Election as certified by the City Council of the City of Irvine on the 10th day of July 2018, and the effective date of the ordinance will be determined by the official filing date by the Secretary of State.



MAYOR OF THE CITY OF IRVINE

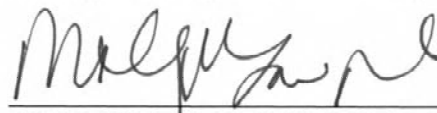
ATTEST:



CITY CLERK OF THE CITY OF IRVINE

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS
CITY OF IRVINE)

I, MOLLY MCLAUGHLIN, City Clerk of the City of Irvine, HEREBY DO CERTIFY that the foregoing Charter Amendment was adopted by the voters of the City of Irvine as an initiative measure at an election held on June 5, 2018, as certified by the City Council of the City of Irvine on the 10th day of July 2018, and that the effective date of the ordinance will be determined by the official filing date by the Secretary of State's Office.



CITY CLERK OF THE CITY OF IRVINE

CITY COUNCIL ORDINANCE NO. 14-04
(Approved by the Voters on November 4, 2014)

AN ORDINANCE OF THE CITY OF IRVINE
ESTABLISHING POLICIES RELATING TO FISCAL
TRANSPARENCY AND REFORMS FOR THE ORANGE
COUNTY GREAT PARK PROJECT

The people of the City of Irvine do ordain as follows:

Section 1. Title. This Ordinance shall be known and referred to as the Orange County Great Park Fiscal Transparency and Reforms Act.

Section 2. Purpose. This Ordinance is adopted to establish certain policies relating to the Orange County Great Park project with regard to the governing structures and responsibilities of the City of Irvine and the Orange County Great Park Corporation; review and approval of contracts and expenditures relating to the development, operations, and maintenance of the Orange County Great Park; conduct of annual audits of expenditures on the Great Park; assurance of transparency through the implementation of whistleblower protections; and the composition of the Great Park Board of Directors.

Section 3. Recitals. It is found and declared that:

A. The City of Irvine ("City") owns and is responsible for the development of the Orange County Great Park.

B. The City authorized the formation of the Orange County Great Park Corporation as a "supporting organization" (pursuant to section 509(a)(3) of the United States Internal Revenue Code) to assist the City in the exercise of its powers to plan, develop, operate and maintain the Orange County Great Park.

C. The City has received, and will continue to receive over time, funds from a variety of services, including without limitation development agreement fees, adjacent landowner public benefit funds, financing district funds, Quimby Act funds, and funds related to redevelopment and redevelopment dissolution. These categories of funds, among others, may be used toward the planning, development, operation, and maintenance of the Orange County Great Park.

D. The Orange County Great Park Corporation Board of Directors currently consists of the five members of the Irvine City Council.

E. Employees serving the Orange County Great Park Corporation are employees of the City of Irvine, working within the City's organizational structure and functioning under the general direction and supervision of the City Manager.

F. It is important to ensure accountability, resource management and efficiency in the planning, design, construction, operation and maintenance of the Orange County Great Park.

Section 4. Appropriation, Expenditure of Funds, and Letting of Contracts for the Planning, Development, Operation, and Maintenance of the Orange County Great Park

A. The City of Irvine shall consider all contracts and property instruments relating to the Orange County Great Park and shall appropriate the allocation of funds. The City shall review and have final authority over all financial matters, including contracts for professional services, design, construction, operation and maintenance of the Orange County Great Park.

B. For so long as the Orange County Great Park Corporation continues to exist, prior to making any funding appropriation and/or approving any contract for an expenditure on or for the benefit of the Orange County Great Park, the City shall receive a recommendation with regard to such appropriation or expenditure from the Orange County Great Park Corporation Board of Directors.

C. For so long as the Orange County Great Park Corporation continues to exist, prior to approving any change that would increase spending on or for the benefit of the Orange County Great Park, the City shall receive a recommendation with regard to such increase from the Orange County Great Park Corporation Board of Directors.

D. As a prerequisite to the receipt of any funding for the planning, development, operation, and maintenance of the Orange County Great Park, the members of the Orange County Great Park Board of Directors, for so long as the Orange County Great Park Corporation continues to exist, must be solely and exclusively members of the Irvine City Council.

Section 5. Assuring Transparency In The Planning, Design, Operation, and Maintenance of the Orange County Great Park.

A. On an annual basis, the City shall, by way of contract with an accredited outside professional auditing firm, conduct an audit of all Great Park funds. A final audit report shall be prepared, made publicly available, and posted on the City of Irvine website.

B. To the extent not otherwise prohibited by State or Federal law, City and/or Great Park officials and employees shall not use or threaten to use any official authority or influence to discourage, restrain or interfere with or to effect a reprisal against any person, including but not limited to a City and/or Great Park official, employee, or vendor, for the purpose or with the intent of preventing such person from acting in good faith to report or otherwise bring to the attention of the City or other appropriate agency, office or department, any information that, if true, would constitute a gross waste, fraud, or abuse of Great Park funds or resources, a gross abuse of

authority, a specified and substantial danger to public health or safety due to any act or omission of any City and/or Great Park official, employee, or vendor, or the use of a City and/or Great Park office or position or of City and/or Great Park resources for personal gain.

Section 6. Effective Date. This Ordinance shall go into effect ten (10) days after the date on which the election results are declared by the City Council.

Section 7. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, that determination of invalidity shall not affect other provisions or application of the Ordinance that can be given effect without the invalid provision, and to this end the provisions of this Ordinance are severable. The voters of the City hereby declare that they would have adopted this Ordinance and each portion thereof regardless of the fact that an invalid portion or portions may have been present in the Ordinance.

ADOPTED by the vote of the people of the City of Irvine on November 4, 2014 at a General Municipal Election as certified by the City Council of the City of Irvine on the 9th day of December, 2014, and becomes effective 10 days thereafter on December 19, 2014.


MAYOR OF THE CITY OF IRVINE

ATTEST:


CITY CLERK OF THE CITY OF IRVINE

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS
CITY OF IRVINE)

I, MOLLY MCLAUGHLIN, City Clerk of the City of Irvine, HEREBY DO CERTIFY that the foregoing Ordinance was adopted by the voters of the City of Irvine as an initiative measure at an election held on November 4, 2014, as certified by the City Council of the City of Irvine on the 9th day of December, 2014, and that the ordinance becomes effective 10 days thereafter on December 19, 2014.


CITY CLERK OF THE CITY OF IRVINE

CITY COUNCIL ORDINANCE NO. 14-05
(Approved by the voters on November 4, 2014)

AN ORDINANCE OF THE PEOPLE OF THE CITY OF
IRVINE, CALIFORNIA, AMENDING THE CITY CHARTER
OF THE CITY OF IRVINE TO CREATE LIFETIME TERM
LIMITS FOR THE MAYOR AND CITY COUNCIL MEMBERS

WHEREAS, Government Code section 36502 and the inherent powers of a charter city permit a city to adopt an ordinance proposing to limit or repeal the limit on the number of terms that a member of the City Council and/or the elected Mayor may serve, subject to the approval of the voters of the city at a regularly scheduled election; and

WHEREAS, Section 400 of the Charter for the City of Irvine currently imposes consecutive term limits for members of City Council and the elected Mayor, but does not impose lifetime term limits; and

WHEREAS, the purpose of lifetime term limits is to promote a free and democratic system of fair elections, and to encourage qualified candidates to seek public office by limiting the powers of incumbency; and

WHEREAS, to provide the opportunity of continuity of leadership by members of the City Council and Mayor while at the same time continuing to limit the power of incumbency, it is appropriate to amend the Charter of the City of Irvine to place lifetime limits on the total number of terms which members of the City Council or Mayor may serve; and

WHEREAS, pursuant to Elections Code section 1415, Government Code section Government Code section 36502, and the inherent powers of a charter city, the City Council has determined to submit to the voters at a General Municipal Election a ballot measure amending the City Charter of the City of Irvine to place lifetime limits on the number of years which members of the City Council or Mayor may serve.

NOW, THEREFORE, THE PEOPLE OF THE CITY OF IRVINE, CALIFORNIA, DO ORDAIN AS FOLLOWS:

SECTION 1. Findings. The above recitals are true and correct and incorporated herein.

SECTION 2. Amendment of the City Charter. Section 400 of the Charter of the City of Irvine is hereby amended to read as follows:

Section 400. Mayor and City Council.

The City Council, hereinafter termed "Council," shall consist of a Mayor and four (4) Council members elected to office from the City at large in the manner provided in this Charter.

The Mayor shall serve a term of two (2) years. Any person who serves two (2) full terms as Mayor shall not be eligible to serve again as Mayor. If a Mayor serves a partial term in excess of one (1) year, it shall be considered a full term for the purpose of this provision. Other than as set forth herein, eligibility for office, compensation, vacancies and the filling of vacancies shall be the same for the office of Mayor as provided for the office of Council member by this Charter. The Mayor, in addition to serving as the presiding officer of the Council, shall have all of the rights, powers and duties of a Council member and shall be a member of the Council.

The term of office for a Council member shall be four (4) years. Alternatively, and successively, two (2) four-year terms shall be filled at one general municipal election and two (2) four-year terms at the next such election, consistent with the sequence of terms of Council members existing on the effective date hereof. Any person who serves two (2) full terms as a member of the City Council shall not be eligible to serve again as a member of the City Council. If a Council member serves a partial term in excess of two (2) years, it shall be considered a full term for the purpose of this provision.

If at any general municipal election, one (1) or more Council member, whose term of office will not expire as of the election, and who would be required to vacate the office of Council member if elected to the office of Mayor, files as a candidate for the office of Mayor, the following procedure will be used to fill the contingent vacancy in the office of Council member that would arise if the sitting Council member were elected Mayor: To the extent legally possible, the ballot for the office of Council member, the official election materials and voter information pamphlet shall notify the voters that they may cast ballots for not more than three (3) candidates for the office of Council member; that at least two (2) Council offices shall be filled by election; and that if a Council member whose term of office will not expire as of the election is elected to the office of Mayor, the vacancy in the office of that Council member shall be filled by the candidate for Council member receiving the third highest number of votes at the same municipal election.

The term of the Mayor and a Council member shall commence at the next regularly scheduled meeting of the Council following certification of the election results by the election official or such earlier other date as may be established by ordinance of the City Council, and he or she shall serve until his or her successor qualifies. Any ties in voting and any determination with respect to which Council member is to fill which office shall be settled by the casting of lots. No person shall hold both the office of Mayor and Council member.

The term limits established by this section shall be applicable prospectively only. The term limits shall not apply to any term that began before November 4, 2014.

As used herein the term "qualifies" shall mean, in addition to the provisions of the general law, having taken the oath of office following the election and his or her term of office shall have commenced.

SECTION 3. Severability. If any section, subsection, sentence, clause phrase or portion of this Ordinance is for any reason, held to be invalid or unenforceable by a court of competent jurisdiction, then the remaining portions of this Ordinance shall nonetheless remain in full force and effect. The People of the City of Irvine, California, hereby declare that they would have adopted each section, subsection, sentence, clause, phrase, or portion of this Ordinance irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions of this Ordinance be declared invalid or unenforceable.

SECTION 4. Effective Date. This Ordinance shall go into effect ten (10) days after the date on which the election results are declared by the City Council.

SECTION 5. Execution. The Mayor is hereby authorized to attest to the adoption of this Ordinance by the voters of the City of Irvine by signing where indicated below. The Clerk is authorized to publish this Ordinance in compliance with law.

ADOPTED by the vote of the people of the City of Irvine on November 4, 2014 at a General Municipal Election as certified by the City Council of the City of Irvine on the 9th day of December, 2014, and becomes effective 10 days thereafter on December 19, 2014.



MAYOR OF THE CITY OF IRVINE

ATTEST:


CITY CLERK OF THE CITY OF IRVINE

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS
CITY OF IRVINE)

I, MOLLY MCLAUGHLIN, City Clerk of the City of Irvine, HEREBY DO CERTIFY that the foregoing Ordinance was adopted by the voters of the City of Irvine as an initiative measure at an election held on November 4, 2014, as certified by the City Council of the City of Irvine on the 9th day of December, 2014, and that the ordinance becomes effective 10 days thereafter on December 19, 2014.


CITY CLERK OF THE CITY OF IRVINE

INITIATIVE ORDINANCE NO. 08-17
(Approved by the Voters on November 4, 2008)

AN ORDINANCE OF THE CITY OF IRVINE RATIFYING AND IMPLEMENTING
POLICIES RELATING TO THE ORANGE COUNTY GREAT PARK PROJECT

The people of the City of Irvine do ordain as follows:

Section 1. Title. This Ordinance shall be known and referred to as the Orange County Great Park Ratification and Implementation Act.

Section 2. Purpose. This Ordinance is adopted to ratify and implement certain policies relating to the Orange County Great Park project with regard to the governing structures and responsibilities of the City of Irvine and the Orange County Great Park Corporation, funding and construction, operation and maintenance considerations, and major policies and programs.

Section 3. Recitals. It is found and declared that:

A. The City of Irvine owns and is responsible for the development of over 1,000 acres of land at the former Marine Corps Air Station (MCAS) El Toro.

B. Prior to the transfer of MCAS El Toro by the United States Department of the Navy, the City of Irvine developed the "Great Park Plan" and authorized the formation of the Orange County Great Park Corporation as a "supporting organization" (pursuant to section 509(a)(3) of the United States Internal Revenue Code) to assist the City in the exercise of its powers to develop, operate and maintain the Orange County Great Park.

C. Upon the transfer of a portion of MCAS El Toro to the City of Irvine, the City received payments of developer fees generated through a Development Agreement between the City and Lennar Corporation (later Heritage Fields), and the City expects to receive financing district funds that will accrue to be invested in the development of the backbone infrastructure and development of the Orange County Great Park.

D. The Orange County Great Park Corporation Board of Directors consists of the five members of the Irvine City Council and four appointed directors.

E. Employees serving the Orange County Great Park Corporation are employees of the City of Irvine, working within the City's organizational structure (that is, as a distinct operating department of the City) and functioning under the general direction and supervision of the City Manager.

F. It is important to ensure accountability, resource management and efficiency in the planning, design, construction, operation and maintenance of the Orange County Great Park and to further ensure that the governing bodies and staff of the City of Irvine and the Orange County Great Park Corporation work in an integrated, coordinated and seamless manner.

Section 4. Respective roles and responsibilities of the City of Irvine and the Orange County Great Park Corporation.

A. With regard to the Orange County Great Park Corporation Board of Directors:

1. The existing structure of the Corporation Board is designed to ensure inclusion of independent participation recommending essential policy adoption concerning planning, designing, constructing, operating, and maintaining the public portions of the Orange County Great Park. The Corporation Board may develop Orange County Great Park use policies for presentation to the City Council for adoption.

2. The Corporation Board shall be responsible for ensuring that applicable policy guidelines and design principles are implemented.

3. The Corporation Board shall be responsible for providing direction and oversight with respect to planning, designing and constructing the Orange County Great Park.

4. The Corporation Board shall oversee construction of the Orange County Great Park. With the exception of change orders expressly authorized for approval by the Chief Executive Officer of the Corporation, the Corporation Board shall recommend all change orders, contract dispute resolutions and final acceptance of construction for approval by the City Council.

B. With regard to the Orange County Great Park Corporation staff:

1. The Corporation Staff shall be responsible for initiating fund development and fostering relationships with public and private partners to construct and operate the Orange County Great Park. The Corporation Staff shall also be responsible for presenting to the Corporation Board, for subsequent approval by the City Council, the approval of fees, concessions, revenue-generating facilities, programming, services and such other similar matters.

2. The Corporation Staff shall serve as a direct interface with the design team, program manager and construction general contractor(s).

3. The Corporation Staff shall serve as a direct interface with utilities and regulatory agencies and shall make recommendations to the Corporation Board concerning utility agreements and instruments, and regulatory permit applications

and conditions, for consideration by the City Council.

C. With regard to the City of Irvine:

1. Land use modifications must be initiated and approved by the City of Irvine. The City shall exercise its authority in all matters related to land use, zoning, the issuance of financing district bonds and the expenditure of bond proceeds, and disposition of funds.

2. Consistent with existing City of Irvine policies, the City shall consider all contracts and property instruments relating to the Orange County Great Park and shall appropriate the allocation of funds. The City shall review and have final authority over all financial matters, including contracts for professional services, design, construction, operation and maintenance of the Orange County Great Park.

3. Policy decisions related to disposition of publicly held land and expenditure of public funds are legally and shall properly be the responsibility of the City Council. The City of Irvine shall manage all funds for the development of the Orange County Great Park, account for Great Park and Orange County Great Park Corporation-related expenditures, and invest portions of the funds not needed for immediate use in accordance with the City's adopted investment policy.

Section 5. Funding and construction, operation and maintenance considerations.

A. With regard to operation and maintenance matters, prior to completion of the design for the Orange County Great Park, the City of Irvine shall determine whether the City, the Orange County Great Park Corporation, or some combination thereof will operate, program and maintain the Great Park.

B. Funds for the development of the Orange County Great Park, including lease and license revenues, use and event fees, and a portion of the Development Agreement fees and financing district bond proceeds, shall be managed by the City of Irvine in a separate fund to which related expenses will be charged and into which related revenues will be deposited.

C. Operation and maintenance of the Orange County Great Park shall be based on self-sustaining budgets.

D. The City's existing residents and businesses shall continue to be protected from paying for the operation and maintenance of the Orange County Great Park.

E. With the exception of normal, routine and incidental management and administrative support, and except as otherwise specifically provided, the City shall not use City General Funds – including the issuance of public financing or other

instruments of indebtedness that are secured by City General Funds or for which the City General Funds would be obligated or at risk, and inter-fund loans – for the planning, construction, operation or maintenance of the Orange County Great Park. City General Funds shall be available, although not required, for the provision of normal public safety services (excluding special events) within, and the construction and maintenance of publicly accepted roads and rights-of-way through, within or around, the Orange County Great Park.

F. In addition, newly created revenues generated within the Orange County Great Park and the adjoining Lennar/Heritage Fields development (for example, sales taxes, transient occupancy taxes, gas taxes, vehicle license fees, franchise taxes, utility users taxes, property taxes and documentary transfer taxes) shall be available, although not required, for the operation and maintenance of the Orange County Great Park.

Section 6. Ratification of project implementation steps. The approval by the City of Irvine of the following policies and programs is affirmed:

A. The commitment to the identification, establishment and effectuation of highest standards and best practices for the design, construction, operation and maintenance of the Orange County Great Park.

B. The Purchase and Sale and Financing Agreement between the City of Irvine and the Irvine Redevelopment Agency, whereby the City loaned monies from the Great Park Corporation Fund to the Redevelopment Agency for the acquisition of certain real property situated within the Great Park Redevelopment Project Area.

C. The construction and operation of the balloon project and the associated Preview Park, without charge for the general public's use and enjoyment of their essential features, excluding parking, concession activities and special uses.

D. The advancement of priority projects through the undertaking of feasibility analyses for the Agriculture and Food Program; the Arts and Culture Exhibition Space; the Aviation Museum; the Fire Museum; the Visitor Center; the Cultural Terrace District; the Amphitheatre, Botanical Garden, Library, Multi-Cultural Center and National Archives within or adjacent to the Cultural Terrace District; the Center for Community Organizations; the Demonstration Garden; the Sports Park, including early delivery of public sports fields; and the Water Science Park.

Section 7. Effective date and expiration date. This Ordinance shall go into effect ten (10) days after the date on which the election results are declared by the City Council. The provisions of this Ordinance shall expire on the fourth (4th) anniversary of the effective date unless such provisions, or any of them, are extended by a majority vote of the City Council.

Section 8. Construction. To the maximum extent authorized by law, this Ordinance shall be interpreted in a manner consistent with the right of initiative reserved to the people by the California Constitution. Without limiting the foregoing, nothing in this Ordinance is intended and shall not be construed to supersede, diminish or otherwise conflict with applicable requirements of state and federal law.

Section 9. Future amendments. Pursuant to article II, section 10(c) of the California Constitution, the provisions contained in this Ordinance may be amended by a four-fifths vote of the City Council only to the extent such amendments further or expand the intent and objectives set forth in this Ordinance. All other amendments or any proposed repeal of the provisions contained in this Ordinance shall become effective only when approved by the voters.

Section 10. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, that determination of invalidity shall not affect other provisions or application of the Ordinance that can be given effect without the invalid provision, and to this end the provisions of this Ordinance are severable. The voters of the City hereby declare that they would have adopted this Ordinance and each portion thereof regardless of the fact that an invalid portion or portions may have been present in the Ordinance.

ADOPTED by the vote of the people of the City of Irvine on November 4, 2008 at a General Municipal Election as certified by the City Council of the City of Irvine on the 9th day of December, 2008, and becomes effective 10 days thereafter on December 19, 2008.

ATTEST:


CITY CLERK OF THE CITY OF IRVINE

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS
CITY OF IRVINE)

I, SHARIE APODACA, City Clerk of the City of Irvine, HEREBY DO CERTIFY that the foregoing Ordinance was adopted by the voters of the City of Irvine as an initiative measure at an election held on November 4, 2008, as certified by the City Council of the City of Irvine on the 9th day of December, 2008, and that the ordinance becomes effective 10 days thereafter on December 19, 2008.


CITY CLERK OF THE CITY OF IRVINE

INITIATIVE ORDINANCE NO. 08-16
(Approved by the Voters on November 4, 2008)

AN ORDINANCE OF THE CITY OF IRVINE RELATING TO
THE PRIVACY OF INDIVIDUALS' PERSONAL INFORMATION

The people of the City of Irvine do ordain as follows:

Section 1. Title. This Ordinance shall be known and referred to as the City of Irvine Personal Information Privacy Act.

Section 2. Purpose. This Ordinance is adopted to guide the City in its determinations on a case-by-case basis whether to disclose or to withhold individuals' personal information upon a public request for such information when the information is requested by the City for a limited specific purpose and with the representation that the information will be maintained in confidence.

Section 3. Recitals. It is found and declared that:

A. The California Constitution provides that all people in the state enjoy the right of privacy, which is a fundamental and compelling interest. All people also enjoy a right of privacy under the United States Constitution.

B. The California Public Records Act recognizes the rights of individuals to information concerning the conduct of the people's business.

C. At the same time, the California Public Records Act acknowledges the rights of individuals to privacy.

D. Under the California Public Records Act, a public agency is permitted to withhold documents and information from disclosure that are exempted or prohibited pursuant to federal or state law.

E. Under the California Public Records Act, a public agency is also permitted to withhold documents and information from disclosure where, on a case-by-case basis, the public agency determines that the public interest in disclosure is outweighed by the public interest in nondisclosure.

F. Constitutional rights of privacy encompass the ability to control the circulation of individuals' personal information, including but not limited to names, home addresses, telephone numbers and e-mail addresses.

G. A principal factor in ascertaining protected rights of privacy with regard to personal information provided by an individual is whether the individual has a reasonable expectation of privacy for such information. In turn, objectively reasonable expectations of privacy are informed by broadly based and widely accepted community

norms.

H. The voters of the City of Irvine have had, have and will continue to have an expectation of privacy with regard to the personal information that individuals provide to the City of Irvine at the specific request of the City where the request expressly states that the information will be used by the City only for a specific, limited purpose and that the information will be maintained in confidence and will not be shared with others, and where the information is unrelated to the conduct of the City's official business and does not shed light on the City's actions or the performance of its duties and responsibilities.

I. The voters of the City of Irvine have had, have and will continue to have an interest in preventing unsolicited and unwanted mail, telephone calls and e-mail messages.

J. There would be a chilling effect on individuals' willingness to avail themselves of or participate in City programs and services if personal information that they are requested by the City to provide in connection with such activities with a representation of confidentiality is ultimately not limited to the specific purpose for which it is requested and instead is made available to others for uncontrolled purposes.

Section 4. Guidelines for Responses to California Public Record Act Requests for Personal Information.

A. Consistent with the requirements of the United States and the California Constitutions and the California Public Records Act, and as determined on a case-by-case basis, the City of Irvine shall undertake to preserve the privacy of individuals' personal information to the fullest extent possible and permissible.

B. When evaluating the public interests in disclosure and in nondisclosure of individuals' personal information pursuant to a request under the California Public Records Act, the constitutional rights of privacy should be abridged only when there is a compelling public need to do so.

C. In assessing an individual's reasonable expectation of privacy, the City shall consider and place significant weight on the following factors, among others as relevant: whether the personal information was provided by the individual at the specific request of the City and, if so, whether the City specifically represented that the information was requested for a limited, specified purpose; whether the City specifically represented that the information would be maintained in confidence and would not be made available to other persons; and whether the information is related to the conduct of the City's official business or sheds light on the City's actions or the performance of its duties and responsibilities. On the other hand, where an individual voluntarily injects himself or herself into the public arena and prepares and transmits a written or electronic communication to a City official or employee on a topic of official City business, a pending decision or determination, or a subject otherwise within the City's jurisdiction, and the communication contains personal information, there may be no

reasonable expectation of privacy in the absence of other important considerations.

Section 5. Effective date. This Ordinance shall go into effect ten (10) days after the date on which the election results are declared by the City Council.

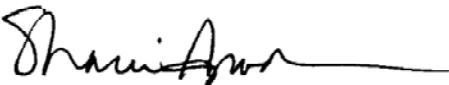
Section 6. Construction. To the maximum extent authorized by law, this Ordinance shall be interpreted in a manner consistent with the right of initiative reserved to the people by the California Constitution. Without limiting the foregoing, nothing in this Ordinance is intended and shall not be construed to supersede, diminish or otherwise conflict with applicable requirements of state and federal law, including without limitation the California Public Records Act.

Section 7. Future amendments. Pursuant to article II, section 10(c) of the California Constitution, the provisions contained in this Ordinance may be amended by a four-fifths vote of the City Council only to the extent such amendments further or expand the intent and objectives set forth in this Ordinance. All other amendments or any proposed repeal of the provisions contained in this Ordinance shall become effective only when approved by the voters.

Section 8. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, that determination of invalidity shall not affect other provisions or application of the Ordinance that can be given effect without the invalid provision, and to this end the provisions of this Ordinance are severable. The voters of the City hereby declare that they would have adopted this Ordinance and each portion thereof regardless of the fact that an invalid portion or portions may have been present in the Ordinance.

ADOPTED by the vote of the people of the City of Irvine on November 4, 2008 at a General Municipal Election as certified by the City Council of the City of Irvine on the 9th day of December, 2008, and becomes effective 10 days thereafter on December 19, 2008.

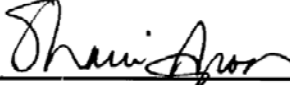
ATTEST:



CITY CLERK OF THE CITY OF IRVINE

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS
CITY OF IRVINE)

I, SHARIE APODACA, City Clerk of the City of Irvine, HEREBY DO CERTIFY that the foregoing Ordinance was adopted by the voters of the City of Irvine as an initiative measure at an election held on November 4, 2008, as certified by the City Council of the City of Irvine on the 9th day of December, 2008, and that the ordinance becomes effective 10 days thereafter on December 19, 2008.



CITY CLERK OF THE CITY OF IRVINE

INITIATIVE ORDINANCE NO. 08-03
(Approved by the Voters on June 3, 2008)

AN ORDINANCE OF THE CITY OF IRVINE PROHIBITING THE MAYOR AND THE MEMBERS OF THE CITY COUNCIL, AND THEIR EXECUTIVE ASSISTANTS AND APPOINTED COMMISSIONERS, FROM (1) ENGAGING IN COMPENSATED EMPLOYMENT OR SERVICE FOR LOBBYING FOR ANY PRIVATE PERSON OR ORGANIZATION BEFORE ANY LOCAL PUBLIC AGENCY LOCATED IN THE COUNTY OF ORANGE, AND (2) HAVING A PERSONAL INVESTMENT OR MONETARY INTEREST IN CITY CONTRACTS

The people of the City of Irvine do ordain as follows:

Section 1. Title. This Ordinance shall be known and referred to as the Irvine City Council Ethical Public Service Ordinance.

Section 2. Purpose. This Ordinance is adopted to ensure that the Mayor and members of the City Council, as elected representatives, and their Executive Assistants and appointed Commissioners, are engaged in public service not for private, personal gain, but to advance the interests of Irvine residents and the entire Irvine community.

Section 3. City allegiance and proper conduct.

A. *Incompatible employment or service.* Because of their uniquely important, visible, and elevated status and responsibilities as elected officials, the Mayor and members of the City Council, and by extension their Executive Assistants and their appointed Commissioners, shall not engage in compensated employment or service for the purpose of lobbying for any private person or organization before any local public agency (county, city or special district) located in the County of Orange.

1. Paragraph A shall not be applicable to lobbying as an in-house employee on behalf of his or her employer (as opposed to a client of the employer).

2. For purposes of paragraph A, "lobbying" shall mean any oral or written communication (including an electronic communication) to an official of a local agency other than the City, made directly or indirectly, in an effort to influence or persuade the official to favor or oppose, recommend or not recommend, vote for or against, or take or refrain from taking action on any public policy issue of a discretionary nature pending before the official's agency, including but not limited to proposed action, or proposals for action, in the form of ordinances, resolutions, motions, recommendations, reports, regulations, policies, nominations, appointments, sanctions, and bids, including the adoption

of specifications, awards, grants, or contracts.

B. *Interest in City contracts.* The Mayor and members of the City Council, and by extension their Executive Assistants and their appointed Commissioners, shall not have a personal investment or monetary interest in any contract made by the City, except contracts relating to the performance of their official City duties.

C. *Knowledge of and agreement to abide by provisions.* The Mayor and members of the City Council and their Executive Assistants and appointed Commissioners shall at the time of their election or appointment or upon the effective date of this Section 3, whichever occurs earlier, sign an appropriate form prepared by the City Clerk reciting their knowledge of the provisions of this Section 3 and their agreement to abide by such provisions.

Section 4. Enforcement of City allegiance and proper conduct provisions.

A. The provisions of Section 3 above express standards of ethical conduct expected for City officials and employees. As an expression of such standards, the provisions of Section 3 are intended to be self-enforcing for the most part. City officials and employees themselves have the primary responsibility to assure that ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of government. It will be most effective when City officials and employees are thoroughly familiar with the expressed standards and embrace them.

B. A violation of the provisions of Section 3 above shall not be considered and shall not constitute a basis for challenging the validity of any decision by the City Council or any other body or agency of the City.

C. All suspected violations of Section 3 above that also pertain to provisions of the Political Reform Act (California Government Code section 81000 et seq.) should be reported to the Fair Political Practices Commission of the State of California.

D. All suspected violations of Section 3 above that may independently constitute criminal offenses, including those outside of the purview of the Fair Political Practices Commission, should be reported to the office of the Orange County District Attorney.

E. Except as otherwise expressly provided by State law, the following shall constitute the exclusive means and procedures of enforcing the provisions of Section 3 above:

1. Alleged violations of Section 3 committed by the Mayor, a member of the City Council or a member of a City commission should be reported in writing to the City Attorney. Upon receipt of the report, the City Attorney shall discuss the matter with the person who is the subject of the allegation, advising such person of the alleged violation and endeavoring to avoid future violations in

the event one has occurred.

2. Alleged violations of Section 3 committed by a City Council Executive Assistant should be reported in writing to the City Manager or his/her designee. Upon receipt of the report, the City Manager, or his/her designee, shall commence an investigation to determine whether the alleged violation is substantiated. The City Manager, or his/her designee, shall discuss the matter with the person who is the subject of the allegation, advising such person of the alleged violation. In the event the City Manager, or his/her designee, determines that a violation has occurred, the City Manager or the appointing authority may take appropriate action in accordance with applicable City rules, regulations, and procedures related to employment and/or discipline.

3. In the event that the City Attorney or City Manager (or his/her designee) determines that a violation of this division has occurred, appropriate documentation should be prepared to memorialize the determination.

Section 5. Effective date. This Ordinance shall go into effect ten (10) days after the date on which the election results are declared by the City Council.

Section 6. Construction. To the maximum extent authorized by law, this Ordinance shall be interpreted in a manner consistent with the right of initiative reserved to the people by the California Constitution. Without limiting the foregoing, nothing in this Ordinance is intended to diminish or otherwise alter applicable requirements of state and federal law.

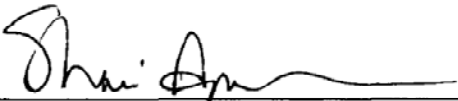
Section 7. Future amendments. Pursuant to article II, section 10(c) of the California Constitution, the provisions contained in this Ordinance may be amended by a four-fifths vote of the City Council only to the extent such amendments further or expand the intent and objectives set forth in this Ordinance, including but not limited to enforcement provisions. All other amendments or any proposed repeal of the provisions contained in this Ordinance shall become effective only when approved by the voters.

Section 8. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, that determination of invalidity shall not affect other provisions or application of the Ordinance that can be given effect without the invalid provision, and to this end the provisions of this Ordinance are severable. The voters of the City hereby declare that they would have adopted this Ordinance and each portion thereof regardless of the fact that an invalid portion or portions may have been present in the Ordinance.

Section 9. Codification. Upon adoption of this Ordinance pursuant to the approval of the City's voters, the City Clerk, in consultation with the City Attorney, is hereby authorized and directed to appropriately codify this Ordinance in the City's Municipal Code.

ADOPTED by the vote of the people of the City of Irvine on June 3, 2008 at a Special Municipal Election as certified by the City Council of the City of Irvine on the 8th day of July, 2008, and becomes effective 10 days thereafter on July 18, 2008.

ATTEST:



CITY CLERK OF THE CITY OF IRVINE

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS
CITY OF IRVINE)

I, SHARIE APODACA, City Clerk of the City of Irvine, HEREBY DO CERTIFY that the foregoing Ordinance was adopted by the voters of the City of Irvine as an initiative measure at an election held on June 3, 2008, as certified by the City Council of the City of Irvine on the 8th day of July, 2008, and that the ordinance becomes effective 10 days thereafter on July 18, 2008.



CITY CLERK OF THE CITY OF IRVINE