

Tuesday, January 21, 2014, 7:00 p.m.

City Council Chambers, 333 Civic Center Plaza

Web Site: www.ci.tracy.ca.us

Americans With Disabilities Act - The City of Tracy complies with the Americans with Disabilities Act and makes all reasonable accommodations for the disabled to participate in Council meetings. Persons requiring assistance or auxiliary aids should call City Hall (209/831-6000) 24 hours prior to the meeting.

Addressing the Council on Items on the Agenda - The Brown Act provides that every regular Council meeting shall provide an opportunity for the public to address the Council on any item within its jurisdiction before or during the Council's consideration of the item, provided no action shall be taken on any item not on the agenda. Each citizen will be allowed a maximum of five minutes for input or testimony. At the Mayor's discretion, additional time may be granted. The City Clerk shall be the timekeeper.

Consent Calendar - All items listed on the Consent Calendar are considered routine and/or consistent with previous Council direction. A motion and roll call vote may enact the entire Consent Calendar. No separate discussion of Consent Calendar items will occur unless members of the City Council, City staff or the public request discussion on a specific item at the beginning of the meeting.

Addressing the Council on Items not on the Agenda – The Brown Act prohibits discussion or action on items *not* on the posted agenda. Members of the public addressing the Council should state their names and addresses for the record, and for contact information. The City Council's Procedures for the Conduct of Public Meetings provide that "Items from the Audience" following the Consent Calendar will be limited to 15 minutes. "Items from the Audience" listed near the end of the agenda will not have a maximum time limit. Each member of the public will be allowed a maximum of five minutes for public input or testimony. However, a maximum time limit of less than five minutes for public input or testimony may be set for "Items from the Audience" depending upon the number of members of the public wishing to provide public input or testimony. The five minute maximum time limit for each member of the public applies to all "Items from the Audience." Any item *not* on the agenda, brought up by a member of the public shall automatically be referred to staff. In accordance with Council policy, if staff is not able to resolve the matter satisfactorily, the member of the public may request a Council Member to sponsor the item for discussion at a future meeting. When members of the public address the Council, they should be as specific as possible about their concerns. If several members of the public comment on the same issue an effort should be made to avoid repetition of views already expressed.

Presentations to Council - Persons who wish to make presentations which may exceed the time limits are encouraged to submit comments in writing at the earliest possible time to ensure distribution to Council and other interested parties. Requests for letters to be read into the record will be granted only upon approval of the majority of the Council. Power Point (or similar) presentations need to be provided to the City Clerk's office at least 24 hours prior to the meeting. All presentations must comply with the applicable time limits. Prior to the presentation, a hard copy of the Power Point (or similar) presentation will be provided to the City Clerk's office for inclusion in the record of the meeting and copies shall be provided to the Council. Failure to comply will result in the presentation being rejected. Any materials distributed to a majority of the Council regarding an item on the agenda shall be made available for public inspection at the City Clerk's office (address above) during regular business hours.

Notice - A 90 day limit is set by law for filing challenges in the Superior Court to certain City administrative decisions and orders when those decisions or orders require: (1) a hearing by law, (2) the receipt of evidence, and (3) the exercise of discretion. The 90 day limit begins on the date the decision is final (Code of Civil Procedure Section 1094.6). Further, if you challenge a City Council action in court, you may be limited, by California law, including but not limited to Government Code Section 65009, to raising only those issues you or someone else raised during the public hearing, or raised in written correspondence delivered to the City Council prior to or at the public hearing.

Full copies of the agenda are available at City Hall, 333 Civic Center Plaza, the Tracy Public Library, 20 East Eaton Avenue, and on the City's website www.ci.tracy.ca.us

CALL TO ORDER

PLEDGE OF ALLEGIANCE

INVOCATION

ROLL CALL

PRESENTATIONS – Swearing In of One Police Captain and Two Police Officers

- Certificates of Appointment – Tracy Arts Commission
- CalRecycle
- Mentoring - Sow A Seed Foundation

1. CONSENT CALENDAR

A. Approval of Minutes

B. Adoption of a Resolution of the City of Tracy, California Consenting to Inclusion of Properties within the City's Jurisdiction in the California Hero Program to Finance Renewable Energy Distributed Generation Sources, Energy and Water Efficiency Improvements and Electric Vehicle Charging Infrastructure, and Approving an Amendment to a Certain Related Joint Powers Agreement

C. Authorize the City Engineer to Negotiate with the San Joaquin County Public Works Department to Enter Into an Agreement to Construct and Maintain Portions of Corral Hollow Road between Parkside Drive and Linne Road

D. Authorization to Purchase Four Trucks Plus Equipment from Tracy Ford in the Amount of \$139,336.80

2. ITEMS FROM THE AUDIENCE

3. CONDUCT A PUBLIC HEARING AND ADOPTION OF AN ORDINANCE ADOPTING, BY REFERENCE, THE 2013 CALIFORNIA BUILDING AND RELATED CODES, SPECIFYING WHICH APPENDICES APPLY TO THE CITY OF TRACY, RE-ADOPTING CERTAIN EXISTING SECTIONS OF TITLE 9 OF THE TRACY MUNICIPAL CODE, ADOPTING STANDARDS RELATED TO EXTERIOR PALLET STORAGE, RADIO AMPLIFICATION SYSTEMS, AUTOMATIC SPRINKLER SYSTEMS AND OTHER EMERGENCY RESPONDER REQUIREMENTS

4. ACCEPT INFORMATION REGARDING SURLAND COMMUNITIES, LLC APPLICATION WITHDRAWAL

5. INTRODUCTION OF AN ORDINANCE ADDING A NEW CHAPTER 3.12, PREFERENTIAL PARKING, TO THE CITY OF TRACY MUNICIPAL CODE

6. DISCUSS AND PROVIDE DIRECTION ON A COUNCIL COMMUNICATIONS POLICY

7. SECOND READING AND ADOPTION OF ORDINANCE 1190 AN ORDINANCE OF THE CITY OF TRACY AMENDING THE EASTLAKE PLANNED UNIT DEVELOPMENT TO REMOVE A FIVE-ACRE SITE PREVIOUSLY DESIGNATED FOR A SCHOOL, AMENDING THE ELISSAGARAY RANCH PLANNED UNIT DEVELOPMENT TO REMOVE A FIVE-ACRE SITE PREVIOUSLY DESIGNATED FOR A SCHOOL, AND CREATING A NEW PLANNED UNIT DEVELOPMENT FOR THE TOTAL TEN-ACRE SITE KNOWN AS THE ELISSAGARAY INFILL PLANNED UNIT DEVELOPMENT. THE PROJECT IS LOCATED ON DOMINIQUE DRIVE BETWEEN EASTLAKE CIRCLE AND BASQUE DRIVE, ASSESSOR'S PARCEL NUMBERS 252-50-24 AND 252-260-01. THE APPLICANT AND PROPERTY OWNER IS TVC TRACY HOLDCO, LLC. APPLICATION NUMBER PUD12-0003
8. SECOND READING AND ADOPTION OF ORDINANCE 1191 AN ORDINANCE OF THE CITY OF TRACY, AMENDING SECTION 3.08.580, OF CHAPTER 3.08 (TRAFFIC REGULATIONS) OF TITLE 3 (PUBLIC SAFETY) OF THE TRACY MUNICIPAL CODE
9. ITEMS FROM THE AUDIENCE
10. STAFF ITEMS
 - A. Receive and Accept the City Manager Informational Update
11. COUNCIL ITEMS
 - A. Appoint Applicants to the Parks and Community Services Commission
 - B. Review Appointments to Council Committees
12. ADJOURNMENT

December 3, 2013, 5:00 p.m.

City Council Chamber, 333 Civic Center Plaza

Web Site: www.ci.tracy.ca.us

1. CALL TO ORDER - Mayor Ives called the meeting to order at 5:00 p.m. for the purpose of a closed session to discuss the items outlined below.
2. ROLL CALL - Roll call found Council Members Manne, Rickman, Young, Mayor Pro Tem Maciel and Mayor Ives present.
3. ITEMS FROM THE AUDIENCE – None.
4. REQUEST TO CONDUCT CLOSED SESSION -
 - I. Personnel Matter (Gov. Code, § 54957)
 - Public Employee Appointment, Employment, Evaluation of Performance, Discipline, or Dismissal

Position Titles: City Attorney and City Manager
5. MOTION TO RECESS TO CLOSED SESSION – Mayor Pro Tem Maciel motioned to recess the meeting to closed session at 5:01 p.m. It was seconded by Council Member Manne. Voice vote found all in favor; passed and so ordered. At 5:59 p.m. the closed session was continued until after the regular City Council meeting.

The closed session was continued at 9:57 p.m.
6. RECONVENE TO OPEN SESSION – Mayor Ives reconvened the meeting into open session at 10:48 p.m.
7. REPORT OF FINAL ACTION – None.
8. ADJOURNMENT – It was moved by Council Member Rickman and seconded by Council Member Manne to adjourn the meeting. Voice vote found all in favor; passed and so ordered. Time: 10:49 p.m.

The above agenda was posted at City Hall on November 27, 2013. The above are action minutes.

Mayor

ATTEST:

City Clerk

December 3, 2013, 7:00 p.m.

City Council Chambers, 333 Civic Center Plaza

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Mayor Ives called the meeting to order at 7:00 p.m., and led the Pledge of Allegiance.

The invocation was offered by Pastor Rob Krenik, Calvary Chapel of Tracy.

Roll call found Council Members Manne, Rickman, Young, Mayor Pro Tem Maciel and Mayor Ives present.

Leon Churchill, Jr., City Manager, presented the Employee of the Month award for December to Gary Castillo, Police Department.

Maria Peterson, Fire Engineer, provided a presentation regarding Holiday Fire Safety.

1. CONSENT CALENDAR - It was moved by Mayor Pro Tem Maciel and seconded by Council Member Rickman to adopt the Consent Calendar. Roll call vote found all in favor; passed and so ordered.
 - A. Approval of Minutes – Regular meeting minutes of October 1, 2013, and closed session minutes of October 15, 2013, and November 5, 2013, were approved.
 - B. Adopt a Resolution Approving the Annual Report on Development Impact Fee Revenues, Expenditures, and Findings Regarding Unexpended Funds – Resolution 2013-183 approved the annual report.
 - C. Approve a Lease Agreement with Holman Capital Corporation, and Related Documents, for the Purchase of Two Triple Combination Fire Pumpers from Hi-Tech Emergency Vehicle Service, Incorporated – Resolution 2013-184 approved the agreement.
 - D. Approve Amendment Three to the Professional Services Agreement (PSA) with Drake Haglan and Associates of Sacramento, California, for Additional Design Services for the Eleventh Street – East Tracy Overhead, Bridge Number 29C-0126 – CIP 73063, Federal Project Number BHLS-5192(020), and Authorize the City Manager to Execute the Amendment – Resolution 2013-185 approved the amendment.
 - E. Authorization for Exercise of Option to Purchase from the West Side Irrigation District the Contract Right to 2,500 Acre-Feet of Central Valley Project Water Supply for \$2.5 Million and Authorization for the Mayor to Execute the Assignment Agreement – Resolution 2013-186 authorized the purchase.
 - F. Acceptance of the Twelfth Street Sidewalk Improvements – CIPs 73132 and 73134, Completed by Knife River Construction of Stockton, California, and

Authorization for the City Clerk to File the Notice of Completion – Resolution 2013-187 accepted the project.

- G. Authorize Interim Renewal Contracts Between the United States Bureau of Reclamation and the City for Providing Central Valley Project Water Service and Authorize the City Manager to Execute the Agreements – Resolution 2013-188 authorized the contract renewals.

2. ITEMS FROM THE AUDIENCE – Paul Miles provided Council with a letter dated December 3, 2013, stating he asked the Mayor, at the Council meeting on November 19, 2013, to direct staff to provide him with a copy of policies and procedures that were implemented to ensure complaints against the Chief of Police would be investigated appropriately. Mr. Miles stated he has not received any communication from any staff member.

Robert Tanner addressed Council concerning recent complaints regarding disability access. Mr. Tanner stated he believed the City needed to address those concerns.

Gary Hampton, Police Chief, addressed Council regarding Mr. Miles' contention that he has received no communication regarding his complaints. Police Chief Hampton stated Mr. Miles has in fact received communication from the Police Chief's office and the City Attorney on every complaint he has filed in accordance with State law. Police Chief Hampton stated Mr. Miles has also received the policies and procedures regarding complaints. Police Chief Hampton further stated Mr. Miles threatened and has successfully tried him in the court of public opinion and that after 27 months of enduring Mr. Miles' comments he can no longer sit by and let himself and members of the Tracy Police Department to be maliciously liabled through Mr. Miles' comments and misleading statements.

Steve Nicolaou provided Council with a letter dated October 21, 2013, addressed to Robin K. Hunt of the Federal Aviation Administration. Mr. Nicolaou stated he did not believe Council had the authority to pursue an over-ride of the Airport Land Use Commission's decision.

Steve Abercrombie addressed Council regarding Brighter Christmas. Mr. Abercrombie stated the Brighter Christmas jail would be held on Wednesday, December 4, 2013, between 9:00 a.m. and noon. Mr. Abercrombie also stated that Kat Country would be conducting a toy drive between 9:00 a.m. and 7:00 p.m. on the same date at the Wal Mart store located on Grant Line Road.

Diana Silva asked for an update regarding the Tracy Sports fields. Mayor Ives indicated the next phase is for the leagues to start building.

3. CONTINUED PUBLIC HEARING TO ADOPT AMENDMENTS TO THE CITYWIDE ROADWAY AND TRANSPORTATION, AND STORM DRAINAGE MASTER PLANS, THE ESTABLISHMENT OF ROADWAY AND TRAFFIC, WATER, RECYCLED WATER, WASTEWATER, STORM DRAINAGE, PUBLIC SAFETY, PUBLIC FACILITIES, AND PARK DEVELOPMENT IMPACT FEES AND THE ASSOCIATED AB1600 FEE

STUDIES FOR ALL NEW DEVELOPMENTS WITHIN THE CITY - Mayor Ives opened the public hearing and then continued the item to January 7, 2014.

4. PUBLIC HEARING TO CONSIDER APPLICATIONS TO AMEND THE EASTLAKE AND ELISSAGARAY RANCH PLANNED UNIT DEVELOPMENTS TO REMOVE A TEN ACRE SITE PREVIOUSLY DESIGNATED FOR A SCHOOL; TO APPROVE THE CONCEPT, PRELIMINARY AND FINAL DEVELOPMENT PLANS FOR THE ELISSAGARAY INFILL PLANNED UNIT DEVELOPMENT; TO APPROVE A VESTING TENTATIVE SUBDIVISION MAP TO SUBDIVIDE THE TEN ACRE SITE INTO 47 RESIDENTIAL LOTS; AND TO INTRODUCE THE ORDINANCE AND ADOPT THE RESOLUTION. THE PROJECT IS LOCATED ON DOMINIQUE DRIVE BETWEEN EASTLAKE CIRCLE AND BASQUE DRIVE, ASSESSOR'S PARCEL NUMBERS 252-050-24 AND 252-260-01. THE APPLICANT AND PROPERTY OWNER IS TVC TRACY HOLDCO, LLC. APPLICATION NUMBERS PUD12-0003 AND TSM12-0002 – It was moved by Mayor Pro Tem Maciel and seconded by Council Member Rickman to continue consideration of the item to December 17, 2013. Voice vote found all in favor; passed and so ordered.

5. PUBLIC HEARING TO CONSIDER AN APPROPRIATION OF \$25,245 IN CITIZENS' OPTIONS FOR PUBLIC SAFETY "COPS" GRANT FUNDING TO PURCHASE POLICE SAFETY EQUIPMENT – Lieutenant Mark Duxbury provided the staff report. Lt. Duxbury stated the Citizens' Option for Public Safety (COPS) grant program is awarded to cities and counties that provide law enforcement services on a per capita basis which is allocated to county Supplemental Law Enforcement Services Funds (SLESF). Government Code 30061 specifies "In order to utilize these funds, under California Government Code Section 30061(c)(2), ...the City Council shall appropriate existing and anticipated moneys exclusively to fund frontline municipal police services, in accordance with the written requests submitted by the Chief of Police..." These written requests shall be acted upon by the City Council at a public hearing.

In August 2012, Council appropriated \$100,000 in SLESF and COPS grant funding, which was used for the purchase of a ballistic engineered armored response all purpose vehicle. The Police Department intends to use the additional award of \$25,425 to purchase safety equipment for patrol vehicles, technological equipment enhancements and automated external defibrillators (AEDs).

The City of Tracy has received the additional \$25,245 from the State COPS Grant. There is no fiscal impact to the Fiscal Year 2013-14 General Fund.

Staff recommended that Council open the public hearing and approve the request to appropriate and expend the State COPS program funds for the aforementioned purchases.

Mayor Ives opened the public hearing.

Paul Miles asked if the loan from the City General Fund to purchase the assault vehicle has been paid in full. Lt. Duxbury stated there was a specific plan to pay back the General Fund over time and payments are on schedule with that plan. Mr. Miles questioned the use of these funds for a defibrillator. Lt. Duxbury stated the defibrillator would be placed inside the facility to be used in interviews, holding cells and front lobby.

Mr. Miles questioned whether the funds were appropriate to help with front line public safety.

As there was no one further wishing to address Council on the item, the public hearing was closed.

It was moved by Mayor Pro Tem Maciel and seconded by Council Member Manne to adopt Resolution 2013-189 approving appropriation of \$25,245 in Citizens' Options for Public Safety Grant Funding for the purchase of Police safety equipment. Voice vote found all in favor; passed and so ordered.

6. ACCEPT UPDATE ON THE TRACY HILLS PROJECT AND PROVIDE DIRECTION ON THE PROPOSED DEVELOPMENT AGREEMENT – Bill Dean, Assistant Development Services Director, provided the staff report. The Tracy Hills Specific Plan was originally approved and annexed to the City in 1998, zoning the site for a mix of residential, commercial and industrial land uses. To date it has not developed, and current efforts by the property owners represent new investment in this project and ideas on how the first phase of development can begin. A significant amount of work has taken place over the last several years on addressing infrastructure delivery to the plan area. This largely took place during the preparation of several Citywide Infrastructure Master Plans approved earlier this year, namely Parks, Roadways, Wastewater, Public Buildings and Public Safety. These Master Plans contemplate the Tracy Hills project and address infrastructure delivery.

Applications have been submitted for a Specific Plan Amendment amending the entire Specific Plan document including proposed land use changes for a portion of the Tracy Hills area (proposed amendment), and a Tentative Subdivision Map for the first phase of development, which is approximately 400 acres containing approximately 1,200 single family homes and 50 acres of business park, as well as a school site, storm drain facilities, roads, and other infrastructure. The proposed amendment still includes residential uses; however, the land uses are organized in a new layout for the area between I-580 and the California Aqueduct.

Several areas of importance include the freeway edge (how to turn habitat constraints into landscaping opportunities); neighborhood design that provides for high levels of mobility, public safety access, and access to public spaces; land dedicated to business park development at the project entrance; project and City of Tracy identification at Corral Hollow Road and I-580.

Per Council direction, staff is negotiating a Development Agreement (DA). The following comprise the basic categories that are being negotiated in this agreement. As negotiations are still ongoing, this list could change, including any changes directed by City Council. A list of the main Draft DA terms will be published with publication of draft project documents including the Draft Specific Plan, Tentative Map, and Draft Environmental Impact Report.

General Terms:

- \$5 million public benefit payment to City for use as directed by City Council

- Vesting rights for the project, meaning that the approvals are “locked in” for the terms of the agreement and cannot be changed without consent of each party, City and developer
- Use of a Community Facilities District (CFD) to fund capital infrastructure costs and maintenance and operations costs of various aspects of the project
- 25 year term

Water Storage:

- Use of water storage at the water treatment plant and timing of water tank, and funding for Aquifer Storage and Recovery (ASR) Well Wastewater Treatment:
- Funding for wastewater treatment plant expansion and reservations for funded capacity Wastewater Conveyance
- Timing and funding of improvements to the Corral Hollow sewer line and force main to Lammers sewer line

Traffic

- Use of traffic development impact fees used for Tracy Hills related traffic impacts
- Project Timing

The City is in the process of preparing a subsequent Environmental Impact Report (EIR) to analyze the applications, and has issued a Notice of Preparation to solicit comments on what should be studied. The Planning Commission conducted a hearing on November 6, 2013, to receive public comment on the scope of the EIR.

There is no fiscal impact associated with this agenda item. The developers have entered into a Cost Recovery Agreement with the City to cover staff and consultant time associated with processing the applications. As the Tracy Hills project is evaluated for infrastructure requirements, environmental impacts, compliance with City standards, the fiscal impacts associated with impacts to public services are also being evaluated. A component of the project involves the formation of a CFD to fund capital infrastructure expenses; this funding tool is also being evaluated to fund maintenance and operational costs associated with the project, including long term costs such as police, fire, and other City services. This is being evaluated in part due to the existing property tax sharing agreement with San Joaquin County where the City share of property tax from the Tracy Hills project is zero percent. This previous arrangement was put in place in the 1990s when the Northeast Industrial Area (NEI) of the City was also contemplated under the tax sharing agreement with the City netting a higher property tax amount in NEI than was customary. The CFD and various capital and operational funding plans will be presented to City Council as work on the project applications progresses.

Staff recommended that Council accept the update on the Tracy Hills project, and provide any direction to staff, as necessary, related to the project or the DA.

John Palmer, Tracy Hills Project Manager, thanked the Mayor and Council for the opportunity to present the project and introduced the project team. Mr. Palmer provided the design features of Phase 1. Mr. Palmer added that project information provided includes previous input from staff and Council.

Van Stevens discussed the design philosophy of the project which includes a walkable community, connectivity, complimentary residential sub-blocks, walking trails and a variety of parks.

Mr. Palmer discussed Tracy Hills Parkway (a roadway in the project) or spine road that snakes through the project. As a design feature, the road helps provide visual interest and a better design for the project. Mr. Palmer added that they would like to work with the City of Tracy and add veteran names to the streets in Tracy Hills.

Mayor Ives asked if the Development Agreement (DA) covered the entire project or just Phase 1A. Mr. Dean stated the DA was for the entire project and that at this time they were only proposing changes to Phase 1.

Mayor Ives invited members of the public to address Council on the item.

Steve Nicolaou asked if the Tracy Hills project would be in compliance with the Airport 2009 Land Use Compatibility Plan and the current runway lengths. Mr. Dean stated the application has been routed to the San Joaquin Council of Government (COG) who are in the process of making comments. Mr. Dean added the project will be in compliance with the adopted Land Use Compatibility Plan.

Mr. Nicolaou asked if staff had heard of any plans to override the Airport Plan. Mr. Dean stated no.

Robert Tanner stated the City needed to ensure that funds are available to cover police and fire protection. Andrew Malik, Development Services Director, stated the City will receive \$.03 per square foot for fire funding and that a Community Facilities District (CFD) was being proposed for the project to cover needed services.

Dave Helm asked if the proposed \$5 million has been earmarked for any protection or services. Mayor Ives stated the funds were to be used at Council discretion. Mr. Helm asked when the \$5 million would be paid to the City. Mr. Dean stated they were still negotiating the DA, but were considering payment installments. Mr. Helm asked how many phases were proposed for the project and when was build out anticipated. Mr. Dean stated the question would be better directed to the applicant, but added the owners were interested in starting Phase 1 in 2015.

John Palmer indicated the presentation focused on Phase 1 and that they hoped to start infrastructure for Phase 1 early in 2014, with a planned build out of Phase 1 in three to five years. Mr. Palmer added that the project would include multiple phases and multiple years for build out.

Mayor Pro Tem Maciel asked what percentage of the project Phase 1 represents. Mr. Palmer stated approximately 25%.

Dave Helm asked if the project, because of its location, would have an impact on police and fire communication. Mayor Ives stated it would be taken care of. Mr. Helm asked if the project would have any impact on the airport. Mayor Ives stated staff is reviewing the application and they would provide comments. Mr. Helm asked if there were sufficient Residential Growth Allotments (RGAs) for the project to be built out in a timely

manner. Mayor Ives stated there was a table of RGAs the developer finds sufficient to build their project.

Dave Anderson, President of Tracy Airport Association, stated the area of the proposed project in the vicinity of the airport is planned for commercial and industrial uses which is preferred. Mr. Anderson stated they hoped there would not be a situation where the owners ask to have the property re-zoned.

Mayor Pro Tem Maciel asked if there were any special treatments or concerns bordering the aqueduct. Mr. Palmer stated there was a 100-foot habitat area planned that will serve as a buffer with native grasses and minimal landscaping. Mr. Palmer added that a utility corridor is also planned between the aqueduct and the right of way.

Council Member Manne asked if there were any roadway improvement plans for Corral Hollow Road near the interchange. Mr. Dean stated staff was in the process of describing the project and an environmental document will analyze the project to determine what improvements are needed and the timing of those improvements.

Council Member Manne asked if there was an expected build out date for Lammers Road. Mr. Dean stated Lammers Road is a future roadway anticipated in the master plan and not likely part of Phase 1.

Council Member Manne asked for clarification regarding the elevation between the proposed homes and the highway. Mr. Stevens stated on average the community falls away from I-580, with a variety of conditions and down-sloping from the freeway.

Council Member Manne asked how large the buffer zone was between the freeway and the proposed project. Mr. Stevens stated a minimum of 100 feet to include required elements to mitigate noise, etc.

Council Member Manne asked if the landscape design along the freeway frontage will be for beauty, but also to reduce noise. A representative from the group stated the conservation easement will include, sycamores, oaks, and poplar trees, placed and grouped conducive to the habitat and to reduce noise.

Council Member Manne asked if a detention basin is proposed on the northeast side. Kul Sharma, City Engineer, stated storm drainage for Tracy Hills is proposed to be contained within the site, and includes a network of detention and retention basins. Mr. Sharma stated they are confident the on-sight basins will work for the project.

Council Member Manne asked if any safety barriers were proposed along the aqueduct protecting the residents. Mr. Dean stated portions of the spine road will be touching the area and staff and the developers were still working on those details. Mr. Dean stated they did remove any planned parks from those areas.

Mayor Pro Tem Maciel asked if the aqueduct was currently fenced. Mr. Dean stated he believed it is fenced.

Council Member Manne thanked the development team for the presentation stating he liked the street presentation and the landscape architecture. Council Member Manne added that he would like to get a better idea of the architecture when the project returns.

Council Member Young stated she did not see a fence between the homes, the habitat area and the freeway. A representative of the development team stated they were still evaluating what type of fencing is required and who or what needs to be kept out of the habitat areas. Mr. Stevens added that a security fence is always present along freeways.

Council Member Young briefly asked for clarification regarding the mention of a school being included in Phase 1. Mike Souza stated the project was part of the Jefferson School District and that a K-8 school is planned for the site. Mr. Souza added high school students will go to Kimball High.

Council Member Young stated the overall project looked good and encouraged the team to pursue naming streets after veterans.

Council Member Rickman stated it was nice to see trails incorporated in the project and that he was looking forward to seeing the rest of the project.

Mayor Pro Tem Maciel thanked the team for the presentation and for meeting the high quality standards the City of Tracy expects.

Mayor Ives stated a lot of very nice statements and pictures had been provided that show how the project will look, reminding the team that Council will expect them to keep their word when the project comes back for approval. Mayor Ives added that staff is tasked with making sure the team adheres to this point as well.

Council accepted the update on the Tracy Hills project.

7. ITEMS FROM THE AUDIENCE – Brian Van Lehn provided two letters to the Council; one dated November 27, 2013, to Brian and LeAnn Van Lehn from Diane Kindermann Henderson, and one dated December 12, 2013, to Mr. and Mrs. Brian Van Lehn from Wilson Ihrig & Associates.
8. STAFF ITEMS – None.
9. COUNCIL ITEMS
 - A. Determine Whether to Direct Staff to Place an Item on a Future Council Agenda Regarding Initiating an Investigation of the City's Actions Regarding the Agreement the Surland Companies Proposed to the City Related to Airport Fuel Sales - Maria A. Hurtado, Assistant City Manager, provided the staff report. At the City Council meeting held on November 5, 2013, Council Member Rickman requested that Council consider directing staff to initiate an independent inquiry surrounding a proposed agreement by the Surland Companies related to airport fuel sales.

The purpose of this item is to provide an opportunity for Council to discuss whether staff time and City resources should be devoted to placing an item on a future agenda to consider Council Member Rickman's request. Approval of Council Member Rickman's request would enable the Council to make a decision regarding his request at a future Council meeting.

Staff recommended that Council determine whether to direct staff to place an item on a future Council agenda regarding initiating an investigation of the City's actions regarding the agreement the Surland Companies proposed to the City relating to airport fuel sales.

Mayor Ives invited members of the public to address Council on the item.

Paul Miles provided a presentation entitled "Potential investigation of the City's alleged agreement with the Surland Company to determine if unethical, illegal, or criminal action took place".

Steve Abercrombie urged Council to inform Mr. Miles that enough time and energy has been spent on Mr. Miles and it was time to move on. Mr. Abercrombie asked that Council not let Mr. Miles ruin Chief Hampton's reputation and career.

Steve Nicolaou provided Council with a letter dated October 21, 2013, addressed to Robin K. Hunt of the Federal Aviation Administration. Mr. Nicolaou stated, in keeping with the promise of transparency, believes Council should not engage in any investigation, but should instead refer the Surland matter to the Grand Jury.

Dave Helm stated he was confused why Mr. Miles' presentation was included in this agenda item. Mr. Helm added that he shared similar concerns with Mr. Miles at how investigations are looked at. Mr. Helm asked why a lease was renegotiated with the fuel service operator when his license was suspended.

Les Serpa, Surland Communities, stated Mr. Nicolaou, along with others, have been detractors of the Ellis project over the past five years. Mr. Serpa further stated Surland agreed to help with improvements at the airport, but that there is no agreement between the City of Tracy and Surland regarding the airport. Mr. Serpa stated he was not concerned about any investigation and that any investigation will only waste taxpayer money and City time.

Council Member Rickman stated he was also confused why Mr. Miles provided a presentation at this point in the agenda. Mayor Ives indicated the title of the presentation by Mr. Miles was aimed at this agenda item and therefore scheduled during this item versus during Items from the Audience.

Council Member Rickman indicated a lot of the content from Mr. Miles' presentation was not related to this agenda item.

Council Member Rickman stated one of the issues that concerned him was that Council was not notified about the situation. Council Member Rickman stated he has not received any information from staff or Mr. Churchill except that there was

no agreement. Council Member Rickman further stated it was troubling that a member of the public, through a public records act request, has more information than Council. Council Member Rickman stated the accusations are serious and brings into question the integrity of the City and Council.

Council Member Rickman asked Council to place the item on a future agenda so the matter can be discussed in public. Council Member Rickman stated at minimum, he wanted to find out exactly what happened behind the scenes.

Mayor Ives clarified that the agenda states "initiate an investigation", but what he heard Council Member Rickman request was a discussion of the facts.

Council Member Rickman stated an investigation could be an option, but it was hard to say if the matter is civil or criminal without having the information.

Mayor Pro Tem Maciel stated he agreed with Mr. Abercrombie's comments about Mr. Miles. Mayor Pro Tem Maciel further stated it was hard for him to dismiss Mr. Miles' feelings about Chief Hampton but embrace his concerns about Mr. Sodergren and Mr. Churchill. Mayor Pro Tem Maciel indicated it was not clear what the Council was trying to figure out. Mayor Pro Tem Maciel indicated there were two items not in dispute: a memorandum from Surland proposing a deal which appears that the City rejected and that Surland wrote a check to the City to cover Turlock Air's financial obligations to the City. Based on those facts, Mayor Pro Tem Maciel stated he failed to see any basis to engage in an investigation.

Council Member Rickman stated in the past two years Council was heading one direction and then all of a sudden switched to shorten the runway length. Council Member Rickman stated it does not necessarily mean anybody did anything wrong, but it does warrant a discussion.

Mayor Pro Tem Maciel asked what information Council was not provided. Council Member Rickman stated Council was not informed regarding the Surland proposal.

Council Member Rickman asked if the Federal Aviation Administration (FAA) has authority over the runway length. Mr. Churchill stated the FAA has standards regarding runway length.

Council Member Manne stated the agenda specifically states "initiating an investigation regarding an agreement for airport fuel sales". Council Member Manne stated he has no experience with investigations. Council Member Manne stated he was in favor of talking about the item, but that he would need help to figure out what and who to investigate.

Council Member Rickman stated questions he has been asked are, was there an offer, was there an acceptance, was there an agreement, did all of those items happen, or was there a partial acceptance of the offer.

Council Member Young stated she was in agreement to discuss Council Member Rickman's concerns and agreed with Mayor Pro Tem Maciel regarding what is

the Council trying to get to the bottom of. Council Member Young stated certain facts are not in dispute. Council Member Young stated she was concerned with any investigation and the connotation it gives. Council Member Young added that everyone should be able to question authority when it is appropriate. Council Member Young asked what was Council looking for on this issue.

Mayor Pro Tem Maciel suggested Council come back with specific questions they want staff to address.

Mayor Ives stated with every decision Council makes there will be individuals that will disagree with that decision. Mayor Ives stated the Council should be able to work through a concern and have a discussion.

Council Member Rickman stated he wanted to know if there was an agreement between the City and Surland, and any background information regarding the agreement, and if there was an acceptance or partial acceptance.

Dan Sodergren, City Attorney, stated in order for there to be an agreement with the City, it has to be in writing, authorized by City Council or someone Council has delegated authority to. Mr. Sodergren further stated even if there was a written agreement approved by City Council, the agreement cannot limit the Council's legislative ability. Mr. Sodergren stated he does not see a written agreement or an agreement on Council's part.

Council Member Rickman asked if an offer can be accepted by completing elements of the offer. Mr. Sodergren clarified that in the private sector you can get into reliance, but with public agreements with the City, government code requires agreements to be approved in writing.

Council Member Rickman asked if the items requested of the City in the Surland proposal were performed. Mr. Sodergren stated he did not know and would have to go through them item by item.

Mayor Ives asked if that was the question of Council Member Rickman's focus that he wanted discussed. Council Member Rickman stated those were the questions he has not been able to get answers to.

Mayor Pro Tem Maciel stated he had no problem with staff reviewing and answering those questions.

Council Member Manne asked what happens if Council finds that some of those items were fulfilled. Mayor Ives stated that would need to be decided once Council has all the facts.

Leon Churchill, Jr., City Manager, stated if there is consensus on the specific items mentioned by Council Member Rickman then staff knew what to bring back to Council.

It was moved by Mayor Pro Tem Maciel to direct staff to review the memorandum from Surland to the City that made a proposal regarding fuel sales at the airport

and to report back the various issues that were listed in that memorandum and what the status of those proposals are, including detail if any of those items came to fruition and the circumstance through which they did. Council Member Rickman seconded the motion. Voice vote found all in favor; passed and so ordered.

- B. Appoint An Applicant To The Transportation Advisory Commission From The Commission's Eligibility List – Maria Hurtado, Assistant City Manager, provided the staff report. There is one vacancy on the Transportation Advisory Commission due to Commissioner Gainor resigning from the Commission on September 12, 2013. Mr. Gainor's term was due to expire on April 30, 2014. The last time appointments were made to the Transportation Advisory Commission was June 4, 2013. At that time the subcommittee consisting of Council Member Rickman and Council Member Manne nominated one applicant to fill a vacancy on the Transportation Advisory Commission and recommended one applicant be placed on an eligibility list. The purpose of an eligibility list is to fill vacancies that might occur in the 12 months following the last appointment to the board and/or commission. Council confirmed the subcommittee's nomination and the creation of an eligibility list.

Council can either appoint Mr. Silva to the Transportation Advisory Commission for a term commencing on December 4, 2013, expiring on April 30, 2018, or direct staff to open a new recruitment. If a new recruitment is opened, Council would need to determine how to proceed with regard to Mr. Silva's status.

It was moved by Council Member Young and seconded by Council Member Manne to approve the Council Subcommittee's recommendation to appoint Mr. Silva to the Transportation Advisory Commission to serve a term which will commence on December 4, 2013, and expire on April 30, 2018. Voice vote found all in favor; passed and so ordered.

10. ADJOURNMENT - It was moved by Mayor Pro Tem Maciel and seconded by Council Member Manne to adjourn. Voice vote found all in favor; passed and so ordered. Time: 9:46 p.m.

The above agenda was posted at the Tracy City Hall on November 27, 2013. The above are summary minutes. A recording is available at the office of the City Clerk.

Mayor

City Clerk

AGENDA ITEM 1.B

REQUEST

**ADOPTION OF A RESOLUTION OF THE CITY OF TRACY, CALIFORNIA
CONSENTING TO INCLUSION OF PROPERTIES WITHIN THE CITY'S
JURISDICTION IN THE CALIFORNIA HERO PROGRAM TO FINANCE RENEWABLE
ENERGY DISTRIBUTED GENERATION SOURCES, ENERGY AND WATER
EFFICIENCY IMPROVEMENTS AND ELECTRIC VEHICLE CHARGING
INFRASTRUCTURE, AND APPROVING AN AMENDMENT TO A CERTAIN
RELATED JOINT POWERS AGREEMENT**

EXECUTIVE SUMMARY

Property Assessed Clean Energy (PACE) programs are financing tools for interested property owners to finance energy-efficiency and water conservation upgrades to their properties. The California HERO (Home Energy Renovation Opportunity) Program (HERO) is a turnkey PACE program that is being offered to Tracy at no cost to the City. Participation in HERO would allow Tracy homeowners and commercial and industrial property owners to utilize PACE as a financing method for their energy efficiency and water conservation upgrades without requiring the City to create, fund, and maintain a local PACE program of its own.

DISCUSSION

Background

Assembly Bill (AB) 811, July 21, 2008 and AB 474, effective as of January 1, 2010, amended Chapter 29 of Part 3 of Division 7 of the Streets & Highways Code of the State of California ("Chapter 29") and authorize a legislative body to designate an area within which authorized public officials and willing property owners may enter into voluntary contractual assessments to finance the installation of distributed generation renewable energy sources, energy efficiency, and/or water conservation improvements that are permanently fixed to real property, as specified. The financing for these improvements has come to be known as PACE, which stands for Property Assessed Clean Energy.

There are currently ten PACE programs in California and many others nationwide. These PACE programs began in their local communities, and many have broadened their programs to include other cities. One of the PACE Programs, HERO, began in Southern California two years ago and has expanded into Northern California communities to include the cities of Turlock, Citrus Heights, San Jose, and most recently, the City of Monterey and Napa County. If the proposed resolution is approved, the HERO program will now be offered within the City of Tracy.

In 2011, the City Council adopted a Citywide Sustainability Action Plan (Attachment A) to address greenhouse gas emission reduction requirements and position the City to be a desirable place for emerging environmentally-sustainable residents, businesses, and industries. An action item contained in the Sustainability Action Plan committed the City to adopt a PACE program for the benefit of interested residential and non-residential

property owners. Because creating a local program was determined to be costly and time-consuming, the City has been looking for an existing PACE program in which to participate.

Analysis

HERO was developed by the Western Riverside Council of Governments (WRCOG) in late 2011. Because of the program's success, WRCOG expanded HERO to save other California jurisdictions time and resources in developing PACE financing programs. HERO is now the largest and most successful privately-funded residential PACE program in the country. To date, 107 California communities have joined HERO and the Program has invested \$517 million to fund more than 15,000 projects. Jurisdictions only need to adopt the form of resolution and approve an amendment to the joint exercise of powers agreement, related to HERO, and provided as exhibit 1 to the resolution

Under HERO, property owners would be able to finance renewable energy, energy and water efficiency improvements, and electric vehicle charging infrastructure on their property. Participation in the program is entirely voluntary. If a property owner chooses to participate, the installed improvements will be financed by the issuance of bonds by the WRCOG Joint Powers Authority. The bonds are secured by a voluntary contractual assessment levied on the owner's property, with no recourse to the local government or other participating jurisdictions. Participating property owners agree to repay the amount borrowed through the voluntary contractual assessment collected together with their property taxes. This financing is available for eligible improvements for both residential and non-residential properties.

The benefits to the property owner include:

- Eligibility: In today's economic environment, alternatives for property owners to finance renewable energy, energy efficiency, water efficiency improvements, or electric vehicle charging infrastructure may not be available. As such, many property owners do not have financing options available that would provide funding for improvements that lower their utility bills.
- Savings: Energy prices continue to rise and investing in energy efficient, water efficient and renewable energy improvements reduces utility bills.
- Entirely voluntary. Property owners can choose to participate in the program at their discretion. Improvements and properties must meet eligibility criteria in order to qualify for financing.
- Payment obligation stays with the property. Under Chapter 29, a voluntary contractual assessment stays with the property upon transfer of ownership. Certain residential conforming mortgage providers will, however, require the assessment be paid off at the time the property is refinanced or sold.
- Prepayment option. The property owner can choose to pay off the assessments at any time, subject to applicable prepayment penalties.
- Customer oriented program. Part of the success of the program is prompt customer service. Committed funding partners provide funding promptly upon project completion resulting in both property owner and contactor satisfaction.

The benefits to the City include:

- Increase local jobs.
- Increased property values (energy efficient homes and buildings retain higher value and generate better returns on investment).
- Increased sales, payroll and property tax revenue.
- As in conventional assessment financing, the City is not obligated to repay the bonds or to pay any delinquent assessments levied on the participating properties.
- All HERO and assessment administration, bond issuance and bond administration functions are handled by HERO. No City staff time is needed to participate in the HERO program, unless the City decides to partner with HERO in marketing efforts.
- By leveraging the already successful HERO Program, the City can offer financing to property owners more quickly, easily and much less expensively than establishment of a new local program.

The proposed resolution enables the HERO program to be available to owners of residential and non-residential properties within the City to finance renewable energy, energy efficiency and water efficiency improvements and electric vehicle charging infrastructure. The resolution approves an Amendment to the WRCOG Joint Powers Agreement to add the City as an Associate Member in order to enable HERO to be offered to property owners located within the City limits wishing to participate. Participation in HERO does not preclude the City from participating in other PACE programs. Jurisdictions may participate in multiple PACE programs to give property owners more financing options.

Federal Housing Finance Agency (FHFA), Fannie Mae and Freddie Mac

Residential PACE financing in California has been delayed in implementation since a July, 2010 letter by the Federal Housing Finance Agency (FHFA) that advised Fannie Mae and Freddie Mac mortgage lenders that PACE financing violated the mortgage contract through its first priority lien status as a property tax assessment and concerns PACE financing contracts would transfer at time of sale of a property. The advice letter by FHFA stopped most residential PACE program development, except for the Sonoma County Energy Independence Program, which is limited to Sonoma County, and HERO. Both of these programs have adapted to operate within the rules of FHFA and continue to grow in popularity.

The HERO Program operates under Federal law as set forth in the opinion under *Rust v. Johnson* (Cir.1979) that assessments, including PACE assessments, placed on the property are not "first liens" or "senior liens" with respect to conforming loans. This decision renders the voluntary contractual assessment lien position issue moot and HERO requires the homeowner payoff the assessment at time of sale or refinance should it be required by the lender. The bonds issued to finance improvements under HERO are the sole responsibility of the Joint Power Authority that issue them, and do not place a liability on the City.

STRATEGIC PLAN

This agenda item is not related to the City's current Strategic Plan; however, this item furthers the Environmental Sustainability Strategic Plan that was in place in fiscal years 2009-2011 by implementing an action item from the City's Sustainability Action Plan.

FISCAL IMPACT

This agenda item will not require any expenditure of funds other than staff time to prepare the report. It is anticipated that property tax increases, job creation, and additional sales tax revenues associated with projects funded by the HERO PACE program will provide indirect benefit to the General Fund. The City has no obligations under the HERO program unless the City desires to partner with HERO on program marketing efforts.

RECOMMENDATION

Staff recommends that City Council adopt a resolution approving an amendment to the Western Riverside Council of Governments Joint Power Authority agreement adding the City of Tracy as an associate member and consenting to inclusion of properties within the City of Tracy's jurisdiction in the California HERO Program to finance certain renewable energy sources, energy and water efficiency improvements, and electric vehicle charging infrastructure.

Prepared by: Kimberly Matlock, Assistant Planner
Barbara Harb, Management Analyst I

Reviewed by: Bill Dean, Assistant Development Services Department Director
Andrew Malik, Development Services Department Director
Maria A. Hurtado, Assistant City Manager

Approved by: R. Leon Churchill, Jr., City Manager

ATTACHMENTS

Attachment A: Excerpt from the Sustainability Action Plan Adopted February 1, 2011

e. Encourage the installation of energy efficient boilers.

1. Primary Benefits

This measure would reduce GHG emissions in Tracy by 36,768 metric tons CO₂e.

2. Secondary Benefits

This measure would provide the following secondary benefits:

- ◆ Conserve energy
- ◆ Increase renewable energy
- ◆ Reduce VMT
- ◆ Reduce waste
- ◆ Increase jobs
- ◆ Foster public awareness of sustainability

E-5: Weatherization Assistance

Continue to fund weatherization projects for households that meet the income eligibility criteria by utilizing the Community Development Agency's Downtown Rehabilitation Loan and Grant programs.

1. Primary Benefits

This measure would reduce GHG emissions in Tracy by 473 metric tons CO₂e.

2. Secondary Benefits

This measure would provide the following secondary benefits:

- ◆ Conserve energy
- ◆ Foster public awareness of sustainability
- ◆ Retain and increase amount of affordable housing

E-6: Financing for Energy Efficiency and Renewable Energy Projects

Develop a program under AB 811 to offer innovative, low-interest financing for energy efficiency and renewable energy projects for existing and new development, including heating, ventilation, air conditioning, lighting, water heating equipment, insulation, weatherization, and solar.

1. Primary Benefits

This measure would reduce GHG emissions in Tracy by 8,789 metric tons CO₂e.

2. Secondary Benefits

This measure would provide the following secondary benefits:

- ◆ Conserve energy
- ◆ Increase renewable energy

RESOLUTION _____

A RESOLUTION OF THE CITY OF TRACY, CALIFORNIA,
CONSENTING TO INCLUSION OF PROPERTIES WITHIN THE CITY'S JURISDICTION IN
THE CALIFORNIA HERO PROGRAM TO FINANCE RENEWABLE ENERGY DISTRIBUTED
GENERATION SOURCES, ENERGY AND WATER EFFICIENCY IMPROVEMENTS AND
ELECTRIC VEHICLE CHARGING INFRASTRUCTURE, AND APPROVING AN AMENDMENT
TO A CERTAIN RELATED JOINT POWERS AGREEMENT

WHEREAS, The Western Riverside Council of Governments ("Authority") is a joint exercise of powers authority established under California Government Code section 6500 and following, the Joint Exercise of Powers Act , and the Joint Powers Agreement of the Western Riverside Council of Governments entered into on April 1, 1991, as amended from time to time (the "Authority JPA"); and

WHEREAS, Authority has established the California HERO (Home Energy Renovation Opportunity) Program to provide for the financing of renewable energy distributed generation sources, energy and water efficiency improvements and electric vehicle charging infrastructure (the "Improvements") under Chapter 29 of the Improvement Bond Act of 1911, at Streets and Highways Code section 5898.10 and following ("Chapter 29") within counties and cities throughout the State of California that elect to participate in the program. The HERO Program is part of the Property Assessed Clean Energy (PACE) program authorized by Chapter 29; and

WHEREAS, City of Tracy ("City") is committed to development of renewable energy sources and energy efficiency improvements, reduction of greenhouse gases, protection of the environment, and the indirect benefits of the HERO program including promoting local jobs, saving money, and increasing property values; and

WHEREAS, In Chapter 29, the Legislature has authorized cities and counties to assist property owners in financing the cost of installing Improvements through a voluntary contractual assessment program; and

WHEREAS, Property owners' installation of these Improvements within the City would promote the purposes cited above; and

WHEREAS, The City wishes to provide innovative solutions to its property owners to achieve energy and water efficiency and independence by cooperating with the Authority to efficiently and economically assist property owners in financing such Improvements; and

WHEREAS, The Authority has established the California HERO Program, which is a voluntary contractual assessment program, as permitted by the Joint Exercise of Powers Act, the Authority JPA, and the attached *Amendment to the Joint Powers Agreement Adding the City of Tracy as an Associate Member of the Western Riverside Council of Governments to Permit the Provision of Property Assessed Clean Energy (PACE) Program Services within the City* (Exhibit A, "JPA Amendment"), between the Authority and the City. The HERO Program will assist property owners in the City in financing the cost of installing Improvements; and

WHEREAS, The City will not be responsible for: the conduct of any assessment proceedings; the levy and collection of assessments or any required remedial action in the case of delinquencies in the payment of any assessments; or the issuance, sale or administration of any bonds issued in connection with the California HERO Program.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The City Council finds and declares that properties in the City's incorporated area will be benefited by the availability of the California HERO Program to finance the installation of the Improvements.

2. The City Council consents: to inclusion in the California HERO Program of all of the properties in the jurisdictional boundaries of the City; and to the Improvements, upon the request by and voluntary agreement of property owners, in compliance with the laws, rules and regulations applicable to the Program; and to the assumption of the Authority's jurisdiction for the purposes of the Program.

3. The City Council's consent constitutes assent to the assumption of jurisdiction by the Authority for all purposes of the California HERO Program and authorizes the Authority, upon satisfaction of the conditions imposed in this resolution, to take each and every step required for or suitable for financing the Improvements, including the levying, collecting and enforcement of the contractual assessments to finance the Improvements and the issuance and enforcement of bonds to represent the contractual assessments.

4. The City Council hereby approves the attached JPA Amendment (Exhibit A) and authorizes the Mayor to execute it.

5. City staff is authorized and directed to coordinate with the Authority staff to facilitate operation of the California HERO Program within the City, and report back periodically to the City Council on the success of the Program.

6. This Resolution shall take effect immediately upon its adoption. The City Clerk is directed to send a certified copy of this Resolution to the Secretary of the Authority Executive Committee.

The foregoing Resolution _____ was passed and adopted by the Tracy City Council on the _____ day of _____, 2014, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

MAYOR

ATTEST:

CITY CLERK

EXHIBIT A

AMENDMENT TO THE JOINT POWERS AGREEMENT ADDING CITY OF TRACY AS AN ASSOCIATE MEMBER OF THE WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS TO PERMIT THE PROVISION OF PROPERTY ASSESSED CLEAN ENERGY (PACE) PROGRAM SERVICES WITHIN THE CITY

This Amendment to the Joint Powers Agreement (“JPA Amendment”) is entered into on _____, 2014, between the City of Tracy (“City”) and the Western Riverside Council of Governments (“Authority”) (collectively the “Parties”).

RECITALS

WHEREAS, Authority is a joint exercise of powers authority established under Government Code Section 6500 and following (the “Joint Exercise of Powers Act”) and the Joint Powers Agreement dated April 1, 1991, as amended from time to time (the “Authority JPA”); and

WHEREAS, as of October 1, 2012, the Authority had 18 member entities (the “Regular Members”).

WHEREAS, Chapter 29 of the Improvement Bond Act of 1911 (Streets and Highways Code section 5898.10 and following) (“Chapter 29”) authorizes cities and counties to establish voluntary contractual assessment programs, commonly referred to as a Property Assessed Clean Energy (“PACE”) program, to fund certain renewable energy sources, energy and water efficiency improvements, and electric vehicle charging infrastructure (the “Improvements”) that are permanently fixed to residential, commercial, industrial, agricultural or other real property; and

WHEREAS, under Chapter 29, the Authority has established a PACE program to be known as the “California HERO Program” for implementation of a PACE financing program for cities and counties throughout the state; and

WHEREAS, City wishes to allow its property owners of property to participate in the California HERO Program and to allow Authority to finance Improvements to be installed on those properties; and

WHEREAS, this JPA Amendment will permit City to become an Associate Member of the Authority and to participate in the California HERO Program and to implement of the program within the City; and

WHEREAS, under the Joint Exercise of Powers Act, the Parties are approving this JPA Agreement to allow for the provision of PACE services through the California HERO Program, including the operation of the PACE financing program, within the incorporated territory of City; and

WHEREAS, the JPA Amendment sets forth the rights, obligations and duties of City and Authority with respect to the implementation of the California HERO Program within the incorporated territory of City.

MUTUAL UNDERSTANDINGS

NOW, THEREFORE, the Parties agree as follows:

A. JPA Amendment.

1. The Authority JPA. City agrees to the terms and conditions of the Authority JPA, attached.

2. Associate Membership. By adoption of this JPA Amendment, City shall become an Associate Member of Authority on the terms and conditions set forth herein and the Authority JPA and consistent with the requirements of the Joint Exercise of Powers Act. The rights and obligations of City as an Associate Member are limited solely to those terms and conditions expressly set forth in this JPA Amendment for the purposes of implementing the California HERO Program within the incorporated territory of City. Except as expressly provided for by the this JPA Amendment, City shall not have any rights otherwise granted to Authority's Regular Members by the Authority JPA, including but not limited to the right to vote on matters before the Executive Committee or the General Assembly, the right to amend or vote on amendments to the Authority JPA, and the right to sit on committees or boards established under the Authority JPA or by action of the Executive Committee or the General Assembly, including, without limitation, the General Assembly and the Executive Committee. City shall not be considered a member for purposes of Section 9.1 of the Authority JPA.

3. Rights of Authority. This JPA Amendment shall not be interpreted as limiting or restricting the rights of Authority under the Authority JPA. Nothing in this JPA Amendment is intended to alter or modify Authority Transportation Uniform Mitigation Fee (TUMF) Program, the PACE Program administered by Authority within the jurisdictions of its Regular Members, or any other programs administered now or in the future by Authority, all as currently structured or subsequently amended.

B. Implementation of California HERO Program within City Jurisdiction.

1. Boundaries of the California HERO Program within City Jurisdiction. The boundaries within which contractual assessments may be entered into under the California HERO Program (the "Program Boundaries") shall include the entire incorporated territory of City.

2. Determination of Eligible Improvements. Authority shall determine the types of distributed generation renewable energy sources, energy efficiency or water conservation improvements, electric vehicle charging infrastructure or such other improvements as may be authorized pursuant to Chapter 29 (the "Eligible Improvements") that will be eligible to be financed under the California HERO Program.

3. Implementation of California HERO Program Within the Program Boundaries. Authority will undertake such proceedings pursuant to Chapter 29 as shall be legally necessary to enable Authority to make contractual financing of Eligible Improvements available to eligible property owners within the Program Boundaries.

4. Financing the Installation of Eligible Improvements. Authority shall implement its plan for the financing of the purchase and installation of the Eligible Improvements under the California HERO Program within the Program Boundaries.

5. Ongoing Administration. Authority shall be responsible for the ongoing administration of the California HERO Program, including but not limited to producing education plans to raise public awareness of the California HERO Program, soliciting, reviewing and approving applications from residential and commercial property owners participating in the California HERO Program, establishing contracts for residential, commercial and other property owners participating in such program, establishing and collecting assessments due under the California HERO Program, adopting and implementing any rules or regulations for the California HERO Program, and providing reports as required by Chapter 29.

City will not be responsible for the conduct of any proceedings required to be taken under Chapter 29; the levy or collection of assessments or any required remedial action in the case of delinquencies in such assessment payments; or the issuance, sale or administration of any bonds issued in connection with the California HERO Program.

6. Phased Implementation. The Parties recognize and agree that implementation of the California HERO Program as a whole can and may be phased as additional other cities and counties execute similar agreements. City entering into this JPA Amendment will obtain the benefits of and incur the obligations imposed by this JPA Amendment in its jurisdictional area, irrespective of whether cities or counties enter into similar agreements.

C. Miscellaneous Provisions.

1. Withdrawal. Authority may withdraw from this JPA Amendment upon six (6) months written notice to City; provided, however, there is no outstanding indebtedness of Authority within City. The provisions of Section 6.2 of the Authority JPA shall not apply to City under this JPA Amendment. City may withdraw approval for conduct of the HERO Program within the jurisdictional limits of City upon thirty (30) written notice to WRCOG without liability to the Authority or any affiliated entity. City withdrawal shall not affect the validity of any voluntary assessment contracts (a) entered prior to the date of such withdrawal or (b) entered into after the date of such withdrawal so long as the applications for such voluntary assessment contracts were submitted to and approved by WRCOG prior to the date of City's notice of withdrawal.

2. Indemnification and Liability. Authority shall defend, indemnify and hold City and its directors, officials, officers, employees and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liabilities, losses,

damages or injuries of any kind, in law or equity, to property or persons, including wrongful death, to the extent arising out of the acts, errors or omissions of Authority or its directors, officials, officers, employees and agents in connection with the California HERO Program administered under this JPA Amendment, including without limitation the payment of expert witness fees and attorneys' fees and other related costs and expenses, but excluding payment of consequential damages, provided that the Authority shall not be required to defend or indemnify City and its directors, officials, officers, employees and agents for City's sole negligence or willful misconduct. Without limiting the foregoing, Section 5.2 of the Authority JPA shall not apply to this JPA Amendment. In no event shall any of Authority's Regular Members or their officials, officers or employees be held directly

3. Environmental Review. Authority shall be the lead agency under the California Environmental Quality Act for any environmental review that may required in implementing or administering the California HERO Program under this JPA Amendment.

4. Cooperative Effort. City shall cooperate with Authority by providing information and other assistance in order for Authority to meet its obligations hereunder. City recognizes that one of its responsibilities related to the California HERO Program will include any permitting or inspection requirements as established by City.

5. Notice. Any and all communications and/or notices in connection with this JPA Amendment shall be either hand-delivered or sent by United States first class mail, postage prepaid, and addressed as follows:

Authority:

Western Riverside Council of Governments
4080 Lemon Street, 3rd Floor. MS1032
Riverside, CA 92501-3609
Att: Executive Director

City:

Development Services Director
City of Tracy
333 Civic Center Plaza
Tracy, CA 95376

6. Entire Agreement. This JPA Amendment, together with the Authority JPA, constitutes the entire agreement among the Parties pertaining to the subject matter hereof. This JPA Amendment supersedes any and all other agreements, either oral or in writing, among the Parties with respect to the subject matter hereof and contains all of the covenants and agreements among them with respect to said matters, and each Party acknowledges that no representation, inducement, promise of agreement, oral or otherwise, has been made by the other Party or anyone acting on behalf of the other Party that is not embodied herein.

7. Successors and Assigns. This JPA Amendment and each of its covenants and conditions shall be binding on and shall inure to the benefit of the Parties and their respective successors and assigns. A Party may only assign or transfer its rights and obligations under this JPA Amendment with prior written approval of the other Party, which approval shall not be unreasonably withheld.

8. Attorney's Fees. If any action at law or equity, including any action for declaratory relief is brought to enforce or interpret the provisions of this Agreement, each Party to the litigation shall bear its own attorney's fees and costs.

9. Governing Law. This JPA Amendment shall be governed by and construed in accordance with the laws of the State of California, as applicable.

10. No Third Party Beneficiaries. This JPA Amendment shall not create any right or interest in the public, or any member thereof, as a third party beneficiary hereof, nor shall it authorize anyone not a Party to this JPA Amendment to maintain a suit for personal injuries or property damages under the provisions of this JPA Amendment. The duties, obligations, and responsibilities of the Parties to this JPA Amendment with respect to third party beneficiaries shall remain as imposed under existing state and federal law.

11. Severability. In the event one or more of the provisions contained in this JPA Amendment is held invalid, illegal or unenforceable by any court of competent jurisdiction, such portion shall be deemed severed from this JPA Amendment and the remaining parts of this JPA Amendment shall remain in full force and effect as though such invalid, illegal, or unenforceable portion had never been a part of this JPA Amendment.

12. Headings. The paragraph headings used in this JPA Amendment are for the convenience of the Parties and are not intended to be used as an aid to interpretation.

13. Amendment. This JPA Amendment may be modified or amended by the Parties at any time. Such modifications or amendments must be mutually agreed upon and executed in writing by both Parties. Verbal modifications or amendments to this JPA Amendment shall be of no effect.

14. Effective Date. This JPA Amendment shall become effective upon the execution thereof by the Parties hereto.

IN WITNESS WHEREOF, the Parties hereto have caused this JPA Amendment to be executed and attested by their officers thereunto duly authorized as of the date first above written.

WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS

By: _____
Executive Committee Chair

Date: _____

Western Riverside Council of Governments

CITY OF TRACY

By: _____

Date: _____

Title: _____

Attachment: Authority JPA

January 21, 2014

AGENDA ITEM 1.C

REQUEST

AUTHORIZE THE CITY ENGINEER TO NEGOTIATE WITH THE SAN JOAQUIN COUNTY PUBLIC WORKS DEPARTMENT TO ENTER INTO AN AGREEMENT TO CONSTRUCT AND MAINTAIN PORTIONS OF CORRAL HOLLOW ROAD BETWEEN PARKSIDE DRIVE AND LINNE ROAD

EXECUTIVE SUMMARY

San Joaquin County Council of Government (COG) is planning to secure bond financing to fund construction of certain Measure K approved projects within various agencies in San Joaquin County (County). Widening Corral Hollow Road between Parkside Drive and Linne Road is a Measure K approved project and has been recommended by COG staff to be included in the list for the proposed funding. Since portions of Corral Hollow Road are within the jurisdiction of the County, an agreement for construction and maintenance needs to be arranged between the County and the City to improve Corral Hollow Road. Authorization to negotiate an agreement for the construction and maintenance will expedite the long awaited construction of this project to improve the traffic circulation. After completion of negotiations, the agreement will be presented to Council for final approval.

DISCUSSION

San Joaquin County voters approved the Measure K sales tax initiative in 1989, and approved its renewal in 2010. Sales tax generated from this measure funds various transportation projects in the County. Widening Corral Hollow Road from Parkside Drive to Linne Road is a Measure K approved project eligible for such funding.

COG is planning to secure bond financing to fund certain Measure K approved projects for various jurisdictions within the county. In the COG technical advisory committee, City staff has proposed inclusion of the Corral Hollow Road widening project for this round of funding. After reviewing various requests from other agencies for projects competing for this limited funding, Corral Hollow Road widening has been recommended by the COG staff to its board for one of the project's approved for this funding.

Since portions of Corral Hollow Road are located within the County jurisdiction, a construction and maintenance agreement needs to be entered into between the City and the County. The agreement will allow the City to purchase additional right of ways, design and construction of the street improvements. After completion of construction, the cost of maintenance will be shared between the City and the County.

It is requested that the City Engineer be authorized to negotiate with the County to finalize the draft terms of the agreement. After the draft agreement has been negotiated, the agreement will be presented to City Council for final consideration and approval.

STRATEGIC PLAN

This agenda item supports Objective 1 (c) of the Economic Development Strategic Plan which ensures quality infrastructure to meet future development needs.

FISCAL IMPACT

Approval of this agenda item will have no impact on the General Fund. Most of the construction cost for widening Corral Hollow Road will be paid from Measure K funds and a portion of funding will come from the development impact fees collected from various developments. The maintenance and operational costs of the street and signals will be paid from gas tax funds.

RECOMMENDATION

That the City Council, by resolution, authorize the City Engineer to negotiate with the San Joaquin County Public Works Department to enter into an agreement to construct and maintain portions of Corral Hollow Road between Parkside Drive and Linne Road.

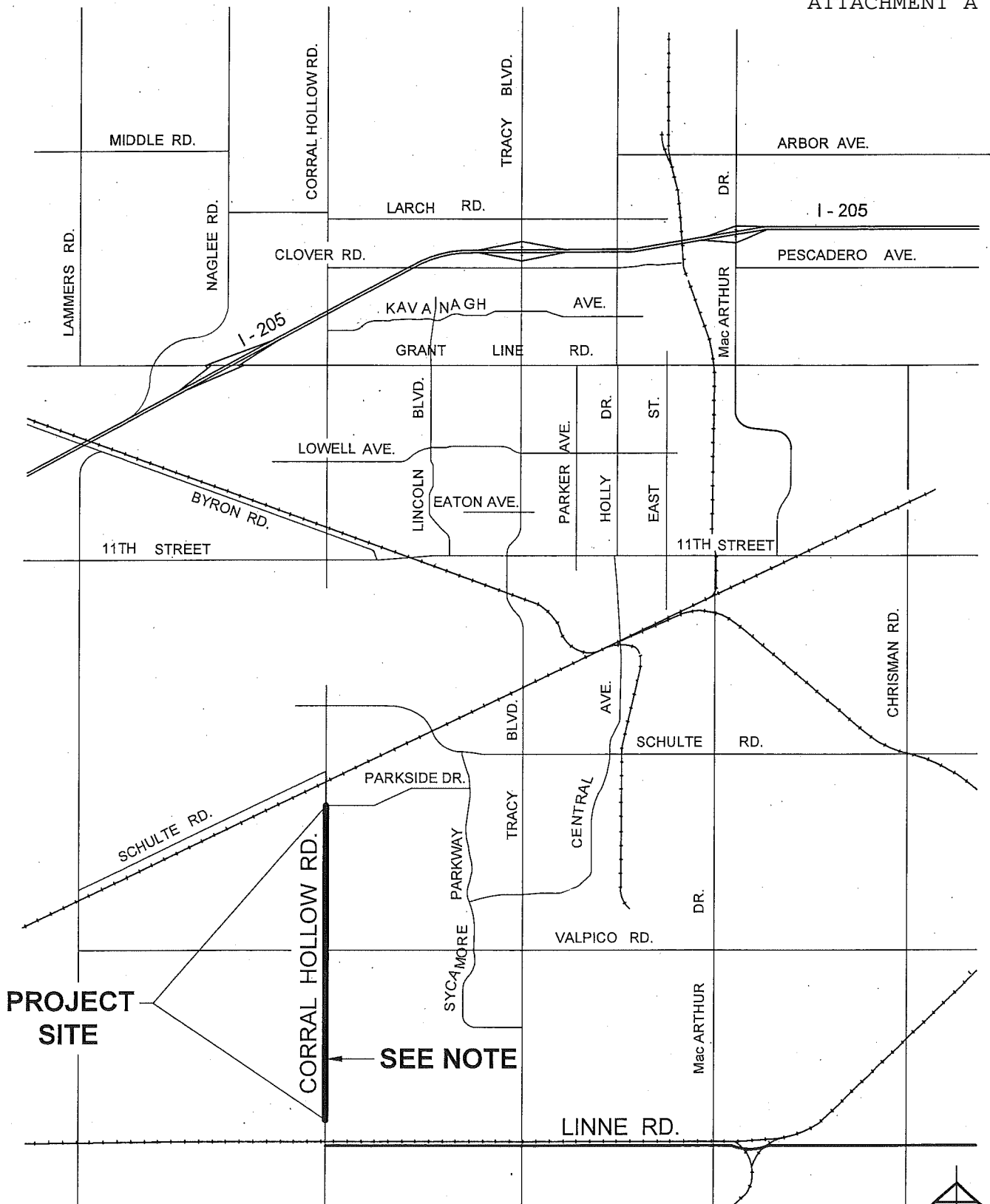
Prepared By: Kuldeep Sharma, City Engineer

Reviewed By: Andrew Malik, Development Services Director
Maria A. Hurtado, Assistant City Manager

Approved By: R. Leon Churchill, Jr. City Manager

ATTACHMENTS

Attachment A – Location Map



VICINITY MAP

PROPOSED CORRAL HOLLOW ROAD IMPROVEMENTS N.T.S.

NOTE:

The extent of improvements on south of Valpico Road will depend upon the final construction cost estimates and amount of funds available.



RESOLUTION 2014-_____

AUTHORIZING THE CITY ENGINEER TO NEGOTIATE WITH THE SAN JOAQUIN COUNTY PUBLIC WORKS DEPARTMENT TO ENTER INTO AN AGREEMENT TO CONSTRUCT AND MAINTAIN PORTIONS OF CORRAL HOLLOW ROAD BETWEEN PARKSIDE DRIVE AND LINNE ROAD

WHEREAS, San Joaquin County voters approved the Measure K sales tax initiative in year 1989 and approved its renewal in year 2010, and

WHEREAS, Sales tax generated from this measure funds various transportation projects in the County, and

WHEREAS, Widening Corral Hollow Road from Parkside Drive to Linne Road is a Measure K approved project eligible for such funding, and

WHEREAS, The San Joaquin Council of Governments (COG) is planning to secure bond financing to fund certain Measure K approved projects for various jurisdictions within San Joaquin County, and

WHEREAS, The Corral hollow Road widening has been recommended by the COG staff to its board for one of the project approved for this funding, and

WHEREAS, Portions of Corral Hollow Road are located within the County jurisdiction, a construction and maintenance agreement needs to be entered into between the City of Tracy and the County of San Joaquin, and

WHEREAS, The agreement will allow the City to purchase additional right of ways, design and construction of the street improvements, and

WHEREAS, After completion of construction, the cost of maintenance of streets and signals will be shared between the City of Tracy and the County of San Joaquin, and

WHEREAS, It is requested that the City Engineer be authorized to negotiate with the County to finalize the draft terms of the agreement and

WHEREAS, After the draft agreement has been negotiated, the agreement will be presented to City Council for final consideration and approval and

WHEREAS, There will be no impact to the General Fund;

NOW, THEREFORE, BE IT RESOLVED, that City Council authorizes the City Engineer to negotiate with the San Joaquin County Public Works Department to enter into an agreement to construct and maintain portions of Corral Hollow Road between Parkside Drive and Linne Road.

* * * * *

The foregoing Resolution _____ was adopted by the Tracy City Council on the 21st day of January, 2014, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 1.D

REQUEST

AUTHORIZATION TO PURCHASE FOUR TRUCKS PLUS EQUIPMENT FROM TRACY FORD IN THE AMOUNT OF \$139,336.80

EXECUTIVE SUMMARY

Award the purchase of one ¾ Ton Extended Cab 4x2 Pick-up Truck,
One ¾ Ton Extended Cab 4x2 Pick-up Truck with Utility Bed and Generator,
One ¾ Ton Regular Cab 4x2 Pick-up Truck with Utility Bed, Generator and Crane,
One ¾ Ton Extended Cab 4x2 Pick-up Truck with Utility Bed, Generator and Material Rack, to Tracy Ford, Tracy, California.

DISCUSSION

The Public Works Department has an existing need to replace four utility trucks. The Public Works Department received authorization through the Fiscal Year 2013-2014 budget process to replace these four utility trucks.

A "Notice Inviting Bids" 2013-2014 VEHICLE PURCHASE was published on December 6, 2013. Bid packages were sent to eight vehicle dealers. Bid opening date was December 18, 2013, and the following was the only bid received:

Tracy Ford	\$139,336.80
------------	--------------

The bid submitted by Tracy Ford is a responsive bid and staff recommends the purchase of the following four trucks from Tracy Ford, of Tracy, California:

One ¾ Ton Extended Cab 4x2 Pick-up Truck,
One ¾ Ton Extended Cab 4x2 Pick-up Truck with Utility Bed and Generator,
One ¾ Ton Regular Cab 4x2 Pick-up Truck with Utility Bed, Generator and Crane,
One ¾ Ton Extended Cab 4x2 Pick-up Truck with Utility Bed, Generator and Material Rack.

STRATEGIC PLAN

This agenda item is a routine operational item and does not relate to the City Council's Strategic Plans.

FISCAL IMPACT

Funding was budgeted and is available in the fiscal year 2013-2014 equipment replacement budget for the acquisition of these vehicles.

RECOMMENDATION

That City Council, by resolution, authorize the purchase of four trucks plus equipment from Tracy Ford, Tracy, California for \$139,336.80.

Prepared by: Bob Gravelle, Public Works Superintendent

Reviewed by: David Ferguson, Director of Public Works
Maria A. Hurtado, Assistant City Manager

Approved by: R. Leon Churchill, Jr., City Manager

RESOLUTION _____

AUTHORIZING THE PURCHASE OF FOUR TRUCKS PLUS EQUIPMENT FROM TRACY FORD IN THE AMOUNT OF \$139,336.80

WHEREAS, The Public Works Department has an existing need to replace four trucks plus equipment, and

WHEREAS, The Public Works Department received authorization through the Fiscal Year 2013-2014 budget process to replace the four trucks plus equipment, and

WHEREAS, A "Notice Inviting Bids" 2013-2014 VEHICLE PURCHASE was published December 6, 2013. Bid packages were sent to eight vehicle dealers. Bid opening date was December 18, 2013. One responsive bid was received from Tracy Ford in the amount of \$139,336.80;

NOW, THEREFORE, BE IT RESOLVED, That City Council hereby authorizes the purchase of four trucks plus equipment from Tracy Ford in the amount of \$139,336.80.

* * * * *

The foregoing Resolution _____ was adopted by City Council on the 21st day of January, 2014, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 3

REQUEST

CONDUCT A PUBLIC HEARING AND ADOPTION OF AN ORDINANCE ADOPTING, BY REFERENCE, THE 2013 CALIFORNIA BUILDING AND RELATED CODES, SPECIFYING WHICH APPENDICES APPLY TO THE CITY OF TRACY, RE-ADOPTING CERTAIN EXISTING SECTIONS OF TITLE 9 OF THE TRACY MUNICIPAL CODE, ADOPTING STANDARDS RELATED TO EXTERIOR PALLET STORAGE, RADIO AMPLIFICATION SYSTEMS, AUTOMATIC SPRINKLER SYSTEMS AND OTHER EMERGENCY RESPONDER REQUIREMENTS

EXECUTIVE SUMMARY

Ordinance 1192 was introduced at the Council meeting held on January 7, 2014. Ordinance 1192 is before Council for a second reading and adoption.

DISCUSSION

New versions of the various California codes related to building design and construction are adopted by the State of California every three years. Ordinance 1192 was introduced at the Council meeting held on January 7, 2014, to consider the 2013 California Codes that will replace the 2010 versions as set forth in Title 24 of the California Code of Regulations. Proposed Ordinance 1192 will adopt, by reference, the 2013 California Building (including appendices C, F, H, and K), Electrical, Mechanical, Plumbing (including appendices A, B, C, D, E, F, G, H, I and K), Residential (including appendix H), Fire (including appendices B, BB, C, CC, D, F, H and K), Existing Building, Historical Building (including appendix A), Energy (including appendix 1-A), and Green Building Standards, Code.

The ordinance makes local amendments to the California Fire Code. The ordinance will require: an operational permit for Christmas tree lots, haunted houses and corn mazes; a re-inspection fee for failing to be ready for a fire inspection; new requirements for outside pallet storage, fencing, water supply; false alarm charges; emergency access through gates and into buildings; containment boxes where hazardous materials are stored and/or used; Fire Control Rooms for all new buildings protected with an automatic fire extinguishing system; Automatic sprinkler systems for all new buildings greater than 6,000 sq. ft., three or more stories in height, when a building is remodeled within a three-year period and the cost of improvements requiring permits exceeds an adjusted valuation threshold of \$100,000 based on the ENR US20 Cities Average Construction Cost Index and area cost factors, when a building changes to a higher occupancy hazard and the building is greater than 6,000 sq. ft. and when an existing building's size is increased by 50% or more within a three-year period and the total building area exceeds the minimum code limits for that occupancy group, with some minor exceptions; and radio coverage for certain applications in existing buildings where the occupancy has changed to a more hazardous use, where the addition of metal racking systems, equipment or interior walls utilizing metal, masonry or concrete materials interfere with

emergency responder radio coverage within a building and when a building is increased in size by 50% or more within a three-year period and the total square footage of the building exceeds 6,000 sq. ft. with some exceptions.

The California Residential Code will require automatic sprinkler systems for all newly installed manufactured homes.

Addressing buildings will be modified to include rear access points to a multiple tenant building, to require the use of Arabic numbers or alphabetical letters and that the addressing be maintained, and, when required by the fire code official, address numbers will be required to be provided in additional approved locations to facilitate emergency response.

STRATEGIC PLAN

This agenda item supports the Public Safety strategy in relation to the adoption of the 2013 California Codes and specifically implements the following goals:

Goal 2: Promotes public safety health, safety and community welfare

FISCAL IMPACT

None.

RECOMMENDATION

That Council adopt Ordinance 1192 following its second reading.

Prepared by: Adrienne Richardson, Deputy City Clerk
Reviewed by: Sandra Edwards, City Clerk
 Maria A. Hurtado, Assistant City Manager

Approved by: R. Leon Churchill, Jr., City Manager

ATTACHMENTS:

Attachment A – Ordinance 1192

ORDINANCE 1192

AN ORDINANCE OF THE CITY OF TRACY ADOPTING THE 2013 CALIFORNIA BUILDING CODE, 2013 CALIFORNIA ELECTRICAL CODE, 2013 CALIFORNIA PLUMBING CODE, 2013 CALIFORNIA RESIDENTIAL CODE, 2013 CALIFORNIA MECHANICAL CODE, 2013 CALIFORNIA GREEN BUILDING STANDARDS CODE, 2013 CALIFORNIA HISTORICAL BUILDING CODE, 2013 CALIFORNIA EXISTING BUILDING CODE, AND 2013 CALIFORNIA ENERGY CODE, 2013 CALIFORNIA FIRE CODE, ADOPTING APPENDICES C, F, H, AND K OF THE 2013 CALIFORNIA BUILDING CODE, APPENDICES A, B, C, D, E, F, G, H, I AND K OF THE 2013 CALIFORNIA PLUMBING CODE, APPENDIX 1-A OF THE 2013 CALIFORNIA ENERGY CODE, APPENDIX H OF THE 2013 CALIFORNIA RESIDENTIAL CODE, APPENDIX A OF THE 2013 CALIFORNIA HISTORICAL BUILDING CODE, APPENDICES B, BB, C, CC, D, F, H AND K OF THE 2013 CALIFORNIA FIRE CODE, ADOPTING SUPPRESSION REQUIREMENTS FOR MANUFACTURED HOMES, CLARIFYING REQUIREMENTS FOR AUTOMATIC SUPPRESSION SYSTEMS FOR TENANT IMPROVEMENTS AND REQUIREMENTS FOR HAZARDOUS PALLET STORAGE, CLARIFYING STANDARDS FOR RADIO AMPLIFICATION SYSTEMS FOR EXISTING BUILDINGS, ADOPTING EMERGENCY RESPONSE STANDARDS, AND REPEALING SECTIONS TO ELIMINATE ANTIQUATED OR REDUNDANT LANGUAGE

The City Council of the City of Tracy does hereby ordain as follows:

SECTION 1: Readopted sections. Tracy Municipal Code sections 9.04.010, 9.04.020 and 9.04.040 through 9.04.070 are readopted in their entirety without change.

SECTION 2: Amended sections. Tracy Municipal Code section 9.04.030 is hereby amended to read as follows:

9.04.030 Adoption by reference of the California Building Code.
The City hereby adopts by reference the code entitled "2013 California Building Code," Volumes 1 and 2, including appendices C, F, H and K, copyrighted by the International Code Council and the California Building Standards Commission (hereinafter "California Building Code"), as amended by this chapter. The California Building Code is on file with the City Clerk, and is available for inspection and copying in accordance with Government Code section 50022.6.

SECTION 3: Amended sections. Tracy Municipal Code sections 9.06.010 through 9.06.080 are hereby amended to read as follows:

“9.06.010 Reference to chapter.
This chapter 9.06 of the Tracy Municipal Code may be referred to as the “City Fire Code” and is adopted pursuant to Government Code section 50022.2. For the purpose of clarity, the term “Code” when used alone, shall refer to the Tracy Municipal Code.

9.06.020 Purpose of chapter.
The purpose of this chapter is to provide regulations governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of new and existing buildings and premises as herein provided and to provide safety to fire fighters and emergency responders during emergency operations; providing for the issuance of permits and collection of fees therefor; and to provide minimum standards to safeguard life or limb, health or property, and public

welfare by regulating the design, construction and quality of materials for all buildings or structures in the City.

9.06.030 Adoption by reference of the California Fire Code.

The City hereby adopts by reference the code entitled "2013 California Fire Code" including appendices B, BB, C, CC, D, H, F and K, copyrighted by the International Code Council and the California Building Standards Commission (hereinafter "California Fire Code"), as amended by this chapter. The California Fire Code is on file with the City Clerk, and is available for inspection and copying in accordance with Government Code section 50022.6.

9.06.040 Penalty Provisions

The California Fire Code subsection 109.4 is amended to read as follows:

109.4 Violations Penalties. Violations of this Chapter shall be enforced by The City of Tracy in accordance with the provisions of City of Tracy Municipal Ordinance Section 9.02.040

9.06.050 Appeals

Any person aggrieved by any decision of the fire code official, may appeal to the Board of Appeals, by filing a written notice of appeal with the City Clerk within thirty days from the date the decision or action was taken.

9.06.060 Amendments to the California Fire Code.

The City of Tracy hereby makes the following local amendments to the California Fire Code:

CHAPTER 1

Section 103.2 Appointment, is hereby repealed in its entirety as it purports to give vested employment rights different than currently exists for the fire code official.

Section 105.2.3 is amended to read as follows:

Section 105.2.3 Time limitation of application. An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the fire code official is authorized to grant one or more extensions of time for additional periods not exceeding 180 days each. The extension shall be requested in writing and justifiable cause demonstrated. However, at the discretion of the fire code official, an application shall not be extended more than two times if this code or any other pertinent code, law or ordinance has been adopted subsequent to the date of application. A new permit shall be obtained and corresponding fees shall be paid when a permit has expired.

Section 105.3.2 is amended to read as follows:

Section 105.3.2 Extensions. Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 180 days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The fire code official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated. However, at the discretion of the fire code official, a permit shall not be extended more than two times if this code or any other pertinent code, law or ordinance has been adopted subsequent to the date of application. A new permit shall be obtained and corresponding fees shall be paid when a permit has expired."

Section 105 is amended by adding subsection 105.6.48 to read as follows:

Section 105.6.48 Christmas tree lots, haunted house or corn maze. An operational permit is

required to operate a temporary or permanent operation.

Section 106 is amended by adding subsection 106.2.3 to read as follows:

106.2.3 Reinspection Fee. A reinspection fee may be assessed for each inspection, test, or reinspection when such portion of work for which an inspection is requested is not complete or when corrections requested to be inspected are not made. This section is not to be interpreted as requiring reinspection fees the first time an inspection or test is rejected for failure to comply with the requirements of the code, but as controlling the practice of requesting inspections/tests before the job is ready for such inspection or test. Reinspection fees may be assessed when the approved plans are not readily available to the inspector, for failure to provide access on the date for which the inspection/test is requested, failure for those individuals conducting the test to show up at the scheduled time or deviating from the approved plans. The fee shall be equal to all incurred costs for inspection and administrative staff at the fully burdened rate.

CHAPTER 2

Section 202 subsection FALSE ALARM is amended to read as follows:

FALSE ALARM shall mean the giving, signaling or transmission to any public fire station or company or to any officer or employee thereof, whether by telephone, spoken word or otherwise, information to the effect that there is a fire, medical emergency, rescue request, or other need for emergency service at or near the place indicated by the person giving, signaling, or transmitting such information, and there is found to be no need for emergency services.

CHAPTER 3

Section 315 is amended by adding subsection 315.6 to read as follows:

Section 315.6 Outside storage of pallets, palletized packing boxes, bin boxes and other combustibles.

Section 315.6.1 Operational permit required an operational permit shall be obtained to store pallets, palletized packing boxes, bin boxes and other combustible materials in excess of 2500 cubic feet.

Section 315.6.2 Height

Pallets, palletized packing boxes, bin boxes and other combustible materials shall be stored or piled with due regard to stability but in no case greater than 15 feet in height.

Exception: Bin boxes may be stacked to a maximum height of 20 feet.

Section 315.6.3 Proximity to other combustible yard storage

Pallets, palletized packing boxes and bin boxes shall be stored within the limitations to other combustible yard storage as per Table 315.6.3 (a). The distance of stacked pallets, palletized packing boxes or bin boxes adjacent to buildings on the same lot shall comply with Table 315.6.3 (b)

Table 315.6.3 (a)
Minimum distance of piled storage to other combustible yard storage

# of Pallets Bins or boxes	Min. Ft.
<50	20 Feet
50-200	30 Feet
>200	50 feet

Table 315.6.3 (b)
Minimum distance of piled or combustible storage to buildings

Building Wall Construction	# of Pallets, Bins or Boxes		
	<50	50-200	>200
Masonry without openings	0 ft.	0 ft.	15 ft.
Wood or metal With outside sprinklers	10 ft.	20 ft.	30 ft.
Wood, Metal or Masonry W/O outside sprinklers	20 ft.	30 ft.	50 ft.

Section 315.6.4 Proximity to property line

Where pallets, palletized packing boxes, bin boxes or other combustibles are piled or stored adjacent to a property line, the distance from such storage or pile shall not be less than 20 feet to the property line.

Section 315.6.5 Fire access

Fire access driveways between and around pallets, palletized packing boxes, bin boxes or other combustibles shall be a minimum of 20 feet in width and maintained free from accumulation of rubbish, weeds, machinery, equipment or other obstructions that may block access or add to the fire hazard. Driveways shall be spaced so as to establish a maximum grid of storage not to exceed 50 feet by 50 feet and no pile shall exceed 2500 square feet in dimension or more than 50 feet in any one dimension. An approved turning radius around such piles shall be maintained at all times.

Section 315.6.6 Fencing

Outside storage of pallets, palletized packing boxes, bin boxes or other combustibles operating under a permit shall be enclosed by a suitable fence not less than 6 feet in height.

Section 315.6.7 Water Supply

An approved water supply and hydrants capable of supplying the required fire flow shall be provided within 400 feet or all portions of the storage area in accordance with section 507 of the 2013 California Fire Code or NFPA 1142 (where municipal water supplies are not available).

CHAPTER 4

Section 401.5 is amended by adding subsection 401.5.1 Cost to read as follows:

Section 401.5.1 Cost recovery. All costs incurred by the City to any response to a false alarm will be charged to that person, property owner, firm or corporation causing the transmission of the false alarm.

CHAPTER 5

Section 503.6 is amended to read as follows:

Section 503.6 Security gates. The installation of security gates across a fire apparatus access road shall require, prior to installation, approval by the fire code official. Where security gates are installed they shall have an approved means of emergency operation. The security gates and the emergency operation shall be maintained operational at all times. All electrically operated automatic gates across fire apparatus access roads shall be equipped with traffic preempting optical signal receivers compatible with the emitters utilized by the Fire Department,

which will activate the gate and override all command functions of the gate controller. The automatic gate shall have a battery backup or manual mechanical disconnect readily accessible to emergency personnel in case of power failure. All gates must meet Fire Department standards deemed necessary by the fire code official for rapid, reliable access. Electric gate operators, where provided, shall be listed in accordance with UL 325. Gates intended for automatic operation shall be designed, constructed and installed to comply with the requirements of ASTM F 2200. All manual gates shall be equipped with a Knox-Box containing a key to the gate, or an approved Knox-Padlock.

Section 506.1 is amended to read as follows:

Section 506.1 Where required. Where access to or within a structure or an area is restricted because of secured openings or where immediate access is necessary for life safety or firefighting purposes, the fire code official is authorized to require a key box in which all keys necessary for entering any portion of the property, building or area shall be contained. The key box shall be manufactured by Knox and as a minimum size, shall be a Knox-Box 3200 series box with exterior dimensions of 5"x4"x3 3/4". Larger boxes will be required dependent upon the number of keys to be set within the box. The Knox-Box shall be installed at a height of 72" above finished grade in an accessible location approved by the fire code official. Keys within the box shall be permanently and readily identified.

Section 506 is amended by adding subsection 506.3 to read as follows:

Section 506.3 Hazardous materials management plan box. When a facility stores or uses hazardous materials, the fire code official may require the installation of a secured box manufactured by KNOX and located at the facilities primary entrance or fire control room. The plan box shall contain up-to-date hazardous materials inventory sheets (HMIS) of all of the hazardous materials stored or used within the facility, hazardous materials management plan (HMMP) and contact information of the company liaison to the fire department. The plan box shall be water proof and of sufficient size to contain HMMP and HMIS information without the need to fold the documentation.

Section 509 is amended by adding subsection 509.3 to read as follows:

509.3 Fire Control Room. All new buildings protected with an automatic fire extinguishing system shall be provided with a Fire Control Room in which shall contain system control valves and where practical, fire alarm panel, smoke exhaust controls and all other equipment as designated by the fire code official. The fire control room shall be located so as to be directly accessible from the exterior of the building and provided with a durable and permanent sign on the exterior of the access door to identify the space as the fire control room.

CHAPTER 9

Section 903 is amended by adding subsection 903.2.20 to read as follows:

Section 903.2.20 Automatic fire sprinklers. In addition to the requirements specified in Section 903 of this code, an automatic fire sprinkler system shall be installed throughout and maintained in operable condition in the following buildings:

1. Every building hereafter constructed in which the total area of the building is greater than 6,000 square feet including overhangs.
2. Every building hereafter constructed of three or more stories in height as defined in the building code.
3. Every building hereafter remodeled or improved within a three-year period of time when the cost of improvements (alterations and/or structural repairs to the building) requiring permits exceeds a valuation threshold as specified below and the total area of the building exceeds

6,000 square feet. The calculation is determined using a valuation threshold of \$100,000 based on the 1985 "ENR US20 Cities" Average Construction Cost Index of 4195 adjusted by area cost factors. The City will annually update the valuation threshold to a current amount based on the increase in the index since the last figure used.

4. Every building hereafter changed in occupancy classification and the total area is greater than 6,000 square feet, and the proposed use is deemed to be more hazardous based on risk analysis by the fire code official
5. Every building hereafter in which square footage is increased by 50% or more within a three-year period and the total square footage of the building exceeds 6000 square feet. If the additional square footage added to a building creates a total that exceeds the minimum code requirement for sprinklers for that occupancy type, then automatic sprinklers shall be required.
6. (Exception) Minor additions; not greater than 500 square feet in area to existing non-sprinklered buildings and the purpose of the addition is for accessory storage or disabled access upgrades.

Section 912.4 is amended to read as follows:

Section 912.4 Signs. A metal sign with raised letters at least 1 inch (25 mm) in size shall be mounted on all fire department connections serving automatic sprinklers, standpipes or fire pump connections. Such signs shall read: AUTOMATIC SPRINKLERS or STANDPIPES or TEST CONNECTION or a combination thereof as applicable. Where the fire department connection serves a portion of a building or a specific building among multiple buildings a sign shall be provided to reflect the appropriate building or portion of building served.

CHAPTER 11

Section 1103.2 amended to read as follows:

Section 1103.2 Emergency responder radio coverage in existing buildings. Existing buildings that do not have approved radio coverage for emergency responders within the building based upon the existing coverage levels of the public safety communication systems of the jurisdiction shall be equipped with such coverage when any of the following conditions apply:

1. Where the use or occupancy group of the building has been changed and the use is more hazardous.
2. The addition of metal racking systems, equipment, or interior walls utilizing metal, masonry or concrete materials that interfere with emergency responder radio coverage within the building.
 - a. Where multiple tenant spaces exist within a single structure, only the tenant space where improvements are made that trigger radio coverage shall have radio coverage.
 - b. New metal racks (including required aisle and flue space), equipment, masonry or concrete walls and elevated floors and metal framing installed that increase existing metal rack (including required aisle and flue space), equipment, masonry or concrete walls and elevated floors and metal framing area by 40% or greater for tenant spaces up to 100,000 square feet, 35% or greater for tenant spaces up to 400,000 square feet and 25% or greater for tenant spaces greater than 400,000 square feet shall require radio coverage.
 - c. New metal racks (including required aisles and flue spaces), equipment, masonry or concrete walls and elevated floors and metal framing installed that cover 30% or greater area of the tenant space where no such improvements previously existed shall require radio coverage in tenant spaces up to 100,000 square feet; 25% or greater for tenant spaces up to 400,000 square feet and 20% or greater for tenant spaces greater than 400,000 square feet.

3. Every building hereafter in which square footage of the building is increased by 50% or more within a three-year period and the total square footage of the building exceeds 6000 square feet.

Exception: 1). Group R Division 3 Occupancies and buildings constructed entirely of structural members made of wood.

APPENDIX B

Section B105.2 and Exception 1 is amended to read as follows:

Section B105.2 Buildings other than one- and two-family dwellings. The minimum fire-flow and flow duration for buildings other than one- and two-family dwellings shall be as specified in Table B105.1.

Exception:

1. A reduction in required fire-flow of up to 50 percent, as approved by the fire code official, is allowed when the building is provided with an automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2. A reduction in required fire-flow of up to 75 percent, as approved by the fire code official, is allowed for warehouse buildings of Type I, Type II, and Type III construction provided with ESFR automatic fire sprinkler systems. The resulting fire-flow for each of these reductions shall not be less than 1500 gallons per minute for the prescribed duration as specified in Table B105.1. Reduction of fire-flow does not apply to number of fire hydrants required as specified in Appendix C.

APPENDIX BB

Section BB105.1 and Exception is amended to read as follows:

Section BB105.1 The minimum fire-flow and flow duration for school buildings shall be as specified in Table BB105.1.

Exception: A reduction in required fire flow of up to 50 percent is allowed when the building is provided with an approved automatic sprinkler system. The resulting fire-flow for this reduction shall not be less than 1500 gallons per minute for the prescribed duration as specified in Table BB105.1. Reduction of fire-flow does not apply to number of fire hydrants required as specified in Appendix CC.

APPENDIX C

Appendix C is amended by adding section C106 to read as follows:

Section C106 Hydrant type. The fire code official shall approve the type of fire hydrants to be installed in the public right of way or on private property prior to any such installation.

Table C105.1 Number and Distribution of Fire Hydrants, footnote "b" is repealed and amended to read as follows:

Table C105.1 footnote "b"

b. Where streets are provided with median dividers that make access to hydrants difficult, cause time delay, or create undue hazard or both, or where arterial streets are provided with four or more traffic lanes, hydrant spacing shall average 500 feet on each side of the street and be arranged on an alternating basis up to a fire-flow requirement of 7,000 gallons per minute and spaced 400 feet for higher fire flow requirements.

APPENDIX CC

Appendix CC is amended by adding section CC106 to read as follows:

Section CC106 Hydrant type. The fire code official shall approve the type of fire hydrants to be installed in the public right of way or on private property prior to any such installation.

Table CC105.1 Number and Distribution of Fire Hydrants, footnote “b” is repealed and amended to read as follows:

Table CC105.1 footnote “b”

b. Where streets are provided with median dividers that make access to hydrants difficult, cause time delay, or create undue hazard or both, or where arterial streets are provided with four or more traffic lanes, hydrant spacing shall average 500 feet on each side of the street and be arranged on an alternating basis up to a fire-flow requirement of 7,000 gallons per minute and spaced 400 feet for higher fire flow requirements.”

SECTION 4: Readopted sections. Tracy Municipal Code sections 9.08.010, 9.08.020 and 9.08.040 through 9.08.160 are readopted in their entirety without change.

SECTION 5: Amended sections. Tracy Municipal Code section 9.08.030 is hereby amended to read as follows:

9.08.030 Adoption by reference of the California Electrical Code.
The City hereby adopts by reference the code entitled "2013 California Electrical Code," copyrighted by the National Fire Protection Association and approved by the California Building Standards Commission (hereinafter "California Electrical Code"), as amended by this chapter. The California Electrical Code is on file with the City Clerk, and is available for inspection and copying in accordance with Government Code section 50022.6.”

SECTION 6: Readopted sections. Tracy Municipal Code sections 9.10.010, 9.010.020 and 9.10.040 are readopted in their entirety without change.

SECTION 7: Amended sections. Tracy Municipal Code section 9.10.030 is hereby amended to read as follows:

“9.10.030 Adoption by reference of the California Residential Code the City hereby adopts by reference the code entitled "2013 California Residential Code" and appendix H copyrighted by the International Code Council and the California Building Standards Commission (hereinafter "California Residential Code"), as amended by this chapter. The California Residential Code is on file with the City Clerk, and is available for inspection and copying in accordance with Government Code section 50022.6.”

SECTION 8: Added section. Tracy Municipal Code section 9.10.050 is hereby added by deleting the existing text of the 2013 California Residential Code section R313.2 and replacing it with the following:

9.10.050 One- and two-family dwellings automatic fire systems.
An automatic residential fire sprinkler system shall be installed in one- and two-family dwellings including all newly installed manufactured homes in accordance with Title 25.

SECTION 9: Readopted sections. Tracy Municipal Code sections 9.12.010, 9.012.020 and 9.12.040 are readopted in their entirety without change.

SECTION 10: Amended sections. Tracy Municipal Code sections 9.12.030 and 9.12.050

are hereby amended to read as follows:

9.12.030 Adoption by reference of the California Plumbing Code.

The City hereby adopts by reference the code entitled "2013 California Plumbing Code," including all appendices attached thereto (A-K with the exception of L), copyrighted by the International Association of Plumbing and Mechanical Officials and the California Building Standards Commission (hereinafter "California Plumbing Code"), as amended by this chapter. The California Plumbing Code is on file with the City Clerk, and is available for inspection and copying in accordance with Government Code section 50022.6."

9.12.050 Expiration of Application for Plan Review and Permit

California Plumbing Code section 103.4.2, Expiration of Plan Review, is amended read as follows:

An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the building official is authorized to grant one or more extensions of time for additional periods not exceeding 180 days each. The extension shall be requested in writing and justifiable cause demonstrated. However, at the discretion of the building official, an application shall not be extended more than two times if this code or any other pertinent code, law or ordinance has been adopted subsequent to the date of application. A new permit shall be obtained and corresponding fees shall be paid when a permit has expired.

California Plumbing Code section 103.3.3, Expiration, is amended to read as follows:

Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 180 days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The building official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated. However, at the discretion of the building official, a permit shall not be extended more than two times if this code or any other pertinent code, law or ordinance has been adopted subsequent to the date of application. A new permit shall be obtained and corresponding fees shall be paid when a permit has expired."

SECTION 11: Readopted sections. Tracy Municipal Code sections 9.14.010, 9.014.020 and 9.14.040 are readopted in their entirety without change.

SECTION 12: Amended sections.

Tracy Municipal Code sections 9.14.030 is hereby amended to read as follows:

9.14.030 Adoption by reference of the California Green Building Standards Code

The City hereby adopts by reference the code entitled "2013 California Green Building Standards Code" without appendices and copyrighted by the California Building Standards Commission (hereinafter "California Green Building Standards Code"), as amended by this chapter. The California Green Building Standards Code is on file with the City Clerk, and is available for inspection and copying in accordance with Government Code section 50022.6."

SECTION 13: Readopted sections, Tracy Municipal Code sections 9.16.010, 9.016.020

and 9.16.040 are readopted in their entirety without change.

SECTION 14: Amended section. Tracy Municipal Code sections 9.16.030 and 9.16.050 are hereby amended to read as follows:

“9.16.030 Adoption by reference of the California Mechanical Code.

The City hereby adopts by reference the code entitled "2013 California Mechanical Code," without appendices attached thereto, copyrighted by the International Association of Plumbing and Mechanical Officials and the California Building Standards Commission (hereinafter "California Mechanical Code"), as amended by this chapter. The California Mechanical Code is on file with the City Clerk, and is available for inspection and copying in accordance with Government Code section 50022.6.”

9.16.050 Expiration of Application for Plan Review and Permit

California Mechanical Code section 114.4, Expiration of Plan Review, is amended to read as follows:

An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the building official is authorized to grant one or more extensions of time for additional periods not exceeding 180 days each. The extension shall be requested in writing and justifiable cause demonstrated. However, at the discretion of the building official, an application shall not be extended more than two times if this code or any other pertinent code, law or ordinance has been adopted subsequent to the date of application. A new permit shall be obtained and corresponding fees shall be paid when a permit has expired.

California Mechanical Code section 113.4, Expiration, is amended to read as follows:

Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 180 days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The building official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated. However, at the discretion of the building official, a permit shall not be extended more than two times if this code or any other pertinent code, law or ordinance has been adopted subsequent to the date of application. A new permit shall be obtained and corresponding fees shall be paid when a permit has expired.

SECTION 15: Repealed and amended section. Tracy Municipal Code section

9.40.080 is hereby amended to read as follows:

9.40.080 Entrance numbers. All buildings and enclosures with main entrances on the public streets of the City shall be numbered in the manner set forth in this section, and all changes from the existing entrance number to a new entrance number where such changes are shown to be required by the block number revisions shown on said Plan shall be made at the earliest possible date, and in any event within a period of six months, unless such date is extended by resolution of the Council.

The duty of obtaining an assignment or reassignment of the appropriate entrance number is

imposed upon the owner and also upon the occupant of the building or enclosure to which any such entrance belong or pertains. All such numbers or revised numbers shall be assigned by an official or department of the City designated to perform such duty, and such official or department shall cause to be prepared and maintained such block maps or other documents as may be necessary and adequate for the purpose of keeping an accurate record of entrance numbers.

After such assignment, all existing entrance numbers which are replaced and all numbers on such buildings and enclosures completed after July 1, 1989, shall be placed in figures not less than four inches (nominal) high on illuminated background and a minimum of ½-inch stroke width. Addressing shall be illuminated at night. Such address signs shall be internally or externally illuminated at an intensity of not less than 5.0 foot-candles. Such numbers shall also contrast with their background and shall be placed on a portion of the building that is both legible and visible from the street fronting the property a minimum of six feet above the grade. Entrance numbers shall not be placed on any moveable door and shall be unobstructed from the view of such numbers from the street. Additionally, where access is by means of a private road and/or the building address cannot be viewed from the public way, a monument, pole or other approved sign or means shall be used to identify the structure. Address numbers shall be Arabic numbers or alphabetical letters. Address numbers shall be maintained. Where required by the fire code official, address numbers shall be provided in additional approved locations to facilitate emergency response.

Multiple tenant spaces serviced by vehicular access to the rear of the building through any driveway, alleyway, or parking lot shall have numbers or addresses placed prior to occupancy on all new and existing buildings as to be plainly visible and legible from the rear access way. Multiple tenant spaces serviced by rear access through a corridor, exit court, or exit yard shall have approved numbers or addresses displayed on the rear of the tenant space.

Multiple tenant spaces that front on interior walkways or pedestrian malls shall have approved numbers or addresses placed over the entrance door in all new and existing buildings. An illuminated annunciator or directory board shall be required at every entrance where deemed necessary by the fire code official."

SECTION 16: Readopted sections. Tracy Municipal Code sections 9.48.010, 9.048.020 and 9.48.040 are readopted in their entirety without change.

SECTION 17: Amended section. Tracy Municipal Code section 9.48.030 is hereby amended to read as follows:

9.48.030 Adoption by reference of the California Historical Building Code.
The City hereby adopts by reference the code entitled "2013 California Historical Building Code" including all appendices attached thereto and copyrighted by the California Building Standards Commission (hereinafter "California Historical Building Code"), as amended by this chapter. The California Historical Building Code is on file with the City Clerk, and is available for inspection and copying in accordance with Government Code section 50022.6."

SECTION 18: Readopted sections. Tracy Municipal Code sections 9.50.010, 9.050.020 and 9.50.040 are readopted in their entirety without change.

SECTION 19: Amended section. Tracy Municipal Code section 9.50.030 is hereby

amended to read as follows:

9.50.030 Adoption by reference of the California Existing Building Code the City hereby adopts by reference the code entitled "2013 California Existing Building Code" copyrighted by the International Code Council and the California Building Standards Commission (hereinafter "California Existing Building Code"), as amended by this chapter. The California Existing Building Code is on file with the City Clerk, and is available for inspection and copying in accordance with Government Code section 50022."

SECTION 20: Readopted sections. Tracy Municipal Code sections 9.64.010, 9.64.020 and 9.64.040 are readopted in their entirety without change.

SECTION 21: Repealed and amended section. Tracy Municipal Code section 9.64.030 is hereby amended to read as follows:

9.64.030 Adoption by reference of the California Energy Code. The City hereby adopts by reference the code entitled "2013 California Energy Code," including all appendices attached thereto, published by the International Code Council and copyrighted by the California Building Standards Commission (hereinafter "California Energy Code"), as amended by this chapter. The California Energy Code is on file with the City Clerk, and is available for inspection and copying in accordance with Government Code section 50022.6."

SECTION 22: Title, chapter and section headings. Title, chapter, and section headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning or intent of the provisions of any title, chapter, or section hereof.

SECTION 23: Constitutionality. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of the Ordinance.

SECTION 24: Effective date. This Ordinance shall take effect thirty days after its final passage and adoption.

SECTION 25: Publication. A summary of this ordinance shall be published and a certified copy of the full text posted in the office of the City Clerk at least five days before the City Council meeting at which the proposed ordinance is to be adopted. Within 15 days after adoption, the City Clerk shall publish a summary, and shall post in her office a certified copy, of the ordinance with the names of those Council Members voting for and against the ordinance. (Government Code section 36933(c)(1).)

* * * * *

The foregoing Ordinance 1192 was introduced at a regular meeting of the Tracy City Council on the 7th day of January, 2014, and finally adopted on the _____ day of _____, 2014, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 4

REQUEST

**ACCEPT INFORMATION REGARDING SURLAND COMMUNITIES, LLC
APPLICATION WITHDRAWAL**

EXECUTIVE SUMMARY

City Council recently discussed airport improvements and land development applications from Surland Communities, LLC (Surland) to amend the City's General Plan and Ellis Specific Plan. The applications were determined to be inconsistent with the San Joaquin County Airport Land Use Compatibility Plan. The applications would have required City Council to approve an overrule of the San Joaquin County Airport Land Use Commission determination of inconsistency¹. At the time, City Council asked for additional information before directing staff to prepare overrule findings. Surland has recently submitted a letter requesting revisions to their application and no longer is requesting land use changes that would necessitate an overrule.

DISCUSSION

As mentioned when this was discussed with City Council on October 15, 2013, Surland submitted an application to amend the Ellis Specific Plan and the City's General Plan in July, 2013. Surland recently submitted a letter requesting revisions to their application and is no longer seeking land use changes to the Ellis Specific Plan that would require consideration of an overrule. A revised application would be processed in accordance with normal application processing requirements including SJCOG review similar to any land use application in the airport influence area. Attachment A to the staff report is the letter from Surland withdrawing the request for land use changes to Ellis that would require consideration of an overrule.

STRATEGIC PRIORITIES:

This agenda item does not directly relate to the Council's Strategic Plans.

FISCAL IMPACT

There is no impact to the General Fund. Work on the Ellis project is recovered through the Cost Recovery Agreement between the City and Surland.

¹ Land use and development applications near the airport are required to be reviewed by San Joaquin County Council of Governments (SJCOG) acting as the county's Airport Land Use Commission (ALUC) for consistency with the Airport Land Use Compatibility Plan (ALUCP) which is adopted and administered by SJCOG. Surland's application to amend the Ellis Specific Plan for a portion of land in the outer approach zone of the airport was reviewed by SJCOG and determined to be inconsistent with the ALUCP. City Council has the ability to "overrule" the SJCOG after making specific findings.

RECOMMENDATION

No action is required. Staff recommends that the City Council accept the information related to the Surland application.

Prepared by: Bill Dean, Assistant Development Services Director

Reviewed by: Andrew Malik, Development Services Director
Maria A. Hurtado, Assistant City Manager

Approved by: R. Leon Churchill, Jr., City Manager

ATTACHMENTS

Attachment A – Letter from Surland

JAN 15 2014
CITY OF TRACY

January 15, 2014

Mr. Scott Claar
Associate Planner
Development Services Department
City of Tracy
333 Civic Center Plaza
Tracy, CA 95376

RE: July 11, 2013 Application for Ellis Specific Plan Amendment #2 and City of Tracy General Plan Amendment

Dear Mr. Claar:

With this letter, Surland Communities is formally withdrawing the portion of its request for all land use changes related to the 2009 ALUCP outer approach / departure zone in its application for Ellis Specific Plan Amendment #2 and City of Tracy General Plan Amendment dated July 11, 2013.

Consequently, it is unnecessary for the City to pursue an overrule process regarding the San Joaquin County Airport Land Use Commission Compatibility Plan.

Sincerely,

SURLAND COMMUNITIES



Les J. Serpa
President

AGENDA ITEM 5

REQUEST

**INTRODUCTION OF AN ORDINANCE ADDING A NEW CHAPTER 3.12,
PREFERENTIAL PARKING, TO THE CITY OF TRACY MUNICIPAL CODE**

EXECUTIVE SUMMARY

For the past several years, residents from the neighborhoods surrounding Tracy High School have raised concerns regarding high school students parking on residential streets leaving no parking spaces on the streets for residents. Residents are inconvenienced as they find it challenging, during schools hours, to find a parking space in the area. Staff has worked with both the residents groups and Tracy High School towards resolution of these issues. Certain improvements made in the street have helped but not corrected the problem. The neighborhood residents widely support and request permit parking in the area that would restrict parking to local residents only. Staff reviewed permit parking programs adopted by other cities and has developed an ordinance for Council consideration to establish permit parking.

DISCUSSION

Residents from the neighborhoods surrounding Tracy High School have been raising concerns for the past several years regarding students parking on residential streets fronting their properties. Due to the close proximity of the school grounds and school campus, students from Tracy High school routinely park their vehicles in these streets during school hours and during school events such as football games. At times most of the street parking is occupied by students parking, thereby leaving very few or no parking spaces for residents. The majority of the houses on both sides of the street have garages except a few who have converted garages into residential uses. Such residents rely on street parking only. In addition to parking concerns, residents have indicated there are other issues such as noise, loitering and littering.

Development Services and the Tracy Police Department have worked with Tracy High School to educate the students, and the School Resource Officer has patrolled the area to improve traffic conditions. In 2008, City Council approved establishment of a three foot of red zone on both sides of all driveways on Berverdor Avenue and Twelfth Street. In spite of these measures, residents continue to feel inconvenienced as parking challenges still exist during schools hours.

Staff conducted several neighborhood meetings with residents of these streets to develop alternatives or solutions to resolve their concerns. Since all other options have been exhausted, the residents have requested establishment of permit parking on these two streets that would restrict parking to residents only.

The school district has been kept aware of the City's efforts to resolve this issue with the residents. The school was consulted at the time of street improvements establishing red zones on both sides of the driveways. A letter from School Superintendent Dr. James Franco (Attachment A) was received on October 29, 2013 objecting to the proposed

permit parking on these streets indicating that the school believes the situation has not changed substantially since the school was constructed in 1917. He further stated that offsite parking has been available to school students since that time; long before the neighborhood was developed and, therefore, should continue to be available. The school has also resolved to work with the City toward a mutually acceptable solution to the issue.

Staff believes that the condition can be improved if additional parking is provided on the school site. The school can acquire certain properties located east of the school and convert the properties to parking spaces. However, the school does not have any short term plans towards acquisition of such properties. After exhausting this and other options, staff believes that resident/property owner concerns can best be addressed by establishing permit parking.

Staff reviewed permit parking programs adopted by other cities and developed an ordinance (Attached Exhibit A) aimed at establishing permit parking in the affected neighborhood area. Staff developed a process similar to other cities after coordinating with the residents.

For a request to be considered for preferential/permit parking, property owners would need to submit a petition to the City Engineer, which is signed by 60% of the property owners in the proposed area. The application request should include language describing general requirements and constraints of the permit parking. Following the receipt of the completed application, engineering staff would follow the steps listed below for the request to be approved.

1. Staff holds an informational meeting for the residents/property owners explaining the process, costs, requirements, limitations, etc.
2. Staff completes a mail-in ballot to ensure support from 70% of the property owners of the neighborhood within the designated area.
3. Neighborhood property owners are informed of the ballot results. If the measure is supported by 70% of the property owners they will be requested to collect and provide funds payable to the City for the acquisition and installation of the required signage.
4. Engineering staff will inform Police Department staff of the mail-in ballot results.
5. After the receipt of funds from the residents and property owners, City Engineering staff will designate the permit parking boundary area and request the acquisition and installation of the signs.
6. Thirty days after the designation of the permit parking area, the parking zone will be established.
7. The Police Department will issue parking permits.
8. Parking enforcement will be performed on "Call for Service" by the Police Department parking interns or community service officers. If neither is available a police officer will respond.

Following the approval of permit parking, the Police Department will issue, manage and enforce the permit parking program. At this time, the Police Department staff has determined it will provide permits at no cost to the residents or property owners as a pilot

program. Depending upon future requests, Council may determine that annual permit fees would be required in the future.

Based on the interest from the neighborhood community it is anticipated that property owners from only two streets, Twelfth Street and Beverdor Avenue between Mae Avenue and East Street, will pursue this program. If approved by the property owners there is potential of issuing 120 total permits. Therefore the fiscal impact is minimal. No major operation impact is anticipated at this time.

The existing City code does not allow permit or preferential parking. In order to allow permit parking within the City, City Council must approve the addition of a new chapter in the ordinance that provides a tool to resolve citizen's concerns and provides a mechanism to install preferential/permit parking.

STRATEGIC PLAN

This agenda item is a routine operational item and does not directly relate to the Council's Strategic Plans.

FISCAL IMPACT

There will be minimal impact to the General Fund. No major operational impact is anticipated by the Police Department at this time. However, if preferential parking is extended to other areas of the City, further impact studies will need to be performed. The establishment of a preferential parking/permit parking zone will be implemented by engineering staff. The cost for acquisition and installation of signs will be collected from the property owners requesting the preferential/permit parking. Issuance of parking permits will be performed by Police Department staff.

RECOMMENDATION

That City Council introduce an ordinance adding a new chapter 3.12 Preferential Parking to the Tracy Municipal Code.

Prepared by: Ripon Bhatia, Senior Civil Engineer

Reviewed by: Jeremy Watney, Police Captain
Kuldeep Sharma, City Engineer
Andrew Malik, Development Services Director
Gary Hampton, Chief of Police
Maria A. Hurtado, Assistant City Manager

Approved by: R. Leon Churchill Jr., City Manager

ATTACHMENTS

Attachment A – Letter from School District, Dated 10/29/13
Attachment B – Location Map



October 29, 2013

City Council, City of Tracy
Mr. Leon Churchill, City Manager
333 Civic Center Plaza
Tracy, CA 95376

RE: Letter of Concern regarding restricting parking near Tracy High School

Honorable Council Members and Mr. Churchill:

The School District has been made aware of the City's intention to restrict parking in the neighborhood west of Tracy High School on Berverdor Avenue and Twelfth Street. We understand that the City Council will be considering an ordinance that will allow the City to implement parking restrictions on City streets at your December 17, 2013 Council meeting.

The School District is concerned about the impact to students and parents caused by these parking restrictions. As you may be aware, students are using the surrounding residential neighborhoods for parking and have been for years due to the limited on-site parking at the Tracy High School campus. Currently there are no provisions to accommodate the students that are now parking in the surrounding neighborhoods. Restricting parking without consideration for where those students will park is problematic. We suspect that students will park in more remote neighborhoods or perhaps park in the City lots across Eleventh Street. This may become a burden to the City as more students consume City parking spaces meant for police department and City Hall staff and constituents. This may also adversely impact traffic on Eleventh Street due to increased student crossings.

We understand that there are neighborhood complaints; however, the high school has been on the same site since 1917 and offsite parking has been available to the Tracy High School campus for almost the same period, well before the neighborhood was developed. We look forward to working jointly with the City to come up with a solution that is mutually acceptable to all parties.

Thank you for your consideration of this letter of concern.

Sincerely,

Dr. James C. Franco
Superintendent

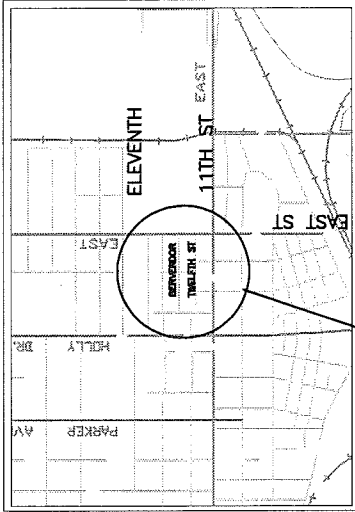
*"The future belongs
to the educated"*

Dr. James C. Franco
Superintendent
209) 830-3201
209) 830-3204 Fax

Dr. Casey J. Goodall
*Associate Superintendent
of Business Services*
209) 830-3230
209) 830-3234 Fax

Dr. Sheila Harrison
*Assistant Superintendent
of Educational Services:
& Human Resources:*
(209) 830-3202
209) 830-3209 Fax
209) 830-3260
209) 830-3264 Fax

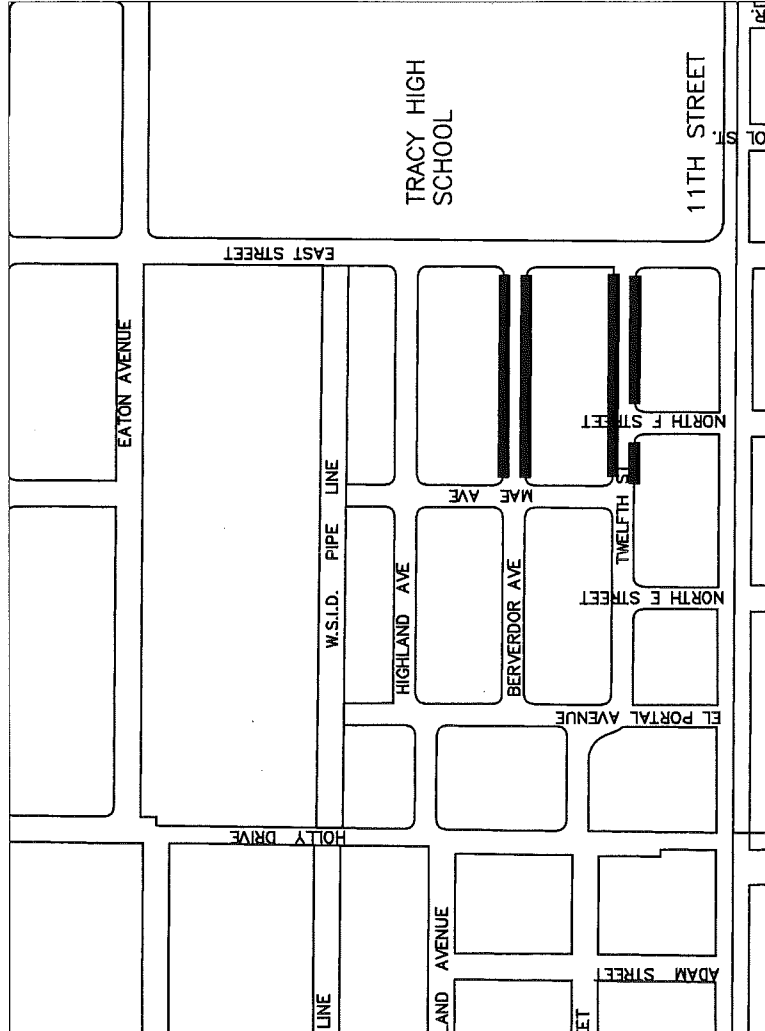
1875 W. Lowell Avenue
Tracy, CA 95376
www.tracy.k12.ca.us



LOCATION MAP



NOT TO SCALE



NEIGHBORHOODS WITH PARKING CONCERNS

LOCATION MAP

REVISIONS	REVISIONS		
	NO.	DATE	DESCRIPTION

SHEET 1
OF 1 SHEETS

CITY OF TRACY

APPROVED FOR CONSTRUCTION SUBJECT TO THE DATA SHEET.
CITY OF TRACY AND THE UNDERGROUND ARE NOT RESPONSIBLE FOR
ERRORS AND/OR OMISSIONS THAT MAY BE PRESENT ON THESE PLANS.
KILDEEP SHARMA CITY ENGINEER

ORDINANCE _____

AN ORDINANCE OF THE CITY OF TRACY ADDING A NEW CHAPTER 3.12,
PREFERENTIAL PARKING, TO THE TRACY MUNICIPAL CODE

WHEREAS, California Vehicle Code section 22507 allows a city to adopt a preferential parking program and to designate certain streets upon which preferential parking privileges are given to residents adjacent to those streets, and

WHEREAS, Some residents in the City have requested that the City adopt such a program, and

WHEREAS, City Staff has prepared a proposed ordinance establishing a preferential parking system in the City, and

WHEREAS, City Staff has notified those who previously have expressed interest of the date and time of the Council meeting, and

WHEREAS, This proposed ordinance is not subject to the California Environmental Quality Act (CEQA) because is it categorically exempt under CEQA Guidelines section 15321 (14 California Code of Regulations Section 15321.)

WHEREAS, The City Council held a public hearing on January 21, 2014 to consider the matter; and

The City Council of Tracy does hereby ordain as follows:

SECTION 1: A new Chapter 3.12 is added to the Tracy Municipal Code, consisting of Sections 3.12.010 through 3.12.080, to replace Chapter 3.12, Parking Meters (previously repealed) and to read as follows:

**“Chapter 3.12
Preferential Parking**

Sections:

- | | |
|-----------------|---|
| 3.12.010 | Authority, Purpose, Administration. |
| 3.12.020 | Definitions. |
| 3.12.030 | Procedure for Designating Preferential Parking Area. |
| 3.12.040 | Issuance of Parking Permits, Fees, Revocation. |
| 3.12.050 | Parking Permit Exemptions. |
| 3.12.060 | Posting Permit Parking Areas. |
| 3.12.070 | Violations. |
| 3.12.080 | Review and Evaluation of Preferential Parking Areas. |

3.12.010 Authority, Purpose, Administration

(a) *Authority.* This chapter 3.12 is adopted under the authority of California Vehicle Code section 22507.

(b) *Purpose.* The purpose of this Chapter is to provide for certain preferential parking permit areas within the City to alleviate parking congestion caused by non-resident parking.

(c) *Administration.* The City Engineer shall administer this chapter and is authorized to develop a written policy to implement the preferential parking program.

3.12.020 Definitions.

City Engineer means the Tracy City Engineer or his or her designee.

Chief or Chief of Police means the City's Chief of Police or his or her designee.

Parking permit or Permit means a valid parking permit or guest permit in the form of a vehicle sticker or placard, issued under TMC section 3.12.040.

Preferential parking area means an area specifically designated by the City Engineer under TMC section 3.12.030 for preferential parking.

Property owner means the owner shown on the last equalized assessment roll of the San Joaquin County Recorder's Office. When voting is involved, there is one vote for each property, regardless of the number of property owners.

Public Works Director means the City's Public Works Director or his or her designee.

3.12.030 Procedure for Designating Preferential Parking Area.

a) *Application.* Property owners of a proposed preferential parking area may submit an application to the City Engineer if:

(1) The application contains a description or map showing precisely the proposed preferential parking area, and

(2) The application includes a petition signed by 60% of the property owners of the proposed area, including printed name, address and signature for each owner. The petition must include the following statement on each signature page:

By my signature below, I join in the request that my neighborhood be designated a preferential parking area under Tracy Municipal Code Chapter 3.12. I understand that:

- If 60% of my neighbors sign this petition, the city will hold an informational meeting followed by a mail-in ballot,
- A neighborhood mail-in ballot requires 70% of the property owners in favor of the proposed preferential parking zone, with one vote for each property,
- Property owners are responsible for the cost of the required signage. The owners must collect and deposit with the City the estimated cost of the signs and installation before the City Engineer designates the area as a preferred parking area, and
- No parking will be allowed during the specified hours without a permit.

(b) *City-held meeting, ballot confirmation.* If the City Engineer determines that a petition is complete and 60% of the property owners of a proposed preferential parking area have signed the petition, he or she shall set the time and date for an informational meeting. The City Engineer shall notify each resident and property owner in the affected area. After the informational meeting has been held, the City Engineer shall mail to each property owner in the affected area a ballot for voting on the proposed designation. Owners may mail or hand-deliver ballots to the City Engineer.

(c) *Designation.* If 70% or more of the property owners vote “yes” within 20 days of the mailing date, the City Engineer shall notify the owners of the ballot results. Property owners shall collect the estimated cost for signs and installation. After receiving sufficient funds to cover the costs, the City Engineer shall designate the area as a preferential parking area. Once the area is designated and parking permits made available under TMC section 3.12.040, no person may park in the area during the designated hours without a permit, unless exempt under TMC section 3.12.050.

3.12.040 Issuance of Parking Permits, Fees, Revocation.

(a) *Parking permits.* Within 30 days after the City Engineer has designated a preferential parking area, the Chief of Police shall begin issuing parking permits to any residents of the area. Each permit expires and must be renewed (and information verified) each calendar year.

Each resident is entitled to:

- (1) One permit for each vehicle registered to the resident’s address, up to a maximum of two permits. The resident shall affix the permit to the vehicle,
- (2) One guest permit. The City may issue an additional guest permit to a property owner who is not a resident,
- (3) Up to 10 one-day guest permits for each special event held at a residence.

The permit does not entitle the permittee to violate other parking regulations, guarantee a parking space at any particular location, or permit parking for more than 72 hours. (See TMC section 3.08.510.)

- (b) *Fees.* There is no fee for the annual parking permit.
- (c) *Revocation.* The Chief may revoke the parking permit of any person or for any vehicle no longer eligible for a permit, and shall notify the resident in writing of the reason for the revocation.

3.12.050 Parking Permit Exemptions.

The following vehicles are not subject to the parking permit requirement in a designated preferential parking area:

- (a) An emergency vehicle (See Vehicle Code section 165),
- (b) A delivery, utility or service vehicle providing service to a resident or facility in the preferred parking area,
- (c) A vehicle used by a disabled individual meeting the requirements of Vehicle Code section 22511.5 and displaying a handicap plate or placard.

3.12.060 Posting Permit Parking Areas.

Within 30 days after designating a preferred parking area under TMC section 3.12.030, the Public Works Director shall post signs indicating the parking limitations.

3.12.070 Violations.

Within a preferred parking area, no person may:

- (a) Park a motor vehicle during the limited times without a valid permit, properly

- displayed. The Police Department is authorized to issue a parking citation for a violation,
- (b) Falsely represent himself or herself as eligible for a parking permit, or furnish false information in a permit application,
- (c) Allow the use of a parking permit on a vehicle other than that for which the permit was issued,
- (d) Copy or produce a counterfeit parking permit, or display a counterfeit permit, or
- (e) Sell, give or exchange a permit to another person.

3.12.080 Review and Evaluation of Preferential Parking Areas.

(a) City Engineer. The City Engineer may periodically re-evaluate:

- (1) The preferential parking permit program,
- (2) A designated preferential parking area, and may modify the limitations or cancel the designation.

(b) Property owners. The property owners within the preferential parking area may request the removal of the designation, following the same process outlined in Section 3.12.030.”

SECTION 2. This Ordinance shall take effect 30 days after its final passage and adoption.

SECTION 3. This Ordinance shall be published once in the Tri-Valley Times, a newspaper of general circulation, within 15 days from and after its final passage and adoption.

* * * * *

The foregoing Ordinance _____ was introduced at a regular meeting of the Tracy City Council on the 21st day of January, 2014, and finally adopted on the _____ day of _____, 2014, by the following vote:

AYES: COUNCIL MEMBERS:
 NOES: COUNCIL MEMBERS:
 ABSENT: COUNCIL MEMBERS:
 ABSTAIN: COUNCIL MEMBERS:

MAYOR

ATTEST:

CITY CLERK

January 21, 2014

AGENDA ITEM 6

REQUEST

DISCUSS AND PROVIDE DIRECTION ON A COUNCIL COMMUNICATIONS POLICY

EXECUTIVE SUMMARY

Staff requests Council discuss the attached City Council Communications Policy which clarifies how communications to, from, and between City Council Members take place.

DISCUSSION

Background:

On January 17, 2012, the City Council directed staff to place an item on a future City Council agenda to discuss the creation of a City Council Communications Policy and Code of Conduct for City Council Members.

On July 17, 2012, Council discussed the establishment of a City Council procedure and protocol manual, a City Council Communications Policy, and a City Council code of conduct guidelines. Council determined that additional information on a communication policy should be brought back for Council consideration (Attachment A: July 17, 2012 Agenda Item 12.B Staff Report).

On February 21 and 22, 2013, during the Council retreat, the Council briefly discussed the development of a (1) communication policy, (2) code of conduct policy, and (3) the future compilation of a manual that contains all Council related procedures and policies for current and future Council members. Council directed staff to address all three at a later date.

This staff report presents a sample Communications Policy for Council for Council consideration. Once the Communications Policy is adopted by Council, staff proposes to return to Council with a code of conduct agenda item for Council discussion, followed by a discussion on the development of a manual containing all Council related policies for easier future reference.

City Council Communications Policy:

Council expressed interest in clarifying how communications to, from, and between City Council Members take place. The attached draft communications policy primarily addresses how written Council-related communication is handled and is largely based on current practices and City Council policies as well as state law requirements.

The Communications Policy is divided into three sections: The first section describes how communications to the City Council are distributed. This distribution of communication includes any communication from individuals via email or regular mail.

The second section describes how communication from the City Council is recommended. Particular attention is focused on the difference between Council members' representation of the City Council's official positions or actions versus individual Council member's views as residents and how these differences should be differentiated when speaking to groups or individuals related to various issues. This section also clarifies the use of City Letterhead and other resources, as well as how confidential information is handled.

The third and last section of the draft Communications Policy focuses on communications between City Council members and the importance of understanding City Council parameters bounded by the Brown Act.

Staff recommends that the City Council review and discuss the draft City Council Communications Policy. It is staff's intent to return to Council, once the Communication Policy is adopted by Council, with a code of conduct agenda item for Council discussion, followed by a discussion on the development of a manual containing all Council related policies for easier future reference.

STRATEGIC PLAN

This agenda item is a routine operational item and does not relate to the Council's Strategic Plans.

FISCAL IMPACT

There is no impact to the General Fund with the discussion or implementation of this agenda item.

RECOMMENDATION

Staff recommends that Council discuss and provide direction on a City Council Communications Policy.

Prepared by: Maria A. Hurtado, Assistant City Manager
Daniel G. Sodergren, City Attorney

Reviewed by: R. Leon Churchill, Jr., City Manager

Approved by: R. Leon Churchill, Jr., City Manager

ATTACHMENTS

Attachment A – July 17, 2012 Agenda Item 12.B Staff Report
Attachment B - Draft City Council Communications Policy

July 17, 2012

AGENDA ITEM 12.B

REQUEST**DISCUSS AND PROVIDE DIRECTION ON THE ESTABLISHMENT OF A CITY COUNCIL PROCEDURES AND PROTOCOL MANUAL, A CITY COUNCIL COMMUNICATIONS POLICY, AND A CITY COUNCIL CODE OF CONDUCT**EXECUTIVE SUMMARY

Staff is seeking direction from the City Council on the establishment of a City Council Procedures and Protocol Manual, a City Council Communications Policy, and a City Council Code of Conduct. The latter two could be incorporated into the Council Procedures and Protocol Manual.

DISCUSSION

On January 17, 2012, the City Council directed staff to place an item on a future City Council agenda to discuss the creation of a City Council Communications Policy and Code of Conduct for City Council Members.

Currently, the primary policy document for the conduct of City Council meetings is the City's Procedures for Preparation, Posting and Distribution of Agenda and the Conduct of Public Meetings ("City Council Procedures") (Resolution 2008-140, a copy of which is attached). However, this policy does not directly address the subject of the conduct of City Council members by documenting accepted practices and clarifying expectations. Nor does it address how written communications to, from, and between City Council Members are handled.

I. City Council Procedures and Protocol Manual

A number of cities have adopted city council codes of conduct and communications policies in addition to rules of procedures for conducting meetings. Some cities have included such policies in a manual that serves as an easy reference guide to council members, staff, and the public. For example, staff has attached the outlines of such manuals from the Cities of Lodi, Arcata, and Menlo Park.

Staff believes that creating such a manual would be helpful. Therefore, concurrently with considering the establishment of a City Council Communications Policy and a City Council Code of Conduct, staff is recommending that the City Council direct staff to begin preparing a City Council Procedures and Protocol Manual. Such a manual would contain, or cross-reference, existing City Council-adopted policies (including the City Council Procedures), references to state law provisions that pertain to the City Council, and any new City Council-related policies that are adopted (e.g., the City Council Communications Policy and the City Council Code of Conduct).

II. City Council Communications Policy

To clarify its preferred procedures as to how communications to, from, and between City Council Members take place, staff recommends that the City Council adopt a City Council Communications Policy. If the Council chooses to adopt such a policy, it could eventually be included in the City Council Procedures and Protocol Manual, described above.

Staff has attached a draft City Council Communications Policy. This draft is largely based on current practices and City Council policies as well as state law requirements.

Although this draft City Council Communications Policy primarily addresses how written City Council-related communication is handled (e.g., emails, letters, etc.), it does not directly address how City Council Members should conduct themselves in their communications with each other, City staff, and with the public. Staff recommends that these subjects be addressed, if at all, in the context of a City Council Code of Conduct, discussed below.

Staff is recommending that the City Council review the draft City Council Communications Policy and provide direction as to whether Council wishes to adopt such a policy. If Council prefers, this topic could also be further discussed as part of a workshop (along with a proposed City Council Code of Conduct).

III. City Council Code of Conduct

Many cities and organizations have a code of conduct, or guidelines, establishing how Council Members and officials should deal with each other, staff, and the public. Samples of such codes/guidelines from the Cities of Sunnyvale and the Mountain House Community Services District are attached. There are also provisions relating to conduct contained in the attached City Council Procedures and Protocol Manuals from Menlo Park and Arcata.

Staff is recommending that the City Council review these samples and provide initial direction to staff as to whether Council wishes to adopt such a code/guidelines and generally what should be included in such a code/guidelines. If Council directs staff to do so, staff will then schedule a future workshop for further discussion and direction.

STRATEGIC PLAN

This agenda item is a routine operational item and does not relate to the Council's four strategic priorities.

FISCAL IMPACT

There is no impact to the General Fund.

RECOMMENDATION

Staff recommends that City Council discuss the establishment of a City Council Procedures and Protocol Manual, a City Council Communications Policy, and a City Council Code of Conduct, and:

- Direct staff to begin establishing a City Council Procedures and Protocol Manual;
- Provide direction to staff on the draft City Council Communications Policy; and
- Provide initial direction to staff on establishing a City Council Code of Conduct and scheduling a future workshop on this topic.

Prepared by: Maria Hurtado, Assistant City Manager
Daniel G. Sodergren, City Attorney

Approved by: Leon Churchill, Jr., City Manager

- Attachments:
- A. Procedures for Preparation, Posting and Distribution of Agenda and the Conduct of Public Meetings (Resolution 2008-140)
 - B. Draft City Council Communications Policy
 - C. Procedures and Protocol Manuals from the Cities of Lodi, Arcata, and Menlo Park
 - D. Sample Codes of Conduct/Guidelines from the City of Sunnyvale and the Mountain House Community Services District

ATTACHMENT A

RESOLUTION 2008-140

**RESCINDING RESOLUTION 2007-258 AND
ESTABLISHING UPDATED COUNCIL POLICIES AND PROCEDURES**

WHEREAS, On November 6, 2007, the Council adopted Resolution 2007-258 which revised the "Procedures for Preparation, Posting and Distribution of Agenda and the Conduct of Public Meetings, and

WHEREAS, On July 15, 2008, Council desired to modify the Procedures related to, Public Access to Materials Distributed after the Agenda has been Posted or at Council Meetings, Non-agendized Items, and Presentations to the Council, and


WHEREAS, There is no fiscal impact to the General Fund;

NOW, THEREFORE, BE IT RESOLVED, That the City Council hereby rescinds Resolution 2007-258 and adopts the "Procedures for Preparation, Posting and Distribution of Agenda and the Conduct of Public Meetings" attached as Exhibit "A."


* * * * *

The foregoing Resolution 2008-140 was adopted by the Tracy City Council on the 15th day of July 2008, by the following vote:

AYES: COUNCIL MEMBERS: ABERCROMBIE, SUNDBERG, TOLBERT, TUCKER, IVES
NOES: COUNCIL MEMBERS: NONE
ABSENT: COUNCIL MEMBERS: NONE
ABSTAIN: COUNCIL MEMBERS: NONE



Mayor

ATTEST:


City Clerk

**PROCEDURES FOR PREPARATION, POSTING
AND DISTRIBUTION OF AGENDA
AND THE CONDUCT OF PUBLIC MEETINGS**
(Exhibit "A" to Resolution No. 2008-140; July 15, 2008)

Applicability

The procedures outlined below relating to the preparation, posting and distribution of agendas applies to the City Council, the Community Development Agency, the South County Fire Authority, the Public Facilities Corporation, the Tracy Operating Partnership Joint Powers Authority, and all City Boards, Commissions, and Committees. The procedures outlined below relating to the conduct of Council meetings apply only to the City Council. All City Council meetings shall be open to the public; however, the City Council may hold closed sessions as authorized by state law.

A. Preparation, Posting and Distribution of Agenda

Purpose of Agenda

The agenda process serves four purposes:

- As a communication mechanism, the agenda informs City staff, City Council, the public and the press.
- As a compliance mechanism, the agenda process ensures compliance with mandated state laws.
- As a decision-making mechanism, the agenda process regularly brings City business to the City Council for consideration and action. Agenda items should contain enough background information so City Council can obtain a full understanding of the issues. The agenda item should conclude with a staff recommendation so City Council has the benefit of staff input prior to making a final decision.
- As a historical reference that can be kept as a record of proceedings and actions as needed for future actions and/or litigation.

Agenda

As set forth above, the purpose of the agenda is to provide a framework within which Council meetings can be conducted and to effectively implement the approved Council programs, goals and budget. Staff shall work within the policies established by Council and not place matters on the agenda that are outside the scope of existing work programs and priorities except as approved by a majority of the Council, or to inform the Council of matters necessary to the proper operation and well-being of the City.

The agenda shall contain a brief general description of each item of business to be transacted or discussed at the meeting.

Distribution of Agenda

At a minimum the posting and distribution of all agendas shall be done in accordance with the Ralph M. Brown Act ("Brown Act") (California Government Code sections 54950 et seq.). Agendas for regular meetings shall be posted 72 hours prior to the meeting; special meeting agendas shall be posted not less than 24 hours prior to the meeting. All agendas shall be posted in the following locations: City Hall, the Community Center, the library, the City's website, and other locations as may be required by a particular Board or Commission's Bylaws. Posting of agendas at City Hall shall be the official location for purposes of Brown Act compliance.

The agenda packets are provided to City Council Members on the Thursday (or Friday) prior to City Council meeting. Distribution to the staff, public and media shall occur immediately after distribution to the City Council. The City will provide, by mail, a copy of the agenda cover sheet and the specific item relating to any individual and/or company which has an item on any given Council agenda.

Agenda subscriptions are available from the receptionist at City Hall, 333 Civic Center Plaza, Tracy, (Tel: 209/831-6000). A paperless version of the agenda is available at a cost of \$2 per disc; a paper copy costs \$35 per month (\$17.50 per agenda) to be pre-paid not less than 10 days prior to any regular Council meeting. A full copy of the agenda shall be provided in an indexed binder and shall be available for review by the public at City Hall during normal operating hours. Copies of individual agenda items will be provided at a cost of \$.15 per page. Copies of the agenda are also available at the Library and the agenda is posted on the City's website www.ci.tracy.ca.us.

Public Access to Written Materials after the Agenda has been Posted or Distributed at Council Meetings

On occasion, Council may receive written materials either after the Agenda has been posted or at a Council meeting. These written materials are typically related to an agenda item or handed out during Items from the Audience. Once the Council receives these written materials they become a public record. A copy will be kept in a file at the City Clerk's Office and posted on the City's website under "Materials Distributed at Council Meetings" 48 hours after the Council meeting.

B. Conduct of Council Meetings

Council Meetings

Council meetings are held on the first and third Tuesdays of the month, unless the meeting date falls on a holiday as defined in California Government Code Section 6700. No meeting shall be held on such a holiday, but a regular meeting shall be held at 7:00 p.m. on the next business day thereafter, as required by California Government Code Section 54954. Special meetings are scheduled as necessary.

Council meetings are broadcast live on Channel 26. Reruns of the preceding Council meeting are shown every Wednesday at 8:00 p.m. and every Saturday at 9:00 a.m. on Channel 26. Videotapes and DVD recordings of City Council meetings are available. Videotapes cost \$3 per tape and DVDs cost \$2.

Order of Business

The suggested order of business of Council meetings shall be as follows. However, the City Manager may make exceptions to the order as needed.

1. Roll Call
2. Pledge of Allegiance
3. Invocation
4. Proclamations and Awards
5. Consent Calendar
6. Items from the Audience
7. Continued Public Hearings
8. New Public Hearings
9. Regular Items including Introduction and Second Readings of Ordinances
10. Items from the Audience
11. Staff Items
12. Council Items
13. Adjournment

The regular order of business may be changed or suspended for any purpose at any particular meeting by the Mayor.

The Council may determine whether it will consider any new items after 11:00 p.m. and shall determine which specific items will be considered. If an item is continued due to the lateness of the hour, the item shall be automatically placed on the agenda for the next regularly scheduled City Council meeting unless otherwise scheduled by motion action of the Council.

Consent Calendar

All items listed on the Consent Calendar are considered to be routine matters or consistent with previous City Council direction. One motion, a second and a roll call vote may enact the items listed on the Consent Calendar. There will be no separate discussion of Consent Calendar items unless members of the City Council, City staff or the public request discussion on a specific item at the beginning of the meeting.

Public Access/Items from the Audience

It is the policy of the City Council that members of the public be allowed to address the Council on any agenda item or other matter within the Council's jurisdiction. Each member of the public will be allowed a maximum of five (5) minutes for public input or testimony. At the Mayor's discretion, additional time for testimony may be granted. Individuals addressing the Council shall state their names and addresses for the record, to ensure accuracy in the minutes and for contact information. The public shall be given an opportunity to speak on "Items of Interest to the Public." Agendas for regular meetings will have two opportunities for "Items from the Audience." The first opportunity will be limited to a 15-minute maximum period. The second opportunity will not have a maximum time limit. The five (5) minute maximum time limit per speaker will apply to all "Items from the Audience." The City Clerk shall be the timekeeper.

Non-Agendized Items (Items from the Audience and Council Items)

No matters, other than those on the posted agenda, shall be acted upon by the Council. However, items may be added to the agenda (such as emergency matters) as permitted in the Brown Act. Brief announcements, brief responses or questions for clarification, may be made to statements or questions raised on items not on the agenda.

Action on any item not on the agenda shall be deferred until the item is properly listed on the agenda for a subsequent Council meeting unless added due to an immediate need as permitted under state law.

Council Member Request for Matters to be Discussed by Council

The intent of this policy is to provide an orderly means through which an individual Council Member can raise an issue for discussion and possible direction by the City Council. The policy described below has two parts. The first part is to enable the Council Member to place a matter in front of the Council. The second part is to enable the Council to determine whether staff time should be spent on the issue.

Part 1: Council Members wishing to have a matter discussed by the City Council may do so by one of two means:

1. During a Council meeting, under "Council Items," a Council Member may request that a matter be placed on a future agenda for discussion. The Council Member will state the meeting date for which he/she wishes the item to be agendized.
2. In advance of a Council meeting, a Council Member may contact the City Manager, or his/her designee, via telephone, email, or in person and convey the desired title of the agenda item and desired meeting date. The desired title must be conveyed before 12:00 p.m. on the Wednesday prior to the Council meeting. This will give the City Clerk's Office time on the following Thursday to finalize the agenda and post it within the required timeframe. Requests received after this deadline shall be placed on the agenda for the following regularly-scheduled meeting. The item will then be added under the "Council Items" section of the agenda in the order it was received. It is the Council Member's option to prepare a one page summary report for the City Clerk's Office to include in the Council agenda packet. The one page summary will identify the Council Member who made the request and briefly describe the nature of the item.

Staff will not spend time preparing any reports or analyses on the requested item. The only staff assistance provided at this initial stage would be to help the Council Member frame the issue, if needed, so that the Council and public clearly understand the request.

Part 2: Consideration of the Council Member's Request: When the item is called at the Council meeting, the Council Member who made the request will describe the item. The Council discussion will be limited to determining whether staff time and City resources should be spent researching the particular agenda item and whether to direct staff to conduct further analysis on the item. Council will not take action on the item itself.

Concurrence that staff time and City resources will be devoted to the item does not signify approval of the item. It only indicates that the Council wishes to have it studied further. Additionally, the Council may, at any time, decide to drop the matter, even after the matter has been analyzed by staff.

Upon the concurrence of a majority of the Council that the item should be researched and agendized, the City Manager will determine when to place the item on a future agenda based on time necessary to complete the research and staff workload considerations and the effect on City Council established priorities.

Members of the Public - Request for Agenda Items

When a member of the public raises an item at a Council meeting which requires attention, such items shall be referred to staff for follow-up. If the requesting member of the public is not satisfied with staff's response to his/her question, the member of the public may request a Council Member to sponsor his/her item for discussion at a future Council meeting. In such cases, the sponsoring Council Member shall follow those procedures described under "Council Member Request for Agenda Items." Placing an item from a member of the public on a Council agenda does not imply or guarantee a decision or action different from that taken by staff in the initial follow-up to the question or request.

Public Hearings

Public hearings are required for a variety of City Council actions such as most changes to the Tracy Municipal Code, zoning revisions, some annexations, street vacations, weed abatement, liens, fee increases, etc. Whenever the law provides that publication of a notice shall be made, such notice shall be published in a newspaper of general circulation for the period prescribed, the number of times, and in the manner required. Each speaker will be allowed a maximum of five (5) minutes for public input or testimony. At the Mayor's discretion, additional time for testimony may be granted. The City Clerk shall be the timekeeper.

Presentations to the Council

Letters and written communications: Persons who wish to make presentations which may exceed the time limits are encouraged to submit comments in writing at the earliest possible time to ensure distribution to Council and other interested parties. Letters submitted with a request that they be read into the record will be done so only upon a request of the majority of the Council.

PowerPoint (or similar): Staff and members of the public who wish to make PowerPoint, Video or similar presentations to the Council will utilize the City's audio/visual equipment. Staff and members of the public are required to provide the City Clerk's Office with the DVD/CD/Video (or email copy) of the presentation no later than 24 hours prior to the Council meeting.

Additionally, eight (8) hard copies of the presentation material shall be provided to the City Clerk's Office for inclusion in the record of the meeting and for distribution to Council, City Attorney and City Manager.

Americans with Disabilities Act

The City of Tracy is in compliance with the Americans with Disabilities Act and will make all reasonable accommodations for the disabled. To allow for such reasonable accommodations, persons requiring assistance or auxiliary aids to participate at a City meeting, should contact the City Manager's Office at (209) 831-6000 at least 24 hours prior to the meeting.

Workshops

The purpose of a workshop is to inform the policy body on complex issues. Workshops provide an opportunity for the Council to review documents and request additional information. However, no final Council action shall be taken on workshop items.

Procedure for Invocations

Any member of the public who wishes to offer an invocation prior to the opening of a regular City Council meeting shall contact the City Clerk. The City Clerk shall select a mutually agreeable City Council meeting date for the invocation.

Minutes

The City Clerk's office shall be responsible for the preparation and distribution of the Council minutes. The minutes shall be summary minutes and shall reflect the sense of the discussion and any action taken, or recommendation made, with respect to each item considered at the meeting. A written report or written communication presented at a City Council meeting will be referenced in the minutes with the name and title of the author, date of the report or communication, subject of the communication or title of report, and the action taken on the matter. Unless a reading of the minutes is requested by a Council Member, the minutes may be approved as a Consent Calendar item.

No minutes or written record of closed sessions of the City Council shall be kept, except as required by state law or as directed by the majority vote of the City Council. The Council shall report at a public meeting any action taken in closed session, as required by Government Code Section 54957.1.

The City Clerk shall include a report on posting of the agenda in the minutes.

Rules of Decorum – Enforcement

While the Council is in session, all persons shall preserve the order and decorum of the session. The standards of order and decorum shall be governed by common sense. Any person who disrupts the orderly course of the meeting is guilty of an infraction and may be called out of order by the Mayor and barred from further participation during that session of the Council in accordance with the Brown Act and the California Penal Code.

(Exhibit "A" to Resolution No. 2008-140)

ATTACHMENT B

DRAFT

CITY OF TRACY

CITY COUNCIL COMMUNICATIONS POLICY

I. COMMUNICATIONS TO THE CITY COUNCIL

A. Distribution of Communications

1. Email

a. To the City Council

Individuals can communicate electronically with the City Council by sending an email to the general City Council email address (council@ci.tracy.ca.us) or through the City's Governmental Outreach website (<http://user.govoutreach.com/tracy/>). When the City receives an email communication directed to the "City Council," City staff will forward it to each City Council Member's email address and a copy will be sent to the City Manager's and City Attorney's email addresses. If the email pertains to City business, the City Manager will respond to it and copy the City Council with the response.

b. To the Mayor or Individual City Council Members

When the City receives email addressed to the Mayor or an individual City Council Member, City staff will forward it to the Mayor's or individual City Council's email address and will send a copy to the City Manager's email address.

2. Regular Mail

a. To the City Council

When the City receives regular mail (via United States Postal Service or other delivery) directed to the "City Council," City staff will copy it and place it in each City Council Member's mail box, or scan it and electronically send to each City Council Member's email address, and send copies to the City Manager and City Attorney. If the mail pertains to City business, the City Manager will respond to it and copy the City Council with the response.

b. To the Mayor or Individual City Council Members

When the City receives regular mail addressed to the Mayor or an individual City Council Member, City staff will open the letter, date stamp it, copy it, and place it in the

Mayor's or individual City Council Member's mail box. If the mail is marked "confidential," a copy will be placed in a confidential file and will only be subject to inspection and copying by the public to the extent required by the California Public Records Act. (Government Code, §§6250-6276.48.) Please note that the label "confidential" does not necessarily mean that the mail is exempt from disclosure under the California Public Records Act.

B. Communications Regarding Performance of Staff

When the City receives an email or letter addressed to the City Council or City staff regarding the performance of staff, staff will take the following steps:

1. City Employees Except For Police Officers

If the communication relates to the performance of the City Attorney or City Manager, staff will either forward it to each City Council Member's email address (if it is received by email) or copy it and place it in each City Council Members' mail box (if it is received by regular mail). Staff will then send a response back to the sender either by email or regular mail containing the following information: "Your [email or letter] has been forwarded to the City Council. However, to the extent your [email or letter] relates to the performance of a City employee, City Council Members are limited in responding to you about it, as personnel matters are generally considered to be confidential."

If the communication relates to the performance of any other employee, staff will either forward it to the City Manager's email address (if it is received by email) or send a copy of it to the City Manager (if it is received by regular mail). Staff will then send a response back to the sender either by email or regular mail containing the following explanation: "Your [email or letter] has been received by the City. However, to the extent your [email or letter] relates to the performance of a City employee, the City is limited in responding to you about it, as personnel matters are generally considered to be confidential."

2. Police Officers

If the communication relates to the performance of a police officer or command staff, staff shall forward the communication to the Police Department. The Police Department will then process the communication in accordance with the Department's Personnel Complaint Procedure.

C. Retention of Communications

All communications addressed to the City Council, Mayor, or an individual City Council Member, that the City receives, will be retained in accordance with the City's Records Retention Policy.

II. COMMUNICATIONS FROM THE CITY COUNCIL

A. Representing an Official Position of the City

A person elected to the City Council occupies two roles: as a member of a body elected to represent the City in its entirety and as a private resident of the City. Although the second role is not relinquished when the first role is assumed, it is important to distinguish between the two roles at all times and, when communicating, to clarify which role is communicating.

Therefore, City Council Members should make it clear in all verbal and written communications that they are expressing their own personal opinions and not necessarily those of the City Council, unless the City Council has taken formal action expressing its opinion on a matter.

When a City Council Member speaks to groups or is asked the City Council's position on an issue, the response should reflect the position of the City Council as a body. Of course, a City Council Member may clarify his or her vote on a matter by stating, for example, "Although I voted against "X", the City Council voted in support of it." When representing the City at meetings or other venues, it is important that those in attendance gain an understanding of the City Council's position as a whole rather than only the individual City Council Member's position.

B. Use of City Letterhead

Only the Mayor (and City staff) may use City letterhead, unless otherwise directed by City Council motion. When the Mayor uses City letterhead, it should generally be for transmitting the City's position on policy matters to outside agencies on behalf of the City Council. Staff can assist in the preparation of such letters. All letters sent on behalf of the City Council will be copied and placed in each City Council Member's mail box and a copy will be sent to the City Manager.

C. Use of Other City Resources

City Council Members may only use City resources, including business cards, printers, copiers, paper, City-owned computers and iPads, to conduct City business. Such resources may not be used for personal or political purposes. The only exception to this limitation is for "incidental and minimal use of public resources, such as equipment or office space, for personal purposes, including an occasional telephone call." (Government Code, § 8314(b)(2).)

D. Ceremonial Documents

The City Council has established procedures for considering requests for proclamations, certificates of recognition, commendation and/or appreciation and letters of

congratulations from any group or individual. (See Resolution No. 2010-059 establishing standard procedures for issuing ceremonial documents.)

E. State Legislation

The City Council has delegated to the City Manager the authority to monitor, review, evaluate and make recommendations, when appropriate, on state or federal legislative and regulatory trends and judicial developments. For those matters that the City Manager deems sufficiently important, and that require a prompt response, the City Manager has authority to coordinate all efforts to communicate the City's views on policy issues to any branch of government at any level. In furtherance of this, the City Manager may draft proposed position papers or letters for the Mayor's signature on behalf of the City. (See Resolution No. 2004-208 establishing a legislative response policy.)

F. Confidential Communications

All written materials and verbal information provided to City Council Members on matters that are confidential under state law shall be kept in complete confidence to ensure that the City's position is not compromised. No disclosure or mention of information in these materials may be made to anyone other than City Council Members, the City Attorney or the City Manager (and staff, outside legal counsel or consultants who may be present in a closed session during which such information is discussed).

G. Attorney-Client Communications

The attorney-client relationship is not always in effect when an individual City Council Member communicates with the City Attorney. The City Attorney only has an attorney-client relationship with the City acting through the entire City Council as a body. Therefore, to the extent an individual City Council Member communicates with the City Attorney, the communication may not be considered confidential.

H. Public Records Act

Correspondence from City Council Members prepared using City resources (including City-owned computers and iPads), or received by City staff, is a public record pursuant to the California Public Records Act and, unless expressly exempt from disclosure, is subject to inspection and copying by the public. (Government Code, §§6250-6276.48.)

III. COMMUNICATIONS BETWEEN CITY COUNCIL MEMBERS

City Council Members are subject to the state's open meeting law – the Brown Act. (Government Code, §§54950-54963.) The Brown Act specifically prohibits “any use of direct communication, personal intermediaries, or technological devices that is employed by a majority of the members of the legislative body to develop a collective concurrence as to action to be taken on an item by the members of the legislative body.” (Government

Code, §54952.2(b.) Therefore, particular care should be taken when City Council Members are communicating with one another to ensure that they are complying with the Brown Act.

To avoid potential Brown Act violations, when sending emails to the City Council, City staff will only send blind copies (“bcc”), so City Council Members cannot “respond to all.”

ATTACHMENT C:

Procedures and Protocol Manuals from the
Cities of Lodi, Arcata, and Menlo Park

City of Lodi



CITY COUNCIL PROTOCOL MANUAL

Prepared by:

Office of the City Clerk
City of Lodi
221 W. Pine Street
P.O. Box 3006
Lodi, CA 95241-1910

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EXHIBIT A: Chapter 2.04, "City Council Meetings"

EXHIBIT B: Resolution 2006-31 Establishing Rules for the Conduct of Meetings, Proceedings and Business

EXHIBIT C: Resolution 2004-115 Adopting City of Lodi Code of Ethics and Values

EXHIBIT D: Resolution 2009-146 Adopting Policy Regarding Legislative Invocations Before Meetings of the Lodi City Council

CITY COUNCIL PROTOCOL MANUAL

1. PURPOSE

The purpose of establishing the City Council Protocol Manual is to provide guidelines for the City Council to conduct its business in an orderly, consistent, and fair manner.

The protocols set forth herein are not intended to limit the inherent power and general legal authority of the City Council. Any of the protocols herein may be waived by a majority vote of the Council Members when it is deemed that there is good cause to do so based upon the particular facts and circumstances.

The protocols shall be amended by a majority vote of the Council Members and may be amended administratively by the City Clerk's Office in order to remain current with federal, state, and local law.

2. STATUTORY REQUIREMENTS/REGULATIONS

Certain state laws and other established regulations exist, which govern various responsibilities of the City Council. This protocol manual is not intended to duplicate, fully articulate all requirements, or repeal any existing statutes or regulations. City Council Members are responsible for becoming familiar with these statutes and regulations.

2.1 The Brown Act

The Ralph M. Brown Act provides that all meetings of a legislative body, whether meetings of the City Council or its appointed commissions and committees, shall be open and public and all persons shall be permitted to attend. Notices of such meetings must be made 72 hours prior to the meeting (or 24 hours in the case of a special meeting). A "meeting" takes place whenever a quorum is present and subject matter related to the City business is heard, discussed, or deliberated upon.

2.2 Political Reform Act

The Political Reform Act states that public officials shall perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of persons who have supported them. The Political Reform Act establishes regulations regarding conflicts of interests and campaign receipts and expenditures.

2.3 Lodi Municipal Code (LMC)

The Lodi Municipal Code consists of those codified ordinances of general municipal regulations and laws of the City of Lodi.

2.4 LMC Chapter 2.04 Relating to Council Meetings

LMC Chapter 2.04, "City Council Meetings," sets forth the Regular Meeting and Shirtsleeve Session dates, times, and location and further establishes rules for the conduct of City Council meetings. (Attached as Exhibit A)

2.5 Rules of Conduct of Meetings, Proceedings, and Business (Res. 2006-31)

Resolution No. 2006-31, adopted by the Lodi City Council on February 15, 2006, establishes rules for the conduct of City Council meetings, proceedings, and business. (Attached as Exhibit B)

2.6 City of Lodi Administrative Policy Manual

The Administrative Policy Manual consolidates all administrative policies and procedures of a general or inter-departmental nature into one document. Administrative regulations meet the following criteria: 1) are directed toward an ongoing City process or procedure; 2) are limited to one major subject area; and 3) are applicable to more than one City department. Administrative regulations are issued from the City Manager's Office.

2.7 Code of Ethics & Values (Res. 2004-115)

Resolution No. 2004-115, adopted by the Lodi City Council on June 2, 2004, sets forth the code of ethics and values for Lodi City Council Members and City Council appointees.

The proper operation of democratic government requires that decision-makers be independent, impartial, and accountable to the people they serve. The City of Lodi has adopted this code of ethics and values to promote and maintain the highest standards of personal professional conduct in the City's government. (Attached as Exhibit C)

3. COUNCIL ORGANIZATION

3.1 Newly-Elected Members

Newly-elected Council Members are sworn into office generally at the first regular Council meeting in December following a regular municipal election. Immediately upon election (even before being sworn into office), newly-elected Council Members are subject to the provisions of the Brown Act. Newly-elected Council Members shall not be allowed to attend closed sessions before being sworn into office.

3.2 Reorganization

Pursuant to Lodi Municipal Code Section 2.04.070, "Presiding officer—Mayor—Mayor Pro Tempore," the reorganization of the Council shall occur annually at the first regular Council meeting in December by electing a Mayor and Mayor Pro Tempore.

A community reception honoring the incoming Mayor, outgoing Mayor, and Council Members is traditionally held immediately following the reorganizational meeting.

3.3 Selection of Mayor and Mayor Pro Tempore

The term of office for the Mayor and Mayor Pro Tempore shall be one year. A majority vote of the Council is necessary to designate a Mayor and Mayor Pro Tempore. The election of the Mayor and Mayor Pro Tempore will take place as follows:

- City Clerk will conduct the election for the office of Mayor.
- Following the election, the City Clerk will turn over the gavel to the newly-elected Mayor, who will then conduct the election for the office of Mayor Pro Tempore.

3.4 Duties of Mayor and Mayor Pro Tempore

The Mayor shall preside at the meetings of the Council. If he/she is absent or unable to act, the Mayor Pro Tempore shall serve until the Mayor returns or is able to act.

In the absence of the Mayor and Mayor Pro Tempore, the City Clerk shall call the Council to order, whereupon a temporary Chairperson shall be elected by the members of the Council present.

The Mayor meets with the City Manager, Deputy City Manager, City Attorney, and City Clerk one week prior to Council meetings to review the draft agenda.

(Refer to LMC Section 2.04.070, "Presiding officer—Mayor—Mayor Pro Tempore," LMC Section 2.04.080, "Call to order—Temporary chairman," and Res. 2006-31 for additional duties of Mayor and Mayor Pro Tempore.)

3.5 Seating Order

Following the Council reorganization, the City Clerk shall designate the seating order for the Council dais.

3.6 Representation at Ceremonial Functions

The Mayor shall represent the Council at ceremonial functions. The Mayor may, at his/her own discretion, ask another Council Member to represent the Council at the function.

Council Members shall be reimbursed for admission, meal expenses, and mileage to attend ceremonial functions, for which the Council Member was invited to represent the City, pursuant to the City of Lodi Travel and Business Expense Policy.

3.6a Issuance of Proclamations and Certificates, Presentation of Gifts, and Public Recognition

PROCLAMATIONS AND CERTIFICATES OF RECOGNITION OR APPRECIATION: All requests for proclamations and certificates are subject to approval by and prepared on behalf of the Mayor. Proclamations and certificates are signed by the Mayor, and are prepared in response to the type of recognition requested (which may include recognition of individuals, groups, and events of significance to the Lodi community). Proclamations and certificates may be presented at a City Council meeting or at an outside event or meeting. Typically, requests are honored for presentation at a Council meeting only if a local representative from the requesting agency can appear to accept the certificate.

PRESENTATION OF GIFTS: Requests for plaques, gifts, awards, or other Protocol Account expenses shall be approved by the Mayor, or by the City Council should the amount be over \$1,000 (refer to Res. 2000-126, "Protocol Account Policy").

IN MEMORY OF: A meeting may be dedicated in memory of an individual at the direction of the Mayor or Member of the City Council. The announcement will be made following roll call. If the meeting is dedicated, the individual's family will be mailed a letter by the City Clerk's Office acknowledging the dedication.

4. COUNCIL ADMINISTRATION

4.1 Salaries and Benefits

Council salaries are established by LMC Chapter 2.08, "City Council Salaries." Government Code Section 36516 provides specific restrictions for adjusting Council salaries. Council Members shall be entitled to certain benefits, as outlined in Resolution No. 2000-211, which was adopted on November 15, 2000.

4.2 Travel and Expense Reimbursements

The Council shall establish an annual budget for conferences, meetings, training, and representation at ceremonial functions. Council Members shall attend these functions at his/her own discretion for purposes of improving comprehension of and proficiency in municipal affairs and/or legislative operations.

The Mayor will be allocated an additional \$500 per year for representation expenses.

The expenses of spouses who accompany public officials in the conduct of their public duties cannot be reimbursed (75 Cal. Op. Att'y. Gen. 20 (1992)).

4.2a AB1234 Expense Reimbursement Policy (Res. 2006-230)

Council Members shall be subject to the AB1234 Expense Reimbursement Policy as adopted by the Lodi City Council on December 20, 2006.

4.2b Appointment of Delegate/Alternate to National League of Cities and League of California Cities Annual Conferences (Res. 96-138)

Pursuant to Resolution No. 96-138, adopted by the Lodi City Council on September 18, 1996, the Mayor shall serve as the voting delegate and the Mayor Pro Tempore shall serve as the voting alternate for all National League of Cities and League of California Cities annual business meetings. In the event the Mayor and/or Mayor Pro Tempore does not attend the meeting, the Mayor shall make the selection of the voting alternate and/or delegate.

4.3 Protocol Account Policy (Res. 2000-126)

Pursuant to Resolution No. 2000-126, adopted by the Lodi City Council on July 19, 2000, expenses used for such occasions as Council receptions and business luncheons, joint dinner meetings with various agencies and organizations, and supplies associated with Mayoral duties (e.g. plaques and awards, sympathy and congratulation tokens, etc.) would require specific City Council approval, if over \$1,000. A monthly itemized report of the Protocol Account shall be provided to the City Council by the City Clerk.

4.4 Appointment of City Council Appointees (LMC Title 2)

Pursuant to LMC Section 2.12.010, "Office established—Appointment—Qualifications," the office of City Manager is established, which shall be appointed by the City Council solely on the basis of his/her executive and administrative qualifications. The powers and duties of the City Manager are set forth in LMC Section 2.12.060, "Powers and duties generally."

Pursuant to LMC Chapter 2.13, "City Clerk," the City Clerk shall be appointed by the City Council, which shall prescribe the qualifications, additional duties, and compensation of the City Clerk. The powers and duties of the City Clerk are further set forth in LMC Chapter 2.13, as well as those specified in California Government Code §40801 et seq. and other state and local statutes.

Pursuant to LMC Chapter 2.14, "City Attorney," the City Attorney shall be appointed by the City Council and shall serve as legal counsel to the City government and all officers, departments, boards, commissions, and agencies thereof. The powers and duties of the City Attorney are further set forth in LMC Chapter 2.14, as well as those prescribed by state law and by ordinance or resolution of the City Council.

4.5 Evaluation of City Council Appointees (Res. 2002-224)

Pursuant to Resolution No. 2002-224, adopted by the Lodi City Council on November 6, 2002, the City Council shall conduct Council Appointees' evaluations annually over the course of two City Council closed session meetings.

The purpose of Council Appointee evaluations is to: 1) motivate Appointees to work at their highest capacity by jointly establishing job standards and objectives, review progress toward achieving those results, and subsequently plan the Appointee's future development; 2) determine an Appointee's performance level to assist in making appraisals for merit pay increases and disciplinary actions; and 3) serve as a means of communication between City Council and the Appointee.

5. COMMISSION APPOINTMENTS

5.1 Commissions

City commissions (which hereinafter include standing Council-appointed boards, commissions, and committees) serve as advisory bodies to facilitate public input and citizen participation in the determination of public policies. This is accomplished by formulating recommended courses of action and policy to the City Council with whom final determination rests. The Planning Commission (LMC Chapter 2.16, "Planning Commission") has authority to make final determination in applicable circumstances (see LMC Title 17, "Zoning").

5.2 Board, Committee, and Commission Appointment and Removal

Appointment

Resolution No. 2003-156, adopted by the Lodi City Council on August 20, 2003, establishes the policy regarding appointment of persons to membership on a City board, committee, and commission (hereinafter "Commission"). Commission applicants, with the exception of the Greater Lodi Area Youth Commission, must be registered voters of San Joaquin County, and Site Plan and Architectural Review Commission applicants must be registered voters of the City of Lodi. Pursuant to LMC Section 2.16.010, "Established—Appointment," Planning Commission applicants must be registered voters of the City of Lodi. Those applicants not meeting this requirement will be notified by the City Clerk's Office that their application does not meet specifications and cannot be considered for appointment. Applications are to be accepted by the City Clerk for 30 days and shall remain valid and on file for one year. Exception: Full-time and part-time City employees are prohibited from serving on a commission.

Those seeking appointment to a commission must submit an application to the City Clerk's Office. Those commissioners whose terms have expired must submit a new application (terms are not automatically renewed), and the City Clerk will notify said Commissioners with a letter and new application form. Following the

close of the 30-day application period, copies of all applications will be provided to Council Members for informational purposes, as well as to the appropriate staff liaisons, who will be asked to provide feedback on each candidate, including those seeking reappointment.

The Mayor shall conduct interviews and submit recommendation(s) for appointment to the City Clerk's Office for placement on the City Council agenda for motion action. Exception: The Greater Lodi Area Youth Commission may conduct independent interviews of all applicants, providing the Mayor with a ranking of the top ten, which he/she shall use in selecting qualified candidates.

Following Council appointment, the successful candidate(s) will be notified by the City Clerk's Office via letter of the appointment and Conflict of Interest filing obligation. Copies of the letter and completed application form(s) will be forwarded to the appropriate staff liaison, who will contact the successful candidate(s) regarding meeting dates and times and responsibilities. The City Clerk's Office will notify the unsuccessful candidates of the outcome and confirm the status of their application (i.e. currently valid; has or about to expire; etc.).

Removal

A person appointed by the City Council to a Commission shall continue to serve as a member thereof except when:

1. The person's term of office expires and a different person has been appointed.
2. The person voluntarily resigns from the Commission.
3. The person no longer resides and/or is a registered voter within the required jurisdiction.
4. The person fails to attend three (3) consecutive meetings of the Commission and does not have prior approval for said absences by way of a majority action of the Commission.

A majority vote of the City Council may remove any member of a Commission for any reason including, but not limited to, conduct unbecoming a public official, violating the City's Conflict of Interest Code, failing to comply with statutory requirements, or failing to attend fifty percent (50%) of the Commission meetings in a calendar year. Conduct unbecoming a public official includes the conduct that any reasonable commissioner would know is incompatible to public service, would indicate a lack of fitness to perform the functions of a commissioner or would discredit or cause embarrassment to the City.

Any member of the City Council may initiate a person's removal from a Commission by requesting that consideration of the person's removal be placed on the Council's agenda at a regular or special meeting for discussion and potential action. The City Clerk shall notify the person affected of the time and place of the meeting. When the item is on the City Council agenda, the City Council may, by majority vote, remove the person from a Commission."

5.3 Commission Responsibility

Commissioners should respect the public and staff and shall take seriously their responsibility for reporting to the City Council. Positions taken by appointed representatives should be in alignment with the positions that the Council has taken on issues that directly impact the City of Lodi. Commissioners shall make a good faith effort to attend all scheduled meetings and will notify the City liaison if they will be absent. Each Council-appointed commission shall be designated a staff liaison who shall make certain that the commission is properly instructed on its responsibilities and performance expectations. This may include the issuance of the commission's bylaws or guidelines, as well as copies of The Brown Act and Resolution No. 2006-31, "Rules of Conduct of Meetings, Proceedings, and Business." The City Attorney may from time to time conduct Brown Act workshops for new commissioners.

Commissioners may address the Council on items discussed by their respective bodies but should be limited to the chair or a representative that has been appointed by the commission. This will not take precedence over any individual's first amendment right to address the Council as an individual.

5.4 Council Contact with Commissions

Members of the City Council should not attempt to influence or publicly criticize commission recommendations, or to influence or lobby individual commission members on any item under their consideration. It is important for commissions to be able to make objective recommendations to the City Council on items before them. An exception to the Brown Act allows a legislative body majority to attend 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.

5.5 Ad Hoc Committees and Task Forces

The City Council, through the City Manager, shall make certain that all Council-appointed ad hoc committees and task forces are properly instructed in their assigned scope of work and responsibility. The expected output of their effort shall be clearly defined. Ad hoc committees and task forces are responsible for keeping the Council informed about issues being considered and their progress. This is to be accomplished by meeting minutes distributed in the Council weekly packets. Ad hoc committees and task forces are responsible for advising the Council of any need for information or more specific instructions. Ad hoc committees and task forces shall obtain Council concurrence before they proceed in any direction different from the original instructions of the Council.

5.6 Annual Recognition Reception

Each year in December, the City Council hosts an event (coordinated by the City Clerk's Office) to recognize the efforts of current and outgoing members of Council-appointed boards, commissions, committees, and task force groups.

5.7 Council Service on Commissions

Council Members are requested to serve on various commissions for outside agencies. Following a City election, at which new Council Members are elected, the newly-seated Council shall review the list of current assignments and make recommendations for appointments. Any Council Member desiring to serve on a certain commission should inform the Mayor. Council Members resigning from his/her position on a certain commission should inform the Mayor (via the City Clerk's Office) in writing. Appointments are subject to approval by a majority of Council.

Council representatives to such commissions shall keep the Council informed of ongoing business through periodic updates under the "Comments by Council" segment of the regular City Council meeting agenda or other means as appropriate.

5.8 Regional Boards

The role of the Council on regional boards will vary depending on the nature of the appointment. Representing interests of Lodi is appropriate on some boards; this is generally the case when other local governments have its own representation. Examples might be serving on the Northern California Power Agency and Northern San Joaquin County Groundwater Banking Authority. Other appointments, such as San Joaquin Council of Governments, are broader in nature; these boards depend on its members taking a more regional approach.

The positions taken by the appointed representative are to be in alignment with the positions that the Council has taken on issues that directly impact the City of Lodi. If an issue should arise that is specific to Lodi and the Council has not taken a position, the issue should be discussed by the Council prior to taking a formal position at a regional board to assure that it is in alignment with the Council's position.

6. MEETING GUIDELINES & PROCEDURES

6.1 Attendance / Quorum

Council Members acknowledge that attendance at lawful meetings of the City Council is part of their official duty. Council Members shall make a good faith effort to attend all such meetings unless unable. Council Members will notify the City Clerk if they will be absent from a meeting. The City Clerk will then notify the City Manager, City Attorney, and all other Council Members.

Three members of the City Council shall constitute a quorum and shall be sufficient to transact business. If less than three appear at a regular meeting, the Mayor, Mayor Pro Tempore in the absence of the Mayor, any Council Member in the absence of the Mayor and Mayor Pro Tempore, or in the absence of all Council Members, the City Clerk, or his/her designee, shall adjourn the meeting to a stated day and hour or cancel the meeting due to the lack of a quorum.

Rule of Necessity: If enough Council Members are disqualified (e.g. conflict of interest) such that a quorum cannot be met the disqualified Members shall draw lots to rehabilitate a sufficient number of Council members to permit Council action. Direction from the City Attorney should be sought to determine that real conflict exists to necessitate the need to use the Rule of Necessity.

6.2 Meeting Dates and Location

Whenever possible, taking into consideration the number of participants and room availability, all Council meetings noticed for action shall be scheduled in the Council Chamber at the Carnegie Forum to allow for a live cable-cast of the meeting.

6.2a Regular Meetings & Informal Informational (Shirtsleeve) Sessions

Pursuant to LMC Chapter 2.04, "City Council Meetings," regular meeting dates are the first and third Wednesday of each month commencing at 7:00 p.m. Informal Informational (Shirtsleeve) Sessions are held every Tuesday morning at 7:00 a.m.

6.2b Special/Joint/Adjourned/Emergency Meetings

The Brown Act sets forth specific requirements for holding adjourned, special, and emergency meetings. The City Council may from time to time hold special joint meetings with boards and commissions or outside agencies or groups.

6.3 Agenda / Council Meeting

6.3a Agenda Packet Preparation

The City Manager reviews and approves all items for the Council agenda. Agenda packets are compiled, photocopied, converted electronically, posted to the Web, and distributed through the City Clerk's Office, pursuant to the "City Council Agendas, Council Communications, and Packet Policy/Procedure." Agenda packets (in CD format) shall be delivered to Council Members on the Friday prior to the Council meeting.

6.3b Placing Items on the Agenda

Pursuant to LMC Section 2.04.180 "Preparation of agendas," matters may be placed on the agenda for consideration by request of 1) any member of the City Council, 2) the City Manager, 3) the City Clerk, and 4) the City Attorney. Any reasonable request by any person named in this section shall

be honored, subject to the City Manager's discretion as to the preparation of accompanying staff reports.

Requests from the public to place an item on the agenda are to be directed to the City Clerk's Office and shall be handled in the following manner:

- Proclamation/Certificate – All requests for proclamations and certificates are subject to approval of the Mayor and are typically honored only if a local representative from the requesting agency can appear to accept the certificate.
- Presentations – Most requests for presentation by civic groups and local organizations and requests for recognition of Eagle Scouts or for excellence in academics, athletics, etc. shall be honored and placed appropriately under the "Presentations" segment of the agenda.
- Item for Discussion/Action – Requests by members of the public to place an item for discussion or action on the agenda shall be directed to the appropriate City department for proper handling. In the event it cannot be handled in this manner, the individual requesting the action should submit in writing his/her specific request. The City Clerk shall then place the matter on the agenda under "Communications." The Council shall not take action on the matter other than to either 1) direct that the matter be placed on a future agenda or 2) direct staff to research the issue and report back to Council.

6.3c Order of Agenda Items

Resolution No. 2005-10, adopted by the Lodi City Council on January 11, 2005, establishes the order of business for City Council meetings. Topics anticipated to be of greatest interest to the public will be placed at the beginning of the Regular Calendar.

6.3d Agenda Posting

The agenda for any Regular, Special, or Shirtsleeve Session meeting shall be made available to the general public.

For every Regular, Special, or Shirtsleeve Session meeting, the City Clerk, or other authorized person, shall post the agenda, specifying the time and place at which the meeting will be held and a brief description of all items of business to be discussed at the meeting. The agenda shall be posted according to law at the following locations:

- Lodi City Hall – 221 W. Pine Street
- City Clerk's Office – 221 W. Pine Street, 2nd Floor
- Lodi Carnegie Forum* – 305 W. Pine Street
- Lodi Public Library – 201 W. Locust Street
- On the Internet – www.lodi.gov

***NOTE:** This is the official City of Lodi posting location freely accessible to the public 24 hours a day.

6.3e Americans with Disabilities Act Statement

Agendas for all City Council meetings will contain a statement regarding the Americans with Disabilities Act in substantially the following language, making the City Clerk the contact for inquiries.

“NOTE: All staff reports or other written documentation relating to each item of business referred to on the agenda are on file in the Office of the City Clerk, located at 221 W. Pine Street, Lodi, and are available for public inspection. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. To make a request for disability-related modification or accommodation contact the City Clerk’s Office as soon as possible and at least 24 hours prior to the meeting date.”

6.3f Limitation to Act Only on Items on the Agenda

No action shall be taken by the City Council on any item not on the posted agenda, subject only to the exceptions listed below:

- Upon a majority determination that an “emergency situation” (as defined by state law) exists; and
- Upon determination by a 4/5 vote of the full City Council, or a unanimous vote if less than a full Council, that there is a need to take immediate action and that the need to take the action came to the attention of the City Council subsequent to posting of the agenda.

6.3g Supplemental Information (“Blue Sheet” Items)

At times, it may be necessary to amend or provide new information to Council following the publication of the City Council packet. Supplemental material that revises a previously submitted item shall show new information in bold and deleted information in strikethrough. Supplemental material that adds further information to a previously submitted item (e.g. a new Council Communication or attachment) shall contain the statement “SUPPLEMENTAL INFORMATION” on the top, right-hand side of the new material. All supplemental material shall be copied on blue paper and distributed to Council Members and key staff members, in addition to the public information table, prior to the start of the meeting.

6.3h Closed Session

Closed sessions are regulated pursuant to the Brown Act. All written materials and verbal information regarding closed session items shall remain confidential. No member of the Council, employee of the City, or anyone else present shall

disclose to any person the content or substance of any discussion that takes place in a closed session, unless authorized by a majority of Council. The same high standard of respect and decorum as apply to public meetings shall apply to closed sessions. There shall be courtesy, respect, and tolerance for all viewpoints and for the right of Council Members to disagree.

In accordance with Resolution No. 80-101, adopted by the Lodi City Council on August 6, 1980, the City Clerk is authorized to attend all closed session meetings to record motions and actions taken by the City Council. The City Attorney, following the adjournment of a closed session, shall disclose all reportable action taken in the closed session, which shall be recorded into the record by the City Clerk.

6.3i Invocations (Res. 2009-146)

In accordance with Resolution No. 2009-146, adopted by the Lodi City Council on October 21, 2009, invocations shall follow the policy regarding legislative invocations before meetings of the Lodi City Council. (Attached as Exhibit D)

6.3j Presentations

Special presentations shall be scheduled as necessary in recognition of persons or groups, or for the promotion of an event or service. Requests for special presentations must be submitted to the City Clerk in writing in advance of the agenda deadline.

6.3k Consent Calendar

Those items on the Council agenda that are considered to be of a routine and non-controversial nature by the City Manager shall be listed on the "Consent Calendar." These items so listed shall be approved, adopted, accepted, etc. by one motion of the Council.

Council Members may comment on Consent Calendar items or ask for minor clarifications without the need for pulling the item for separate consideration. Items requiring deliberation should be pulled for separate consideration.

6.3l Public Comments

Pursuant to the Brown Act, public comment will be allowed on specific items of business on the Council agenda before or during the Council's consideration of the matter. Members of the public wishing to address Council on a closed session topic will be allowed an opportunity to do so prior to Council adjourning to closed session. Public comments will also be allowed on any item not on the agenda but within the jurisdiction of the City Council. Public comments on non-

agenda items are limited to five minutes each. Individuals desiring to speak are encouraged to submit a request to speak card to the City Clerk listing their name and address.

All comments and testimony shall be made from the podium through the Mayor; no comment or testimony shall be shouted from the audience. Comment and testimony are to be directed to the City Council. Dialogue between and inquiries from citizens at the podium and members of staff or the seated audience is not permitted. Inquiries which require staff response shall be referred to staff for response at a later time.

The City Council cannot prohibit public criticism of policies, procedures, programs, or services of the agency or the acts or omissions of the City Council itself; however, the Brown Act provides no immunity for defamatory statements. Any person who addresses the City Council in a manner which disrupts, disturbs, or impedes the orderly conduct of the meeting may be asked to terminate his/her comment period. Continued inappropriate behavior or comments, after having been directed to discontinue, may be grounds for removal from the meeting.

6.3m Council Comments on Non-Agenda Items

Council Members may make comments on non-agenda items. Comments are generally for informational purposes or to request a future report on a matter; it is not intended for detailed discussion of an item or for action (Gov. Code Section 54954.2(a)(2)).

6.3n Public Hearings

Public hearings may be required on certain items as prescribed by the Lodi Municipal Code or by state or federal law. In addition to the public hearing procedures set forth in Resolution 2006-31, adopted by the Lodi City Council on February 15, 2006, the general procedure for public hearings is as follows:

1. Staff presents its report. Council Members may ask questions of staff.
2. The Mayor opens the public hearing.
3. The applicant or appellant has the opportunity to present his/her comments, testimony, or arguments. Adequate time must be allotted for the applicant or appellant to present his/her case.
4. Members of the public may present their comments subject to time limits established by the Mayor.
5. The Mayor closes the public hearing after everyone wishing to speak has had the opportunity to do so.
6. Council deliberates and takes action.

When the City Council acts in an adjudicatory or quasi-judicial capacity, each member must (1) disclose on the record the nature and substance of any ex parte communications relating to the matter; and (2) provide interested parties full and fair opportunity to rebut or explain the information obtained from those communications.

6.3o Regular Calendar

Those items on the Council agenda that are considered to require Council discussion or public input shall be listed on the "Regular Calendar." These items so listed shall be approved, adopted, accepted, etc. separately by the Council.

6.3p Ordinances

Ordinances involve a command or prohibition and have the force of law in the city for which an ordinance is adopted. An ordinance generally prescribes some permanent rule of conduct or government that remains in force until the ordinance is repealed. With the exception of urgency ordinances, no ordinance may be passed within five days of its introduction. Two readings are therefore required—one to introduce (on the Regular Calendar) and a second to adopt the ordinance (under Ordinances). Ordinances may only be passed at a Regular meeting or at an Adjourned (i.e. continued) Regular meeting; except for urgency ordinances, ordinances may not be passed at a Special meeting. Unless otherwise stated, an ordinance shall take effect 30 days following the date of adoption.

6.3q Resolutions

A resolution expresses City Council policy or directs certain types of administrative action and may be changed by a subsequent resolution. Resolutions are effective on the date of adoption.

6.3r Minute Motion

A minute motion is the most informal official action taken by the City Council. It ordinarily is used to indicate majority approval of a procedural action, such as accepting grant deeds, approving plans and specifications and agreements, or otherwise authorizing disposition of an agenda item.

6.3s Agency Meetings (LPIC, IDA, LFC, RDA)

The City Council, which also sits as members of the Lodi Public Improvement Committee (LPIC), Improvement Development Authority (IDA), Lodi Financing Committee (LFC), and the Redevelopment Agency (RDA), shall meet annually at the second meeting in December to elect new officers. Typically, the Mayor shall serve as Chairperson or President and the

Mayor Pro Tempore shall serve as the Vice Chairperson or Vice President. The RDA members are entitled to compensation of \$30 per meeting up to four meetings per month; however, they may vote to waive the compensation.

6.3t Council Communications / Staff Reports

Each City Council agenda item shall have a coordinating staff report (Council Communication) prepared by the originating department. Council Communications are written specifically for the purpose of communicating information necessary for policy and decision-making and shall include an abbreviated history, the overall intent and need for the requested action, and its impact or affect on the community, services, and programs of the City.

6.3u Submitted Materials at Meetings are Public Record

Any written correspondence or other materials, when distributed to all, or a majority of all, of the members of the City Council by any person in connection with a matter subject to discussion or consideration at a public meeting, are disclosable public records under the California Public Records Act and shall be made available upon request without delay. Writings that are public records and that are distributed during a public meeting shall be made available for public inspection at the meeting if prepared by City staff or a member of the City Council, or after the meeting if prepared by some other person. All writings referenced herein shall be provided to and documented with a received/filed date by the City Clerk.

6.3v Electronic Mail Communications, Prohibited during Meetings

Use of the Internet and e-mail is prohibited by Council Members during City Council meetings. The purpose of this is: 1) to ensure that no violations of the Brown Act occur and 2) to allow for proper management of communications during meetings so that City business can be conducted in an efficient and orderly manner. E-mail communication sent to the City Council related to an item on an agenda will be received in the City Clerk's Office up to the close of business (5 p.m.) on the date of the meeting and will be provided to Council Members via "blue sheet." Such communications will be handled in accordance with California Government Code Section 54957.5.

6.3w Minutes

The City Clerk, or his/her designee, shall attend and prepare comprehensive summary minutes of all public meetings of the City Council. Minutes ready for Council approval shall be placed on the regular City Council meeting agenda and included in the Council packet. Pursuant to LMC Section 2.04.110, "Reading and approval of minutes," any Council Member can request a correction or amendment to the minutes, subject to verification

by the City Clerk. It is suggested that Council Members contact the City Clerk no later than Tuesday before the regular meeting, which will allow the Clerk time to review the audio tape to ensure that the requested amendment was verbalized at the meeting, and if so, make the change to the minutes and present the amended minutes to Council on the day of the meeting for approval.

6.4 Rules of Conduct

6.4a Discussion Rules

The Mayor or presiding officer has the responsibility to control the debate and the order of speakers pursuant to the rules for conduct of meetings, proceedings, and business as set forth in Resolution No. 2006-31.

6.4b Council Comments (Related to Items on the Agenda)

Council Members shall limit their comments to the subject matter, item, or motion being currently considered by the Council.

6.4c Speaker Time Limits

Members of the public speaking on non-agenda items shall be limited to five minutes. On scheduled items where the Council determines that the existence of unusual or controversial issues exists, that the large number of speakers wishing to address the Council so justifies, or that other considerations make modification appropriate, the Mayor may limit the amount of time to be afforded each speaker.

6.4d Council Questions of Speakers

Council Members who wish to ask questions of speakers may do so, but only after being recognized by the Mayor. Members of Council shall not engage in debate with a member of the public at Council meetings.

6.5 Decorum

6.5a Council Members / Council Appointees

Resolution No. 2004-115, adopted by the Lodi City Council on June 2, 2004, establishes the code of ethics and values to be followed by City Council Members and City Council Appointees (i.e. City Manager, City Attorney, and City Clerk). Members of the City Council and Council Appointees value and recognize the importance of the trust invested in them by the public to accomplish the business of the City. Council Members and Appointees shall accord the utmost courtesy to each other, to City employees, and to the public appearing before the City Council. At all times, Council Members in the minority on an issue shall respect the decision and authority of the majority.

6.5b City employees

Members of the City staff are expected to observe the same rules of order and decorum applicable to the City Council. City staff shall act at all times in a business professional manner toward Council Members and members of the public.

6.5c Public

Members of the public attending City Council meetings shall observe the same rules of order and decorum applicable to the City Council.

6.5d Noise in the Chamber

Noise emanating from the audience within the Council Chamber or lobby area, which disrupts City Council meetings, shall not be permitted.

6.6 Use of Council Chamber

As set forth in the City of Lodi Administrative Policy and Procedure Manual, the following are authorized uses of the spaces in the Carnegie Forum.

1. All meetings of the City Council.
2. All meetings of City boards and commissions when such boards and commissions are staffed by a City liaison person.
3. Meetings called by a Council Member(s) to discuss City business with constituents and others.
4. Department Head and other City staff meetings.
5. City employee training sessions.
6. General meetings of City employees for the purpose of disseminating job-related information.
7. Professional meetings hosted/conducted by City staff.
8. City-sponsored community awareness programs.

Exceptions to this policy may be made only on the authority of the City Council. The Council Chamber cannot be used as a location for taking campaign photos. All requests for use of Carnegie Forum spaces shall be made through the Secretary to the City Manager.

7. COMMUNICATIONS

7.1 Processing and Delivering of City Council Mail by City Clerk's Office

Upon authorization of the City Council Member, the City Clerk shall open all mail addressed to the Mayor and City Council Members, with the exception of those marked "Personal" or "Confidential."

Communication Addressed to the "City Council"

All correspondence addressed to the "City Council" is treated as public information. A copy is made for each member of the City Council, City Manager, City Attorney, and all other affected departments for information, referral, or handling. The original document is retained in the City Clerk's Office file.

Communication Addressed to the "Mayor"

Commonly, the sender's intent when addressing communication to the "Mayor" is merely to forward it to the head of the city governing body, and consequently, this type of correspondence is often handled in the same manner as communication addressed to the "City Council." Handling of the Mayor's mail is, however, at the discretion of the individual serving in this capacity, which is ascertained each year following the reorganization of the City Council.

Communication Addressed to Individual Council Members

Communication addressed specifically to individual City Council Members is treated as personal mail and is only opened by the City Clerk's Office if express authorization to do so was given by the Council Member. No copies are made or distributed. Should a response be needed, it is up to the individual Council Member to whom the correspondence was addressed, as is forwarding the information to affected departments if appropriate.

7.2 Council Calendar

An Annual Calendar List of Events shall be prepared by the City Clerk's Office, which includes City-related events, functions, meetings, and annual conferences. A weekly calendar is also prepared by the City Clerk and distributed to each Council Member, Administrative staff, and the press for informational purposes. It shall be the responsibility of Council Members to notify the City Clerk of their attendance at an event, for which the City Clerk will handle the arrangements.

7.3 Citizen Complaint Process

All complaints directed to the City Council through the City Clerk's Office will be copied to the City Manager's Office and other affected departments. A reply, confirming receipt and notifying the sender who the communication was forwarded to, will be sent by the City Clerk's Office within 24 hours.

7.4 Use of City Letterhead or City Seal

All Council Member correspondence written on City resources, i.e. letterhead, staff support, postage, etc., will reflect a majority position of the Council, not individual Council Members' positions. All Council Member correspondence using City resources shall be copied to the full Council. The City Clerk is the custodian of the Official City Seal pursuant to Lodi Municipal Code 2.13.010. The City Seal shall not be altered and is to be used only on official City documents.

7.5 Communications with Staff

Pursuant to LMC Section 2.12.070, "Council to Deal Exclusively through City Manager," the City Council and its members, except for the purpose of inquiry, shall deal with administrative services solely through the City Manager, and neither the City Council nor any member thereof shall give orders to any of the subordinates of the City Manager. A Council Member shall not direct staff to initiate any action, change a course of action, or prepare any report that is significant in nature, nor shall a Council Member initiate any project or study without the approval of a majority of Council. Exception: Pursuant to LMC Title 2.13 and 2.14, the City Attorney and City Clerk are appointed by the City Council and shall report his/her advice, recommendations, and requests directly to the City Council.

In regard to an agenda item question, Council Members are encouraged to contact staff members to ask questions for clarification prior to the meeting, at which the subject will be discussed.

7.6 Complaints Regarding Performance of Staff

Any concerns by a member of Council over the behavior or work of a City employee should be directed to the City Manager privately to ensure the concern is resolved. Council Members shall not reprimand employees directly, nor shall they communicate their concerns to anyone other than the City Manager.

7.7 Handling of Litigation / Confidential Information

Council Members shall keep all written materials and verbal information provided to them on matters that are confidential under state law in complete confidence to ensure that the City's position is not compromised. No disclosure or mention of information in these materials shall be made to anyone other than Council Members, the City Attorney, or City Manager.

7.8 Representing Majority vs. Individual Opinion

A person elected to the City Council plays two roles: a member of a body elected to represent the City in its entirety and a private resident of the City. The second role is not relinquished when the first role is assumed. It is important to distinguish between the two roles at all times and to conduct business in one role separately from the other. The elected Council Member retains the right to speak as an individual, not as a member of the City Council, but must make it very clear that he/she speaks on his/her own behalf and not as a member of the City Council. This is because when the Council acts, it acts as a whole, not as a group of individuals.

If a member of the City Council appears before another governmental agency or organization to give a statement on an issue affecting the City, the Council Member should first indicate the majority position and opinion of the Council. Personal opinions and comments may be expressed only if the Council Member clarifies that these statements do not represent the position of the City Council.

7.9. Legislative Communications at the Request of City-Affiliated Organizations

From time to time, the City is asked by the League of California Cities and other City-affiliated organizations to take a support and/or oppose position on a particular piece of legislation and/or proposal. When such a request is received, the matter shall be agendaized and acted upon at the next regularly scheduled City Council meeting. When a request is received necessitating a more timely response in that action is required prior to the next regularly scheduled City Council meeting, the Mayor, or his/her designee, on behalf of the City, may sign and submit the requested communication so long as the position is consistent with the position taken by the League and/or other City-affiliated organizations and previous positions, if any, taken by the City. A copy of the communication shall be presented as an informational item on the Consent Calendar at the next regularly scheduled City Council meeting.

8. CONFLICT OF INTEREST / ECONOMIC DISCLOSURE REQUIREMENTS FOR PUBLIC OFFICIALS

8.1 Conflict of Interest

The Political Reform Act (Government Code, Title 9, Sections 81000-91015) controls conflict of interest through disclosure and prohibition of participation in decisions, which are actual conflicts of interest. Specifically, it requires City Council Members and other public officials to annually disclose all financial interests that may be affected by decisions made in their official capacity; this includes interests such as investments, real property, and income. Council Members must also disqualify themselves from making or participating in making or influencing any governmental decision that will have a foreseeable material financial affect on any economic interest of the Council Member or certain family members.

The Political Reform Act requires state and local government agencies to adopt and promulgate conflict of interest codes, which shall be reviewed bi-annually on even-numbered years. On December 1, 2004, the Lodi City Council adopted Resolution No. 2004-268 amending the City of Lodi's Conflict of Interest Code.

8.2 Statements of Economic Interest

A financial disclosure form (Statement of Economic Interest) must be filed with the City Clerk no later than April 1 of each year for financial interests pertaining to the preceding calendar year. Newly-elected Council Members must file a statement within 30 days of officially assuming office. Certain commission members and City employees are also subject to this disclosure requirement.

8.3 Make and Participate in Making a Decision

An official makes a decision when the official votes on a matter, appoints a person, obligates or commits the City to any course of

action, or enters into any contract on behalf of the City. Pursuant to LMC 2.04.140, "Voting," all members of the Council, when present, must vote. If a member of the Council states that he/she is not voting, his/her silence shall be recorded as an affirmative vote unless, however, the Council Member abstains from voting by reason of his/her interest in the matter before the Council and that reason is stated at the meeting.

An official participates in making a decision when the official negotiates on behalf of the City without significant substantive review, or advises or makes recommendations to the decision maker, either directly or without significant intervening substantive review.

Exceptions: Making or participating in the making of a decision does not include ministerial, secretarial, manual or clerical actions, appearances by the official as a member of the general public before any body of the City in the course of its prescribed governmental function to represent himself/herself on matters related solely to his/her personal interest.

8.4 Provision of Advice from City Attorney regarding Conflict of Interest

Any official who is uncertain as to whether he/she may have a conflict of interest shall seek clarification from the City Attorney; however, the official must understand that the City Attorney may not keep the consultation confidential from the full Council, and the City Attorney's opinion is not a defense to a Fair Political Practices Commission (FPPC) enforcement action. When in doubt, the City Attorney can request a formal opinion from the FPPC if the request is made at least four weeks in advance.

8.5 Using Official Position to Influence

Council Members shall not attempt to coerce or influence any member, officer, official, consultant, or commission member of the City in the awarding of contracts, the selection of consultants, the processing of development applications, or the granting of City licenses or permits. The Council shall not attempt to change or interfere with the operating policies and practices of any City department.

APPENDIX
Reference Table of Amendments

DATE	DESCRIPTION	ACTION
3/15/09	City Council adopted City Council Protocol Manual	Res. 2006-45
1/2/07	Amended Manual to update resolution number relating to the AB1234 Expense Reimbursement Policy (Section 4.2a)	Administratively
10/8/09	Amended Manual to add " <i>Appendix: Reference Table of Amendments</i> " for tracking purpose and added Exhibits A, B, and C to the Table of Contents page	Administratively
10/21/09	Amended Manual to update policy regarding invocations, referencing the Council-adopted resolution (Section 6.3i), and added Exhibit D to the Table of Contents page and attached it to the Manual	Res. 2009-146
2/2/11	Amended Manual to revise the boards, committees, and commissions appointment policy to include the specific follow-up process and indicate that the applicants shall be interviewed by the Mayor	Council action (motion/action)
5/18/11	Amended Manual to add Section 7.9 regarding communications at the request of the League of California Cities	Council action (motion/action)
10/5/11	Amended Manual, Sections 7.4 and 7.9, to further clarify use of City letterhead and expand the definition of legislative communications (i.e. not only League requests)	Council action (motion/action)
10/19/11	Amended Section 5.6, Annual Recognition Reception, to reflect that the reception is held annually in December rather than August	Administratively
11/2/11	Amended Section 5.2 (Commission Appointments) to add language regarding removal process	Council action (motion/action)

Chapter 2.04

CITY COUNCIL MEETINGS

Sections:

- 2.04.010 Regular meetings—Day and time.**
- 2.04.020 Informal informational meetings.**
- 2.04.030 Meeting place.**
- 2.04.040 Meetings to be public.**
- 2.04.050 Special meetings.**
- 2.04.060 Quorum.**
- 2.04.070 Presiding officer—Mayor—Mayor pro tempore.**
- 2.04.080 Call to order—Temporary chairman.**
- 2.04.090 Roll call.**
- 2.04.100 Order of business—Assembly of officers.**
- 2.04.110 Reading and approval of minutes.**
- 2.04.120 Rules of debate.**
- 2.04.130 Addressing the council.**
- 2.04.140 Voting.**
- 2.04.150 Decorum.**
- 2.04.160 Persons allowed within rail.**
- 2.04.170 Entry of dissent in minutes.**
- 2.04.180 Preparation of agendas.**
- 2.04.190 Closed sessions—Confidentiality.**

2.04.010 Regular meetings—Day and time.

Regular meetings of the council shall be held on the first and third Wednesday of each month at seven p.m.; provided, however, that any such regular meeting at which a closed session is to be held may be com-

menced, for the holding of such closed session, at such earlier time on the meeting day as may be noticed on the council's agenda and posted at least seventy-two hours in advance of such earlier commencement time. In the event of any such earlier commencement of a regular meeting for the purpose of holding a closed session, no other items of business on the council's meeting agenda shall be addressed before seven p.m. In case the regular meeting falls upon a legal holiday, then the regular meeting which otherwise would have occurred on that day shall be held on the first business day thereafter at the hour of seven p.m. (Ord. 1699 § 1, 2001)

2.04.020 Informal informational meetings.

Informal informational meetings of the city council shall be held on each Tuesday morning of each month at the hour of seven a.m. in the council chambers of the city or at such location and at such time as the council may deem appropriate, subject to notice requirements as provided by law. No formal action shall be taken by the city council at such meetings. The city manager, city attorney, department heads and members of the public, as the council may request, shall be present and present such information as may be deemed desirable. (Ord. 1594 § 1 (part), 1994)

2.04.030 Meeting place.

All regular meetings of the council shall be held in the council chambers, Carnegie Forum Building, Lodi, California, or at such other place as the council may deem appropriate, subject to notice requirements as provided by law. If by reason of fire, flood, earthquake or other emergency, it is unsafe

2.04.030

to meet in the place so designated, the meetings may be held for the duration of the emergency at such place as is designated by the mayor. (Ord. 1594 § 1 (part), 1994)

2.04.040 Meetings to be public.

All meetings of the council shall be open to the public. (Ord. 1594 § 1 (part), 1994)

2.04.050 Special meetings.

At any time the mayor or three city council members may call a special meeting by delivering written notice to each member and to each local newspaper of general circulation, radio or television station requesting notice in writing, such notice to be delivered personally or by mail at least twenty-four hours before the time of such meeting. Written notice may be dispensed with if a representative of the newspaper, radio or television station is present at the meeting and if all council members give their written consent to the meeting and the consent is filed in the city clerk's office when the meeting is held. A council member may give such consent by telegram. (Ord. 1594 § 1 (part), 1994)

2.04.060 Quorum.

A majority of all members elected to the council shall constitute a quorum at any regular or special meeting of the council. Unless otherwise required by law, a simple majority of the members present may take action or adopt ordinances or resolutions. (Ord. 1594 § 1 (part), 1994)

**2.04.070 Presiding officer—
Mayor—Mayor pro
tempore.**

The presiding officer of the council shall

be the mayor who shall be elected by the council annually at the first regular meeting after the canvass of votes done in conjunction with the statewide general election in even-numbered years. In years where there is no general statewide election, the mayor shall be elected at the first regular meeting in December. At the time of the election of the mayor, one of the members of the council shall be chosen as mayor pro tempore. If the mayor is absent or unable to act, the mayor pro tempore shall serve until the mayor returns or is able to act. The mayor shall preserve strict order and decorum at all regular and special meetings of the council. He shall state every question coming before the council, call for the vote, announce the decision of the council on all subjects and decide all questions of order, subject, however, to an appeal to the council, in which event a majority vote of the council shall govern and conclusively determine such question of order. He shall sign all ordinances adopted by the council during his presence. In the event of the absence of the mayor, the mayor pro tempore shall sign ordinances as then adopted. (Ord. 1594 § 1 (part), 1994)

**2.04.080 Call to order—Temporary
chairman.**

The mayor, or in his/her absence the mayor pro tempore, shall take the chair at the hour appointed for the meeting, and shall immediately call the council to order. In the absence of the mayor or mayor pro tempore, the city clerk, or the acting city clerk shall call the council to order whereupon a temporary chairperson shall be elected by the members of the council present. Upon the arrival of the mayor or mayor pro tempore, the temporary chairperson shall

immediately relinquish the chair upon the conclusion of the business immediately before the council. (Ord. 1594 § 1 (part), 1994)

2.04.090 Roll call.

Before proceeding with the business of the council at regular, special or informational sessions, the city clerk or the acting city clerk shall call the roll of the members, and the names of those present shall be entered in the minutes. (Ord. 1594 § 1 (part), 1994)

**2.04.100 Order of business—
Assembly of officers.**

All meetings of the council shall be open to the public, except for closed sessions as permitted by law. The council shall provide by resolution the order of business for regular meetings of the council, and shall provide therein for public comment as required by law. In attendance shall be the city manager, the city clerk, and the city attorney or their authorized designees. (Ord. 1699 § 2, 2001)

**2.04.110 Reading and approval of
minutes.**

Unless the reading of the minutes of a council meeting is requested by a majority of the council, such minutes may be approved without reading if the city clerk has previously furnished each member with a copy thereof. Any council member can correct an error in the minutes, subject to verification by the clerk. (Ord. 1594 § 1 (part), 1994)

2.04.120 Rules of debate.

The council shall, by resolution, adopt

rules of conduct and debate applicable to all city council meetings. (Ord. 1594 § 1 (part), 1994)

2.04.130 Addressing the council.

A. Any interested person may, subject to the rules of procedure adopted hereunder, speak on any item coming before the council. It shall not be required that persons wishing to speak give prior written notice, but priority shall be given to those who have so notified the city clerk in advance.

B. After a motion is made and seconded, no person shall address the city council without first securing permission of the council to do so.

C. Remarks by the public shall be made only from the podium. Speakers shall first give their names and addresses for the record, and no one shall be permitted to enter into any discussion without permission of the presiding officer. (Ord. 1594 § 1 (part), 1994)

2.04.140 Voting.

All members of the council, when present, must vote. If a member of the council states that he is not voting, his silence shall be recorded as an affirmative vote unless, however, the council member abstains from voting by reason of his/her interest in the matter before the council and that reason is stated at the meeting. (Ord. 1594 § 1 (part), 1994)

2.04.150 Decorum.

A. 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 nor disturb any member while

2.04.150

speaking or refuse to obey the orders of the council or its presiding officer, except as otherwise provided by this chapter. Any member who, after warning by the chair, repeatedly violates these rules may be ejected for the remainder of the meeting by two-thirds vote of the council.

B. Other Persons. Any person making personal, impertinent or slanderous remarks or who becomes boisterous during the council meeting shall be forthwith, by the presiding officer, barred from further audience at the meeting before the council, unless permission to continue is granted by a majority vote of the council.

C. Any violation of this section may be punished as an infraction pursuant to Section 1.08.010 of this code. (Ord. 1594 § 1 (part), 1994)

2.04.160 Persons allowed within rail.

No person, except city officials, their representatives and newsgathering or media personnel, shall be permitted within the rail in front of the council chamber during meetings, without the express consent of the council. (Ord. 1594 § 1 (part), 1994)

2.04.170 Entry of dissent in minutes.

Any council member shall have the right to have the reasons for his dissent from, or protest against, any action of the council entered on the minutes. (Ord. 1594 § 1 (part), 1994)

2.04.180 Preparation of agendas.

A. Consistent with the provisions of the Ralph M. Brown Act (Government Code Section 54950 et seq.), the agenda for council meetings shall be prepared by the

city manager, and distributed by the city clerk.

B. Matters may be placed on the agenda for consideration by the city council by request of:

1. Any member of the city council;
2. The city manager;
3. The city clerk;
4. The city attorney.

C. Any reasonable request by any person named in this section to place a matter on the agenda shall be honored, subject to the city manager's discretion as to the preparation of accompanying staff reports. (Ord. 1594 § 1 (part), 1994)

**2.04.190 Closed sessions—
Confidentiality.**

A. No officer, employee or agent of the

city shall, without proper authorization, divulge confidential information received by such person as part of his or her official duties during any closed session of the city council authorized under the Ralph M. Brown Act (Government Code Section 54950 et seq.) as it now exists or may later be modified.

B. Such confidential information may include but is not limited to matters involving pending litigation, property acquisition, labor negotiations, personnel matters or other information, the disclosure of which would reasonably be likely to prejudice the *good faith conduct* of city business, constitute an unwarranted invasion of privacy, or place the city at an unfair disadvantage in negotiations.

C. For purposes of this section, "proper authorization" means:

1. In matters of personal privacy, a waiver by the individual enjoying such right of privacy;
2. The order or subpoena of a court of competent jurisdiction;
3. Authorization by the city council as a body;
4. Conclusion or finalization of the matter or subject involved, as determined by the city council.

D. Nothing in this chapter shall be deemed a waiver of any other confidential privilege for any information established elsewhere by statute or case law. (Ord. 1594 § 1 (part), 1994)

RESOLUTION NO. 2006-31

A RESOLUTION OF THE LODI CITY COUNCIL ADOPTING
AND ESTABLISHING RULES FOR THE CONDUCT OF ITS
MEETINGS, PROCEEDINGS, AND BUSINESS AND
THEREBY RESCINDING RESOLUTION 2004-282

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WHEREAS, the Lodi City Council, pursuant to Chapter 2.04 of the Lodi Municipal Code, is empowered and required to adopt by resolution, rules of conduct for City Council meetings; and

WHEREAS, it is desirable to make such procedural rules applicable to all other boards, commissions, and committees of the City.

NOW, THEREFORE, BE IT RESOLVED by the Lodi City Council as follows :

SECTION 1. RULES OF CONDUCT AND DEBATE FOR THE CITY COUNCIL,
BOARDS, COMMISSIONS, AND COMMITTEES

A. Presiding Officer May Debate

The Mayor or presiding officer may move, second, and debate from the chair, subject only to such limitations of debate as are by these rules established. The chair shall not be deprived of any of the rights and privileges of a Council or board member by reason of being the presiding officer.

B. Obtaining The Floor.

Any member of the Council or board wishing to speak must first obtain the floor by being recognized by the chair. The chair must recognize any member who seeks the floor when appropriately entitled to do so.

C. Motions.

The chair or any member of the Council or board may bring any matter of business appearing on the agenda before the body by making a motion. The chair shall open the matter for debate, offering the first opportunity to debate to the moving party and, thereafter, to any other member properly recognized by the chair. Once the matter has been fully debated and seconded and the chair calls for a vote, no further debate will be allowed; provided, however, Council or board members may be allowed to explain their vote. The person making the motion shall have the privilege of closing debate.

D. Voting.

All members present at a meeting shall vote when the question is called, subject to the provisions of Lodi Municipal Code Section 2.04.140.

E. Procedural Rules of Order.

Once the main motion is properly placed on the floor, several related motions may be employed in addressing the main motion. These motions take precedence over the main motion and, if properly made and seconded, must be disposed of before the main motion can be acted upon. The following motions are appropriate and may be made by the chair or any Council or board member at any appropriate time during the discussion of the main motion. They are listed in order of precedence. The first three subsidiary motions are non-debatable; the last four are debatable.

SUBSIDIARY MOTIONS:

1. Lay on the Table. Any member may move to lay the matter under discussion on the table. The motion temporarily suspends any further discussion or the pending motion without setting a time certain to resume debate. It must be moved and seconded and passed by a majority vote. To bring the matter back before the body, a member must move that the matter be taken from the table, seconded, and passed by a majority. A motion to take from the table must be made at the same meeting at which it was placed on the table or at the next regular meeting of the body; otherwise, the motion that was tabled dies, although, it can be raised later as a new motion.
2. Move Previous Question. Any member may move to immediately bring the question being debated to a vote, suspending any further debate. The motion must be made and seconded without interrupting one who already has the floor. A two-thirds vote is required for passage.
3. Limit or Extend Limits of Debate. Any member may move to put limits on or extend the length of debate. The motion must be made and seconded and requires a two-thirds vote to pass.
4. Postpone to a Time Certain. Any member may move to postpone the pending motion to a time certain. This motion continues the pending main motion to a future date as determined by the Council or board at the time the motion is passed. The motion must be seconded and requires a majority vote for passage.
5. Commit or Refer. Any member may move that the matter being discussed should be referred to a committee, commission, or staff for further study. The motion must be seconded and requires a majority vote for passage. The motion may contain directions for the committee or commission, as well as a date upon which the matter will be returned to the Council or board's agenda. If no date is set for returning the item to the Council or board's agenda, any member may move, at any time, to require the item be returned to the agenda. The motion must be seconded and a majority vote is required for passage if the item is to come back at a future date certain, or a two-thirds vote if the item is to be immediately discussed by the Council or board at the time the motion to return is made.

6. Amend. Any member may amend the main motion or any amendment made to the main motion. Before the main motion may be acted upon, all amendments and amendments to amendments must first be acted upon. A motion to amend must be seconded and requires a majority vote for passage. An amendment must be related to the main motion or amendment to which it is directed. Any amendment which substitutes a new motion rather than amending the existing motion is out of order and may be so declared by the chair.
7. Postpone Indefinitely. Any member may move to postpone indefinitely the motion on the floor, thus avoiding a direct vote on the pending motion and suspending any further action on the matter. The motion must be seconded and requires a majority vote for passage.

F. Motions of Privilege, Order, and Convenience.

The following actions by the Council or board are to insure orderly conduct of meetings and for the convenience of the members. These motions take precedence over any pending main or subsidiary motion and may or may not be debated as noted.

1. Call for Orders of the Day. Any member may demand that the agenda be followed in the order stated therein. No second is required and the chair must comply unless the Council or board, by majority vote, sets aside the orders of the day.
2. Question of Privilege. Any member, at any time during the meeting, may make a request of the chair to accommodate the needs of the body or his/her personal needs for such things as reducing noise, adjusting air conditioning, ventilation, lighting, etc. Admissibility of question is ruled on by the chair.
3. Recess. Any member may move for a recess. The motion must be seconded and a majority vote is required for passage. The motion is debatable.
4. Adjourn. Any member may move to adjourn at any time, even if there is business pending. The motion must be seconded and a majority vote is required for passage. The motion is not debatable.
5. Point of Order. Any member may require the chair to enforce the rules of the Council or board by raising a point of order. The point of order shall be ruled upon by the chair.
6. Appeal. Should any member be dissatisfied with a ruling from the chair, he/she may move to appeal the ruling to the full Council or board. The motion must be seconded to put it before the Council or board. A majority vote in the negative or a tie vote sustains the ruling of the chair. The motion is debatable and the chair may participate in the debate.

7. Suspend the Rules. Any member may move to suspend the rules if necessary to accomplish a matter that would otherwise violate the rules. The motion requires a second and a two-thirds vote is required for passage.
8. Division of Question. Any member may move to divide the subject matter of a motion which is made up of several parts in order to vote separately on each part. The motion requires a second and a majority vote for passage. This motion may also be applied to complex ordinances or resolutions.
9. Reconsider. Except for votes regarding matters which are quasi-judicial in nature or matters which require a noticed public hearing, the Council or board may reconsider any vote taken at the same session, but no later than the same or next regular meeting, to correct inadvertent or precipitant errors, or consider new information not available at the time of the vote. The motion to reconsider must be made by a member who voted on the prevailing side, must be seconded, and requires a majority vote for passage, regardless of the vote required to adopt the motion being reconsidered. If the motion to reconsider is successful, the matter to be reconsidered takes no special precedence over other pending matters and any special voting requirements related thereto still apply. Except pursuant to a motion to reconsider, once a matter has been determined and voted upon, the same matter cannot be brought up again at the same meeting.
10. Rescind, Repeal, or Annul. The Council or board may rescind, repeal, or annul any prior action taken with reference to any legislative matter so long as the action to rescind, repeal, or annul complies with all the rules applicable to the initial adoption, including any special voting or notice requirements or unless otherwise specified by law.

G. Authority of the Chair.

Subject to appeal, the chair shall be the chief parliamentarian, rule on points of order, **and shall have the authority to prevent the misuse of** the legitimate form of motions, or the abuse of privilege of renewing certain motions, to obstruct the business of the Council or board by ruling such motions out of order. In so ruling, the chair shall be courteous and fair and should presume that the moving party is making the motion in good faith.

H. Public Hearings.

Matters which are required to be heard at a noticed public hearing shall be conducted in the following manner.

1. Time for Consideration. Matters noticed to be heard by the Council or board shall commence at the time specified in the notice of hearing, or as soon thereafter as is reasonably possible, and shall continue until the same has been completed or until other disposition of the matter has been made.

2. Continuance of Hearings. Any hearing being held or noticed or ordered to be held by the Council or board at any meeting may, by order or notice of continuance, be continued or re-continued to any subsequent meeting in the manner provided herein for adjourned meetings; provided, that if the hearing is continued to a time less than 24 hours after the time specified in the order or notice of hearing, a copy of the order or notice of continuance of hearing shall be posted immediately following the meeting at which the order or notice of continuance was adopted or made.
3. Public Discussion at Hearings. When a matter for public hearing comes before the body, the chair shall open the public hearing. Upon opening the public hearing and before any motion is adopted related to the merits of the issue to be heard, the chair shall inquire if there are any persons present who desire to speak on the matter which is to be heard or to present evidence respecting the matter. Any person desiring to speak or present evidence shall make his/her presence known to the chair and upon being recognized by the chair, the person may speak or present evidence relevant to the matter being heard. No person may speak without first being recognized by the chair. Members who wish to ask questions of the speakers or each other during the public hearing portion, may do so but only after first being recognized by the chair. The chair shall conduct the meeting in such a manner as to afford due process. Time limits may be established by the chair, limiting the duration of presentations as set forth in these rules.

All persons interested in the matter being heard shall be entitled to submit written evidence or remarks, as well as other graphic evidence. All such evidence presented shall be retained by the City Clerk or secretary of the board as part of the record. No person shall be permitted during the hearing to speak about matters or present evidence which are not germane to the matter being considered. A determination of relevance shall be made by the chair, but may be appealed as set forth in these rules.

4. Consideration of Question by Council or Board. After all members of the **public desiring to speak upon the subject of the hearing have been given** an opportunity to do so, the public hearing shall be closed by the chair, and the body may consider what disposition they wish to make of the question or questions presented at the hearing. No member of the public shall be allowed, without consent of the chair, to speak further on the question during this period of deliberation: although, the members may ask questions of the speakers if so desired. At the conclusion of discussion and appropriate motion having been made and seconded, the body shall vote on the matter.

I. New Business: Introduction.

During Council meetings, no new business on the agenda (except closed sessions) shall be considered after 11:00 p.m. without two-thirds vote of the Council. Any new business remaining on the agenda shall be carried over to the next regular Council meeting.

J. Quorum: Majority: Two-Thirds Vote: Determination.

As used in this resolution or in the application of Lodi Municipal Code Chapter 2.04, the following definitions shall apply:

1. "Quorum" shall mean a simple majority of the total number of all persons on such body.
2. "Majority" shall mean the majority of members actually present at a meeting.
3. "Two-thirds vote" shall mean two-thirds vote of the members actually present, rounded up or to the next number if less than a whole person. Two-thirds of four members shall be three members: two-thirds of five members shall be four members: etc.

K. The City Attorney shall review the City Council Agenda prior to its distribution to Council and note all Quasi Judicial items thereon. When the City Council or commission acts in an adjudicatory or quasi-judicial capacity, each member must (1) disclose on the record the nature and substance of any ex parte communications relating to the matter; and (2) provide interested parties full and fair opportunity to rebut or explain the information obtained from those communications.

SECTION 2. This Resolution shall become effective immediately.

Dated: February 15, 2006

=====

I hereby certify that Resolution No. 2006-31 was passed and adopted by the City Council of the City of Lodi in a regular meeting held February 15, 2006, by the following vote:

AYES: COUNCIL MEMBERS – Beckman, Hansen, Johnson, Mounce,
and Mayor Beckman

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None


SUSAN J. BLACKSTON

City Clerk

2006-31

RESOLUTION NO. 2004-115

A RESOLUTION OF THE LODI CITY COUNCIL
ADOPTING THE CITY OF LODI CODE OF ETHICS AND VALUES

BE IT RESOLVED that the *City of Lodi Code of Ethics and Values*, as shown on Exhibit A attached hereto, is hereby adopted by the City Council of the City of Lodi to be effective immediately; and

FURTHER RESOLVED that this resolution shall apply to Lodi City Council Members and City Council Appointees (i.e. *City Manager, City Attorney, and City Clerk*).

Dated: June 2, 2004

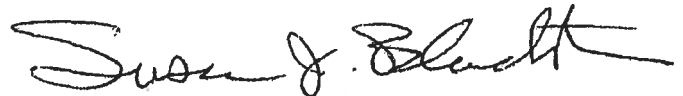
I hereby certify that Resolution No. 2004-115 was passed and adopted by the City Council of the City of Lodi in a regular meeting held June 2, 2004, by the following vote:

AYES: COUNCIL MEMBERS – Beckman, Hitchcock, Howard, Land, and Mayor Hansen

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None



SUSAN J. BLACKSTON
City Clerk



CITY OF LODI Code of Ethics and Values

EXHIBIT A

PREAMBLE

The proper operation of democratic government requires that decision-makers be independent, impartial, and accountable to the people they serve. The City of Lodi has adopted this Code of Ethics and Values to promote and maintain the highest standards of personal professional conduct in the City's government. All elected and appointed officials are required to subscribe to this Code, understand how it applies to their specific responsibilities, and practice its eight core values in their work. Because we seek public confidence in the City's services and public trust of its decision-makers, our decisions and our work must meet the most demanding ethical standards and demonstrate the highest levels of achievement in following this Code.

**1. As a representative of the City of Lodi, I will be ethical.
In practice, this value looks like:**

- a) I am trustworthy, acting with the utmost integrity and moral courage.
- b) I am truthful, do what I say I will do, and am dependable.
- c) I make impartial decisions, free of bribes, *unlawful gifts*, *narrow political interests*, and financial and other personal interest that impair my independence of judgment or action.
- d) I am fair, distributing benefits and burdens according to consistent and equitable criteria.
- e) I extend equal opportunities and due process to all parties in matters under consideration. If I engage in unilateral meetings and discussions, I do so without *making voting decisions*.
- f) I show respect for persons, confidences, and information designated as "confidential" to the extent permitted by California law.
- g) I use my title(s) only when conducting official City business, for information purposes, or as an indication of background and expertise, *carefully considering* whether I am exceeding or appearing to exceed my authority.

**2. As a representative of the City of Lodi, I will be professional.
In practice, this value looks like:**

- a) I apply my knowledge and expertise to my assigned activities and to the interpersonal relationships that are part of my job in a consistent, confident, competent, and productive manner.
- b) I approach my job and work-related relationships with a positive attitude.
- c) I keep my professional knowledge and skills current and growing.

**3. As a representative of the City of Lodi, I will be service-oriented.
In practice, this value looks like:**

- a) I provide *friendly, receptive, courteous service* to everyone.
- b) I am attuned to, and care about, the needs and issues of citizens, public officials, and City workers.
- c) In my interactions with constituents, I am interested, engaged, and responsive.

4. **As a representative of the City of Lodi, I will be fiscally responsible.**
In practice, this value looks like:
- a) I make decisions after prudent consideration of their financial impact, taking into account the long-term financial needs of the City, especially its financial stability.
 - b) I demonstrate concern for the proper use of City assets (e.g. personnel, time, property, equipment, and funds) and follow established procedures.
 - c) I make good financial decisions that seek to preserve programs and services for City residents.
5. **As a representative of the City of Lodi, I will be organized.**
In practice, this value looks like:
- a) I act in an efficient manner, making decisions and recommendations based upon research and facts, taking into consideration short- and long-term goals.
 - b) I follow through in a responsible way, keeping others informed, and responding in a timely fashion.
 - c) I am respectful of established City processes and guidelines.
6. **As a representative of the City of Lodi, I will be communicative.**
In practice, this value looks like:
- a) I convey the City's care for and commitment to its citizens.
 - b) I communicate in various ways that I am approachable, open-minded, and willing to participate in dialog.
 - c) I engage in effective two-way communication, by listening carefully, asking questions, and determining an appropriate response, which adds value to conversations.
7. **As a representative of the City of Lodi, I will be collaborative.**
In practice, this value looks like:
- a) I act in a cooperative manner with groups and other individuals, working together in a spirit of tolerance and understanding.
 - b) I work toward consensus-building and gain value from diverse opinions.
 - c) I accomplish the goals and responsibilities of my individual position, while respecting my role as a member of a team.
 - d) I consider the broader regional and state-wide implications of the City's decisions and issues.
8. **As a representative of the City of Lodi, I will be progressive.**
In practice, this value looks like:
- a) I exhibit a proactive, innovative approach to setting goals and conducting the City's business.
 - b) I display a style that maintains consistent standards, but is also sensitive to the need to compromise, "thinking outside the box," and improving existing paradigms when necessary.
 - c) I promote intelligent and thoughtful innovation in order to forward the City's policy agenda and City services.

RESOLUTION NO. 2009-146

**A RESOLUTION OF THE LODI CITY
COUNCIL ADOPTING POLICY REGARDING
LEGISLATIVE INVOCATIONS BEFORE
MEETINGS OF THE LODI CITY COUNCIL**

=====

The Lodi City Council ("the Council") is an elected legislative and deliberative public body, serving the citizens of Lodi, California, and after hearing makes the following findings:

WHEREAS, the Council wishes to maintain a tradition of solemnizing its proceedings by allowing for a pluralistic call to civic responsibility according to the faiths or beliefs of Lodi's citizens (the "Invocation") before each meeting, for the benefit of the Council; and

WHEREAS, the Council now desires to adopt this formal, written policy to clarify and codify its Invocation practices and amend the Council Protocol Manual adopted by Resolution No. 2006-45 accordingly; and

WHEREAS, in *Marsh v. Chambers*, 463 U.S. 783 (1983), the United States Supreme Court rejected a challenge to the Nebraska Legislature's practice of opening each day of its sessions with a prayer by a chaplain paid with taxpayer dollars, and specifically concluded, "The opening sessions of legislative and other deliberative public bodies with prayer is deeply embedded in the history and tradition of this country. From colonial times through the founding of the Republic and ever since, the practice of legislative prayer has coexisted with the principles of disestablishment and religious freedom." *Id.*, at 786; and

WHEREAS, the United States Supreme Court has determined, "The content of [such] prayer is not of concern to judges where. . .there is no indication that the prayer opportunity has been exploited to proselytize or advance any one, or to disparage any other, faith or belief." *Marsh*, 463 U. S. at 794-795. Thus, *Marsh* focuses on exploitation of the prayer opportunity and efforts, direct or not, to proselytize; to promote or sell a particular religion; and

WHEREAS, in *Simpson v. Chesterfield County Bd. of Supervisors*, 404 F.3d 276 (4th Cir. 2004), *cert. denied*, the United States Court of Appeals for the Fourth Circuit reviewed and specifically approved as constitutional the prayer policy of a county board, and made a number of findings about the policy; and

WHEREAS, the Council acknowledges the general guidance provided by the Fourth Circuit's findings in *Simpson*, including the fact that the policy there:

(1) Allowed for invocations for the benefit of the legislative body itself "rather than for the individual leading the invocation or for those who might also be present," *Id.*, at 284; and

(2) Established a practice in which various clergy in the county's religious community were invited on a rotating basis to present invocations before meetings of the board; *Id.*, at 279; and

(3) Thus, "made plain that [the county board] was not affiliated with any one specific faith" by allowing different persons from different religious convictions and backgrounds to offer the invocations. *Id.*, at 286; and

WHEREAS, in *Pelphrey v. Cobb County, Georgia*, 547 F.3d 1263, 1271 (11th Cir. 2008), the Eleventh Circuit embarked on a thorough and scholarly examination of the *Marsh* test for invocations when it affirmed as constitutional the invocation policy of a county commission. In so doing, the Eleventh Circuit reached very similar findings as to those of the Fourth Circuit in *Simpson*, and the Council finds its findings also provide useful guidance:

(1) The *Marsh* Court considered several factors to determine whether the legislative prayers at issue had been exploited to advance one faith in violation of the Establishment Clause - the Court weighed the chaplain's religious affiliation, his tenure before the legislative body, and the overall nature of his prayers. *Marsh*, 463 U.S. at 792-95. The "nonsectarian" nature of a chaplain's prayers is but one factor in this fact-intensive analysis and it does not form the basis for a bright-line rule. *Pelphrey*, 547 F.3d at 1271; and

(2) An invocation policy which results in prayers from speakers from a wide cross section of a municipality's religious leaders (i.e., leaders of Christian, Jewish, Muslim and Unitarian faiths), and which allows prayers that include specific references from each of the various faiths, does not advance, proselytize or disparage any particular religious faith. *Id.* at 1277-1278; and

WHEREAS, the Council notes that the Ninth Circuit, in an unpublished decision, has also acknowledged that a policy for invocations that, "as is traditional in Congress, rotate[s] among leaders of different faiths, sects, and denominations" may pass constitutional muster due to the fact that such a policy does not proselytize or disparage any particular religious belief. *Bacus v. Palo Verde Unified School District Board of Education*, 52 Fed.Appx. 355, 356 (9th Cir.2002); and

WHEREAS, the Council acknowledges the decision of California Second District Court of Appeal in *Rubin v. City of Burbank*, 101 Cal.App.4th 1194 (2002), which found illegal an invocation policy that allowed references to particular faiths. However, the Council believes the *Rubin* holding does not apply to the policy set forth herein because:

(1) The *Rubin* policy was not open to all religious groups within the City of Burbank; and

(2) The *Rubin* policy was not open to non-religious groups; and

(3) Appearances under the *Rubin* policy were controlled by a pastoral association; and

(4) The *Rubin* Invocation was given during the Council meeting;

WHEREAS, invocations consistent with the policy adopted herein are currently offered before the United States House of Representatives, United States Senate, and the California Senate; and

WHEREAS, the Council intends and has intended in past practice, to adopt a policy that does not proselytize, advance or disparage any particular faith or religious

belief or show any purposeful preference of one religious view to the exclusion of others; and

WHEREAS, the Council recognizes its constitutional duty to interpret, construe, and amend its policies and ordinances to comply with constitutional requirements as they are announced; and

WHEREAS, the Council accepts as binding the applicability of general principles of law and all the rights and obligations afforded under the United State Constitution and the Constitution of the State of California.

NOW, THEREFORE, BE IT RESOLVED by the Lodi City Council that the Council hereby adopts the following written policy regarding legislative invocations before meetings of the Council, to wit:

1. In order to solemnize proceedings of the Council, it is the policy of the Council to allow for a legislative invocation (the "Invocation") to be offered before its meetings for the benefit of the Council. The Invocation shall be given in the manner of a "Call to Civic Responsibility" encouraging the Council to consider the City's business with open minds and make just, wise and compassionate decisions.

2. The Invocation shall occur at 6:55 p.m. prior to the opening and noticed start time of the Council's meeting and shall be listed on the agenda.

3. No member or employee of the Council or any other person in attendance at the meeting shall be required to participate in any Invocation that is offered.

4. The Invocation shall be voluntarily delivered by an eligible person as detailed below. To ensure that such person (the "Invocation Speaker") is selected from among a wide pool on a rotating basis, the Invocation Speaker shall be selected according to the following procedure:

- a. The City Clerk (the "Clerk") shall compile and maintain a database (the "Invocation List") of the religious congregations and secular groups with an established presence within and around the City of Lodi.
- b. The Invocation List shall be compiled by referencing the listing for "churches," "congregations," or other religious assemblies and nonprofit civic groups in the annual Yellow Page phone book(s) published for the City of Lodi, research from the Internet, and consultation with local Chambers of Commerce. All religious and secular groups with an established presence in the local community of Lodi including Lodi citizens who must leave Lodi to attend a house of worship are eligible to be included in the Invocation List. Any such group not otherwise identified for participation may request its inclusion by specific written communication to the Clerk.
- c. This policy is intended to be and shall be applied in a way that is all-inclusive of every diverse religious and secular group within and around the City of Lodi. The Invocation List is to be compiled and used for purposes of logistics, efficiency and equal opportunity for all who may choose to participate in the Invocation.

- d. The Invocation List shall also include the name and contact information of any chaplain who may serve one or more of the fire departments or law enforcement agencies of the City of Lodi.
 - e. The Invocation List shall be updated annually, by reasonable efforts of the Clerk.
 - f. Within thirty (30) days of the effective date of this policy, and annually each calendar year thereafter, the Clerk shall mail an invitation addressed to each group listed on the Invocation List, as well as to the individual chaplains included on the Invocation List.
 - g. Respondents to the invitation letter shall be scheduled on a first-come, first-serve basis to deliver the Invocation.
5. No Invocation Speaker shall receive compensation for his or her service.
 6. The Clerk shall make every reasonable effort to ensure that the eligible Invocation Speakers that are scheduled to give the Invocation before the Council meetings represent a variety of view points from within and around the City of Lodi. In any event, no Invocation Speaker shall be scheduled to offer an Invocation at consecutive meetings of the Council, or at more than two (2) Council meetings in any calendar year.
 7. Neither the Council nor the Clerk shall engage in any prior inquiry, review of, or involvement in, the content of any Invocation. Moreover, the Invocation may be given in a manner that respectfully references the faith or beliefs of the Invocation Speaker. However, no Invocation Speaker shall give an Invocation that seeks to: 1) convert those present to a particular religious belief or seeks to demean a particular religious belief or lack thereof; 2) advocates a political agenda; or 3) asserts the accuracy, inaccuracy, or primacy of any religious belief or lack thereof. Invocation Speakers who violate this policy shall be permanently removed from the Invocation List and their Invocation may be interrupted and terminated by the Mayor.
 8. Shortly before the opening gavel that officially begins the meeting and the agenda/business of the public, the Mayor shall introduce the Invocation Speaker, and invite only those who wish to do so to stand for those observances given for the benefit of the Council.
 9. In the event that the Invocation Speaker does not or cannot appear as scheduled, or in the event that no Invocation Speaker has volunteered or been scheduled for a particular Council meeting, shortly before the opening gavel that officially begins the meeting and the agenda/business of the public, the Mayor shall announce a moment of silence for individual reflection; and invite only those who wish to do so to stand for those observances given for the benefit of the Council.
 10. This policy is not intended, and shall not be implemented or construed in any way, to affiliate the Council with, nor express the Council's preference for or against, any faith or religious denomination, belief, affiliation or lack thereof. Rather, this policy is intended to acknowledge and express the

Council's respect for the diversity of religious and non-religious thought represented and practiced among the citizens within and around the City of Lodi.

1. To clarify the Council's intentions, as stated herein above, the following disclaimer shall be included in at least 10 point font under the Invocation Agenda Item:

"Invocations may be offered by any of the various religious and non-religious organizations within and around the City of Lodi. Invocations are voluntary offerings of private citizens, to and for the benefit of the Council. The views or beliefs expressed by the Invocation Speaker have not been previously reviewed or approved by the Council, and the Council does not endorse the beliefs or views of any Invocation Speaker or religious organization."

NOW, THEREFORE, BE IT FURTHER RESOLVED that this policy shall become effective immediately.

Dated: October 21, 2009

=====

I hereby certify that Resolution No. 2009-146 was passed and adopted by the City Council of the City of Lodi in a regular meeting held October 21, 2009, by the following vote:

AYES: COUNCIL MEMBERS – Hitchcock, Johnson, Katakian, Mounce, and Mayor Hansen


NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None


LARRY D. HANSEN
Mayor

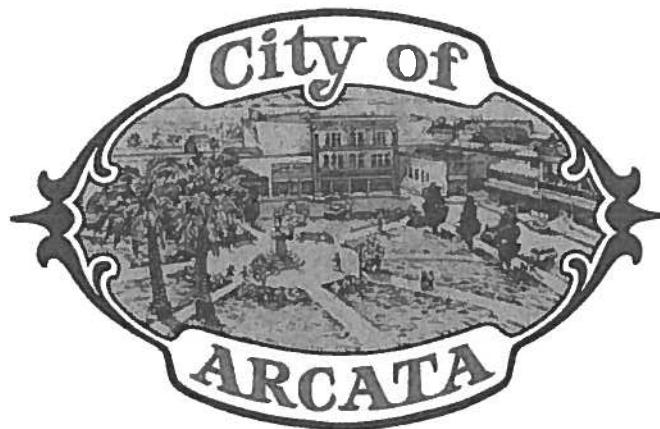
Attest:



RANDI JOHL
City Clerk

CITY OF ARCATA

CITY COUNCIL PROTOCOL MANUAL



Adopted 2-20-2002
Revised 3-2-2005
Revised 6-2-2007
Revised 2-2009

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Chapter 1

Introduction and Overview

As a City Councilmember, you not only establish important and often critical policies for the community of Arcata, you are also a board member of a public corporation having an annual budget of several million dollars. The scope of services and issues addressed by the city organization go well beyond those frequently reported in the newspaper or discussed at City Council meetings.

1.01 Council-Manager Form of Government

The City of Arcata has a Council-Manager form of government. As described in the Municipal Code and the Government Code of California, certain responsibilities are vested in the City Council and the City Manager. Basically, this form of government prescribes that a City Council's role is that of a legislative policy-making body which determines not only the local laws that regulate community life, but also determines public policy and gives direction to the City Manager to administer the affairs of the city government in a businesslike and prudent manner (Arcata Municipal Code Title II and California Government Code § 34100, *et seq.*).

The City of Arcata was incorporated in 1858. At that time, the separately elected City Clerk was the administrative officer for municipal affairs. There was also a separately elected City Treasurer. The City Council established Arcata as a Council-Manager form of government in 1958 and hired its first City Manager that year. Shortly after that, the position of City Clerk was changed from elected to appointed and the City Treasurer position was changed to the appointed Finance Director position.

1.02 Purpose of City Council Protocol Manual

The City of Arcata has prepared its own Protocol Manual to assist the City Council by documenting accepted practices and clarifying expectations. Administration of City Council affairs is greatly enhanced by the agreement of the City Council and staff to be bound by these practices. While attempting not to be overly restrictive, procedures are established so that expectations and practices can be clearly articulated to guide Councilmembers in their actions.

1.03 Overview of Basic City Documents

This Protocol Manual provides a summary of important aspects of City Council activities. However, it cannot incorporate all material and information necessary for undertaking the business of the City Council. Many other laws, plans, and documents exist which bind the City Council to certain courses of action and practices. The following is a summary of some of the most notable documents that establish City Council direction. A complete list of City plans and implementation programs is provided in Appendix A.

A. Codes of the State of California

The state laws contain many requirements for the operation of city government and administration of meetings of city councils throughout the state. Arcata is a “general law city” which means it operates under applicable general laws of the state. As a general law city of the state of California, Arcata is vested with all the powers of incorporated cities as set forth in the California Constitution and the applicable California state laws. Conversely, there are a number of cities within California that are “charter cities” and have adopted local provisions that establish basic governing procedures for local government (California Government Code §§ 34100-34102).

B. Arcata Municipal Code

The Municipal Code contains local laws and regulations adopted by ordinances. Title I and Title II of the Code address the role of the City Council, describe the organization of City Council meetings and responsibilities, and appointment of certain City staff positions, advisory boards, and commissions. Boards and commissions are also addressed in Title III. In addition to these administrative matters, the Municipal Code contains a variety of laws including, but not limited to, zoning standards, health and safety issues, traffic regulations, building standards, and revenue and finance issues.

C. Goals

The City Council sets both long-term and short-term goals for the City each spring. The goal-setting process includes a review of the previous year’s goals including progress toward completion and updating. The budget is then written with the objective of working toward completion of those goals.

D. Annual Budget

The annual budget is set for the fiscal year beginning July 1 and ending June 30. It is the primary tool and road map for accomplishing the goals of the City. The budget document is the result of one of the most important processes the City undertakes. By adopting the annual budget, the City Council makes policy decisions, sets priorities, allocates resources, and provides the framework for government operations. Study sessions on the budget are held in May and public hearings in June with adoption at the second City Council meeting in June.

E. Annual Financial Audit

The annual financial audit includes the financial statements of the City for a fiscal year. It includes the financial condition of the City as reflected in the balance sheet, the results of operations as reflected in income statements, an analysis of the uses of City funds, and related footnotes. The annual financial audit includes statements for the various groups of funds and a consolidated group of statements for the City as a whole. The City Council has the responsibility of hiring an independent auditor, and of reviewing and accepting the audit.

F. General Plan

A state-mandated General Plan addresses the City’s long-range planning needs relative to land use, transportation, economic development, and other planning elements. The City’s General Plan is reviewed on an ongoing basis, but mandatory elements may only be revised four times a year; however, certain amendments necessary for affordable housing development are not subject to this limitation (California Government Code § 65358).

G. Five-year Capital Improvement Program

The Five-year Capital Improvement Program serves as a guide for determining priorities, planning, financing, and construction of capital projects which add to, support, or improve the physical infrastructure, capital assets, or productive capacity of City services.

H. Disaster Preparedness Plan

The City maintains a disaster preparedness plan that outlines actions to be taken during times of extreme emergency. The Mayor is called upon to declare the emergency, and then the City Manager directs all disaster response activities. The City Council may be called upon during an emergency to establish policies related to a specific incident. The chain of command is as follows:

The City Manager is the Director of Emergency Services

The City Manager may appoint an Assistant Director of Emergency Services
(Arcata Municipal Code Title II, Chapter 6, §§ 2700–2709)

1.04 Orientation of New Members

It is important for the members of the City Council to gain an understanding of the full range of services and programs provided by the City. As new members join the City Council, the following will be provided in a timely manner.

- a. The City Manager will host an orientation program to distribute materials outlining City policy and protocol.
- b. The City Manager will facilitate a meeting with the City Attorney for conflict-of-interest training, review of current legal matters, review of parliamentary procedure, and updates on labor negotiations.
- c. The City Manager will arrange a meeting with Personnel prior to the first pay period to cover information reviewed with all City employees (e.g., benefits elections, I-9, retirement options, etc.).
- d. The City Manager will arrange meetings with key Department Heads to be briefed on current projects within his/her Department and to tour City facilities.
- e. The City Manager will arrange an opportunity for "ride alongs" with the Arcata Police Department.
- f. The City Manager's assistant will arrange a meeting for a briefing on various aspects of City Hall, including, but not limited to, travel procedures, email, phone service, etc.
- g. The City Manager will provide information for attendance at the League of California Cities' New Mayors and Council Members Academy.

Chapter 2

Arcata City Council: General Powers and Responsibilities

2.01 City Council, Generally

Fundamentally, the powers of the City Council are to be utilized for the good of the community and its residents; to provide for the health, safety, and general welfare of the citizenry. The City Council is the policy-making and law-making body of the City. State law and local ordinances define the powers and responsibilities of the Council.

It is important to note that the Council acts as a body. No member has any extraordinary powers beyond those of other members. While the Mayor has some additional ceremonial and presiding officer responsibilities as described below, when it comes to establishing policies, voting, and in other significant areas, all members are equal. It is also important to note that policy is established by at least a majority vote of the Council. While individual members may disagree with decisions of the majority, a decision of the majority does bind the Council to a course of action. Councilmembers should respect adopted Council policy. In turn, it is staff's responsibility to ensure the policy of the majority of the Council is upheld.

Actions of staff to pursue the policy direction established by a majority of Council do not reflect any bias against Councilmembers who held a minority opinion on an issue.

A. Council Non-Participation in Administration

In order to uphold the integrity of the Council-Manager form of government and to provide proper checks and balances, members of the City Council shall refrain from becoming directly involved in the administrative affairs of the City, unless directed by a majority of the Council to participate in a policy or project. As the Council is the policy-making body and the maker of local laws, its involvement in enforcement of ordinances would only damage the credibility of the system.

2.02 Role of Councilmembers

Members of the Arcata City Council are collectively responsible for establishing policy, adopting an annual budget, and providing vision and goals to the City Manager. The following outline is a brief description of the various duties of Councilmembers. The description is not intended to be comprehensive, but rather it is an effort to summarize the primary responsibilities of the Council.

A. Summary of Council Duties and Responsibilities as Provided in State Law:

1. Councilmembers serve as the:
 - a. City Council
 - b. Arcata Community Development Agency Board
 - c. Personnel Board
 - d. City of Arcata Joint Powers Financing Authority

2. Establish Policy
 - a. Adopt goals and objectives
 - b. Establish priorities for public services
 - c. Adopt/amend the operating and capital budgets
 - d. Approve contracts over \$25,000
 - e. Adopt resolutions
3. Enact Local Laws
 - a. Adopt ordinances
4. Supervise Appointed Officials
 - a. Appoint City Manager and City Attorney
 - b. Evaluate performance of City Manager and City Attorney
 - c. Establish boards, commissions, committees and task forces
 - d. Make appointments to such bodies
 - e. Provide direction to advisory bodies
5. Make Decisions
 - a. Study problems
 - b. Review alternatives
 - c. Determine best course of public policy
 - d. Call special elections as necessary

2.03 Role of Mayor

A. Presiding Officer

The Council selects the Mayor by a majority vote each year on the second Tuesday of December. The Mayor serves as the presiding officer, unless otherwise delegated, and acts as chair at all meetings of the City Council. The Mayor sets the Agenda for regular and special Council meetings. The Mayor may participate in all deliberations of the Council in the same manner as any other member and is expected to vote in all proceedings, unless a conflict of interest exists. During Council proceedings, the Mayor facilitates discussion, gauges direction, and listens for majority support prior to calling for a vote on a motion. The Mayor does not possess any power of veto. State law allows the Mayor to move or second an action. As a matter of Arcata tradition, the Mayor does not make a motion and will only second a motion in rare and unusual circumstances (California Government Code §§ 36801–36815).

B. Ceremonial Representative and Other Duties of the Mayor

Responsibility to act as the City Council's ceremonial representative at public events and functions has been assigned to the Mayor. In the Mayor's absence, the Mayor shall appoint a Councilmember to perform the ceremonial role. However, all Councilmembers are encouraged to participate. The Mayor may initiate and execute certificates of appreciation and recognition, and Council-approved proclamations. The Mayor has the responsibility of making liaison, board and committee assignments for Councilmembers with those assignments to be ratified by the Council.

2.04 Vice-Mayor, Absence of Mayor and Councilmembers

In the absence of the Mayor, the Vice-Mayor shall perform the duties of the Mayor. The Council selects the Vice-Mayor by a majority vote each year on the second Tuesday of December.

When both the Mayor and Vice-Mayor are absent, the Mayor will designate from amongst the Councilmembers a person to serve as Acting Mayor, who shall, for the term of such absence, have the powers of the Mayor. [See 7.12]

2.05 Resignation of Mayor or Vice-Mayor

If the Mayor or Vice-Mayor resigns, the City Council will select a new Mayor or Vice-Mayor.

2.06 Emergency Response

The City Council may proclaim, and the Mayor shall sign, a declaration of emergency. If the City Council is not in session, the Director of Emergency Services may proclaim the existence of an emergency (Arcata Municipal Code, Title II, Chapter 6, § 2703).

2.07 Appointment of Officer

The City Council is responsible for appointing two positions within the City organization-- the City Manager and the City Attorney. The City Manager and the City Attorney serve at the pleasure of the Council. The City Manager is responsible for all personnel within the City organization.

2.08 Boards, Commissions, Committees, and Task Forces

A. Appointments Made by the Council

Boards, commissions, committees, and task forces provide a great deal of assistance to the Arcata City Council when formulating public policy and transforming policy decisions into action. The City has several standing boards commissions and committees. In addition, special purpose task forces are often appointed by the City Council to address specific issues of interest on a limited duration basis. These ad hoc committees will be dissolved upon completion of the intended task. Committees and task forces are purely advisory to the Council, and, in some situations, staff. Commissions have final decision-making authority, subject to appeal to the City Council, but may also serve in an advisory capacity in certain situations. The Board of Permit Appeals makes final decisions on matters arising under the Uniform Building Code and its final decisions are not subject to review by the City Council.

The procedures established in this Manual reflect the policy of the City Council regarding the appointment of volunteer citizens to the various bodies of the City. The establishment of these procedures ensures that well-qualified, responsible, and willing citizens are given the opportunity to serve the City and participate in the governance of their community.

The City Council is specifically empowered to create all boards, commissions, committees and task forces, pursuant to the provisions of the Arcata Municipal Code, as the Council deems necessary or advisable. In the exercise of this power, it is the desire of the City Council to establish a consistent policy in its decision-making role to fairly and equitably evaluate those citizens of the community who demonstrate a desire to serve on such boards, commissions, committees, or task forces (Arcata Municipal Code Title II, Chapter 3).

For full-term vacancies, the filing period is as determined by Ordinance. For all vacancies, the City Clerk will:

1. Publicly announce the position vacancy and filing period by publication of same in the official newspaper of the City of Arcata and set forth the qualifications required, if any.
2. Notify the incumbent(s) whose term(s) is/are expiring, of such term expiration and invite the incumbent(s) to consider being reappointed.
3. Advertise the position and accept applications when an incumbent's term expires.
4. Prepare interview packets for Councilmember review prior to the Council interview period, including: 1) A list of current membership; 2) A list of current vacancies and term expirations; 3) A summary of the duties and responsibilities of the vacant position on the Commission or Committee; 4) The applications; and 5) Recommendations from the staff liaison outlining needed expertise on the Commission or Committee, if any.

B. Council Action

1. Council Interview Period. The Council may personally interview each applicant individually, at a time and place to be designated by the Council. However, after reviewing applications, the Council reserves the right to make appointments without conducting interviews.
2. The Council may appoint a sub-committee to review applications or conduct interviews of applicants and make recommendations to the full Council for appointment.
3. Council Evaluation. After each applicant or member is evaluated or recommended, the Council will deliberate and reach a decision at its earliest convenience.
4. Decision & Announcement. The City Clerk will notify each applicant of the decision of the Council and provide a copy the City Commission/Committee Handbook for new members. The City Clerk will also notify the commission/committee's staff liaison of the Council's decision, who will, in turn, notify the Chair. In addition, the staff liaison will contact the new member and provide orientation prior to the next scheduled meeting.
5. All Council interviews, deliberations and actions to appoint members to boards, committees and commissions are subject to the Ralph M. Brown Act (state open meetings act, attached as Appendix B), and as such, must be noticed and open to the public.

C. Resignations

Vacancies occurring in the middle of a term shall be filled by appointment for the unexpired portion of the term in the same manner provided herein for initial appointment [Arcata Municipal Code, Title II, Chapter 3, § 2202(C)].

D. Councilmembers' Roles and Relationships with City Bodies

1. Because the Council has the ability to review decisions made by the commissions and recommendations made by committees and task forces, Councilmembers shall not be appointed to City boards or commissions or committees concurrent with their term of office.
2. Unless specifically authorized by a majority vote of a quorum of the Council, no Councilmember shall be authorized to testify before or direct the work of any board, commission, committee or task force of the City.
3. If a Councilmember is testifying in such a capacity pursuant to the above provision, testimony should be undertaken in such a manner as to assure public confidence in the decision-making process and avoid the appearance of bias, prejudice, or improper influence. Toward this purpose, the following protocol should be observed:
 - a. Councilmembers shall not testify in matters pending before any commission, committee, or task force that will receive, or could potentially receive, future appeal or review before the City Council. Violation of this protocol shall require the Councilmember to disqualify his or herself from participating in any appeal or review proceedings before the City Council.
 - b. Except in matters directly involving personal interests, Councilmembers, in their capacity as private citizens, should abstain from providing testimony or influencing decisions in matters pending before any City board, commission, committee or task force that will receive, or could potentially receive, future review or other action before the Council. Where a Councilmember elects to provide such testimony, the following rules shall apply:
 - (i) The Councilmember shall declare at the outset and upon the record that the Councilmember is present in his or her private capacity as an interested citizen, and not on behalf of or at the request of the City Council.
 - (ii) The Councilmember shall refrain from stating or implying that the Councilmember's position or opinion is that of the City Council.
 - (iii) The Councilmember shall refrain from directing City staff or the advisory body to take any action on behalf of the Councilmember.
 - (iv) The Councilmember shall observe any rules of procedure or protocol that apply to any other private citizen testifying before the advisory board.
 - (v) The Councilmember shall disqualify him or herself from participating in the matter should it come before the Council for review and/or decision.

2.09 Service on Outside Boards

Councilmembers are often requested to serve on outside boards, councils, commissions, or committees. This type of representation serves to facilitate communication and provide interaction with other governmental bodies. The City Council appoints members to some of these groups on an as-needed or as-requested basis.

Councilmembers participating in policy discussions at regional meetings will represent the consensus of the Council, except where regional appointment requires regional opinion. Personal positions, when given, will be identified and not represented as the position of the City. Assignment and direction of staff in relation to regional meetings are at the discretion of the City Manager.

2.10 Incompatibility of Offices

In general, California law prohibits public officials from simultaneously holding more than one public office when the functions or responsibilities of the two offices have the potential for overlapping. This prohibition arises from a concern over the potential clash of two public offices held by a single official with potentially overlapping public duties. The Legislature may, however, expressly authorize through legislation the holding of two offices notwithstanding the fact that the dual holding would otherwise be prohibited. For example, the Legislature has exempted local agency formation commissions, the Coastal Commission, joint powers agencies, and transportation corridor agencies.

Chapter 3

Support Provided to City Council

3.01 Staff/Clerical Support

Staff and administrative support to members of the City Council is provided through the City Manager's Office. Secretarial services provided include distributing mail and email, scheduling appointments and receiving messages. All other Council requests for staff services are made by request to the City Manager or Executive Assistant who will assign the appropriate staff member. Sensitivity to workload of support staff is appreciated and turnaround time will vary depending on current work assignments.

3.02 Office Equipment

To enhance Councilmembers' service to the community and their ability to communicate with staff and the public, the City provides meeting facilities and office equipment for City business.

It is important to note that all letters, memoranda, and interactive computer communication (email) involving City Councilmembers and members of advisory boards and commissions, the subject of which relates to the conduct of government or the performance of any governmental function, with a few exceptions specified in the Public Records Act, are public records.

A. Business and Personal Use of City Equipment

The City's electronic equipment and information systems are intended for professional business use by a Councilmember in the performance of their duties. Personal use of City equipment is prohibited.

B. Photocopy Machines and Other Equipment

1. Photocopy Machines. Councilmembers are provided a code number for use of the photocopier for City business.
2. Other equipment. Except as provided herein, in no event shall a Councilmember take City property to his or her home.

C. Monitoring, Enforcement and Penalties

1. City information systems or storage media are the property of the City of Arcata. The City retains the right to access, copy and change, alter, modify, destroy, delete or erase this property without prior notice to Councilmembers.
2. The City retains the right to monitor and audit email and internet usage. The right to use these technologies does not include the right to privacy.
3. Deleted documents, messages and data may be retrieved from a variety of points in the network. Councilmembers should assume that electronic evidence discovery might recover deleted or unsaved data.

4. Councilmembers' use of a personal internet account on City equipment, and Councilmembers' use of a City internet account on personal equipment are to be arranged through the City Manager and are subject to the provisions of this policy. Said Councilmembers should be aware that their personal email and electronic files could be monitored by the City and could be reviewed as part of a public records request.

3.03 Meeting Rooms

Councilmembers may utilize the office space provided in City Hall. Use of other meeting rooms, including the conference room located at City Hall, may be scheduled through the City Manager's Office.

3.04 Mail, Deliveries

Members of the City Council receive a large volume of mail and other materials that are delivered primarily through the use of mailboxes located in the City Council's office. The City Manager's staff disseminates mail to individual Council mailboxes. Staff does not open mail addressed to individual Councilmembers. General correspondence addressed to Councilmembers as a whole will be opened and delivered to the Council General Box.

Councilmembers are encouraged to check mailboxes often. In addition, City staff will email, telefax or personally deliver materials that are time sensitive to a Councilmember's home or office, if appropriate.

3.05 Council Library

A library of current City plans, implementation programs, and the Arcata Municipal Code is located in the City Council's office. These documents are for reference and are not to be removed from the office. Copies can be made available for individual Councilmembers upon request to the department of origin.

Chapter 4

Financial Matters

4.01 Council Compensation

The Municipal Code provides for payment of a modest honorarium to members of the City Council. State law sets the level of compensation (California Government Code § 36516 and Arcata Municipal Code, Title II, Chapter 1, § 2010).

4.02 Budget

The annual City budget includes appropriations for expenses necessary for Councilmembers to undertake official City business. Funding provided includes membership in professional organizations, attendance at conferences or educational seminars, purchase of publications and office supplies.

4.03 Financial Disclosure

Candidates for the office of Councilmember shall file a financial disclosure statement with the City Clerk who will retain a copy and forward the original to the Fair Political Practices Commission (FPPC) (California Government Code §§ 87201 and 87202). Financial disclosure shall be filed with nomination papers, not earlier than 113 days before the election with the deadline being no later than 88 days before the election (California Elections Code, § 10220-10227; California Government Code § 87200). When Councilmembers assume office or leave office, whether by election, appointment, end of term, or resignation, Statements of Economic Interests (FPPC Form 700) covering the previous 12 months, or the period since the previous statement was filed under Government Code § 87202 or 87203, must be filed within thirty days (California Government Code § 87204). In addition, Councilmembers are required to file financial disclosure statements (FPPC Form 700) on an annual basis after January 1 and before April 1 of each year covering the previous calendar year (California Government Code § 87203). Statements filed in any of the above circumstances will be available for public inspection.

4.04 Travel Policy and Procedures

The City Council has adopted a travel policy by resolution (Appendix C). Councilmembers, staff, and appointed officials will be reimbursed for all “approved travel” as defined in the City Travel Policy only up to the amount of an individual’s funds allocated for travel/training. If a Councilmember desires to exceed his or her allocated annual travel budget, prior to travel he or she may submit a written request to the City Manager for a reallocation of another Councilmember’s unused travel balance. The City Manager will confirm that the reallocation is approved by the donating Councilmember and is in the best interests of the City.

“Approved Travel” means pre-authorized travel to attend training or conferences, or other City Council-directed travel activities.

A. Pre-authorization of Travel/Training

Councilmembers and appointed officials traveling on City business that involves an overnight stay shall submit a Travel/Training Authorization Form to the City Manager for pre-approval. In advance of making travel arrangements, Councilmembers must check account balances, complete a Travel/Training Authorization Form and make all travel arrangements with the Executive Assistant to the City Manager. The travel authorization form will include a complete estimate of the costs of the trip, including conference registration, transportation, and per diem. The travel authorization form will also include the purpose of the trip, the dates of travel, and other pertinent details.

In advance of any travel on City business, a Travel/Training Authorization Form must be submitted to and signed by the City Manager. The City Manager must authorize:

- a. Overnight travel by elected or appointed officials
- b. Use of a rental vehicle by elected or appointed officials
- c. Out-of-state travel by elected or appointed officials

B. Authorization for Reimbursement of Travel Expenses

Within 10 days of the close of the authorized travel period a final itemized Travel/Training Authorization Form, including all receipts and expense reimbursement requests, must be submitted to the Executive Assistant to the City Manager for processing and final approval and signature by the City Manager. The Executive Assistant to the City Manager will process and submit authorized travel reimbursement requests to the Finance Department.

4.05 City Credit Card Policy

Card Issuance. The Finance Department issues each Councilmember a City credit card. Use of City credit cards is set forth in the City Credit Card Policy (Appendix D).

Cards Lost or Stolen. Lost or stolen cards must be reported to the Finance Director within one working day of discovery.

Leaving Office. Each card holder must surrender the City credit card immediately upon leaving office, or upon request of the City Manager or Finance Director. Use of the card after privileges are withdrawn is prohibited.

Chapter 5 Communications

5.01 Overview

Perhaps the most fundamental role of a Councilmember is communication—communication with the public to assess community opinions and needs, and to share the vision and goals of the City with constituents; and communication with staff to provide policy direction and to gain an understanding of the implications of various policy alternatives.

Because the City Council performs as a body (that is, acting based on the will of the majority as opposed to individuals), it is important that general guidelines be understood when speaking for the Council. Equally important, when members are expressing personal views and not those of the Council, the public should be so advised.

5.02 Correspondence from Councilmembers

Members of the City Council will often be called upon to write letters to citizens, businesses, or other public agencies. Typically, the Mayor will be charged with transmitting the City's position on policy matters to outside agencies on behalf of the City Council. Individual members of Council will often prepare letters for constituents in response to inquiries, or to provide requested information. City letterhead is available for this purpose, and staff can assist in the preparation of such correspondence.

On occasion, members may wish to correspond on an issue on which the Council has yet to take a position, or about an issue for which the Council has no position. In these circumstances, members should clearly indicate that they are not speaking for the City Council as a whole, but for themselves as one member of the Council. City letterhead and office support may be utilized in these circumstances.

Councilmembers may occasionally be asked to prepare letters of recommendation for community members seeking employment or appointment. It is inappropriate for Councilmembers to make a recommendation or utilize City letterhead or their Council titles for such letters without approval of the majority of Council.

City letterhead and staff support cannot be utilized for personal or political purposes.

5.03 Local Ballot Measures

At times, initiatives that affect City Council policy may be placed on the ballot. There are restrictions regarding what actions the City may take on ballot measures. Specifically, state statutes prohibit the City from using its personnel, equipment, materials, buildings, or other resources to influence the outcome of elections. What the City can do is distribute informational reports or pamphlets for the purpose of informing the public of the facts of an issue.

5.04 Proclamations

Proclamations are issued by the City Council as a ceremonial commemoration of an event or issue (e.g., National Night Out). Proclamations are not statements of policy. Proclamations are a manner in which the City can make special recognition of an individual, event, or issue.

Proclamations can be directly made if they have been listed on a previously approved list (Appendix E). The Council-approved proclamations list is a separate document so that it can be added to after the Council has approved a new proclamation without having to pass a new resolution each time. All proposed proclamations not on the annually approved list must first be approved by the Council during a regular City Council meeting as an item on the Consent Calendar. When a proclamation is approved as a consent item, and if the proclamation is expected to be an annual event, description of the item shall include the phrase "and add proclamation to the Council-approved list." The decision to add or not to add a proclamation to the approved list shall be made following consultation between the City Manager and the Mayor at the time the Council meeting agenda is being prepared.

The list will be reviewed by the City Council every February following a City Council election. Proclamations not requested for two years will automatically be deleted from the list of pre-approved proclamations.

5.05 State Public Records Disclosure Act

To ensure that business communications submitted to and by elected and appointed officials comply with the California Public Records Act and the Ralph M. Brown Act (state open meetings act), the following is set forth:

A. Communications, Generally

All letters, memoranda, and interactive computer email communications involving City Councilmembers and members of boards, commissions, committees and task forces, the subject of which relate to the conduct of government or the performance of any governmental function, with a few exceptions as outlined in the Public Records Act, are public records. Copies of such letters, memoranda, and email communications may not be provided to the public or news media without the filing of a public information disclosure request with the City Clerk. The City Clerk has a system for processing such requests.

B. Written Communications

Written letters and memoranda received by the City on a specific agenda, addressed to a Councilmember or the Council as a body, will be photocopied and provided to all City Councilmembers, and a copy kept according to the City's Records Retention Schedule.

C. Electronic Communications

1. Informal messages with no retention value and that do not relate to the functional responsibility of the recipient or sender as a public official, such as meeting notices, reminders, telephone messages and informal notes, do not constitute a public record. Users should delete these messages once their administrative purpose is served.

2. All other messages that relate to the functional responsibility of the recipient or sender as a public official constitute a public record. Such records are subject to public inspection and copying; users may either print a copy of the record and file it with the City Clerk for retention, according to the City's Records Retention Schedule, or forward such email messages to citymgr@cityofarcata.org from which the City Clerk will print and file it according to the City's Records Retention Schedule.
3. Email communications that are intended to be shared among three or more Councilmembers, whether concurrently or serially, must be considered in light of the Ralph M. Brown Act (state open meetings act). If the intended purpose of the email is to have a discussion that should be held at an open meeting, the electronic discussion should not occur.
4. Email should be used cautiously when seeking legal advice or to discuss matters of pending litigation or other "confidential" City business. In general, email is discoverable in litigation, and even deleted email is not necessarily removed from the system. Confidential email communications should not be shared with individuals other than the intended recipients or the attorney-client privilege protecting the document from disclosure may be waived.
5. Email between Councilmembers and between Councilmembers and staff shall not be transmitted to the public or news media without the filing of a public disclosure request with the City Clerk.
6. Email shall not be used for personal use, since Councilmembers' conventional email addresses include the City's "return address."

Chapter 6

Conflicts of Interest

6.01 Ethics, AB 1234 Ethics Training

The City maintains a commitment to conducting business according to the highest achievable ethical standards. Recognizing that ethical dilemmas may arise and that public officials must make difficult choices after careful consideration of competing public, personal and/or private interests at stake, the Council has adopted a code of ethical conduct, which is attached as Appendix F.

The City Manager is subject to a professional code of ethics as a member of the International City/County Management Association (ICMA). These principles appear in the appendix of this manual, as Appendix G. It should be noted that this code binds the City Manager to certain practices that are designed to ensure actions are in support of the City's best interests. Violations of such principles can result in censure by the ICMA.

State law (California Government Code § 53235, *et seq.*) requires public officials to complete two hours of training in ethics principles and laws every two years. In addition to Councilmembers, Arcata requires the training of all of its commissioners (Planning and Historic and Design Review), its City Manager, its department directors, its mid-managers when they staff a City commission, and the chairperson and vice-chairperson of each committee or board. Additionally, the City Council encourages all committee and board members to complete the training. At present, the City Attorney is able to provide periodic training sessions that satisfy the requirement. Alternatively, the League of California Cities offers AB 1234 training, often in conjunction with League conferences or other training workshops, and on-line training is offered through the Institute for Local Government and the Fair Political Practices Commission. Certificates of course completion are kept on file by the City Clerk.

6.02 Conflicts of Interest

There are numerous sources of conflicts of interest that may require a Councilmember to disqualify himself or herself from participating in decision-making. The Political Reform Act (PRA) controls financial conflicts of interest of public officials. The PRA is one of the most complicated laws affecting local government. This law is implemented and enforced by the Fair Political Practices Commission (FPPC) which has issued comprehensive implementing regulations. To understand the PRA's impact on a Councilmember's actions, it is suggested that members discuss the law and potential conflicts with the City Attorney or a private attorney.

In general, under the PRA, public officials are prohibited from making, participating in or in any way attempting to use their official position to influence a government decision in which they know or have reason to know they have a financial interest (California Government Code § 87100; 2 California Code of Regulations §§ 18700, 18702-18702.4). A "public official" is defined as including every member, officer, employee or consultant of the state or local government agency (California Government Code § 82048; 2 California Code of Regulations § 18701).

A. Applicability

Under the PRA, an official has a financial interest if it is reasonably foreseeable that a decision will have a material financial effect, distinguishable from its effect on the public generally, on the official, a member of his or her immediate family, or on any of the following:

1. Any business entity in which the public official has a direct or indirect investment worth \$2,000 or more (California Government Code §§ 82005, 82034, 82035; 2 California Code of Regulations § 18703.1).
2. Any real property in which the public official has a direct or indirect interest worth \$2,000 or more (California Government Code § 82033).
3. Any source of income other than gifts or certain loans aggregating \$500 or more provided to the public official within 12 months prior to the time of the decision (California Government Code § 82030; 2 California Code of Regulations § 18703.3).
4. Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management (2 California Code of Regulations § 18703.1).
5. Any gift totaling \$420 (adjusted biannually by the FPPC) or more provided to, received by or promised within 12 months prior to the decision (2 California Code of Regulations §§ 18703.4, 18704-18961).

B. Analysis

In general, the FPPC suggests that an eight-part analysis be followed in determining whether a conflict of interest exists:

1. Is the person involved a public official? The PRA applies to “public officials at any level of state or local government” (California Government Code § 87100).
2. Is the public official making, participating in making, using, or attempting to use his/her official position to influence governmental decision (2 California Code of Regulations §§ 18700, 18702-18702.4)?
3. What are the actual economic interests of the official potentially impacted by the decision (California Government Code § 87103, 2 California Code of Regulations §§ 18704-18704.5)?
4. Is the economic interest directly or indirectly involved in the governmental decision (2 California Code of Regulations §§ 18704-18704.5)?
5. Is the financial effect on the economic interest material (2 California Code of Regulations §§ 18702-18702.5)?
6. Is it “reasonably foreseeable” that the governmental decision will have a material financial effect on the economic interest (2 California Code of Regulations §§ 18700-18706)?
7. Will the decision’s effect on the official’s economic interest differ from that on the public generally (2 California Code of Regulations §§ 18707-18707.10)?
8. Is participation by the public official legally required in order to create a quorum to vote on the matter (2 California Code of Regulations § 18708)?

C. Disqualification and Disclosure

When the agenda item is called, a City Councilmember who has a conflict of interest is required to publicly state that a conflict of interest exists, describe the nature of the economic interest giving rise to the conflict, disqualify himself or herself, and leave the room. Ideally, Councilmembers will become familiar enough with the sources of conflicts to determine in advance whether disqualification is necessary. However, if a Councilmember becomes aware of a potential conflict only during the meeting, it is perfectly appropriate for the Councilmember to ask for a break in order to discuss the matter with the City Attorney, if necessary. If any Councilmember questions a potential conflict of interest related to another Councilmember, a recess may be called at the request of the Councilmember who may have a conflict to allow discussion of the issue with the City Attorney to determine if there is a conflict. If the Councilmember decides a conflict exists, that Councilmember may not participate in any aspect of the decision making, including discussing the matter with City staff. When a conflict of interest arises involving a matter on the consent portion of the agenda, the Councilmember is not required to leave the room, unless that item is pulled from the consent agenda for separate discussion.

D. Legally Required Participation

In the event that a decision cannot be made because a majority of the Council is disqualified due to conflicts of interest, the PRA allows the minimum number of Councilmembers necessary to constitute a quorum to return and participate in the decision to the minimum extent required. The Councilmembers permitted to participate must be chosen through a random process (California Government Code § 87101).

E. Conflict of Interest Code

The City is required to adopt and maintain a Conflict of Interest Code. This code is found in the Arcata Municipal Code at Title 2, Chapter 8. Under state law, the code must be reviewed every two years and amended as circumstances change. The City's code must be consistent with minimum requirements of the PRA (California Government Code §§ 87300-87313).

F. Advice on Conflict of Interest

The City Attorney may provide advice to a Councilmember about the existence of a conflict of interest. However, advice given by the City Attorney does not protect the Councilmember from an enforcement action by the FPPC. A Councilmember may seek a formal written opinion from the FPPC on a particular set of facts. Such an opinion letter would provide protection from an enforcement action arising under the same set of facts.

G. Other Sources of Conflict

In addition to the PRA, State law prohibits Councilmembers from entering into contracts with the City. (California Government Code § 1090) In general, this type of conflict is not subject to remedy through the disqualification of the interested Councilmember, but must instead be entirely avoided by the Council. There are, however, numerous exceptions to this provision that will allow the Council to enter into certain contracts after disqualification of the interested Councilmember and those should be reviewed with the City Attorney on a case-by-case basis (California Government Code § 1090).

H. Revolving Door Policies

For a period of one year after leaving office, state law prohibits Councilmembers and chief administrators from accepting employment with the City, or from acting as agent or attorney for any other person by appearing formally or informally, orally or in writing, before the Council or any of its commissions, or committees if the appearance or communication is made for the purpose of influencing administrative or legislative action, or influencing any action or proceeding involving the issuance of, amendment to, award of, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property (California Government Code § 87406.3).

Chapter 7

Interaction with City Staff/Officials

7.01 Overview

City Council policy is implemented through dedicated and professional staff. Therefore, it is critical that the relationship between Council and staff be well understood by all parties so policies and programs may be implemented successfully. To support effective relationships, it is important that roles are clearly recognized.

7.02 Council-Manager Form of Government

Arcata has a Council-Manager form of government. Basically, with this structure, the City Council's role is to establish City policies and priorities. The Council appoints a City Manager to implement those policies and undertake the administration of the organization.

The City Manager is appointed by the City Council to enforce its laws, to direct the daily operations of city government, to prepare and monitor the principal budget, and to implement the policies and programs initiated by the City Council. The City Manager is responsible to the City Council, rather than to individual Councilmembers, and directs and coordinates the various departments. The City Manager is responsible for appointing all department directors and authorizing all other personnel positions. The City Council authorizes positions through the budget process; based upon that authorization, the City Manager makes the appointments.

The Council-Manager form of government is outlined in the California Government Code. The powers and duties of the City Manager include:

- Generally supervise over the administrative affairs of the City
- Appoint and remove at any time any department directors and employees
- Attend all meetings of the Council at which the Manager's attendance may be required by that body [AMC § 2107(d)]
- See that all laws and ordinances are faithfully executed, subject to the authority which the Council may grant the Mayor to maintain law and order in times of emergency
- Recommend for adoption by the Council such measures as the Manager may deem necessary or expedient
- Prepare and submit to the Council such reports as may be required by that body, or as deemed advisable to be submitted
- Keep the Council fully advised of the financial condition of the City and its future needs
- Prepare and submit to the Council a proposed budget for the fiscal year, and be responsible for its administration upon adoption
- Perform such other duties as the Council may determine by ordinance or resolution
- Implement and administer City Council policy

7.03 Non-interference by City Council

The City Council is to work through the City Manager when dealing with administrative services of the City.

In no manner, either directly or indirectly, shall a Councilmember become involved in, or attempt to influence, personnel matters that are under the direction of the City Manager. No member of the Council shall, by suggestion or otherwise, attempt to influence or coerce the City Manager concerning appointments to City offices or employment. Nor shall the City Council be involved in, or influence, the purchase of any supplies beyond the requirements of the City's procurement code/procedures.

Except for the purpose of inquiry, the Council and its members will deal with the administrative service solely through the City Manager or designee, and neither the Council nor any commission, committee or member of a board shall give an order to, try to influence, coerce or direct, either formally or informally, any subordinate of the City Manager.

Violations of the provisions of this section by any of the above persons, if reported by any staff to the City Manager, will be brought forth to the entire City Council for review. The Council, on a case-by-case basis, will establish what, if any, corrections and/or sanctions are appropriate. See Chapter 9, § 9.03.

7.04 City Council/City Manager Relationship

The employment relationship between the City Council and City Manager honors the fact that the City Manager is the chief executive of the City. All dealings with the City Manager, whether in public or private, should respect the authority of the City Manager in administrative matters. Disagreements should be expressed in policy terms, rather than in terms that question satisfaction with or support of the City Manager.

The City Manager respects and is sensitive to the policy responsibilities of the City Council and acknowledges that the final responsibility for establishing the policy direction of the City is held by the City Council.

A. Performance Evaluation

The City Council is to evaluate the City Manager on an annual basis to ensure that both the City Council and City Manager are in agreement about performance and goals based upon mutual trust and common objectives. The City Manager's performance is evaluated in the following areas: Leadership, teamwork, job knowledge, attitude, accountability, empowerment, communication, problem-solving skills, quality of service, safety/risk-taking, implementation and administration of adopted Council policy.

7.05 City Council/City Staff Relationship

City Councilmember contact with City staff members, inclusive of the City Manager, will be during regular business hours, except in the case of an emergency.

7.06 City Council/City Attorney Relationship

Pursuant to recommendation of the City Manager, the City Council shall make provision for obtaining legal counsel for the City, either by appointment of a City Attorney on a full-time or part-time basis, or by any reasonable contractual arrangement for such professional services. The City Attorney is a contract employee appointed by the City Council. The City Attorney is the legal advisor for the Council, its committees, commissions and boards, the City Manager, and all City officers and employees with respect to any legal question involving an official duty or any legal matter pertaining to the affairs of the City. The general legal responsibilities of the City Attorney are to:

1. Provide legal assistance necessary for formulation and implementation of legislative policies and projects;
2. Represent the City's interest, as determined by the City Council, in litigation, administrative hearings, negotiations, and similar proceedings;
3. Prepare or approve as to form ordinances, resolutions, contracts, and other legal documents to best reflect and implement the purposes and intentions of the City Council; and
4. Keep City Council and staff apprised of court rulings and legislation affecting the legal interests of the City.

It is important to note that the City Attorney does not represent individual members of the Council, but rather the City Council as a whole. Accordingly, with the exception of conflict of interest inquiries, in questions involving pending or upcoming matters, or protocol and procedure, the City Attorney's services are engaged and directed through the majority of the Council. Individual Councilmembers may seek advice or assistance from the City Attorney on other matters while exercising their best judgment on the most efficient and appropriate use of his/her resources. The City Attorney's performance is reviewed as provided by the services retention contract.

7.07 Roles and Information Flow

A. Council Roles

The full City Council retains the authority to accept, reject, or amend the staff recommendation on policy matters.

Members of the City Council must avoid intrusion into those areas that are the responsibility of staff. Individual Councilmembers may not intervene in staff decision making, the development of staff recommendations, scheduling of work, and executing department priorities without the prior knowledge and approval of the City Council as a whole. This is necessary to protect staff from undue influence and pressure from individual Councilmembers, and to allow staff to execute priorities given by management and the Council as a whole without fear of reprisal. If a Councilmember wishes to influence the actions, decisions, recommendations, workloads, work schedule, or priorities of staff, that member must prevail upon the Council to do so as a matter of Council policy.

B. Access to Information

The City Manager is the information liaison between the Council and City staff. Requests from Councilmembers for information are to be directed to the City Manager and will be responded to promptly. The information requested will be copied to all members of the Council so that each member may be equally informed. The sharing of information with the City Council is one of the City Manager's highest priorities.

There are limited restrictions controlling when information cannot be provided. The City is legally bound not to release certain confidential personnel information. Likewise, certain aspects of police department affairs (e.g., access to restricted or confidential information related to crimes) may not be available to members of the City Council.

C. Staff Roles

The Council recognizes the primary functions of staff as executing Council policy and actions taken by the Council, and keeping the Council informed. Staff is obligated to take guidance and direction only from the City Manager or Department Director. This direction follows the policy guidance of the City Council as a whole. Staff is directed to reject any attempts by individual Councilmembers to unduly direct or otherwise pressure them into making, changing, or otherwise influencing recommendations.

City staff will make every effort to respond in a timely and professional manner to all requests for information or assistance made by individual Councilmembers provided that, in the judgment of the City Manager, the request is not of a magnitude, either in terms of workload or policy, that it would be more appropriately assigned to staff through the direction of the full City Council.

7.08 Dissemination of Information

In addition to regular, comprehensive memoranda written by the City Manager directly to City Council concerning all aspects of City operations (exclusive of confidential personnel issues), all Councilmembers receive copies of all correspondence received by the City Manager that will assist them in their policy-making role. The City Manager also provides other documents to the Council on a regular basis, such as status reports, executive summaries, and agendas of all City commission and committee meetings and weekly senior staff meetings.

A variety of methods are used to share information with the Council. Workshops and study sessions are held to provide detailed presentations of matters. The City Manager's open-door policy allows individual Councilmembers to meet with the Manager on an impromptu or one-on-one basis.

7.09 Magnitude of Information Request

Any information, service-related needs, or policy positions perceived as necessary by individual Councilmembers that cannot be fulfilled based upon the above guidelines should be considered as an item for the agenda of a City Council meeting. If so directed by an action of the Council, staff will proceed to complete the work within a Council-established timeline.

7.10 Staff Relationship to Advisory Bodies

Staff support and assistance may be provided to the City's boards, commissions, committees and task forces. These bodies, however, do not have supervisory authority over City

employees. While staff may work closely with advisory bodies, staff members remain responsible to their immediate supervisors and, ultimately, the City Manager. The members of the commissions, boards, or committees are responsible for the functions of the advisory body. The chairperson is responsible for committee compliance with the municipal code and/or committee bylaws. Staff members are to assist the advisory body chair to ensure appropriate compliance with state and local laws and regulations.

Staff support includes: (1) preparation of a summary agenda and appropriate notice after approval by the chairperson; (2) preparation of reports providing a brief background of the issues, a list of alternatives, recommendations, and appropriate backup materials, if necessary; and (3) preparation of minutes of advisory body meetings. Advisory body members should have sufficient information to reach decisions based upon a clear explanation of the issues.

Advisory bodies wishing to communicate recommendations to the City Council shall do so through adopted Council agenda procedures as outlined in § 8.06(B) of this manual. In addition, when an advisory body wishes to correspond with an outside agency, correspondence shall be reviewed and approved by the City Council.

7.11 Restrictions on Political Involvement by Staff

Arcata is a nonpartisan local government. Professional staff formulates recommendations in compliance with Council policy for the good of the community, not influenced by political factors. For this reason, it is very important to understand the restrictions of political involvement of staff.

By working for the City, staff members do not surrender their right to be involved in political activities. Employees may privately express their personal opinions. They may register to vote, sign nominating or recall petitions, and they may vote in any election.

7.12 Council Attendance Policy

If a Councilmember intends to be absent from the City for more than 24 hours, he or she shall notify the City Manager of such absence and its duration.

Vacancy for Nonattendance

Under state law, if a Councilmember is absent without permission from all regular City Council meetings for 60 days consecutively from the last regular meeting he or she attended, his or her office becomes vacant and shall be filled as any other vacancy [California Government Code § 36513(a)].

At the start of each City Council meeting, the City Clerk, or designee, will call the roll. Any absent Councilmember who has called the Mayor or City Manager's Office before 5:00 p.m. on the day of the meeting to advise of such absence may request to be excused by the City Council.

Chapter 8

City Council Meetings

The City Council's collective policy and law-making powers are put into action at the Council meetings. It is here that the City Council conducts its business. The opportunity for citizens to be heard, the availability of local officials to the citizenry, and the openness of Council meetings all lend themselves to the essential democratic nature of local government.

8.01 Meeting Schedule

Regular City Council meetings are held the first and third Wednesdays of each month at 6:00 p.m., in the Council Chamber, 736 F Street, Arcata. By a majority vote of the Council, meetings not completed by 10:30 p.m. will be continued to the following Thursday at 6:00 p.m. in the Council Chamber.

8.02 Public Notice of Meetings and Hearings

Pursuant to the California Government Code, cities are charged with establishing a procedure for notifying the public of upcoming hearings and the preliminary agenda for the forthcoming council meeting. The procedure followed by the City of Arcata is as follows:

A. *Notices*

Except where a specific means of notifying the public of a public hearing is otherwise provided by law or ordinance, notice of upcoming public hearings before the City Council or the City's boards and commissions shall be given by one publication of a notice containing the time, place, date, subject, and body before whom the hearing is to be held, in the City's official newspaper consistent with State law.

B. *Preliminary Agenda of Council Meeting*

The public shall be notified of the agenda for the forthcoming regular City Council meeting by the posting of a copy of the agenda in the following public places in the City at least 72 hours in advance of the meeting:

- Bulletin Board Outside Arcata City Hall
736 F Street
Arcata, CA 95501

A copy of the agenda will also be made available to the public as follows:

- Arcata Branch, Humboldt County Library
- Electronic Posting:
Access Humboldt (Community Media)
City of Arcata Website

C. *Duties of City Clerk*

The City Clerk is directed to publish notices and post agendas as required by § 8.02 of the Arcata City Council Protocol Manual.

The California Government Code addresses the subject of special meetings. For special meetings, only those items specifically listed on the agenda may be discussed, considered, or decided.

The City Clerk is responsible for posting a notice of public meeting at least 72 hours in advance of the meeting. Posting locations include the City Clerk's Office at City Hall.

8.03 Emergency Meetings

State Law permits the Council to hold an emergency meeting without providing advance 24-hour notice when prompt action is necessary due to the disruption or threatened disruption of public facilities during an emergency situation. Emergency situations are those matters immediately affecting the public health, safety and welfare of the community (California Government Code § 54956.5).

8.04 Special Meetings

Special meetings may be called by either the Mayor, Vice-Mayor or Acting Mayor in the absence of the Mayor. Additionally, as long as substantive consideration of agenda items does not occur, a majority of the Council may meet without providing notice to the public, in order to call a special meeting and prepare an agenda. When a special meeting is called by a majority of the Council, a representative of this majority shall notify the City Clerk of such special meeting call, who shall prepare a notice of special meeting, to be signed by all members of the majority calling the special meeting. Notice of a special meeting will be made by the City Clerk by delivering personally, by mail, or by facsimile, written notice to each member of the Council and to each local newspaper of general circulation, and to each local radio or television station which has on file with the City a written request to be notified of such special meeting or of all special meetings at least 24 hours before the time of such meeting as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted.

The notices provided in this section may be dispensed with in the event a special meeting is called to deal with an emergency involving injury or damage to persons or property or the likelihood of such injury or damage, when time requirements of such notice would make notice impractical, and increase the likelihood of such injury or damage.

At all regular and special meetings, public comments are invited during a public hearing before or during consideration of any item on the agenda. Public comment is appropriate on any matter within the jurisdiction of the City Council. All regular meeting agendas must provide a time for the public to address the body on items not on the agenda.

8.05 Study Sessions

The City Council may meet informally in a study session. The study session is the forum used by the Council to review forthcoming programs of the City, to receive progress reports on current issues, or to receive similar information from the City Manager and others. All discussions and conclusions held during a study session are of an informal nature. Although no final action is taken while in a study session, a majority of the Council may give City staff preliminary direction on what to bring back to the Council for later consideration. Such direction given at a study session does not in any way obligate a Councilmember to vote in a particular way if the item is later brought back to the Council for further review.

8.06 Placing Items on the Agenda

A. City Council Agenda Planning

Any Councilmember may request that an item be placed on a City Council agenda by submitting a written request to the City Manager/City Clerk. The written request must, at a minimum, contain all of the following:

1. A substantive outline or summary of the information that will be presented to the City Council;
2. A concise statement of the specific action the City Council will be asked to take on the item; and,
3. A statement of the reasons why the requesting party believes it is appropriate and within the jurisdiction of the City Council to consider this subject matter and to take the requested action.

All matters to be presented to the City Council at its regular meetings are reviewed by the Mayor and City Manager. The item shall be placed on the agenda as soon as possible with consideration for scheduling issues.

B. Advisory Bodies and Civic Organizations

Advisory bodies of the City Council and other civic agencies (e.g., Chamber of Commerce, Arcata Main Street) may submit items for Council consideration by submitting a written request, as outlined in paragraph *A. City Council Agenda Planning*—1, 2, and 3 above, to the City Manager/City Clerk at least 15 working days prior to the meeting, to be considered by the Mayor and City Manager for placement on an agenda.

C. Members of the Public

A member of the public may request an item be placed on a future agenda while addressing the City Council during a regular meeting and/or by submitting a written request to the City Manager/City Clerk as outlined in paragraph *A. City Council Agenda Planning*—1, 2, and 3 above. In order to allow sufficient time for the Council to review, and staff to research the matter, the request should be submitted at least 15 working days prior to the meeting for which the item is requested to be placed on the agenda. If the issue is placed on the agenda, the City Clerk will notify the requester so that he or she may plan to attend the meeting.

D. Emergency or Other Items Added to the Agenda

Emergency items may be added to an agenda in accordance with state law. The reason(s) for adding an emergency item to the agenda shall be announced publicly at the meeting, and the issue shall be included in the minutes of the meeting. Placing emergency items on the agenda requires a majority vote of the Council and the items are taken up as the last item on the agenda. Additionally, the Council may add items to the agenda upon a 4/5ths vote determining that there is need to take immediate action and that the need for action came to the City's attention after posting of the agenda [California Government Code § 54954.2(b)].

8.07 Development of the Agenda

Staff is required to submit a staff report for each topic of discussion on the City Council agenda. The deadline for submitting these reports and documentation is 3:00 p.m. on Wednesday of the week prior to the date of the meeting for which the item is scheduled.

The agenda packet will be available for the Councilmembers, staff, public and media by noon on the Friday prior to the Council Meeting.

8.07.1 Communications Received After Agenda Distribution

All writings, documents, or electronic communications relating to any item on the agenda, received after distribution of the Council agenda packet and prior to the Council meeting, shall be distributed to the entire City Council and made available for public inspection during normal business hours at Arcata City Hall in the agenda binder located in the lobby, and in the City Manager's Office (California Government Code § 54957.5).

Citizens providing writings or documents to the City Council during the Council meeting must present ten (10) copies of each document to the City Clerk for distribution. Failure to submit the required number of copies will result in the document(s) NOT being distributed to the City Council at that meeting and NOT being placed in the official record.

8.08 Video/DVD, Web Streaming and Audio Recording of Meetings

City Council meetings, except study sessions and those meetings or portions of meetings conducted in Closed Session pursuant to the California Government Code, are broadcast live over the local Community Access Channel and web streamed live and archived on the City's website. Video/DVDs are kept for the sole purpose of being able to rebroadcast the meetings on the Community Access Channel and web meetings are archived on the City's website for up to one year. Both forms of broadcasted meetings are for the convenient viewing by Arcata citizens, are not the permanent record of City Council proceedings, and are only retained consistent with state law.

8.09 Order of Business (Set by Resolution No. 067-56)

The City Council, by adoption of a resolution, establishes the general order of meetings. This section summarizes each meeting component. The Council may, at any time, by simple majority of those present, vote to consider items in a different order.

I. Call to Order & Flag Salute

The Mayor, or in the Mayor's absence the Vice-Mayor, presides over all meetings of the City Council, and after determining that a quorum is present, calls the meeting to order. In the absence of the Mayor and Vice-Mayor, the City Clerk shall call the Council to order, whereupon a temporary Mayor Pro-tem shall be elected by the members of the Council present. Following the call to order, those in attendance are asked to join the Council in reciting the Pledge of Allegiance.

II. Roll Call

The City Clerk, or designee, takes roll and announces the presence or absence of individual Councilmembers.

III. Ceremonial Matters

Requests for proclamations, other than those listed on the Council approved list, will first be presented to the City Council under the Consent Calendar and will become Ceremonial at the following Council meeting.

IV. Reports by Commission/Committee

V. Meeting of the Community Development Agency

At this time the City Council presides as the Board of Directors of the Arcata Community Development Agency for the purpose of hearing redevelopment matters which relate specifically to the Community Development Agency of the City of Arcata.

VI. Consent Calendar

All matters on the Consent Calendar are considered to be routine by the City Council and are enacted on one motion. If discussion is required, that item is removed from the Consent Calendar and considered separately. At the end of the reading of the Consent Calendar, Councilmembers or members of the public may remove an item.

VII. Items Removed from Consent Calendar

VIII. Old Business

IX. New Business

X. Oral & Written Communications

This time is provided for people to address the Council or submit written communications on matters not on the agenda. At the conclusion of all oral communications, the Council may respond to statements. Any request that requires Council action will be set by the Council for a future agenda or referred to staff. Speakers addressing the Council may be limited to three minutes, with a maximum of five minutes, and a time limit on the length of Oral Communications may be imposed. Speakers unable to be heard during this portion of Oral Communications, due to the Council setting a time limit, will be heard at 10:30 p.m. or directly following the completion of all other City business.

XI. Council and Staff Reports

All reports shall be specifically limited to items relating to City business and shall not

request or lead to action by the Council at this meeting.

XII. Dates of Future Meetings

XIII. Closed Session: Litigation and/or Personnel and/or Real Estate

XIV. Closed Session Reports

XV. Adjournment

By majority vote of the Council, meetings not completed by 10:30 p.m. will be continued to the following Thursday at 6:00 p.m. in the Council Chamber. Should the Council vote to continue the meeting past 10:30 p.m., discussion on an item on the agenda that either requires or allows for public input may not begin without a unanimous vote of the City Councilmembers present. (Closed session items may begin later.) (Resolution No. 067-56.)

8.10 Council Action

The City Council exercises legislative authority through a simple motion, an amendment to a motion, adoption of a resolution, or adoption of an ordinance. Depending on the item, staff reports will generally attempt to present appropriate motions, with options, for the Council to make. The City Council is encouraged to review the staff recommendations and use presented options as a template when making a motion. In most situations, a majority of the members present is adequate to adopt a motion, however this is not always the case, and staff will advise the Council when either a super majority or majority of the entire body is required. In addition, in most situations a voice vote is all that is required for Council action; however, staff will advise the Council when a roll call vote is required. Motions should be concise and give clear direction to staff.

Although finality in action is an important principle in government, there may be occasions when the Council wishes to reconsider a motion it has previously passed. In such circumstances, a motion to reconsider may be made either at the meeting where the item was first voted upon, or at the very next meeting of the Council. A motion to reconsider brought forward at the following meeting of the Council will require proper notice on the agenda. A motion to reconsider an item previously voted on can be made only by a Councilmember who voted in the majority.

8.11 Legislative and Quasi-Judicial Actions of the Council

The Council can take both legislative and quasi-judicial action. In general, the Council acts in a legislative capacity when it takes action to adopt policies, plans, and ordinances of general application. In these situations, a Councilmember may rely on any information he or she lawfully obtains when participating in a decision-making process. In contrast, the Council will also act in a quasi-judicial capacity when it acts on matters that implicate constitutionally protected property and liberty interests. These types of actions generally involve land use entitlements and other types of permits, licenses, etc.

The distinction between legislative and quasi-judicial activity is especially important because of the rights that are given to the applicant. Specifically, an applicant in a quasi-judicial matter is entitled to due process of the law. This includes a right to have a decision made on the record by a fair and impartial Council. In order to ensure these rights are satisfied, the Council must disclose all ex parte communication it receives; that is, information or evidence a Councilmember obtains from outside the Council hearing on the matter. Additionally, Councilmembers may be called upon to answer questions about potential bias.

8.12 General Parliamentary Procedure

Parliamentary procedures set the agreed-upon standard for conducting business. For general guidance, the Council will follow Rosenberg's Rules of Order, attached as Appendix H. Certain processes are subject to state code and must be complied with. The Council will accept direction from the City Manager/City Clerk and the City Attorney on the code. For other matters, the Arcata City Council has a tradition that adheres to the common parliamentary practices used by similar institutions to facilitate the orderly processing of the business of its meetings. When necessary to resolve issues that may arise over the process, the Mayor will refer to the City Attorney who will act as the Parliamentarian. Upon such advice, the Council will vote and follow the decision of the majority.

8.13 Public Presentations at Meetings

The Mayor may establish reasonable time restrictions on presentations from members of the public that take into consideration the complexity of the subject matter, the number of other members of the public wishing to address the Council, and the number of other items on the agenda to which the Council must attend. Members of the public who wish to utilize electronic media in their presentations must coordinate in advance with the City Manager or his/her designee. The City Manager may establish reasonable rules on the public's use of electronic media, to minimize the disruption of Council meetings as well as the burden on City staff, including the requirement of advance notice and/or submission of presentation data to ensure all compatibility issues are resolved before the Council meeting. Electronic media presentations are subject to time restrictions as established by the Mayor. The public may use the City's projector in the Council Chambers to assist in making their electronic presentations, subject to electronic media presentation rules established by the City Manager.

Chapter 9

Protocol Administration

9.01 Biennial Review

The City Council will review and revise the City Council Protocol Manual as needed. The City Council will specifically review, and if necessary revise, the Protocol Manual every February following a City Council election.

9.02 City Attorney as Protocol Advisor

The City Attorney shall assist the Mayor and serve as an advisor for interpreting the City Council's adopted Protocol Manual.

9.03 Adherence to Non-interference Policy

The City Council delegates to the City Manager the responsibility to discuss with any Councilmember, on behalf of the full Council, any perceived or inappropriate interference or encroachment of administrative services. The City Manager will discuss with the Councilmember the action and suggest a more appropriate process or procedure to follow. If inappropriate action continues after this discussion, the City Manager will report the concern to the full Council.

9.04 Applicability of Protocol Manual

The City Council Protocol Manual shall apply when the Council is sitting as another entity or agency. The role of Mayor and Vice-Mayor shall be interchangeable with the Chair and Vice-Chair, or President and Vice-President, when sitting as another entity.

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CITY OF ARCATA
CITY COUNCIL
PROTOCOL MANUAL

Appendix

- A. List of City Plans
- B. Ralph M. Brown Act
(California Government Code, Sections 54950-54963)
- C. Travel Policy
- D. Credit Card Policy
- E. Council-Approved Proclamations List
- F. City of Arcata Code of Ethics
- G. ICMA Code of Ethics
- H. Rosenberg's Rules of Order & Amendment

PROCEDURES MANUAL

Menlo Park City Council



Approved at the City Council Meeting of January 24, 2006

CITY OF MENLO PARK
Mission Statement

It is the mission of the City government to ensure that Menlo Park is a desirable and vibrant community in which to live and do business, and to respond to the values and priorities of the residents so as to provide for the community's current and future needs.

Explicitly, the City fulfills its function by:

- Addressing the needs of the residents through the City Council, the appointed commissions, and the City staff.
- Providing easy and open access to information and encouraging dialogue, enabling residents to actively engage in civic life.
- Providing for the safety of its residents, businesses, and visitors.
- Providing timely and responsive service.
- Providing special assistance to those in need.
- Functioning effectively, efficiently and with accountability.
- Creating a positive and desirable workplace environment for City employees.
- Managing change for the betterment of the City.
- Creating and maintaining a viable revenue stream and providing for the unpredictable nature of our economy.
- Implementing and maintaining City infrastructure, facilities, and programs.
- Formulating sound environmental policies.
- Recognizing and supporting the City's diverse neighborhoods and population.
- Acting as a responsible member of the greater region.

Mission Statement adopted by the City Council on July 20, 2004.

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- A. Reference Guide to Motions
- B. Legislative Policy Guide
- C. List of City Council Policies (available as hard copy only)
- D. City Manager Code of Ethics (available as hard copy only)

The City of Menlo Park acknowledges and greatly appreciates the excellent work of the City of Davis, California, and its willingness to share its “procedures manual” as a helpful example.

Introduction

The Menlo Park City Council establishes policies and priorities for the community and is responsible for the fiscal health of a public corporation. In Fiscal Year 2005-06, the City has a General Fund budget of nearly \$30 million and a total budget of \$85 million. The City organization is comprised of 150 different services and has assets valued in excess of \$370 million (roads, buildings, parks, etc).

Purpose of the Procedures Manual

City of Menlo Park staff prepared a procedures manual to assist the City Council by documenting currently accepted practices. Through agreement of the City Council and staff to be bound by these practices, the effective administration of City Council affairs is greatly enhanced. While attempting not to be overly restrictive, procedures are established so that expectations and practices can be clearly articulated to guide Council Members in their actions. It is anticipated that this Procedures Manual will be reviewed by each two-year City Council and may be revised from time to time.

Overview of City Documents

This procedures manual provides a summary of important aspects of City Council activities. However, it cannot incorporate all material and information necessary for undertaking the business of a city council. Many other laws, policies, plans and documents exist which bind the City Council to certain courses of action and practices. A summary of some of the most notable documents that establish City Council direction is provided below.

Municipal Code: The Municipal Code contains local laws and regulations adopted by ordinances. The administrative chapter of the code addresses the role of the City Council, Mayor and Mayor Pro Tempore. It also describes the organization of City Council meetings and responsibilities as well as the appointment of certain city staff positions and advisory commissions. In addition to these administrative matters, the Municipal Code contains a variety of laws. The municipal code is available either on the City's website or from the City Clerk.

California Government Code: The State Government Code contains many requirements for the operation of city government. Many of these requirements are also replicated within the municipal code to ensure there is broad awareness of such requirements. Menlo Park is a "general law" city, which means it is organized in accordance with provisions of the State Government Code. Also described within the government code is the Council-City Manager form of government. Basically, this form of government prescribes that a city council's role is to establish policies and priorities, while the role of the City Manager is to oversee the operations of the city government.

Annual Budget: The City's annual budget provides a description of city services and the resources used to provide services. The document contains both a broad overview of the budget as well as descriptions of programs and services organized for convenience by lead department. The City operates on a July 1 through June 30 fiscal year.

General Plan: The General Plan is comprised of a number of elements, such as land use, transportation, open space and housing, in accordance with State requirements, and provides a policy framework for various matters that fall within these areas.

Orientation of New Council Members

It is important that members of the Council have an understanding of the full range of services and programs provided by the organization. As new members join the City Council, the City Clerk coordinates with department heads to provide tours of City facilities and meetings with key staff.

League of California Cities Guide

A publication that provides additional useful information is the *Mayors and Council Members Resource Guide* published by the League of California Cities. The Guide contains general information on the role and responsibilities of city council members and on the specific requirements and laws that govern Council actions. The Guide is available from the City Clerk.

Menlo Park City Council: Powers and Responsibilities

City Council Generally

The powers of a city council in California to establish policy are quite broad. Essentially, councils may undertake any action related to city affairs other than those forbidden or preempted by state or federal law. Specifically, *the Council shall have the power, in the name of the city, to do and perform all acts and things appropriate to a municipal corporation and the general welfare of its inhabitants and which are not specifically forbidden by the Constitution and laws of the State of California (California Government Code).*

It is important to note that the Council acts as a body. No member has any extraordinary powers beyond those of other members. While the Mayor and Mayor Pro Tem have some additional ceremonial and administrative responsibilities as described below, in the establishment of policies, voting and in other significant areas, all members are equal. It is also important to note that policy is established by at least a majority vote of the Council. While individual members may disagree with decisions of the majority, a decision of the majority does bind the Council to a course of action. In turn, it is staff's responsibility to ensure the policy of the Council is upheld. Actions of staff to pursue the policy direction established by a majority of Council do not reflect any bias against Council members who held a minority opinion on an issue.

The City Council has occasionally debated whether it should take positions of a broader nature or limit itself to purely municipal functions. Historically, Menlo Park City Councils have chosen to not take positions on issues outside of their immediate authority to effect. The propensity of the City Council to involve itself in such issues reflects the personalities and outlooks of the members who make up the two-year Council sessions.

Limitations are imposed on a Council member's ability to serve on appointed boards of the city. State law expresses that no member of the Council shall serve as a voting member of any city board, committee, or commission, whether composed of citizen volunteers, city employees, or a combination of both. This is not construed as prohibiting members of the Council from serving on committees or subcommittees of the Council itself, or of agencies representing other levels of government. In fact, Council members often participate and provide leadership in regional and state programs and meetings. Council members are strongly encouraged to report to the Council on matters discussed at subcommittees and other regional or state board/agency/group activities in which they have been involved.

Role of Mayor & Mayor Pro Tempore

Mayor: As reflected in the Municipal Code, the Mayor is to preside at all meetings of the City Council and perform such other duties consistent with the office as may be imposed by the Council or by vote of the people. The Mayor does not possess any power of veto. As presiding officer of the Council, the Mayor is to faithfully communicate the will of the Council majority in matters of policy. The Mayor is also recognized as the official head of the city for all ceremonial purposes.

The Mayor, unless unavailable, shall sign all ordinances, and other documents that have been adopted by the City Council and require an official signature; except when the City Manager has been authorized by Council action to sign documents. In the event the Mayor is unavailable, the Mayor Pro Tempore's signature may be used.

Traditionally, the Mayor has also been assigned by the City Council to consult and coordinate with the City Manager in the development of agendas for meetings of the City Council. The scope of such review focuses on the timing of business items and the volume of business that can be considered at any one meeting. Such review does not allow for a unilateral unlimited delay of items to be considered by the Council or the introduction of new items not otherwise part of the Council's identified priorities or staff's work plan. Should any significant disagreement arise regarding the scheduling of items, these matters are to be resolved by the full City Council. The staff maintains a "tentative" Council Calendar that programs when matters will likely be considered at future meetings.

Mayor Pro Tempore: The City Council has specified that the Mayor Pro Tempore shall perform the duties of the Mayor during the Mayor's absence or disability. The Mayor Pro Tempore shall serve in this capacity at the pleasure of the City Council. The Mayor Pro Tempore title is often abbreviated to Mayor Pro Tem; and a more common and contemporary title of Vice Mayor may be substituted as well.

Appointment of City Manager, City Attorney

The City Council appoints two positions within the city organization: the City Manager and City Attorney. Both positions serve at the will of the City Council. The City Manager is an employee of the City and has an employment agreement that specifies certain terms of employment including an annual evaluation by the City Council. The City Manager is responsible for all other personnel appointments within the City. The current City Attorney is a part-time employee, and a partner in a local law firm that has served the City for many years.

Role in Disaster

The City Council has some special, extraordinary powers in the case of a disaster. Some meeting restrictions and expenditure controls are eased in such extreme situations. In critical situations the Council may be directed by the City Manager/Emergency Services Director to assemble in the City's Emergency Operations Center (EOC), located within the Police Department, to provide policy guidance and to receive information in an emergency. Should the City Council not be available during an emergency, state law specifies a hierarchy of others who may serve in place of the City Council. The most likely scenario is that the County Board of Supervisors would serve in the place of the Council.

Appointment of Advisory Bodies

The city has a number of standing advisory bodies. Appendix C contains adopted policy #CC-01-0004 on the appointment, roles and responsibilities of the various Commissions. These procedures apply to all appointments and reappointments to standing advisory bodies.

In addition, resident committees and task forces are occasionally appointed by the City Council to address issues of interest. A task force or other ad hoc body is a body created by Council for a specific task. Council subcommittees, when used, are to help the Council do its job. Committees ordinarily will assist the Council by preparing policy alternatives and implications for Council deliberation. Council subcommittees will normally not have direct

dealings with staff operations. Council subcommittees may not speak or act for the Council. Subcommittees will be used sparingly and ordinarily in an ad hoc capacity. This policy applies to any group that is formed by Council action, whether or not it is called a subcommittee. Unless otherwise stated, a subcommittee ceases to exist as soon as its task is complete. The Council may assign, and specify the role of, one or two Council Members to the task force (if more, it becomes a defacto Council meeting). Unless otherwise specified, Council Members have all the rights, and only the rights, of ordinary citizens with respect to task forces and other ad hoc bodies.

Note that both appointed advisory bodies and ad hoc committees are usually subject to the open meetings laws commonly known as the Brown Act.

Council Relationship with Advisory Bodies

The City Council has determined that Council Members should not lobby commissioners for particular votes. However, Council Members may attend meetings as residents and request that commissioners consider certain issues during their deliberations or in unusual instances as Council Members to reflect the views of the Council as a body.

Council Members choosing to attend commission or committee meetings should be sensitive to the fact that they are not participating members of the body. Council Members have the rights, and only the rights, of ordinary citizens with respect to Commissions – including the right to write to and speak to the Commission during public comment periods.

Role of Commission Liaison

Members of the Council are assigned to serve in a liaison capacity with one or more city commissions. The purpose of the liaison assignment is to facilitate communication between the City Council and the advisory body. The liaison also helps to increase the Council's familiarity with the membership, programs and issues of the advisory body. In fulfilling their liaison assignment, members may elect to attend commission meetings periodically to observe the activities of the advisory body or simply maintain communication with the commission chair on a regular basis.

Members should be sensitive to the fact that they are not participating members of the commission, but are there rather to create a linkage between the City Council and commission. In interacting with commissions, Council Members are to reflect the views of the Council as a body. Being a Commission liaison bestows no special right with respect to Commission business.

Typically, assignments to commission liaison positions are made at the beginning of a Council term in December. The Mayor will ask Council members which liaison assignments they desire and will submit recommendations to the full Council regarding the various committees, boards, and commissions which City Council Members will represent as a liaison. In the rare instance where more than one Council Member wishes to be the appointed liaison to a particular commission, a vote of the Council will be taken to confirm appointments.

City Council Meetings

General Procedures

By resolution, the City Council has adopted a modified version of Roberts Rules of Order.

Presiding Officer: The Mayor is the presiding officer and acts as chair at Council meetings. In the absence or incapacity of the Mayor, the Mayor Pro Tempore serves as presiding officer.

Seating arrangement of the Council: The Mayor Pro Tempore is seated immediately next to the Mayor. The Mayor, with the approval of individual Council members, shall establish the seating arrangement for regular Council meetings.

Quorum: Three-fifths of the Council members constitute a quorum for the transaction of business.

Meeting Schedule

The Council approves and follows an annual calendar that reflects its priorities and coincides with the budgeting process, beginning at the start of the calendar year. Project priorities are ranked in February for the following fiscal year, in order to reflect the commitment of resources required. Other Council priorities are overlaid on the calendar as time permits.

Regular meetings are usually held in the Council Chambers, 701 Laurel Street, on Tuesdays at 7 pm, with study sessions and closed sessions generally being convened earlier, as needed, or at the end of the meeting at the conclusion of public business.

On occasion, the Council meeting will be held in alternative locations such as the Senior Center. No Council meeting will typically be held in the event that a regular meeting of the Council falls on a legal holiday or the day after a holiday. Other meetings throughout the year may be cancelled as well. Council Members should inform the City Manager's secretary as soon as possible if they intend to be out of town on a set meeting date. On occasion, arrangements may be made in order for Council Members to remotely participate in Council meetings by telephone conference call when out of town.

Special Meetings

Special meetings may be called by the Mayor or by three members of the City Council. Written notice must be given to the City Council and to the media 24 hours prior to a special meeting. No business other than that officially noticed may be discussed.

Public Comment: At all regular and special meetings, public comments must be permitted before or during consideration of any agenda item. Public comment is appropriate on any matter within the jurisdiction of the City Council.

Meeting Notices and Minutes: Notice requirements of the Brown Act are complied with for all meetings; minutes of the meeting are taken by the City Clerk or designee and made available for public inspection.

Development of Agenda

The City Council adopts a yearly meeting calendar identifying meeting dates and cancellations to aid members and staff with planning and scheduling. A medium-range “tentative” Council calendar that reflects an estimate of when various items will be scheduled over the next few weeks is available on the City’s website. A copy of the draft agenda is transmitted to the Mayor for review on the Monday one-week prior to the meeting. Staff is required to submit reports for a Tuesday Council meeting to the City Clerk by noon on the Thursday of the week preceding the meeting. All agenda materials are available after 5:30pm on the Thursday before the Tuesday Council meeting. Website posting includes a tentative Council calendar that shows Council meeting dates and planned agenda items 3-5 weeks in advance.

Given this agenda development schedule, it is usually extremely difficult when Council requests at a Tuesday meeting that a report be prepared for consideration the following week. For this reason, it will usually require at least one week for the preparation of a report requested by the City Council. Complex reports, of course, will require more time to prepare, and an estimated time of completion can be provided to the City Council. The ability to schedule new agenda items depends on the nature of the item itself, other agenda subjects that are already scheduled and the amount of time available.

Placing Items on Agenda

City Council: A Council Member may request an item be considered on a future agenda and, upon agreement of a majority of Council, staff will prepare a staff report if formal Council action is required. Council Members may make this request verbally during a meeting or may submit written requests. Normally, the process involves two steps: initial consideration of the request by the full Council at the soonest possible regularly scheduled meeting; and, if a majority agrees, the matter is then scheduled for further consideration on an upcoming meeting agenda.

Members of the public: A member of the public may request that an item be placed on a future agenda during public comment or through other communication with Council Members. Upon approval of a majority of Council, the item will be agendized and a staff report may be prepared. The City Manager will inform the Council of the potential impact the request will have on established priorities or staff workload and seek approval by the City Council before authorizing the work or scheduling the item as appropriate.

Emergency and Non-Agendized items: Emergency and non-agendized items may be added to an agenda only in accordance with state law. Emergency items are only those matters affecting public health or safety such as work stoppages, disasters and other severe emergencies. Adding an emergency item requires a majority vote. Emergency items are very rare. More likely, after the agenda is posted an item arises that the Council would like to act on. Non-agendized items may be added to the agenda only if the Council makes findings that (1) the need to consider the item arose after the posting of the agenda, and; (2) there is a need to take immediate action at this meeting of the City Council. These findings must be approved by a 4/5th vote; if less than five members of Council are present, the findings require a unanimous vote of those present.

Notification and Advertising

The City attempts to well publicize matters of significant neighborhood or community public interest that appear on a City Council agenda, as well as all matters where advertising is required by law. Advertisements and notifications are intended to inform all interested individuals.

Order of Business

The City Council established the order of business for meetings through the adoption of a policy on meeting procedures. Technically, the order of the agenda is as follows: roll call; special business; proclamations; council, committee and staff reports; public comment #1; appointments to boards/commissions/committees; consent calendar; public hearings; regular business; public comment #2; written communications; information items; adjournment. The following section describes the various types of meeting components.

1. **Closed Sessions** (*closed to the public*): The ability of the City Council to conduct sessions not open to the public is restricted by state law to ensure open proceedings. Certain defined circumstances exist wherein a city council may meet without the public in attendance. Such circumstances include:

Real Property: The purchase, sale, exchange or lease of real property with the City's negotiator; the real property and the person(s) with whom the City may negotiate must be announced in open session prior to the closed session (*Cal Govt Code 54956.8*).

Litigation: Pending or a significant exposure to litigation or the decision to initiate litigation; the litigation title must be identified in open session prior to the closed session unless the Council states that to do so would jeopardize its ability to conclude existing settlement negotiations or effectuate service of process.

Compensation: Salaries and benefits of employees; Council meets in closed session to review its position and instruct designated representatives (*Cal Govt Code §54957.6*).

Personnel: A closed session is held to discuss the appointment, employment, evaluation of performance, or dismissal of a public employee, or to hear a complaint against the employee unless the employee requests a public hearing (*Cal Govt Code §54957.6*).

It is critical to stress that there shall be no disclosure of closed session confidential information. Members of the Council, employees of the City, or anyone else present shall not disclose to any person, including affected/opposing parties, the press, or anyone else, the content or substance of any discussion which takes place in a closed session without Council direction and concurrence. Whenever possible, written reports received for closed session items will be turned in at the end of the meeting.

Typically, closed sessions will be scheduled prior to the public portions of the meeting or at the end of the meeting after public business has been concluded. This is done so public portions of the meeting are not interrupted by closed sessions. In addition, such sessions may require the attendance of special legal counsel and consultants. In an attempt to manage the costs of these professionals, it is beneficial to conduct closed sessions at a time certain. On occasion, during the course of a regular meeting, an issue arises that requires the Council to adjourn to a closed session on the advice of the City Attorney.

- 2. Council Member Reports:** Provides members of the Council an opportunity to introduce matters not currently before the Council, including brief announcements, to pose questions of staff and make requests for items to be placed on the agenda at a future meeting. Examples of appropriate communications would be information of general interest received from outside agencies, comments or inquiries received from the public, requests to agendaize future items, or announcements of interest to the public.

State law provides that Council can take action only on such matters that have been noticed at least three days (72 hours) in advance of the regular meeting, or 24 hours in the case of a special meeting, unless special circumstances are found to exist (as mentioned above). Formal action or approval on non-agendized items is not allowed, and such items should be placed on the agenda of the next available regular meeting.

- 3. Consent Calendar:** Those items on the Council agenda that are considered to be of a routine and non-controversial nature by the City Manager are placed on the "Consent Calendar." These items shall be approved, adopted, accepted, etc., by one motion of the Council. Typical consent calendar items include the final reading and adoption of ordinances, various resolutions approving agreements, awards of contracts, minor budgetary adjustments, meeting minutes, status reports, and reports of routine city operations.

Council Members may request that any item listed under "Consent Calendar" be removed from the Consent Calendar, and Council will then take action separately on this item. A member of the public may request that an item listed under "Consent Calendar" be removed and Council action taken separately on the item; the City Council must concur with such a request. Items that are removed ("pulled") by members of the Council for discussion will typically be heard after other Consent Calendar items are approved unless the majority of Council chooses an earlier or later time.

Council Members are encouraged to contact the City Manager's office prior to 12:00 noon on the day of a Council meeting day to provide notification of items to be removed from the Consent Calendar. This practice allows the City Manager to notify staff that may need to be present to respond to removed items. Equally important, it also allows the Manager to inform staff who do not need to be present at the meeting. Unless contacted in advance of the meeting with sufficient time, the presumption is that staff will not be present.

- 4. Public Comment:** A block of 30 minutes time is set aside at the beginning of the meeting and again at the end to receive general public comment about issues not on the agenda. Comments on agenda items should not be heard until the appropriate item is called. Individuals desiring to speak are to address the Council from the speaker podium after giving their name and place of residence. Speaker cards may be required and should be filled out, including the speaker's actual jurisdiction of residence, and given to the City Clerk prior to Public Comment.

Comments should focus on a specific matter within the Council's jurisdiction. Members of the public are encouraged to present written comments, preferably in advance of the meeting, as a way to fully communicate their thoughts on agenda or non-agenda items. When written materials are presented, they should be submitted to the City Clerk for distribution and record keeping ahead of time. Comments are typically limited to three minutes per speaker so that all have an opportunity to address the Council.

Videos, PowerPoint or similar presentations may accompany in-person testimony but are subject to the same speaking time limits. Prior notice and coordination with the City Clerk is strongly encouraged and the Mayor reserves the privilege to limit such requests as necessary for the effective conduct of the meeting. Speakers are to address their comments to the City Council from the podium.

Public comment on regular business items normally follows staff's presentation of the staff report, clarifying questions from Council Members and applicant comments as necessary and appropriate. Typically, applicants or appellants are limited to a maximum of 10 minutes. Council will then hear public comment.

5. **Public Hearing:** In the case of public hearings, once the Council has voted to close the hearing, no member of the public shall be permitted to address the Council or the staff from the audience, except at the discretion of the presiding officer (Mayor).
6. **Regular Business Items:** Regular items are shown on the agenda and are normally taken in the order listed.
7. **Written Communications:** The City Council has established a practice of placing written communication between Members requesting items to be agendaized and select letters sent by agencies to Council Members on the meeting agenda so that this correspondence receives wide distribution. If letters or emails from the public are received on the day of or just before a meeting, copies will be placed at the Council Members' positions on the dais.
8. **Commission Reports:** Commission reports provide an opportunity for designated members of appointed boards to address the Council on matters of importance or to update the Council and community on studies that are underway.
9. **Study Session:** From time to time, the Council will hold study sessions. These meetings are normally scheduled before the regular Council meeting. On occasion, dedicated study sessions are held instead of a regular meeting on the first Tuesday of the month. The purpose of study sessions is to give the Council a less formal and more interactive forum to discuss issues in advance of any official action to be taken. Staff often presents policy alternatives and is more directly engaged in the dialogue. Official minutes are not generally kept, but meetings are open to the public and are broadcast and videotaped when held in the Council Chambers and at the direction of the Council. While general direction may be given to staff or the proponent behind the topic of discussion, no formal action by the Council is taken in a study session.

Discussion Rules

To assist the City Council in the orderly discussion of items, rules are followed which represent accepted practices for the management of Council meetings.

1. **Obtaining the floor:** A member of the City Council or staff shall first address the Mayor and gain recognition. Comments and questions should be directed through the chair and limited to the issue before the Council. Cross-exchange between Council Members and public should be avoided.
2. **Questions to staff:** A Council Member shall, after recognition by the Mayor, address questions to the City Manager, City Attorney, department head or designated staff member. If a Council Member has questions on an agenda item, that member should

preferably contact staff prior to the meeting in order to allow staff time to research a response for the meeting.

3. Interruptions:

- a. Once recognized, a Council Member is considered to have the floor, and another Council Member may not interrupt the speaker except to make a point of order or point of personal privilege. In such a circumstance, the Council Member holding the floor shall cease speaking until the point of order or privilege is resolved.
- b. Upon being recognized by the Mayor, members of the staff shall hold the floor until completion of their remarks or until recognition is withdrawn by the Mayor.

4. Discussion: A Council Member should not speak more than once on a particular subject until every other Council Member has had the opportunity to speak. Council Members are encouraged to discuss items during the decision-making process and may ask staff to respond when appropriate. The Mayor normally allows other members to speak first, then will give his/her views and summarize.

5. Tabling procedure: Tabling an item immediately stops discussion and causes a vote to postpone a matter indefinitely or to a time and date certain. A motion to “continue” an agenda item has the same effect, but is generally used when a scheduling problem arises or when insufficient time is available to address the matter thoroughly.

6. Right of protest: A Council Member is not required to state reasons for a dissenting vote.

7. Calling for the question: The purpose of calling for the question is to disallow further debate and put an issue to an immediate vote. A Council Member may move to “call for the question” on an item which is being considered. The motion requires a second, is not debatable, and must pass by a four-fifths vote. If the motion carries, the item is no longer debatable and the City Council must vote on it.

8. Conducting business at a late hour. According to Council policy, all regular meetings of the Council are to end by midnight unless there is a three-fourths vote taken by 11:00 pm to extend the meeting. The motion to extend is to include the title of the items to be considered after 11:00 and a new ending time for the meeting.

Voting Procedures

When present, all Council Members are to vote. Failure of a seated member to orally express a vote constitutes an affirmative vote.

No ordinance, resolution or motion shall be passed or become effective without an affirmative vote by the majority with a quorum present.

A conflict of interest shall be declared whenever appropriate and in compliance with state law. The affected Council Member will step down from the dais and leave the Chambers.

Council members may declare general consensus at the discretion of the presiding officer, if there are no negative votes or objections.

Upon the request of any Council Member, a roll call vote will be taken and recorded.

Tie vote: A tie vote is equivalent to a motion that has failed. The presiding officer may publicly explain the effect of the tie vote for the audience or may direct a member of the staff to do so.

Motions. There are a number of types of motions, each of which must meet certain requirements before a vote can be taken. A reference guide to motions is provided in chart form in Appendix A of this manual.

Reconsideration: Reconsideration of an item shall be allowed in accordance with the following Council guidelines. A Member of the prevailing majority when the previous vote was taken must make a motion for reconsideration. The City Council has determined that any motion for reconsideration should be made at the meeting immediately following that at which the action was taken. No motion for reconsideration will be entertained after this time unless the City Council determines significant new information has arisen which warrants such action.

Other Guidelines

Other guidelines have been developed to ensure that meetings of the Council are conducted in a civil and professional manner. Council members and staff shall:

1. Work to preserve appropriate order and decorum during all meetings.
2. Discourage side conversations, disruptions, interruptions or delaying efforts.
3. Inform the Mayor before departing from a meeting.
4. Limit disruptive behavior. The Mayor will call persons demonstrating rude, boisterous, or profane behavior to order. If such conduct continues, the Mayor may call a recess, request the removal of such person(s) from the Council Chambers, adjourn the meeting, or take such other appropriate action. The Council has a policy to discourage applause, booing or other similar behaviors from the public during meetings.
5. Recognize that only the City Council, staff, advisory body chairs or designated representatives, and those authorized by the presiding officer shall be permitted to sit at the Council or staff tables.
6. Limit breaks of the City Council to 5-10 minutes. The Council has authorized the Mayor to resume the meeting if a quorum exists and other members have not returned from the break within the announced time period.
7. Impose time limits on speakers. While the City Council encourages and embraces the need for and right of public participation, it acknowledges that public comments must, at times, be limited. Therefore, the City Council authorizes the Mayor, as presiding officer, to poll the audience for an indication of the number of people wishing to speak, and to impose time limits per speaker. Typically, speakers are limited to three minutes but a shorter time limit may be established as deemed necessary. When a member of the public is to speak on behalf of others in attendance, a maximum time limit of ten minutes is usually imposed. After the time limit, Council may ask questions of the speaker for clarification, if needed. Each speaker will be thanked for his or her participation.

Values of Respect: The City Council has also recognized the importance of approaching the public's business in an environment of personal respect and courtesy, which places emphasis on the consideration of policy and avoids personalization of comments. Some guidelines utilized by the City Council include:

1. Discussion should focus on policy matters
2. Personal criticism of members is inappropriate
3. Proper decorum should be displayed as other members express their views
4. Treat members of the public equally, applying rules in a fair and consistent manner

Enforcement of Order: The Police Chief or his designee acts as the Sergeant-At-Arms. Any Council Member may request the presiding officer to enforce the rules of protocol. Upon motion and majority vote, the presiding officer shall be required to do so.

Open Meeting Laws ("The Brown Act")

Operations and procedures of the City and City Council incorporate requirements of the state's open meeting law (commonly referred to as the Brown Act). Because this law is such an important part of local government operations, some specific requirements of the law are highlighted below.

Applicability and Penalties: The entire city organization conducts its business in compliance with the Ralph M. Brown Act, State Government Code Section 54950. The intent of the Act is to ensure that deliberation and actions of local public agencies are conducted in open and at public meetings.

- A. **Applicability:** The Act applies to Council and all commissions, boards and Council appointed subcommittees (except if comprised entirely of two Council Members) and task forces that advise Council. Staff cannot promote actions that would violate the Act.
- B. **Meetings:** All meetings shall be open and public. A City Council meeting takes place whenever a quorum (3 or more members) is present and information about the business of the body is received; discussions qualify as a meeting. Social functions (e.g., receptions, dinners) do not fall under the Act unless city business is discussed.

Serial meetings take place when any member of Council or city staff contact more than two Council Members for the purpose of deliberating or acting upon an item pending before the City Council. This restriction does not apply to the public or media who may contact Council Members. Correspondence that merely takes a position on an issue is acceptable. Note that the Brown Act applies to City Council Members immediately after their election and prior to their swearing-in ceremony.

- C. **Agendas:** Agendas for regular meetings must be posted 72 hours in advance of the meeting and must meet various requirements.
- D. **Actions:** No action can be taken on any item not appearing on the posted agenda.

Exceptions: 1) An emergency situation exists (determined by a majority of the Council).
2) The need to take action arose subsequent to the agenda being posted and there is a need for immediate action (determined by 2/3 vote of the Council; or if less than 2/3 are

present, by unanimous vote). 3) The item was continued to another meeting that was scheduled and posted within 5 days of the original agenda.

- E. Public Input: The public, by law, has an opportunity to address the Council on any item of interest to the public that is within the jurisdiction of the Council, at the time the matter is heard. The Mayor has the right to establish a time limit on speakers and the total time allocated for a particular issue. Three minutes per speaker has been standard, but in unusual cases either shorter or longer time periods may be established by the Mayor or the Council.
- F. Public Disruptions: A portion or all of the public may be removed if willful disruption makes conducting the meeting "unfeasible"; the press may remain unless they participate in the disruption.
- G. Correspondence: All writings distributed for discussion or consideration at a public meeting are public records.
- H. Special Meetings: Special meetings may be called by the Mayor or a majority of the Council with strict notification requirements for delivery to the media and Council 24 hours before the time of the meeting.
- I. Emergency Meetings: Emergency meetings may be called without notification due to the disruption or threatened disruption of public facilities. Only work stoppages or crippling disasters that impair the public health and/or safety qualify for emergency meetings.
- J. Other Provisions: The Act provides many other restrictions and requirements; this chapter is intended merely as a Council summary and overview of the Act, and nothing in this Chapter supersedes the provisions of the Brown Act. Please check with the City Attorney and/or the City Clerk for more information.

Council Communications

Overview

Perhaps the most fundamental role of a Council Member is communication—communication with the public to assess community opinions and needs—communication with staff to provide policy direction and to gain an understanding of the implications of various policy alternatives. Because the City Council performs as a body (that is, acting based on the will of the majority as opposed to individuals), it is important that general guidelines be understood when speaking as a Council Member. Equally important, when members are expressing personal views and not those of the Council, the public should be so advised.

Correspondence from Council Members

Members of the City Council may occasionally be called upon to write letters to citizens, businesses or other public agencies. Typically, the Mayor will be charged with transmitting the City's position on policy matters to outside agencies on behalf of the City Council. Correspondence sent on behalf of the Council is placed on official City letterhead and is signed by the Mayor or City Manager. Individual members of Council may prepare letters to constituents in response to inquiries or to provide requested information. Individualized City Council Member letterhead is available for this purpose, and staff can assist in the preparation of such correspondence. Council Members are required to place on file and to provide copies upon request of any correspondence sent on City letterhead.

On occasion, members may wish to transmit correspondence on an issue upon which the Council has yet to take a position or about an issue for which the Council has no position. In these circumstances, members should use their personalized letterhead and clearly indicate within letters that they are not speaking for the City Council as a whole, but for themselves as one member of Council.

After the City Council has taken a position on an issue, official correspondence should reflect this position. While members who may disagree with a position are free to prepare correspondence on such issues as private citizens, City letterhead, official Council title, and staff support should not be utilized in order to avoid confusion. In addition, City letterhead and staff support cannot be utilized for personal or political purposes.

Council Members may be asked to prepare letters of recommendation for students and others seeking appointment. It is appropriate for individual Council Members to utilize City letterhead and their Council titles for such letters. No review by the full Council is required, however, copies will be kept on file.

Speaking for “the City”

Similar to written correspondence, when members are requested to speak to groups or are asked the Council's position on an issue, the response should reflect the position of the Council as a whole. Of course, a member may clarify their vote on a matter by stating, for example, “While I voted against “X”, the City Council voted in support of it.” When representing the City

at meetings or other venues, it is important that those in attendance gain an understanding of the City Council's position rather than that of an individual member.

When dealing with members of the media, it is usually the Mayor who represents the position and interest of the City Council. When the City Manager or Department Heads are contacted, they too will refer the media first to the Mayor for comment. Similarly, when the City issues a Press Release, the Mayor is consulted in terms of any Council Member quotes or references. The City Manager decides whether staff are available to respond to media requests directly or not.

Local Ballot Measures

At times measures that affect City Council policy may be placed on the ballot. There are restrictions regarding what actions a City Council or individual Members may take on ballot measures. Guidelines as to what is permissible are available from the City Clerk or City Attorney upon request.

State Legislation, Propositions

The City has been a member of the League of California Cities for many years. In addition, the City has a representative on the City/County Association of Governments (C/CAG). Both of these groups actively track legislation at the state level. Either through the advisories received from these two organizations or as a result of City staff following key legislative bills of importance to the City, the Council is at times requested to take a position or an action on pending state legislation. Unless Council has previously acted on a similar bill in the recent past, in which the City's position is clear, the Council has a practice of requiring analysis and discussion of bills prior to taking an official position. The analysis includes a summary of the legislation's purpose and a listing of those entities both in support of and against the proposed legislation. As a framework for screening bills that are pending to determine if the City should weigh in, Appendix B serves as a Legislative Policy Guide, with the explicit understanding that the City will express itself on legislation dealing with issues that will directly effect its financial stability or effective operation, and that the City may enter into alliances with other entities to promote common goals.

Proclamations

Ceremonial proclamations are often requested of the City in recognition of an event or individual. Proclamations are not statements of policy but a manner in which the city can make special recognition of an event (e.g., Recycling Week) or individual. As part of his/her ceremonial responsibilities, the Mayor is charged with administration of proclamations. Individual Council Members do not issue proclamations. Proclamations can be sent to the requestor or presented at a City Council meeting as arranged with the requesting body and at the Mayor's discretion.

Interaction with City Staff

Overview

City Council policy is implemented on a daily basis through staff. Therefore, it is critical that the relationship between Council and staff be well understood by all parties so that policies and programs may be implemented successfully. The City of Menlo Park has a long tradition of positive relationships between members of the City Council and staff. To maintain these effective relationships it is important that roles are clearly recognized.

Council-Manager Form of Government

Like most California cities, Menlo Park has adopted a City Council-City Manager form of government. The Council appoints a City Manager to implement policy, enforce its laws, to direct the daily operations of city government, and to prepare and monitor the municipal budget. The Municipal Code specifies roles and responsibilities and requires that Council Members work through the City Manager in dealing with City staff unless simply requesting information from department heads or other staff members. The City Manager is responsible to the City Council as a body rather than to individual Council Members.

Council-Manager Relationship

The employment relationship between the City Council and City Manager reflects the fact that the City Manager is the chief executive officer of the City. The City Manager has an employment agreement with the City Council. Regular communication between the City Council and City Manager is important in maintaining effective interpersonal relations. All dealings with the City Manager, whether in public or private, should be consistent with the authority of the City Manager in administrative and personnel matters. Council Members should avoid situations that can result in City staff being directed, intentionally or unintentionally, by one or more members of the City Council. Further, Council Members should avoid involving themselves in matters regarding individual City employees or related affairs.

The City Council evaluates the City Manager's performance on a regular basis to ensure that both the City Council and City Manager are in agreement about organizational performance and priority goals that are based on mutual trust and common objectives.

As in any professional relationship, it is important that the City Manager keep the City Council informed. The City Manager respects that the final responsibility for establishing the policy direction of the City is held by the City Council. The City Manager communicates with City Council in various ways. In addition to the formal Council meetings, there are periodic briefing meetings with individual Council members and written memoranda and email. Communication must be undertaken in such a way that all Council Members are treated similarly and kept equally informed. It is also important that the Council provide ongoing feedback, information and perceptions to the City Manager including responses to written communications and surveys requesting feedback.

City Manager Code of Ethics

The City Manager is subject to a professional code of ethics that binds the City Manager to certain practices that are designed to ensure his or her actions are in support of the City's best

interests. Violations of such standards can result in censure. Appendix D is a copy of the City Manager's Code Of Ethics.

City Council-City Attorney Relationship

The City Attorney is the legal advisor for the Council, City Manager and departments. The general legal responsibilities of the City Attorney are to: 1) provide legal assistance necessary for formulation and implementation of legislative policies and projects; 2) represent the City's interest, as determined by the City Council, in litigation, administrative hearings, negotiations and similar proceedings; 3) prepare ordinances, resolutions, contracts and other legal documents to best reflect and implement the purposes for which they are prepared; and 4) keep City Council and staff apprised of court rulings and legislation affecting the legal interest of the City. It is important to note that the City Attorney does not represent individual members of Council, but the City Council as a whole.

Roles and Information Flow

Objectives: It is the intent of staff to ensure Council members have free and easy access to information from the City and to ensure that such information is communicated completely, with candor and without bias. Individual Council Members may not intervene in staff decision-making, the development of staff recommendations, scheduling of work, or executing department priorities without the prior knowledge and approval of the City Council as a whole. This is necessary to protect staff from undue influence and pressure from individual Council Members, and to allow staff to execute the priorities given by management and the Council as a whole without fear of reprisal.

Council roles: The full City Council retains power to accept, reject, amend, influence, or otherwise guide and direct staff actions, decisions, recommendations, service levels, work loads and schedules, departmental priorities, and the performance of City business. If a Council Member wishes to influence the actions, decisions, recommendations, workloads, work schedule, and priorities of staff, that member must prevail upon the Council to do so as a matter of Council policy.

Should a Council Member become dissatisfied about a department, he/she should always talk it over with the City Manager and/or the Assistant City Manager, not the department head. Concerns about a department head must be taken to the City Manager only.

Access to Information: Individual Council Members as well as the Council as a whole shall receive the full cooperation and candor of staff in being provided with any requested information. The City Manager or appropriate staff will inform council when a critical or unusual event occurs about which the public would be concerned.

To assist the City Manager in his ability to monitor the flow of information, requests for information are best tracked if submitted in writing, either in memorandum form or through email. And to ensure proper responsiveness, Council Members are asked to "cc" both the department head and the City Manager on all correspondence with staff. Staff further encourages Council Members and constituents to utilize the "Menlo Park Direct Connect" web-based system that is accessed via the home page of the City's website.

There are limited restrictions when information cannot be provided. Draft documents (e.g., staff reports in progress, administrative draft EIRs) under review are not available for release until complete and after review by city management. In addition, there are legal restrictions on the City's ability to release certain personnel information even to members of the City Council. Certain aspects of Police Department affairs (access to restricted or confidential information related to crimes) may not be available to members of the Council.

City Council Members have a responsibility in this information flow as well. It is critical that they make use of staff reports and commission minutes. Council Members should come to meetings well prepared – having read staff reports and attachments, and requesting in advance any necessary and available information from staff. If a Council Member has questions on an agenda item, that member should preferably contact staff prior to the meeting in order to allow staff time to research a response for the meeting.

Staff roles: The Council recognizes the primary functions of staff as serving the community, executing Council policy and actions and in keeping the Council informed. Staff is obligated to take guidance and direction only from the Council as a whole or from the appropriate management supervisors. Staff is directed to report to the City Manager any attempts by individual members of the Council to unduly direct or otherwise pressure them into making, changing or otherwise influencing recommendations.

City staff will make every effort to respond in a timely and professional manner to all requests made by individual Council Members for information or assistance; provided that, in the judgment of the City Manager, the request is not of a magnitude, either in terms of workload or policy, which would require that it would be more appropriately assigned to staff through the direction of the full City Council. If a request by an individual Council Member is determined by the City Manager to take one hour or more of staff time to complete, that request may be included on the formal Council agenda for full Council discussion.

Dissemination of Information

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

Magnitude of Information Request

Any information, service-related request, or revised policy position perceived as necessary by individual Council Members, and that cannot be fulfilled based on the above guidelines, should be submitted by the individual Council Member in writing to the Council as a whole. When raised at a Council meeting, the full Council can decide whether and when to agendaize the request for further consideration. The City Manager will seek necessary clarification as to whether the Council desires staff research or a report prepared; and, if so, the relative priority that should be given to such a request in light of other priorities and potential workload impacts.

Staff Relationship with Advisory Bodies

Staff support and assistance is typically provided to commissions and task forces. However, advisory bodies do not have authority over City employees. While staff may work closely with

advisory bodies, staff members remain responsible to their immediate supervisors and ultimately the City Manager and City Council. The members of the commission/ board/committee are responsible for the functions of the advisory body, and the chairperson is responsible for committee compliance with City policies and practices as outlined in the Commission Handbook.

Staff support often includes preparation of an agenda and its posting in compliance with the Brown Act. Staff may also prepare reports providing background on the issue, alternatives, a recommendation, and appropriate backup materials, if necessary. Advisory body members should have sufficient information to reach decisions based upon a clear explanation of the issues. The assigned staff person may serve as secretary, taking minutes as needed. Staff members are to assist the advisory body chair to ensure appropriate compliance with state and local laws and regulations.

It is important that advisory bodies wishing to communicate recommendations to the City Council do so through approved Council agenda procedures. In addition, if a commission wishes to correspond with an outside agency, that correspondence will be prepared by staff for review by the City Manager and possible approval by the City Council. Individuals who would like staff to perform research or for the commission to review a particular issue must gain the approval for such a request from the full City Council before any work is planned or done. The annual work plan for the City's commissions is determined by the City Council at its priority-setting that precedes the adoption of the fiscal year budget.

Restrictions on Political Involvement by Staff

Local governments are non-partisan entities. Professional staff, as reflected within the principles of the Council-Manager form of government, formulates recommendations in compliance with Council policy and for the good of the community and is not influenced by political factors. For this reason, it is very important to understand the restrictions of staff in any level of political involvement through campaigns, fund-raisers, or other means.

By working for the City, staff members do not surrender rights to be involved in local elections. Indeed, laws are in place to preserve those rights. However, there are limitations to such involvement. Different restrictions apply to management and to general employees.

General employees have no restrictions while off the job. No participation in campaigns or other activities may take place while on the job. No City resources may be used by staff in support of any campaign. Even while off the job, no employee may participate in campaign or other activities in a City uniform. For example, posing for a promotional photograph for a candidate for local office while in uniform is inappropriate. The support of the City Council in these matters is requested. A Council Member asking staff to sign petitions or similar items can similarly create an awkward situation.

For management staff, the City Manager strongly discourages any involvement in a local campaign even while on personal time. Such involvement could erode the tenet that staff is to provide an equal level of service to all members of the City Council. The City Manager specifically prohibits any political involvement in local campaigns by department heads.

Support Provided to City Council

Staff Support

General administrative support to members of the City Council is provided through the City Manager's Office. Secretarial services including scheduling of appointments, receipt of telephone messages, and word processing are available as needed. In addition to supporting the five City Council members, the two administrative support staff members also assist the City Manager, Assistant City Manager, City Clerk and Business Development Manager. Sensitivity to the workload of support staff members in the City Manager's Office is appreciated. Should requested tasks require significant time commitments, prior consultation with the City Manager is requested.

Office Equipment

To enhance Council Members' ability to communicate with staff and the public, the City Council office is equipped with a computer and telephones with voicemail. The Council can also receive and send faxes.

Council Members may be connected from their home to the City's computer network. Information Services staff will provide initial assistance in setting up necessary software and hardware. While staff will maintain those computer applications related to City affairs, staff cannot provide assistance for personal computer applications. When individual Council Members have completed their term of office, any installed software and external modems must be returned to the City.

These technologies facilitate efficient communication by Council Members. However, their use also raises important legal issues to which Council Members must pay special attention. First, the Brown Act prohibits members from using "technological devices" to develop a concurrence by a majority regarding an action to be taken by the Council. "Technological devices" under the Brown Act include phones, faxes, computer email, public access cable TV and video. Council Members should not use e-mail, faxes or phones for communicating with other Council Members in order to develop a majority position on any particular issue that may come before the full Council. Particular caution is advised when using or responding to email received via the "CCIN" feature on the City's website and email directory. Correspondence sent using CCIN automatically goes to all five Council Members, certain staff and to the local newspapers.

Second, be aware that most emails sent by Council Members probably are public records under the Public Records Act. Even though it does not create paper, sending email is more similar to mailing a letter than placing a telephone call. The information in the email is stored on the computer network until deleted, and may continue to exist on the network's back-up systems even after being deleted. As a result, emails can become records of the City maintained in the course of business, and thus available for public disclosure under the Public Records Act.

Finally, the City's email system is intended for the conduct of official business, and not for political reasons. See CHAPTER 8 for a detailed discussion on the prohibition against using City property and funds for personal or political purposes.

Meeting Rooms

An office is available adjacent to the City Manager's Office for shared use by members of the City Council. Council Members can also reserve larger meeting space for use by contacting the City Manager's Office staff.

Mail, Deliveries

Members of the City Council receive a large volume of mail and other materials from the public, private interests and staff. The City Manager's Office staff maintains a mailbox for each member. Meeting agenda materials are available for pick up Thursday evenings at 5:30pm and are posted on the City's website. Members are encouraged to return unwanted reports and documents to staff for distribution to the public or for recycling.

Financial Matters

Council Compensation

State law and the Municipal Code provide for modest compensation to members of the City Council. State law limits an increase in City Council salaries to 5% per year, effective only following the next election after adoption. Currently, Council Members receive a stipend of \$640 per month. Council Members are also eligible for participation in group insurance benefits including retirement, medical, dental, vision, and life insurance plans available at the level provided to management employees.

Expenditure Allowance

The annual city budget includes limited funding for members to undertake official City business. Eligible expenses include travel for attendance at conferences or educational seminars, and the purchase of publications and annual subscriptions. Travel expense reimbursement for meals does not allow reimbursement for alcohol. Donations to organizations are not eligible nor are meals for individuals other than Council Members. Available funds are disbursed on a first come first served basis, with the Mayor and City Manager monitoring expenses during the year. Appendix D includes a copy of #CC-91-0002 pertaining to travel and meeting expenses.

Expenditure Guidelines

It is important to note that any expense must be related to City affairs. Public property and funds may not be used for any private or personal purpose. Courts have ruled that this prohibition includes personal political purposes. For example, reimbursement could not be allowed to pay for meals at a meeting designed to discuss political or campaign strategies. It is also inappropriate for City funds to pay for a meal or other expenses of a private citizen.

City budgetary practices and accounting controls apply to expenditures within the City Council budget. Reimbursement requests should be made through the City Manager's Office monthly with receipts. Expenditure records are public information. Questions arising as to the proper application or interpretation of the adopted policy will result in the City Manager conferring with the Mayor.

Conflicts & Liability

Conflict of Interest

State laws are in place to prevent an action by a Council Member that would or may constitute a conflict of interest. The purpose of such laws and regulations is to ensure that all actions are taken in the public interest. At any time a Member believes a potential for conflict of interest exists, he/she is encouraged to consult with the City Attorney or private legal counsel for advice. Staff may also request an opinion from the City Attorney regarding a member's potential conflict. Laws that regulate conflicts are very complicated. Violations may result in significant penalties including criminal prosecution.

There are two primary laws that govern conflicts of interest for public officials in California - the Political Reform Act and Government Code §1090. In general terms, the Political Reform Act prohibits a public official from having a financial interest in a decision before the official; §1090 prohibits a public official from having an interest in government contracts.

The Political Reform Act prohibits public officials from making, participating in, or in any way attempting to use their official position to influence a governmental decision in which they know, or have reason to know, that they have a financial interest. Therefore, if a public official has a conflict of interest, the official must disqualify himself or herself from acting on or participating in the decision before the City. Once a year Council Members and certain staff are required to file statements of economic interests.

Government Code §1090 is similar to the Political Reform Act, but applies only to City contracts in which a public official has a financial interest. The financial interests covered by §1090 are different from those in the Political Reform Act. A Member having an interest in a contract may preclude the City from entering into the contract at all. In addition, the penalties for violating §1090 are severe. If a Council Member believes that he or she may have any financial interest in a contract that will be before the Council, the Member should immediately seek advice from the City Attorney or the Member's personal attorney.

There are a number of other restrictions placed on Council actions that are highlighted in the League of California Cities' *Guide*. Such restrictions include prohibitions on secrecy and discrimination as well as assurance that all city funds are spent for public purposes. Violations of these restrictions may result in personal liability for individual Council Members.

City Attorney Advice

The City Attorney has an affirmative duty to protect the City and City Council from conflicts of interest wherever possible. It is critical to note that while the City Attorney can render advice on the interpretation of State laws and regulations on conflict matters, such advice is solely an interpretation of the law. The only authority that can provide binding interpretations on such matters is the State Fair Political Practices Commission (FPPC). Members or the full Council may also solicit opinions on such matters directly from the FPPC; however, such opinions often take time to develop and may not readily respond to urgent matters. It is important to note that

the City Attorney does not represent individual members of Council, but the City Council as a whole.

Conflict of Interest Forms

Annual disclosure statements are required of all Council members, designated commissioners and senior staff which indicate potential conflicts of interest including sources of income, ownership of property and receipt of loans and gifts. Council Members and the City Manager often serve on the governing board of other agencies as a result of their positions. These agencies also require submittal of disclosure forms. These forms require information including income, loans, receipt of gifts, and interest in real property among other items.

Liability

The City is a large institution offering a variety of services and may occasionally find itself subject to legal actions through lawsuits. For example, those involved in automobile accidents sometimes choose to take actions against a City since the accident occurred on a City roadway. The City must always approach its responsibilities in a manner that reduces risk to all involved; however, with such a wide variety of high-profile services all risk cannot be eliminated. The City belongs to an agency with other governments to manage insurance and risk activities.

It is important to note that violations of certain laws and regulations by individual members of the City Council may result in that member's being personally liable for damages which would not be covered by the City's insurance. Examples may include discrimination, harassment or fraud.

Additional Training & Resource Materials

League of California Cities

The League is an association of virtually all cities in California. It provides many services including the production of educational conferences for local officials, publication of various newsletters and the monthly magazine *Western City*. The League has lobbyists on staff to represent the interest of cities before the state legislature and federal government and supports committees having local officials as members that are organized to address issues as they arise. The League has an Internet web site at www.cacities.org. The City of Menlo Park participates in League activities through the Peninsula Division.

Local Government Commission

The Commission is a California-based organization that focuses largely on planning and resource conservation issues. It conducts workshops, offers periodic seminars, and publishes newsletters.

International City/County Management Association (ICMA)

ICMA is a professional association of local government chief executives/city managers. The association has an extensive list of publications to assist local officials.

Other Reference Material Available

The Brown Act - Open Meetings for Local Legislative Bodies

Report on City Participation in Ballot Measure Campaigns

A Guide to the Political Reform Act

Elected Officials Handbooks:

Setting Goals for Action: An Overview of Policy Development

Building a Policy-Making Team

Setting Policies for Service Delivery

Pursuing Personal Effectiveness

City of Menlo Park Municipal Code

APPENDIX A – Reference Guide to Motions

Type of Motion	Second Required	Debatable	Amendable	Priority Over Pending Motion	Reconsidered	Interrupt Speaker
Adjourn	Y	n/a	n/a	Y	n/a	n/a
Amend or Substitute ¹	Y	Y	Y	Y	Y	n/a
Appeal	Y	Y	n/a	n/a	Y	Y
Call the Question ⁷	Y	n/a	n/a	Y	n/a	n/a
Take Up New Business Past 12 pm ⁸	Y	Y	n/a	Y	n/a	n/a
Limit Debate	Y	n/a	Y	Y	Y	n/a
Main Motion	Y	Y	Y	Except "table"	Y	n/a
Nominations	n/a	Y	n/a	n/a	n/a	n/a
Personal Privilege or Point or Order	n/a	n/a	n/a	Y	Y	Y
Postpone to Time Certain	Y	Y	Y	Y	Y	n/a
Previous Question	Y	n/a	n/a	Y	Y	n/a
Recess or Adjourn to Time Certain	Y	Y	Y	n/a	n/a	n/a
Reconsider	Y ²	Y ³	n/a	n/a	n/a	⁴
Table or Take From Table	Y	n/a	n/a	Y ⁵	n/a	n/a
Take up Out of Order	Y	n/a	n/a	n/a	n/a	n/a
Withdraw a Motion ⁶	n/a	n/a	n/a	Y	Y	Y

"Y" indicates that this action can be taken, is necessary, is required, is permitted or is applicable

"n/a" indicates that this action cannot be taken, is unnecessary or is inapplicable

¹ Limit of three substitute motions.

² May only be made by a person who voted on prevailing side; not applicable to "table" motions. Must be made within two meetings of original action.

³ If prior motion was debatable.

⁴ Except for request for later action.

⁵ Highest subsidiary motion – takes precedence over all motions except adjourn and privilege.

⁶ Must be voted unless there is no objection.

⁷ Requires 4/5 vote.

⁸ Requires ¾ vote taken by 11:00 p.m. to extend beyond midnight.

APPENDIX B

LEGISLATIVE POLICY GUIDE

The City Council of Menlo Park believes:

- *In conducting the business of government with openness, respect, and civility, and including the involvement of all stakeholders in establishing goals and in solving problems.*
- *The vitality of cities is dependent upon their fiscal stability and local autonomy, and that local self-governance is the cornerstone of democracy.*

Therefore:

- The City supports legislation that reflects the need to conduct the public's business in public.
- The City opposes legislation that mandates costly and unnecessary procedures.
- The City supports the use of the general plan as a guide to meeting community planning needs, and opposes mandatory review or approval by another level of government and legislation that restricts the land use authority of cities.
- The City emphasizes efficiency and effectiveness to achieve the best possible use of city resources and believes the state should implement fiscal and legislative reforms in order to allow local government to adequately finance its service responsibilities, with accountability to the taxpayers for its programs.
- The City supports additional funding for local transportation and other critical unmet infrastructure needs and enhanced autonomy for local transportation decision-making.
- The City supports strategic alliances with counties, schools, other cities and local agencies, nonprofit and civic organizations and business and professional associations.

September 2005

ATTACHMENT D:

Sample Codes of Conduct/Guidelines from the
City of Sunnyvale and the Mountain House
Community Services District



City of Sunnyvale

2011 Code of Ethics and Conduct for Elected and Appointed Officials

"Conduct is three-fourths of our life and its largest concern."

-- Matthew Arnold

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For ease of reference in the Code of Ethics and Conduct, the term "member" refers to any member of the Sunnyvale City Council or the City's boards and commissions established by the City Charter, City Ordinance or Council policy.

Policy Purpose

The Sunnyvale City Council has adopted a Code of Ethics and Conduct for members of the City Council and the City's boards and commissions to assure public confidence in the integrity of local government and its effective and fair operation.

A. ETHICS

The citizens and businesses of Sunnyvale are entitled to have fair, ethical and accountable local government which has earned the public's full confidence for integrity. In keeping with the City of Sunnyvale Commitment to Excellence, the effective functioning of democratic government therefore requires that:

- public officials, both elected and appointed, comply with both the letter and spirit of the laws and policies affecting the operations of government;
- public officials be independent, impartial and fair in their judgment and actions;
- public office be used for the public good, not for personal gain; and
- public deliberations and processes be conducted openly, unless legally confidential, in an atmosphere of respect and civility.

To this end, the Sunnyvale City Council has adopted a Code of Ethics and Conduct for members of the City Council and of the City's boards and commissions to assure public confidence in the integrity of local government and its effective and fair operation. The Ethics section of the City's Code of Ethics and Conduct provides guidance on ethical issues and questions of right and wrong.

1. Act in the Public Interest. Recognizing that stewardship of the public interest must be their primary concern, members will work for the common good of the people of Sunnyvale and not for any private or personal interest, and they will assure fair and equal treatment of all persons, claims and transactions coming before the Sunnyvale City Council, boards and commissions.
2. Comply with both the spirit and the letter of the Law and City Policy. Members shall comply with the laws of the nation, the State of California and the City of Sunnyvale in the performance of their public duties. These laws include, but are not limited to: the United States and California constitutions; the Sunnyvale City Charter; laws pertaining to conflicts of interest, election campaigns, financial disclosures, employer responsibilities, and open processes of government; and City ordinances and policies.
3. Conduct of Members. The professional and personal conduct of members must be above reproach and avoid even the appearance of impropriety. Members shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other members of Council, boards and commissions, the staff or public.
4. Respect for Process. Members shall perform their duties in accordance with the processes and rules of order established by the City Council and board and commissions governing the deliberation of public policy issues, meaningful involvement of the public, and implementation of policy decisions of the City Council by City staff.
5. Conduct of Public Meetings. Members shall prepare themselves for public issues; listen courteously and attentively to all public discussions before the body; and focus on the business at hand. They shall refrain from interrupting other speakers; making personal comments not germane to the business of the body; or otherwise interfering with the orderly conduct of meetings.

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6. **Decisions Based on Merit.** Members shall base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations.
7. **Communication.** Members shall publicly disclose substantive information that is relevant to a matter under consideration by the Council or boards and commissions, which they may have received from sources outside of the public decision-making process.
8. **Conflict of Interest.** In order to assure their independence and impartiality on behalf of the common good, members shall not use their official positions to influence government decisions in which they have a material financial interest, or where they have an organizational responsibility or personal relationship which may give the appearance of a conflict of interest. In accordance with the law, members shall disclose investments, interests in real property, sources of income, and gifts; and they shall abstain from participating in deliberations and decision-making where conflicts may exist.
9. **Gifts and Favors.** Members shall not take any special advantage of services or opportunities for personal gain, by virtue of their public office, that are not available to the public in general. They shall refrain from accepting any gifts, favors or promises of future benefits which might compromise their independence of judgment or action or give the appearance of being compromised.
10. **Confidential Information.** Members shall respect the confidentiality of information concerning the property, personnel or affairs of the City. They shall neither disclose confidential information without proper legal authorization, nor use such information to advance their personal, financial or other private interests.
11. **Use of Public Resources.** Members shall not use public resources not available to the public in general, such as City staff time, equipment, supplies or facilities, for private gain or personal purposes.
12. **Representation of Private Interests.** In keeping with their role as stewards of the public interest, members of Council shall not appear on behalf of the private interests of third parties before the Council or any board, commission or proceeding of the City, nor shall members of boards and commissions appear before their own bodies or before the Council on behalf of the private interests of third parties on matters related to the areas of service of their bodies.
13. **Advocacy.** Members shall represent the official policies or positions of the City Council, board or commission to the best of their ability when designated as delegates for this purpose. When presenting their individual opinions and positions, members shall explicitly state they do not represent their body or the City of Sunnyvale, nor will they allow the inference that they do. Councilmembers and board and commission members have the right to endorse candidates for all Council seats or other elected offices. It is inappropriate to mention or display endorsements during Council meetings, board/commission meetings, or other official City meetings.
14. **Policy Role of Members.** Members shall respect and adhere to the council-manager structure of Sunnyvale City government as outlined by the Sunnyvale City Charter. In this structure, the City Council determines the policies of the City with the advice, information and analysis provided by the public, boards and commissions, and City staff. Except as provided by the City Charter, members therefore shall not interfere with the administrative functions of the City or the professional duties of City staff; nor shall they impair the ability of staff to implement Council policy decisions.

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15. Independence of boards and commissions. Because of the value of the independent advice of boards and commissions to the public decision-making process, members of Council shall refrain from using their position to unduly influence the deliberations or outcomes of board and commission proceedings.
16. Positive Work Place Environment. Members shall support the maintenance of a positive and constructive work place environment for City employees and for citizens and businesses dealing with the City. Members shall recognize their special role in dealings with City employees to in no way create the perception of inappropriate direction to staff.

B. CONDUCT

The Conduct section of the City's Code of Ethics and Conduct is designed to describe the manner in which Councilmembers and board and commission members should treat one another, City staff, constituents, and others they come into contact with in representing the City of Sunnyvale. It reflects the work of a Council Policy and Protocol Subcommittee that was charged with defining more clearly the behavior, manners, and courtesies that are suitable for various occasions. The Subcommittee also considered a wide variety of policy changes and clarifications designed to make public meetings and the process of governance run more smoothly.

The constant and consistent theme through all of the conduct guidelines is "respect." Councilmembers experience huge workloads and tremendous stress in making decisions that could impact thousands of lives. Despite these pressures, elected and appointed officials are called upon to exhibit appropriate behavior at all times. Demonstrating respect for each individual through words and actions is the touchstone that can help guide Councilmembers and board and commission members to do the right thing in even the most difficult situations.

1. Elected and Appointed Officials' Conduct with One Another

"In life, courtesy and self-possession, and in the arts, style, are the sensible impressions of the free mind, for both arise out of a deliberate shaping of all things and from never being swept away, whatever the emotion, into confusion or dullness."

-- William Butler Yeats

Elected and appointed officials are composed of individuals with a wide variety of backgrounds, personalities, values, opinions, and goals. Despite this diversity, all have chosen to serve in public office in order to preserve and protect the present and the future of the community. In all cases, this common goal should be acknowledged even though individuals may "agree to disagree" on contentious issues.

1(a). In Public Meetings

Use formal titles

Elected and appointed officials should refer to one another formally during public meetings, such as Mayor, Vice Mayor, Chair, Commissioner or Councilmember followed by the individual's last name.

Practice civility and decorum in discussions and debate

Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of a free democracy in action. This does not allow, however, public officials to make belligerent, personal, impertinent, slanderous, threatening, abusive, or disparaging comments. No shouting or physical actions that could be construed as threatening will be tolerated.

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Honor the role of the chair in maintaining order

It is the responsibility of the chair to keep the comments of members on track during public meetings. Members should honor efforts by the chair to focus discussion on current agenda items. If there is disagreement about the agenda or the chair's actions, those objections should be voiced politely and with reason, following procedures outlined in parliamentary procedure.

Avoid personal comments that could offend other members

If a member is personally offended by the remarks of another member, the offended member should make notes of the actual words used and call for a "point of personal privilege" that challenges the other member to justify or apologize for the language used. The chair will maintain control of this discussion.

Demonstrate effective problem-solving approaches

Members have a public stage to show how individuals with disparate points of view can find common ground and seek a compromise that benefits the community as a whole.

Outside of official board or commission meetings, individual board and commission members are not authorized to represent the City or their board or commission unless specifically designated by the Council or the board or commission to do so for a particular purpose. In private settings, board and commission members may communicate at any time and on any subject with individual members of the City Council, and may express to them individual viewpoints and opinions. In public, however, all members shall represent the official policies or positions of their board or commission, with the following exception. During a Council public hearing on any item addressed by the board or commission, any member may speak under standard time limits, but shall indicate whether their testimony represents an official position (majority opinion) or a minority opinion of the board/commission to which they belong. The chair shall represent the majority view of the board or commission, but may report on any minority views as well, including his or her own. When an official board or commission position differs from staff's recommendation on a particular policy issue, then at the Mayor's discretion additional time may be provided to the chair of the board or commission (or his/her designee) to explain the position of the board/commission or to rebut statements made by staff or the public. If new information is brought to light during a public hearing which was not shared previously with the board or commission, the Mayor may allow the board or commission chair to respond. If the Council deems the new information sufficient to warrant additional study, then by majority vote Council may remand the issue back to the board or commission for further study prior to taking other action itself.

Individual opinions and positions may be expressed by board and commission members regarding items that have not come before the particular board/commission to which they belong. When presenting their individual opinions and positions, members shall explicitly state they do not represent their body or the City of Sunnyvale, nor will they allow the inference that they do.

Although a board or commission may disagree with the final decision the Council makes, the board or commission shall not act in any manner contrary to the established policy adopted by the Council.

1(b). In Private Encounters

Continue respectful behavior in private

The same level of respect and consideration of differing points of view that is deemed appropriate for public discussions should be maintained in private conversations.

Be aware of the insecurity of written notes, voicemail messages, and E-mail

Technology allows words written or said without much forethought to be distributed wide and far. Would you feel comfortable to have this note faxed to others? How would you feel if this voicemail message were

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played on a speaker phone in a full office? What would happen if this E-mail message were forwarded to others? Written notes, voicemail messages and e-mail should be treated as potentially "public" communication.

Even private conversations can have a public presence

Elected and appointed officials are always on display – their actions, mannerisms, and language are monitored by people around them that they may not know. Lunch table conversations will be eavesdropped upon, parking lot debates will be watched, and casual comments between individuals before and after public meetings noted.

In private, board and commission members may communicate at any time and on any subject with the City Council, and may express to Council individual viewpoints and opinions.

2. Elected and Appointed Officials' Conduct with City Staff

*"Never let a problem become an excuse."
-- Robert Schuller*

Governance of a City relies on the cooperative efforts of elected officials, who set policy, appointed officials who advise the elected, and City staff who implements and administers the Council's policies. Therefore, every effort should be made to be cooperative and show mutual respect for the contributions made by each individual for the good of the community.

Treat all staff as professionals

Clear, honest communication that respects the abilities, experience, and dignity of each individual is expected. Poor behavior towards staff is not acceptable.

Member questions/inquiries to City staff

1. **General**. Council and board/commission communications with City staff should be limited to normal City business hours unless the circumstances warrant otherwise. Responses to Council questions posed outside of normal business hours should be expected no earlier than the next business day.
2. **Routine Requests for Information and Inquiries**. Members may contact staff directly for information made readily available to the general public on a regular basis (e.g., "What are the library's hours of operation?" or "How does one reserve a tee time at the golf course?"). Under these circumstances staff shall treat the member no differently than they would the general public, and the member shall not use their elected status to secure preferential treatment. The city manager does not need to be advised of such contacts.
3. **Non-Routine Requests for Readily Available Information**. Members may also contact staff directly for easily retrievable information not routinely requested by the general public so long as it does not require staff to discuss the issue or express an opinion (e.g., "How many traffic lights are there in the City?" or "Under what circumstances does the City lower its flags to half mast?")
4. **Non-Routine Requests Requiring Special Effort**. Any member request or inquiry that requires staff to compile information that is not readily available or easily retrievable and/or that requests staff to express an opinion (legal or otherwise) must be directed to the city manager, or to the city attorney, as appropriate (e.g., "How many Study Issues completed over the past five years have required 500 or more hours of staff time?", or "What is the logic behind the City's sign ordinances affecting businesses along El Camino Real?"). The city manager (or city attorney as appropriate) shall be responsible for

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distributing such requests to his/her staff for follow-up. Responses to such requests shall be copied to all Councilmembers (if originating from a Councilmember), relevant board or commission members (if originating from a board or commission member), the city manager, the city attorney as appropriate and affected department directors.

5. Meeting Requests. Any member request for a meeting with staff must be directed to the city manager or city attorney, as appropriate.
6. Public Safety Restrictions. Under certain circumstances, requests for information regarding operations or personnel of the Department of Public Safety may be legally restricted. Applicable statutes include: The Peace Officers' Procedural Bill of Rights (California Government Code Section 3300, et seq.), Confidentiality of Peace Officer Records (California Penal Code Section 832.5-7), and a number of exceptions to the California Public Records Act, defined in Government Code Section 6254. Providing information in response to such requests could violate the law, and might also violate due process rights that have been defined for peace officers in the State of California. Accordingly, it shall be the policy of the City of Sunnyvale to strictly comply with all applicable legal authorities governing the release of Department of Public Safety information and records.

Do not disrupt City staff from their jobs

Elected and appointed officials should not disrupt City staff while they are in meetings, on the phone, or engrossed in performing their job functions in order to have their individual needs met. Do not attend City staff meetings unless requested by staff – even if the elected or appointed official does not say anything, his or her presence implies support, shows partiality, intimidates staff, and hampers staff's ability to do their job objectively.

Never publicly criticize an individual employee

Elected and appointed officials should never express concerns about the performance of a City employee in public, to the employee directly, or to the employee's manager. Comments about staff performance should only be made to the city manager through private correspondence or conversation. Comments about staff in the office of the city attorney should be made directly to the city attorney. Appointed officials should make their comments regarding staff to the city manager or the Mayor.

Do not get involved in administrative functions

Elected and appointed officials must not attempt to influence City staff on the making of appointments, awarding of contracts, selecting of consultants, processing of development applications, or granting of City licenses and permits. [See Code of Ethics] The Sunnyvale City Charter, Section 807, also contains information about the prohibition of Council interference in administrative functions.

Check with City staff on correspondence before taking action

Before sending correspondence, Councilmembers should check with City staff to see if an official City response has already been sent or is in progress. Board and commission members shall not send correspondence except as authorized under the City's policies governing volunteers. (Council Policy 7.2.19, Boards and Commissions.)

Limit requests for staff support

Routine secretarial support will be provided to all Councilmembers. The Council Executive Assistant opens all mail for Councilmembers, unless a Councilmember requests other arrangements. Mail addressed to the Mayor is reviewed first by the city manager who notes suggested action and/or follow-up items.

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Requests for additional staff support – even in high priority or emergency situations – should be made to the city manager who is responsible for allocating City resources in order to maintain a professional, well-run City government.

Do not solicit political support from staff

Elected and appointed officials should not solicit any type of political support (financial contributions, display of posters or lawn signs, name on support list, etc.) from City staff. City staff may, as private citizens with constitutional rights, support political candidates but all such activities must be done away from the workplace.

3. Elected and Appointed Officials' Conduct with the Public

"If a man be gracious and courteous to strangers, it shows he is a citizen of the world, and that his heart is no island cut off from other lands, but a continent that joins to them."

-- Francis Bacon

3(a). In Public Meetings

Making the public feel welcome is an important part of the democratic process. No signs of partiality, prejudice or disrespect should be evident on the part of individual members toward an individual participating in a public forum. Every effort should be made to be fair and impartial in listening to public testimony.

Be welcoming to speakers and treat them with care and gentleness. While questions of clarification may be asked, the official's primary role during public testimony is to listen.

"I give many public presentations so standing up in front of a group and using a microphone is not new to me. But I found that speaking in front of Council was an entirely different experience. I was incredibly nervous and my voice was shaking. I think the reason was because the issue was so personal to me. The Council was going to take a vote that would affect my family's daily life and my home. I was feeling a lot of emotion. The way that Council treats people during public hearings can do a lot to make them relax or to push their emotions to a higher level of intensity."

Be fair and equitable in allocating public hearing time to individual speakers.

"The first thing the Mayor said to me was to be brief because the meeting was running late and the Council was eager to go home. That shouldn't be my problem. I'm sorry my item was at the end of the agenda and that there were a lot of speakers, but it is critically important to me and I should be allowed to say what I have to say and believe that the Council is listening to me."

The chair will determine and announce limits on speakers at the start of the public hearing process. Questions should not be asked for the express purpose of allowing one speaker to evade the time limit imposed on all others (e.g., "Was there something else you wanted to say?"). Generally, each speaker will be allocated three minutes with applicants and appellants or their designated representatives allowed ten. If many speakers are anticipated, the chair may shorten the time limit and/or ask speakers to limit themselves to new information and points of view not already covered by previous speakers.

No speaker will be turned away unless he or she exhibits inappropriate behavior. Each speaker may only speak once during the public hearing unless the chair requests additional clarification later in the process. After the close of the public hearing, no more public testimony will be accepted unless the chair reopens the public hearing for a limited and specific purpose.

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Give the appearance of active listening

It is disconcerting to speakers to have members not look at them when they are speaking. It is fine to look down at documents or to make notes, but reading for a long period of time or gazing around the room gives the appearance of disinterest. Be aware of facial expressions, especially those that could be interpreted as "smirking," disbelief, anger or boredom.

Maintain an open mind

Members of the public deserve an opportunity to influence the thinking of elected and appointed officials. To express an opinion or pass judgment prior to the close of a public hearing casts doubt on a member's ability to conduct a fair review of the issue. This is particularly important when officials are serving in a quasi-judicial capacity.

Ask for clarification, but avoid debate and argument with the public

Only the chair – not individual members – can interrupt a speaker during a presentation. However, a member can ask the chair for a point of order if the speaker is off the topic or exhibiting behavior or language the member finds disturbing.

If speakers become flustered or defensive by questions, it is the responsibility of the chair to calm and focus the speaker and to maintain the order and decorum of the meeting. Questions by members to the public testifying should seek to clarify or expand information. It is never appropriate to belligerently challenge or belittle the speaker. Members' personal opinions or inclinations about upcoming votes should not be revealed until after the public hearing is closed.

No personal attacks of any kind, under any circumstance

Members should be aware that their body language and tone of voice, as well as the words they use, can appear to be intimidating or aggressive.

Follow parliamentary procedure in conducting public meetings

The city attorney serves as advisory parliamentarian for the City and is available to answer questions or interpret situations according to parliamentary procedures. The chair, subject to the appeal of the full Council or board/commission makes final rulings on parliamentary procedure.

3(b). In Unofficial Settings

Make no promises on behalf of the Council, board/commission or City

Members will frequently be asked to explain a Council or board/commission action or to give their opinion about an issue as they meet and talk with constituents in the community. It is appropriate to give a brief overview of City policy and to refer to City staff for further information. It is inappropriate to overtly or implicitly promise Council or board/commission action, or to promise City staff will do something specific (fix a pothole, remove a library book, plant new flowers in the median, etc.).

Make no personal comments about other members

It is acceptable to publicly disagree about an issue, but it is unacceptable to make derogatory comments about other members, their opinions and actions.

Remember that despite its impressive population figures, Sunnyvale is a small town at heart
Members are constantly being observed by the community every day that they serve in office. Their behaviors and comments serve as models for proper deportment in the City of Sunnyvale. Honesty and respect for the dignity of each individual should be reflected in every word and action taken by members, 24 hours a day, seven days a week. It is a serious and continuous responsibility.

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4. Council Conduct with Other Public Agencies

*"Always do right. This will gratify some people and astonish the rest."
-- Mark Twain*

Be clear about representing the City or personal interests

When representing the City, the Councilmember must support and advocate the official City position on an issue, not a personal viewpoint. Outside of official board or commission meetings, board and commission members are not authorized to represent the City or their board or commission unless specifically designated by the Council or the board or commission to do so for a particular purpose.

When representing another organization whose position is different from the City, the Councilmember should withdraw from voting on the issue if it significantly impacts or is detrimental to the City's interest. Councilmembers should be clear about which organizations they represent and inform the Mayor and Council of their involvement.

Correspondence also should be equally clear about representation

City letterhead may be used when the Councilmember is representing the City and the City's official position. A copy of official correspondence should be given to the Council Executive Assistant to be filed in the Council Office as part of the permanent public record.

City letterhead should not be used for non-City business nor for correspondence representing a dissenting point of view from an official Council position.

5. Council Conduct with Boards and Commissions

*"We rarely find that people have good sense unless they agree with us."
--Francois, Duc de La Rochefoucauld*

The City has established several boards and commissions as a means of gathering more community input. Citizens who serve on boards and commissions become more involved in government and serve as advisors to the City Council. They are a valuable resource to the City's leadership and should be treated with appreciation and respect.

If attending a board or commission meeting, be careful to only express personal opinions

Councilmembers may attend any board or commission meeting, which are always open to any member of the public. However, they should be sensitive to the way their participation especially if it is on behalf of an individual, business or developer -- could be viewed as unfairly affecting the process. Any public comments by a Councilmember at a board or commission meeting should be clearly made as individual opinion and not a representation of the feelings of the entire City Council.

Limit contact with board and commission members to questions of clarification

It is inappropriate for a Councilmember to contact a board or commission member to lobby on behalf of an individual, business, or developer, and vice versa. It is acceptable for Councilmembers to contact board or commission members in order to clarify a position taken by the board or commission.

Remember that boards and commissions serve the community, not individual Councilmembers
The City Council appoints individuals to serve on boards and commissions, and it is the responsibility of boards and commissions to follow policy established by the Council. But board and commission members do not report to individual Councilmembers, nor should Councilmembers feel they have the power or right to

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threaten board and commission members with removal if they disagree about an issue. Appointment and re-appointment to a board or commission should be based on such criteria as expertise, ability to work with staff and the public, and commitment to fulfilling official duties. A board or commission appointment should not be used as a political "reward."

Be respectful of diverse opinions

A primary role of boards and commissions is to represent many points of view in the community and to provide the Council with advice based on a full spectrum of concerns and perspectives. Councilmembers may have a closer working relationship with some individuals serving on boards and commissions, but must be fair and respectful of all citizens serving on boards and commissions.

Keep political support away from public forums

Board and commission members may offer political support to a Councilmember, but not in a public forum while conducting official duties. Conversely, Councilmembers may support board and commission members who are running for office, but not in an official forum in their capacity as a Councilmember.

6. Conduct with the Media

*"Keep them well fed and never let them know that all you've got is a chair and a whip."
-- Lion Tamer School*

Board and commission members are not authorized to represent the City outside of official board/commission meetings unless specifically authorized to do so.

Councilmembers are frequently contacted by the media for background and quotes.

The best advice for dealing with the media is to never go "off the record"
Most members of the media represent the highest levels of journalistic integrity and ethics, and can be trusted to keep their word. But one bad experience can be catastrophic. Words that are not said cannot be quoted.

The Mayor is the official spokesperson for the City on City positions.
The Mayor is the designated representative of the Council to present and speak on the official City position. If an individual Councilmember is contacted by the media, the Councilmember should be clear about whether their comments represent the official City position or a personal viewpoint.

Choose words carefully and cautiously

Comments taken out of context can cause problems. Be especially cautious about humor, sardonic asides, sarcasm, or word play. It is never appropriate to use personal slurs or swear words when talking with the media.

C. SANCTIONS

*"You cannot have a proud and chivalrous spirit if your conduct is mean and paltry;
for whatever a man's actions are, such must be his spirit."
-- Demosthenes*

Public Disruption

Members of the public who do not follow proper conduct after a warning in a public hearing may be barred from further testimony at that meeting or removed from the Council Chambers.

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Inappropriate Staff Behavior

Councilmembers should refer to the city manager any City staff or to the city attorney any City Attorney's staff who do not follow proper conduct in their dealings with Councilmembers, other City staff, or the public. These employees may be disciplined in accordance with standard City procedures for such actions. (Please refer to the section on Council Conduct with City Staff for more details on interaction with Staff.)

Councilmembers Behavior and Conduct

Compliance and Enforcement. The Sunnyvale Code of Ethics and Conduct expresses standards of ethical conduct expected for members of the Sunnyvale City Council, boards and commissions. Members 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. The chairs of boards and commissions and the Mayor and Council have the additional responsibility to intervene when actions of members that appear to be in violation of the Code of Ethics and Conduct are brought to their attention.

City Councilmembers who intentionally and repeatedly do not follow proper conduct may be reprimanded or formally censured by the Council, lose seniority or committee assignments (both within the City of Sunnyvale or with inter-government agencies) or have official travel restricted. Serious infractions of the Code of Ethics or Code of Conduct could lead to other sanctions as deemed appropriate by Council.

Councilmembers should point out to the offending Councilmember infractions of the Code of Ethics and Conduct. If the offenses continue, then the matter should be referred to the Mayor in private. If the Mayor is the individual whose actions are being challenged, then the matter should be referred to the Vice Mayor.

It is the responsibility of the Mayor to initiate action if a Councilmember's behavior may warrant sanction. If no action is taken by the Mayor, the alleged violation(s) can be brought up with the full Council in a public meeting.

Board and Commission Members Behavior and Conduct

Counseling, verbal reprimands and written warnings may be administered by the Mayor to board and commission members failing to comply with City policy. These lower levels of sanctions shall be kept private to the degree allowed by law. Copies of all written reprimands administered by the Mayor shall be distributed in memo format to the chair of the respective board or commission, the city clerk, the city attorney, the city manager, and the City Council. Written reprimands administered by the Mayor shall not be included in packets for public meetings and shall not be publicized except as required under the Public Records Act.

The City Council may impose sanctions on board and commission members whose conduct does not comply with the City's policies, up to and including removal from office. Any form of discipline imposed by Council shall be determined by a majority vote of at least a quorum of the Council at a noticed public meeting and such action shall be preceded by a Report to Council with supporting documentation. The Report to Council shall be distributed in accordance with normal procedures, including hard copies to numerous public facilities and posting online. Any Report to Council addressing alleged misconduct by a board or commission member shall be routed through the Office of the city attorney for review of whether any information is exempt from disclosure (subject to redaction) based on privacy interests authorized under the Public Records Act.

When deemed warranted, the Mayor or majority of Council may call for an investigation of board or commission member conduct. Should the city manager or city attorney believe an investigation is warranted,

For ease of reference in the Code of Ethics and Conduct, the term "member" refers to any member of the Sunnyvale City Council or the City's boards and commissions established by the City Charter, City Ordinance or Council policy.

they shall confer with the Mayor or Council. The Mayor or Council shall ask the city manager and/or the city attorney to investigate the allegation and report the findings.

The results of any such investigation shall be provided to the full Council in the form of a Report to Council, and shall be placed on the agenda of a noticed public meeting as "Information Only". Any such report shall be made public and distributed in accordance with normal procedures (i.e., hard copies to numerous public locations and posted online). Any report to Council addressing the investigation of board and commission members shall be routed through the Office of the City Attorney for review of whether any information is exempt from disclosure (subject to redaction) based on privacy interests authorized under the Public Records Act.

It shall be the Mayor and/or the Council's responsibility to determine the next appropriate action. Any such action taken by Council (with the exception of "take no further action") shall be conducted at a noticed public hearing. These actions include, but are not limited to: discussing and counseling the individual on the violations; placing the matter on a future public hearing agenda to consider sanctions; forming a Council ad hoc subcommittee to review the allegation, the investigation and its findings, as well as to recommend sanction options for Council consideration.

Under the City Charter, the City Council also may remove members of boards and commissions from office. A violation of this Code of Ethics and Conduct shall not be considered a basis for challenging the validity of a Council, board or commission decision.

D. PRINCIPLES OF PROPER CONDUCT

Proper conduct IS ...

- Keeping promises
- Being dependable
- Building a solid reputation
- Participating and being available
- Demonstrating patience
- Showing empathy
- Holding onto ethical principles under stress
- Listening attentively
- Studying thoroughly
- Keeping integrity intact
- Overcoming discouragement
- Going above and beyond, time and time again
- Modeling a professional manner

Proper conduct IS NOT ...

- Showing antagonism or hostility
- Deliberately lying or misleading
- Speaking recklessly
- Spreading rumors
- Stirring up bad feelings, divisiveness
- Acting in a self-righteous manner

For ease of reference in the Code of Ethics and Conduct, the term "member" refers to any member of the Sunnyvale City Council or the City's boards and commissions established by the City Charter, City Ordinance or Council policy.

It all comes down to respect

Respect for one another as individuals ... respect for the validity of different opinions ... respect for the democratic process ... respect for the community that we serve.

E. CHECKLIST FOR MONITORING CONDUCT

- Will my decision/statement/action violate the trust, rights or good will of others?
- What are my interior motives and the spirit behind my actions?
- If I have to justify my conduct in public tomorrow, will I do so with pride or shame?
- How would my conduct be evaluated by people whose integrity and character I respect?
- Even if my conduct is not illegal or unethical, is it done at someone else's painful expense? Will it destroy their trust in me? Will it harm their reputation?
- Is my conduct fair? Just? Morally right?
- If I were on the receiving end of my conduct, would I approve and agree, or would I take offense?
- Does my conduct give others reason to trust or distrust me?
- Am I willing to take an ethical stand when it is called for? Am I willing to make my ethical beliefs public in a way that makes it clear what I stand for?
- Do I exhibit the same conduct in my private life as I do in my public life?
- Can I take legitimate pride in the way I conduct myself and the example I set?
- Do I listen and understand the views of others?
- Do I question and confront different points of view in a constructive manner?
- Do I work to resolve differences and come to mutual agreement?
- Do I support others and show respect for their ideas?
- Will my conduct cause public embarrassment to someone else?

F. GLOSSARY OF TERMS

attitude	The manner in which one shows one's dispositions, opinions, and feelings
behavior	External appearance or action; manner of behaving; carriage of oneself
civility	Politeness, consideration, courtesy
conduct	The way one acts; personal behavior
courtesy	Politeness connected with kindness
decorum	Suitable; proper; good taste in behavior
manners	A way of acting; a style, method, or form; the way in which things are done
point of order	An interruption of a meeting to question whether rules or bylaws are being broken, such as the speaker has strayed from the motion currently under consideration
point of personal privilege	A challenge to a speaker to defend or apologize for comments that a fellow member considers offensive
propriety	Conforming to acceptable standards of behavior
protocol	The courtesies that are established as proper and correct
respect	The act of noticing with attention; holding in esteem; courteous regard

G. IMPLEMENTATION

As an expression of the standards of conduct for members expected by the City, the Sunnyvale Code of Ethics and Conduct is intended to be self-enforcing. It therefore becomes most effective when members are thoroughly familiar with it and embrace its provisions. For this reason, this document shall be included in the regular orientations for candidates for City Council, applicants to board and commissions, and newly elected

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and appointed officials. Members entering office shall sign a statement affirming they read and understood the City of Sunnyvale Code of Ethics and Conduct. In addition, the Code of Ethics and Conduct shall be annually reviewed by the City Council, boards and commissions, and the City Council shall consider recommendations from boards and commissions and update it as necessary.

(Adopted: RTC 08-113 (4/8/08), Update: RTC 09-036 (2/3/09); Updated: RTC 09-047 (2/24/09); Approved with no changes: RTC 10-078 (3/23/10); Approved with no changes: RTC 11-058 (3/29/11))

Lead Department: Office of the City Manager

For ease of reference in the Code of Ethics and Conduct, the term "member" refers to any member of the Sunnyvale City Council or the City's boards and commissions established by the City Charter, City Ordinance or Council policy.

**BEFORE THE BOARD OF DIRECTORS OF THE
MOUNTAIN HOUSE COMMUNITY SERVICES DISTRICT**

RESOLUTION

MMXI-21

**RESOLUTION AMENDING THE BOARD OF DIRECTORS
RULES OF PROCEDURE TO ADD A BOARD OF DIRECTORS CODE OF CONDUCT**

WHEREAS, the Mountain House Community Services District (MHCSD) Board of Directors is committed to providing excellence in legislative leadership that results in the provision of the highest quality services to its constituents and to comply with State laws, including AB 1234 (Salinas) approved in 2006;

WHEREAS, the MHCSD Board of Directors desires to establish a Code of Conduct;

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE MOUNTAIN HOUSE COMMUNITY SERVICES DISTRICT AS FOLLOWS:

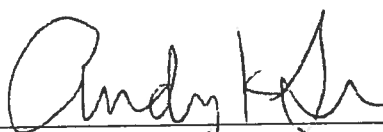
1) The Board of Directors Rules of Procedure are hereby amended to add Article XIV entitled "BOARD OF DIRECTORS CODE OF CONDUCT," a true and correct copy of which is attached to this Resolution as Attachment A and incorporated by this reference as though fully set forth herein.

PASSED AND ADOPTED this **20th day of October, 2011**, by the following vote of the Board of Directors of the Mountain House Community Services District, to wit:

AYES: FARRON, LAMB, SINGH, TINGLE, SU


NOES:

ABSENT:



ANDY SU, PRESIDENT
Board of Directors of the Mountain House
Community Services District, County of San
Joaquin, State of California

ATTEST: MIMI DUZENSKI
Secretary of the Board of Directors
of the Mountain House Community
Services District, County of San
Joaquin, State of California

By: 



Article XIV
BOARD OF DIRECTORS CODE OF CONDUCT

All members of the Board of Directors, including those serving as President and Vice President, have equal votes. No Board Member has more power than any other Board Member and all should be treated with equal respect. Board Members are responsible for monitoring the District's progress in attaining its goals and objectives, while pursuing its mission. The work of the District is a team effort. All individuals should work together in the collaborative process, assisting each other in conducting the affairs of the District.

In order to assist in the governance of the behavior between and among members of the Board of Directors and District staff, all Board Members should:

- Fully participate in Board of Directors meetings and other public forums while demonstrating respect, kindness, consideration, and courtesy to others. Responsiveness and attentive listening in communication is encouraged.
- Prepare in advance of Board meetings and be familiar with issues on the agenda
- Be respectful of other people's time. Stay focused and act efficiently during public meetings
- Serve as a model of leadership and civility to the community
- Demonstrate honesty and integrity in every action and statement
- Participate in scheduled activities to increase team effectiveness and review Board procedures, such as this Code of Conduct

Meeting Chair

The President will chair official meetings of the Board of Directors, unless the Vice President or another Board Member is designated as Chair of a specific meeting.

- Maintains order, decorum, and the fair and equitable treatment of all speakers
- Keeps discussion and questions focused on specific agenda item under consideration

Board Conduct with One Another

IN PUBLIC MEETINGS

- Use formal titles
The Board should refer to one another formally during public meetings as President, Vice President, or Director followed by the individual's last name.
- Practice civility and decorum in discussions and debate
The dignity, style, values and opinions of each Board Member shall be respected. Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of a free democracy in action. This does not allow, however, Board Members to make belligerent,

personal, impertinent, slanderous, threatening, abusive, or disparaging comments. No shouting or physical actions that could be construed as threatening will be tolerated.

- Honor the role of the Chair in maintaining order
It is the responsibility of the Chair to keep the comments of Board Members on track during public meetings. Board Members should honor efforts by the Chair to focus discussion on current agenda items. If there is disagreement about the agenda or the Chair's actions, those objections should be voiced politely and with reason, following procedures outlined in parliamentary procedure.
- Avoid personal comments that could offend other Board Members
If a Board Member is personally offended by the remarks of another Board Member, the offended Board Member should make notes of the actual words used and call for a "point of personal privilege" that challenges the other Board Member to justify or apologize for the language used. The Chair will maintain control of this discussion.
- Demonstrate effective problem-solving approaches
Board Members have a public stage to show how individuals with disparate and differing points of view can find common ground and seek a compromise that benefits the community as a whole.
- Differing viewpoints are healthy in the decision-making process. Individuals have the right to disagree with ideas and opinions, but without being disagreeable. Once the Board of Directors takes action, Board Members should commit to supporting said action and not to create barriers to the implementation of said action.

IN PRIVATE ENCOUNTERS

- Continue respectful behavior in private
The same level of respect and consideration of differing points of view that is deemed appropriate for public discussions should be maintained in private conversations.
- Board Members should commit themselves to emphasizing the positive, avoiding double talk, hidden agendas, gossip, backbiting, and other negative forms of interaction.

Board Conduct with District Staff

- The primary responsibility of the Board of Directors is the formulation and evaluation of policy. Routine matters concerning the operational aspects of the District are to be delegated to professional staff members of the District.
- Treat all staff as professionals
Clear, honest communication that respects the abilities, experience, and dignity of each individual is expected. Poor behavior towards staff is not acceptable. Board Members should develop a working relationship with the General Manager wherein current issues, concerns and District projects can be discussed comfortably and openly.
- Limit contact to specific District staff
Questions of District staff and/or requests for additional background information

should be directed only to the General Manager, District Counsel, or Department Heads. The Office of the General Manager should be copied on any request, except those to the District Counsel. In seeking clarification for policy-related concerns, especially those involving personnel, legal action, land acquisition and development, finances, and programming, said concerns should be referred directly to the General Manager or District Counsel.

Requests for follow-up or directions to staff should be made only through the General Manager or the District Counsel when appropriate. When in doubt about what staff contact is appropriate, Board Members should ask the General Manager for direction. Materials supplied to a Board Member in response to a request will be made available to all members of the Board so that all have equal access to information.

- In handling items related to safety, concerns for safety or hazards should be reported to the General Manager or to the District office. Emergency situations should be dealt with immediately by seeking appropriate assistance.
- Do not disrupt District staff from their jobs
Board Members should not disrupt District staff while they are in meetings, on the phone, or engrossed in performing their job functions in order to have their individual needs met.
- Never publicly criticize an individual employee
Board should never express concerns about the performance of a District employee in public, to the employee directly, or to the employee's manager. Comments about staff performance should only be made to the General Manager through private correspondence or conversation.
- Do not get involved in administrative functions
Outside of regular or special Board meetings, Board Members must not attempt to influence District staff on the making of appointments, awarding of contracts, selecting of consultants, processing of development applications, or granting of District licenses and permits. The Board's authority to make decisions regarding such matters during Board meetings, is not limited by this section. If approached by District personnel concerning specific District policy, Board Members should direct inquiries to the appropriate staff supervisor or General Manager. The chain of command should be followed.
- Do not attend administrative meetings with District staff unless requested by staff
Even if the Board Member does not say anything, the Board Member's presence implies support, shows partiality, intimidates staff, and hampers staff's ability to do their job objectively.
- Do not solicit political support from staff
Board Members should not solicit any type of political support (financial contributions, display of posters or lawn signs, name on support list, etc.) from District staff. District staff may, as private citizens with constitutional rights, support political candidates, but all such activities must be done away from the workplace.

Board Conduct with The Public

IN PUBLIC MEETINGS

- Be welcoming to speakers and treat them with care and gentleness
- Be fair and consistent in allocating public hearing time to individual speakers
The Chair will determine and announce limits on speakers at the start of the public hearing process. Generally, each speaker will be allocated five-minutes with applicants and appellants or their designated representatives allowed more time. If many speakers are anticipated, the Chair may shorten the time limit and/or ask speakers to limit themselves to new information and points of view not already covered by previous speakers.

No speaker will be turned away unless he or she exhibits inappropriate behavior. Each speaker may only speak once during the public hearing unless the Board requests additional clarification later in the process.

- Give the appearance of active listening
It is disconcerting to speakers to have Board Members not look at them when they are speaking. It is fine to look down at documents or to make notes, but reading for a long period of time gazing around the room gives the appearance of disinterest. Be aware of facial expressions, especially those that could be interpreted as "smirking," disbelief, anger or boredom.
- Ask for clarification, but avoid debate and argument with the public
Only the Chair – not individual Board Members -- can interrupt a speaker during a presentation. However, a Board Member can ask the Chair for a point of order if the speaker is off the topic or exhibiting behavior or language the Board Member finds disturbing. If speakers become flustered or defensive by Board questions, it is the responsibility of the Chair to calm and focus the speaker and to maintain the order and decorum of the meeting. Questions by Board Members to members of the public testifying should seek to clarify or expand information. It is never appropriate to belligerently challenge or belittle the speaker. Board Members' personal opinions or inclinations about upcoming votes should not be revealed until after the public hearing is closed.
- No personal attacks of any kind, under any circumstance
Board Members should be aware that their body language and tone of voice, as well as the words they use, can appear to be intimidating or aggressive.

IN UNOFFICIAL SETTINGS

- The needs of the District's constituents should be the priority of the Board of Directors. When a Director believes he or she may have a conflict of interest, the legal counsel shall be requested to make a determination if one exists or not.
- When responding to constituent requests and concerns, Directors should be courteous, responding to individuals in a positive manner and routing their questions through appropriate channels and to responsible management personnel. When handling complaints, said complaints should be referred directly to the General Manager.

- Make no promises on behalf of the Board
Board Members will frequently be asked to explain a Board action or to give their opinion about an issue as they meet and talk with constituents in the community. It is appropriate to give a brief overview of District policy and to refer to District staff for further information. It is inappropriate to overtly or implicitly promise Board action, or to promise District staff will do something specific (fix a pothole, secure employment, remove a library book, plant new flowers in the median, etc.).
- Make no personal comments about other Board Members
It is acceptable to publicly disagree about an issue, but it is unacceptable to make derogatory comments about other Board Members, their opinions and actions. Board Members are constantly being observed by the community every day that they serve in office. Their behaviors and comments serve as models for proper deportment in Mountain House. Honesty and respect for the dignity of each individual should be reflected in every word and action taken by Board Members, 24 hours a day, seven days a week.

Board Conduct with Other Public Agencies

- Be clear about representing the District or personal interests
If a Board Member appears before another governmental agency or organization to give a statement on an issue, the Board Member must clearly state: 1) if his or her statement reflects personal opinion or is the official stance of the District; 2) whether this is the majority or minority opinion of the Board.
If the Board Member is representing the District, the Board Member must support and advocate the official District position on an issue, not a personal viewpoint. If the Board Member is representing another organization whose position is different from the District, the Board Member should withdraw from voting on the issue if it significantly impacts or is detrimental to the District's interest. Board Members should be clear about which organizations they represent and inform the President and Board of their involvement.
- Correspondence also should be equally clear about representation
District letterhead should not be used by Board Members.

Board Conduct with the Media

Board Members are frequently contacted by the media for background and quotes.

- The General Manager is the official spokesperson for the Board and representative of the District position
The President is the designated representative of the Board to present and speak on the official District position. If an individual Board Member is contacted by the media, the Board Member should be clear about whether their comments represent the official District position or a personal viewpoint.

Sanctions

- Board Members Behavior and Conduct
Board Members who intentionally and repeatedly do not follow proper conduct may be reprimanded or formally censured by the Board.

Principles of Proper Conduct

Proper conduct IS ...

- Keeping promises
- Being dependable
- Building a solid reputation
- Participating and being available
- Demonstrating patience
- Showing empathy
- Holding onto ethical principles under stress
- Listening attentively
- Studying thoroughly
- Keeping integrity intact
- Overcoming discouragement
- Going above and beyond, time and time again
- Modeling a professional manner

Proper conduct IS NOT ...

- Showing antagonism or hostility
- Deliberately lying or misleading
- Speaking recklessly
- Spreading rumors
- Stirring up bad feelings, divisiveness
- Acting in a self-righteous manner

It all comes down to respect. Respect for one another as individuals . . . respect for the validity of different opinions . . . respect for the democratic process . . . respect for the community that we serve.

Checklist for Monitoring Conduct

- Will my decision/statement/action violate the trust, rights or good will of others?
- What are my interior motives and the spirit behind my actions?
- If I have to justify my conduct in public tomorrow, will I do so with pride or shame?
- How would my conduct be evaluated by people whose integrity and character I respect?

Even if my conduct is not illegal or unethical, is it done at someone else's painful expense? Will it destroy their trust in me? Will it harm their reputation?

Is my conduct fair? Just? Morally right?

If I were on the receiving end of my conduct, would I approve and agree, or would I take offense?

Does my conduct give others reason to trust or distrust me?

Am I willing to take an ethical stand when it is called for? Am I willing to make my ethical beliefs public in a way that makes it clear what I stand for?

Do I exhibit the same conduct in my private life as I do in my public life?

Can I take legitimate pride in the way I conduct myself and the example I set?

Do I listen and understand the views of others?

Do I question and confront different points of view in a constructive manner?

Do I work to resolve differences and come to mutual agreement?

Do I support others and show respect for their ideas?

Will my conduct cause public embarrassment to someone else?

Glossary of Terms

Attitude	The manner in which one shows one's dispositions, opinions, and feelings
Behavior	External appearance or action; manner of behaving; carriage of oneself
Civility	Politeness, consideration, courtesy
Conduct	The way one acts; personal behavior
Courtesy	Politeness connected with kindness
Decorum	Suitable; proper; good taste in behavior
Manners	A way of acting; a style, method, or form; the way in which things are done
Point of Order	An interruption of a meeting to question whether rules or bylaws are being broken, such as the speaker has strayed from the motion currently under consideration
Point of Personal Privilege	A challenge to a speaker to defend or apologize for comments that a fellow Board Member considers offensive
Propriety	Conforming to acceptable standards of behavior
Protocol	The courtesies that are established as proper and correct
Respect	The act of noticing with attention; holding in esteem; courteous regard

DRAFT**CITY OF TRACY****CITY COUNCIL COMMUNICATIONS POLICY****I. COMMUNICATIONS TO THE CITY COUNCIL****A. Distribution of Communications****1. Email****a. To the City Council**

Individuals can communicate electronically with the City Council by sending an email to the general City Council email address (council@ci.tracy.ca.us) or through the City's Governmental Outreach website (<http://user.govoutreach.com/tracy/>). When the City receives an email communication directed to the "City Council," City staff will forward it to each City Council Member's email address and a copy will be sent to the City Manager's and City Attorney's email addresses. If the email pertains to City business, the City Manager will respond to it and copy the City Council with the response.

b. To the Mayor or Individual City Council Members

When the City receives email addressed to the Mayor or an individual City Council Member, City staff will forward it to the Mayor's or individual City Council's email address and will send a copy to the City Manager's email address.

2. Regular Mail**a. To the City Council**

When the City receives regular mail (via United States Postal Service or other delivery) directed to the "City Council," City staff will copy it and place it in each City Council Member's mail box, or scan it and electronically send to each City Council Member's email address, and send copies to the City Manager and City Attorney. If the mail pertains to City business, the City Manager will respond to it and copy the City Council with the response.

b. To the Mayor or Individual City Council Members

When the City receives regular mail addressed to the Mayor or an individual City Council Member, City staff will open the letter, date stamp it, copy it, and place it in the

Mayor's or individual City Council Member's mail box. If the mail is marked "confidential," a copy will be placed in a confidential file and will only be subject to inspection and copying by the public to the extent required by the California Public Records Act. (Government Code, §§6250-6276.48.) Please note that the label "confidential" does not necessarily mean that the mail is exempt from disclosure under the California Public Records Act.

B. Communications Regarding Performance of Staff

When the City receives an email or letter addressed to the City Council or City staff regarding the performance of staff, staff will take the following steps:

1. City Employees Except For Police Officers

If the communication relates to the performance of the City Attorney or City Manager, staff will either forward it to each City Council Member's email address (if it is received by email) or copy it and place it in each City Council Members' mail box (if it is received by regular mail). Staff will then send a response back to the sender either by email or regular mail containing the following information: "Your [email or letter] has been forwarded to the City Council. However, to the extent your [email or letter] relates to the performance of a City employee, City Council Members are limited in responding to you about it, as personnel matters are generally considered to be confidential."

If the communication relates to the performance of any other employee, staff will either forward it to the City Manager's email address (if it is received by email) or send a copy of it to the City Manager (if it is received by regular mail). Staff will then send a response back to the sender either by email or regular mail containing the following explanation: "Your [email or letter] has been received by the City. However, to the extent your [email or letter] relates to the performance of a City employee, the City is limited in responding to you about it, as personnel matters are generally considered to be confidential."

2. Police Officers

If the communication relates to the performance of the Police Chief, Police command staff, or a Police officer, staff shall forward the communication to the Police Department. The Police Department will then process the communication in accordance with state law and the Department's Personnel Complaint Procedure.

C. Retention of Communications

All communications addressed to the City Council, Mayor, or an individual City Council Member, that the City receives, will be retained in accordance with the City's Records Retention Policy.

II. COMMUNICATIONS FROM THE CITY COUNCIL

A. Representing an Official Position of the City

A person elected to the City Council occupies two roles: as a member of a body elected to represent the City in its entirety and as a private resident of the City. Although the second role is not relinquished when the first role is assumed, it is important to distinguish between the two roles at all times and, when communicating, to clarify which role is communicating.

Therefore, City Council Members should make it clear in all verbal and written communications that they are expressing their own personal opinions and not necessarily those of the City Council, unless the City Council has taken formal action expressing its opinion on a matter.

When a City Council Member speaks to groups or is asked the City Council's position on an issue, the response should reflect the position of the City Council as a body. Of course, a City Council Member may clarify his or her vote on a matter by stating, for example, "Although I voted against "X", the City Council voted in support of it." When representing the City at meetings or other venues, it is important that those in attendance gain an understanding of the City Council's position as a whole rather than only the individual City Council Member's position.

B. Use of City Letterhead

Only the Mayor (and City staff) may use City letterhead, unless otherwise directed by City Council motion. When the Mayor uses City letterhead, it should generally be for transmitting the City's position on policy matters to outside agencies on behalf of the City Council. Staff can assist in the preparation of such letters. All letters sent on behalf of the City Council will be copied and placed in each City Council Member's mail box and a copy will be sent to the City Manager.

C. Use of Other City Resources

City Council Members may only use City resources, including business cards, printers, copiers, paper, City-owned computers and iPads, to conduct City business. Such resources may not be used for personal or political purposes. The only exception to this limitation is for "incidental and minimal use of public resources, such as equipment or office space, for personal purposes, including an occasional telephone call." (Government Code, § 8314(b)(2).)

D. Ceremonial Documents

The City Council has established procedures for considering requests for proclamations, certificates of recognition, commendation and/or appreciation and letters of

congratulations from any group or individual. (See Resolution No. 2010-059 establishing standard procedures for issuing ceremonial documents.)

E. State Legislation

The City Council has delegated to the City Manager the authority to monitor, review, evaluate and make recommendations, when appropriate, on state or federal legislative and regulatory trends and judicial developments. For those matters that the City Manager deems sufficiently important, and that require a prompt response, the City Manager has authority to coordinate all efforts to communicate the City's views on policy issues to any branch of government at any level. In furtherance of this, the City Manager may draft proposed position papers or letters for the Mayor's signature on behalf of the City. (See Resolution No. 2004-208 establishing a legislative response policy.)

F. Confidential Communications

All written materials and verbal information provided to City Council Members on matters that are confidential under state law shall be kept in complete confidence to ensure that the City's position is not compromised. No disclosure or mention of information in these materials may be made to anyone other than City Council Members, the City Attorney or the City Manager (and staff, outside legal counsel or consultants who may be present in a closed session during which such information is discussed).

G. Attorney-Client Communications

The attorney-client relationship is not always in effect when an individual City Council Member communicates with the City Attorney. The City Attorney only has an attorney-client relationship with the City acting through the entire City Council as a body. Therefore, to the extent an individual City Council Member communicates with the City Attorney, the communication may not be considered confidential.

H. Public Records Act

Correspondence from City Council Members prepared using City resources (including City-owned computers and iPads), or received by City staff, is a public record pursuant to the California Public Records Act and, unless expressly exempt from disclosure, is subject to inspection and copying by the public. (Government Code, §§6250-6276.48.)

III. COMMUNICATIONS BETWEEN CITY COUNCIL MEMBERS

City Council Members are subject to the state's open meeting law – the Brown Act. (Government Code, §§54950-54963.) The Brown Act specifically prohibits “any use of direct communication, personal intermediaries, or technological devices that is employed by a majority of the members of the legislative body to develop a collective concurrence as to action to be taken on an item by the members of the legislative body.” (Government

Code, §54952.2(b.) Therefore, particular care should be taken when City Council Members are communicating with one another to ensure that they are complying with the Brown Act.

To avoid potential Brown Act violations, when sending emails to the City Council, City staff will only send blind copies (“bcc”), so City Council Members cannot “respond to all.”

DRAFT

RESOLUTION 2004-208

ESTABLISHING A LEGISLATIVE RESPONSE POLICY

WHEREAS, Oftentimes legislation moves forward rapidly and the City of Tracy ("City") needs to communicate quickly as to whether it supports or opposes the proposed legislation and the City wishes to advocate its position when the outcome of the legislation could have an effect on the liability of cities, the power of cities or govern or tax, or the ability of cities to conduct and manage the affairs of government in an orderly and efficient manner, and

WHEREAS, The purpose of this legislative response policy is to enhance the advocacy efforts on behalf of the City by providing a protocol for responding to legislative bills, actions and/or state, federal or judicial developments and measures that directly or indirectly affect the City.

NOW, THEREFORE, the Tracy City Council hereby resolves as follows:

SECTION 1. The following legislative response policy for the City of Tracy is hereby established.

A. Purpose of Policy

Oftentimes legislation moves forward rapidly and the City of Tracy ("City") needs to communicate quickly as to whether it supports or opposes the proposed legislation. The City wishes to advocate its position when the outcome of the legislation could have an effect on the liability of cities, the power of cities or govern or tax, or the ability of cities to conduct and manage the affairs of government in an orderly and efficient manner. Because the timing of legislation often prohibits the City from participating because there is insufficient time to submit a request to the City Council ("Council") at a regularly scheduled meeting it would be more efficient to authorize the City Manager ("Manager") to communicate the City's position using a Council-adopted policy. The purpose of establishing a policy is to enhance the advocacy efforts on behalf of the City by providing a protocol for responding to legislative bills, actions and/or state, federal or judicial developments and measures that directly or indirectly affect the City. The purpose in doing so is to strengthen and protect local control for the City, expeditiously engage in issues with affect on the City, and support, strengthen and protect the quality of life for all citizens of our community.

B. Delegation to City Manager

While the Council is responsible for the overall supervision, control and direction of the policy, the Council may delegate the management of the City's efforts with regard to legislative affairs provided the Council retains ultimate responsibility for the decisions and actions of such person or group. The Manager, with input from Department Heads and their respective professional organizations (such as California Park and Recreation Society, National Recreation and Park Association, Cal Chiefs, and the California Society of Municipal Finance Officers), shall monitor, review, evaluate and make recommendations when appropriate on state or federal legislative and regulatory trends and judicial developments. For those matters that the Manager deems sufficiently important and determines that a prompt response is necessary, the Manager has authority to coordinate all efforts to respond or otherwise communicate the City's views on policy issues to any branch of government at any level. In furtherance of this goal, the Manager may draft proposed resolutions, position papers, or letters, for the Mayor's signature, on behalf of the City. In

addition, the Manager, in consultation with the League of California Cities ("League") and its Grass Roots Coordinator ("GRC") may prepare testimony, letters or otherwise communicate the Council/City's views consistent with previous policy and actions to appropriate governmental bodies and other interested groups and shall keep the Council informed of all such efforts. The Manager will be responsible for coordinating city efforts and promoting the City's policy priorities to other government entities. In determining whether the City desires to communicate support or opposition to proposed legislation the City shall consider the Existing Policy and Guiding Principles, and position on such legislation, adopted by the Board of Directors of the League.


C. City Council Information

If the Manager determines that the proposed legislation should be presented to Council for discussion, the Manager shall schedule the item for a Council agenda. All written communications regarding City positions on legislation, including the reasons for those actions, shall be copied to the Council.

SECTION 2. This resolution shall take effect immediately.

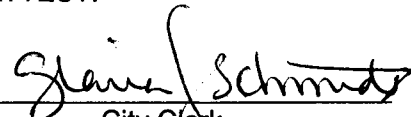
The foregoing Resolution 2004-208 was passed and adopted by the Tracy City Council on the 6th day of July, 2004, by the following vote:

AYES: COUNCIL MEMBERS: HUFFMAN, IVES, TOLBERT, TUCKER, BILBREY
NOES: COUNCIL MEMBERS: NONE
ABSENT: COUNCIL MEMBERS: NONE
ABSTAIN: COUNCIL MEMBERS: NONE



Mayor

ATTEST:



City Clerk

RESOLUTION 2010-059

ADOPTING STANDARD PROCEDURES FOR ISSUING
CEREMONIAL DOCUMENTS

WHEREAS, The City of Tracy periodically receives requests to issue Proclamations in recognition of national and local events, Certificates of Recognition and Commendation for accomplishments and achievements attained by individuals and groups, and Certificates of Appreciation and Letters of Congratulation for contributions and achievements; and

WHEREAS, previously, the City has addressed these types of requests based on past precedent; and

NOW, THEREFORE, BE IT RESOLVED, that Exhibit A (attached) establishes criteria to be used in issuing Proclamations, Certificates of Recognition and Commendation, Certificates of Appreciation and Letters of Congratulation on behalf of the City of Tracy.


The foregoing Resolution 2010-059 was passed and adopted by the Tracy City Council on the 4th day of May, 2010, by the following vote.

AYES: COUNCIL MEMBERS: ABERCROMBIE, MACIEL, TOLBERT, TUCKER, IVES

NOES: COUNCIL MEMBERS: NONE

ABSENT: COUNCIL MEMBERS: NONE

ABSTAIN: COUNCIL MEMBERS: NONE



Mayor

ATTEST:



City Clerk

**STANDARD PROCEDURES FOR ISSUING CEREMONIAL DOCUMENTS
(Exhibit "A" to Resolution 2010- 059)**

Applicability

This policy applies to all ceremonial documents, and other forms of recognition issued by the City of Tracy.

Policy Statement

The procedures outlined in this policy are intended to establish guidelines for issuing formal recognition in support of a particular event, program or cause, or recognition of a particular individual or group.

The policy prohibits the City of Tracy from advancing any particular religion or from advancing religion generally but shall not be construed so as to limit the free exercise of religion or to allow the City to treat a religious organization differently than a similarly situated non-religious organization.

Requests for Recognition

The City of Tracy will consider requests for proclamations, certificates of recognition, commendation and/or appreciation and letters of congratulations from any group or individual. The request should have local or regional appeal and promote activities taking place in the City. Requests for proclamations should include a sample proclamation.

All requests are subject to approval by the Mayor or his/her designee, and only one ceremonial document will be issued per event.

Types of Recognition

1. Proclamations may be issued to recognize:

- National events with widespread community interest or concern
- Significant local, county or state activities which promote the health, welfare and heritage of the community, with an emphasis on events which support the City Council's goals and objectives
- Commemorative events
- Civic celebrations

2. Certificates of Recognition may be issued to recognize:

- Exceptional accomplishments attained by local groups, businesses, civic organizations or individuals
- Individuals or groups who have made significant contributions to the community
- Outstanding achievements or contributions by non-profit organizations

3. Certificates of Commendation may be issued for:

- Acts of Heroism
- School or sport groups' achievements

4. Certificates of Appreciation may be issued for:

- Monetary donations
- In-kind contributions
- Cultural contributions
- Volunteer efforts

5. Letters of Congratulations may be issued for:

- Eagle Scout achievements
- Significant birthdays, anniversaries or retirements
- Significant anniversaries of City based institutions, corporations, community partners and non-profit organizations

Other Types of Presentations

The City Manager, or his/her designee, will have the authority to authorize employee awards including Employee of the Month, Employee/Police Officer/Firefighter of the Year, etc.

Certificates of Appointment (or reappointment) will be presented to incoming Board and/or Commission members, and Certificates of Recognition will be presented to outgoing members. Public officials will be presented with Certificates of Election upon appointment, and with plaques recognizing their years of service to the community at their final Council meeting.

The Mayor and Council Members may request acknowledgments in accordance with the guidelines. To expedite requests, proclamations, certificates and letters will be signed by the Mayor or his/her designee, but will be issued on behalf of the City Council.

The City also, on occasion, will issue other types of formal recognition including plaques, Keys to the City, etc., as determined by the issuing official. The City Manager, or his/her designee will be responsible for coordinating these presentations.

Submitting Requests

Requests for recognition should be sent to: City of Tracy, Attn: Mayor/Ceremonial Documents, 333 Civic Center Plaza, Tracy, 95376, at least 30 days prior to the requested date of recognition. Requests must include the name and daytime phone number of the contact person.

All requests will be subjected to a review and approval process. The City Manager, or his/her designee, reserves the right to determine the type of document to be issued based on the information provided by the requesting party. Submission of a request does not guarantee the issuance of a ceremonial document.

Please specify whether the document should be mailed, held for pick-up or presented at a special event. Documents will be presented at special events pending the availability of the Mayor, his/her designee, or other city official. The City Manager, or his/her designee, will determine the timing of presentations at specific City Council meetings based on the length of the agenda and the availability of the Mayor or his/her designee.

January 21, 2014

AGENDA ITEM 7

REQUEST

SECOND READING AND ADOPTION OF ORDINANCE 1190 AN ORDINANCE OF THE CITY OF TRACY AMENDING THE EASTLAKE PLANNED UNIT DEVELOPMENT TO REMOVE A FIVE-ACRE SITE PREVIOUSLY DESIGNATED FOR A SCHOOL, AMENDING THE ELISSAGARAY RANCH PLANNED UNIT DEVELOPMENT TO REMOVE A FIVE-ACRE SITE PREVIOUSLY DESIGNATED FOR A SCHOOL, AND CREATING A NEW PLANNED UNIT DEVELOPMENT FOR THE TOTAL TEN-ACRE SITE KNOWN AS THE ELISSAGARAY INFILL PLANNED UNIT DEVELOPMENT. THE PROJECT IS LOCATED ON DOMINIQUE DRIVE BETWEEN EASTLAKE CIRCLE AND BASQUE DRIVE, ASSESSOR'S PARCEL NUMBERS 252-050-24 AND 252-260-01. THE APPLICANT AND PROPERTY OWNER IS TVC TRACY HOLDCO, LLC. APPLICATION NUMBER PUD12-0003

EXECUTIVE SUMMARY

Ordinance 1190 was introduced at the Council meeting held on January 7, 2014. Ordinance 1190 is before Council for a second reading and adoption.

DISCUSSION

Ordinance 1190 was introduced at the Council meeting held on January 7, 2014, to amend the Eastlake and Elissagaray Ranch Planned Unit Developments (PUD). Proposed Ordinance 1190 will remove the 5.02-gross acre site designated as school from the Eastlake PUD - Assessor's Parcel Number 252-050-24, and the 5.02-gross acre site designated for school from the Elissagaray Ranch PUD – Assessor's Parcel Number 252-260-01. Proposed Ordinance 1190 will also approve the Concept Development Plan for the Elissagaray Infill Planned Unit Development located on the 10.04-gross acre property located on Dominique Drive between Eastlake Circle and Basque Drive. Prior to this proposed amendment, the site was identified for a public school within the Tracy Unified School District (TUSD). According to TUSD, a school is no longer needed at that location. The applicant and property owner is TVC Tracy Holdco, LLC. – Application Number PUD12-0003.

Ordinance 1190 is before Council for a second reading and adoption.

STRATEGIC PLAN

This agenda item does not relate to the Council's four strategic plans.

FISCAL IMPACT

None.

RECOMMENDATION

That Council adopt Ordinance 1190 following its second reading.

Prepared by: Adrienne Richardson, Deputy City Clerk
Reviewed by: Sandra Edwards, City Clerk

Approved by: R. Leon Churchill, Jr., City Manager

ATTACHMENTS:

Attachment A – Ordinance 1190

ORDINANCE 1190

AN ORDINANCE OF THE CITY OF TRACY AMENDING THE EASTLAKE PLANNED UNIT DEVELOPMENT TO REMOVE A FIVE-ACRE SITE PREVIOUSLY DESIGNATED FOR A SCHOOL, AMENDING THE ELISSAGARAY RANCH PLANNED UNIT DEVELOPMENT TO REMOVE A FIVE-ACRE SITE PREVIOUSLY DESIGNATED FOR A SCHOOL, AND CREATING A NEW PLANNED UNIT DEVELOPMENT FOR THE TOTAL TEN-ACRE SITE KNOWN AS THE ELISSAGARAY INFILL PLANNED UNIT DEVELOPMENT. THE PROJECT IS LOCATED ON DOMINIQUE DRIVE BETWEEN EASTLAKE CIRCLE AND BASQUE DRIVE, ASSESSOR'S PARCEL NUMBERS 252-050-24 AND 252-260-01. THE APPLICANT AND PROPERTY OWNER IS TVC TRACY HOLDCO, LLC. APPLICATION NUMBER PUD12-0003

The City Council of Tracy does hereby ordain as follows:

SECTION 1: The 5.02-gross acre site designated as a school, Assessor's Parcel Number 252-050-24, is removed from the Eastlake Planned Unit Development.

The 5.02-gross acre site designated as a school, Assessor's Parcel Number 252-260-01, is removed from the Elissagaray Ranch Planned Unit Development.

The Concept Development Plan for the Elissagaray Infill Planned Unit Development located on the 10.04-gross acre property located on Dominique Drive between Eastlake Circle and Basque Drive is approved as discussed and conditioned in the City Council staff report and its attachments.

SECTION 2: This Ordinance shall take effect thirty (30) days after its final passage and adoption.

SECTION 3: This Ordinance shall be published once in the Tri-Valley Herald, a newspaper of general circulation, within fifteen (15) days from and after its final passage and adoption.

* * * * *

The foregoing Ordinance 1190 was introduced at a regular meeting of the Tracy City Council on the 7th day of January, 2014, and finally adopted on the _____ day of _____, by the following vote:

- AYES: COUNCIL MEMBERS:
- NOES: COUNCIL MEMBERS:
- ABSENT: COUNCIL MEMBERS:
- ABSTAIN: COUNCIL MEMBERS:

MAYOR

ATTEST:

CITY CLERK

January 21, 2014

AGENDA ITEM 8

REQUEST

SECOND READING AND ADOPTION OF ORDINANCE 1191 AN ORDINANCE OF THE CITY OF TRACY, AMENDING SECTION 3.08.580, OF CHAPTER 3.08 (TRAFFIC REGULATIONS) OF TITLE 3 (PUBLIC SAFETY) OF THE TRACY MUNICIPAL CODE

EXECUTIVE SUMMARY

Ordinance 1191 was introduced at the Council meeting held on January 7, 2014. Ordinance 1191 is before Council for a second reading and adoption.

DISCUSSION

Ordinance 1191 was introduced at the Council meeting held on January 7, 2014, to amend Section 3.08.580 of Chapter 3.08 (Traffic Regulations) of Title 3 (Public Safety) of the Tracy Municipal Code. The California Vehicle Code Section 40803 requires that in order to legally use radar equipment for speed enforcement, an engineering and traffic survey must be completed every five years to establish posted speeds. In October 2013, the Engineering Division completed an engineering and traffic survey on 37 segments of arterial and collector streets. The amendments to Section 3.08.580 of Chapter 3.08 of Title 3 will change some previously established Declared Prima Facie Speed Limits (Miles per Hour) and add new Prima Facie Speed Limits, to certain streets.

Ordinance 1191 is before Council for a second reading and adoption

STRATEGIC PLAN

This agenda item does not relate to the Council's four strategic plans.

FISCAL IMPACT

None.

RECOMMENDATION

That Council adopt Ordinance 1191 following its second reading.

Prepared by: Adrienne Richardson, Deputy City Clerk
Reviewed by: Sandra Edwards, City Clerk
Approved by: R. Leon Churchill, Jr., City Manager

ATTACHMENTS:

Attachment A – Ordinance 1191

ORDINANCE 1191

AN ORDINANCE OF THE CITY OF TRACY, AMENDING SECTION 3.08.580, OF
CHAPTER 3.08 (TRAFFIC REGULATIONS) OF TITLE 3 (PUBLIC SAFETY) OF THE
TRACY MUNICIPAL CODE

WHEREAS, The use of radar equipment is one of the most effective tools for enforcing speed limits and traffic safety on City streets, and

WHEREAS, Subsection (c) of California Vehicle Code section 40803 provides that evidence of conducting a speed zone survey within the last five years to establish the prima facie speed for a local street or road shall constitute a prima facie case that such local street or road is not a speed trap for the purposes of radar enforcement, and

WHEREAS, City staff completed an Engineering and Traffic survey in October 2013, and

WHEREAS, The survey shows that the declared prima facie speed limits are still accurate for the majority of the City's streets and roads, and

WHEREAS, The survey shows that certain street portions require a change in the declared prima facie speed limits as set forth below, and

NOW THEREFORE, The City Council of the City of Tracy, does ordain as follows:

SECTION 1: Amended Section. Section 3.08.580 of Chapter 3.08 of Title 3 of the Tracy Municipal Code is hereby amended to change the previously established Declared Prima Facie Speed Limit (Miles per Hour) for the below described Portions of Streets:

Name of Street or Portion Affected	Declared Prima Facie Speed Limit (Miles per Hour)
- Lammers Road Eleventh Street to City Limits south of Jaguar Run	45
- MacArthur Drive Valpico Road to Schulte Road	40

SECTION 2: Remaining sections. Except as herein amended, the remaining sections of the Tracy Municipal Code, including the Declared Prima Facie Speed Limit (Miles per Hour) for the Portions of Streets not set forth above, shall remain in full force and effect.

SECTION 3: Title, chapter, and section headings. Title, chapter, and section headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning or intent of the provisions of any title, chapter, or section hereof.

SECTION 4: Constitutionality. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 5: Effective date. This Ordinance shall take effect thirty days after its final passage and adoption.

SECTION 7: Publication. This Ordinance shall be published once in the Tri Valley Times, a newspaper of general circulation, within fifteen days from and after its final passage and adoption.

* * * * *

The foregoing Ordinance 1191 was introduced at a regular meeting of the Tracy City Council on the 7th day of January, 2014, and finally adopted on the 21st day of January, 2014, by the following vote:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:

MAYOR

ATTEST:

CITY CLERK

January 21, 2014

AGENDA ITEM 10.A

REQUEST

RECEIVE AND ACCEPT THE CITY MANAGER INFORMATIONAL UPDATE

EXECUTIVE SUMMARY

This agenda item will update the Council on newsworthy events.

DISCUSSION

The City Manager will provide Council with an informational report on various items, including upcoming special events, status on key projects, or other items of interest in an effort to keep Council, staff, and residents abreast of newsworthy events.

STRATEGIC PLAN

This agenda item does not relate to the Council's strategic plans.

FISCAL IMPACT

There is no fiscal impact with this informational item.

RECOMMENDATION

That Council receive and accept the City Manager's informational update.

Prepared by: R. Leon Churchill, Jr., City Manager

Reviewed by: R. Leon Churchill, Jr., City Manager

Approved by: R. Leon Churchill, Jr., City Manager

AGENDA ITEM 11.A.

REQUEST

APPOINT APPLICANTS TO THE PARKS AND COMMUNITY SERVICES COMMISSION

EXECUTIVE SUMMARY

There are currently three vacancies due to term expirations on the Parks and Community Services Commission. A recruitment was conducted and appointments need to be made.

DISCUSSION

There are currently three vacancies on the Parks and Community Services Commission due to term expirations. To fill the vacancies the City Clerk's office opened a recruitment on December 9, 2013, during which time three applications were received. As stated in Resolution 2004-152, in the event there are not two or more applicants than vacancies, the filing deadline will be extended. The recruitment was extended and closed on January 9, 2014. The City Clerk's office received a total of 18 applications during the recruitment period.

On January 15 and 17, 2014, a Council subcommittee consisting of Mayor Pro Tem Maciel and Council Member Manne interviewed the applicants. In accordance with Resolution 2004-152, the Council subcommittee will recommend applicants for appointment to serve four year terms, which will begin on January 22, 2014, and end on January 1, 2018.

STRATEGIC PLAN

This item is a routine operational item and does not relate to any of the Council's strategic plans.

FISCAL IMPACT

None.

RECOMMENDATION

That Council approves the subcommittee's recommendation and appoints three applicants to the Parks and Community Services Commission to serve four year terms which will expire on January 1, 2018.

Prepared by: Adrienne Richardson, Deputy City Clerk

Reviewed by: Sandra Edwards, City Clerk
Maria A. Hurtado, Assistant City Manager

Approved by: R. Leon Churchill, Jr., City Manager

AGENDA ITEM 11.B

REQUEST

REVIEW APPOINTMENTS TO COUNCIL COMMITTEES

EXECUTIVE SUMMARY

Annual review of Council committees.

DISCUSSION

Appointments to Council subcommittees are reviewed on an annual basis. The appointments were last reviewed on January 15, 2013. Attached is the list of appointments approved by the Council for 2013 (Exhibit A).

Some committees may need to be deleted from the list if they are no longer active or if Council participation is no longer required. Likewise, active committees not on the list may need to be added. Council members may be reappointed to the same committees on which they are currently serving, or new assignments can be made upon request.

STRATEGIC PLAN

This agenda item is a routine operational item and does not relate to the Council's Strategic Plans.

FISCAL IMPACT

None.

RECOMMENDATION

That the City Council, by motion, deletes or adds to the attached list of committees, and make appointments to the remaining committees as appropriate.

Prepared by: Sandra Edwards, City Clerk

Reviewed by: Maria A. Hurtado, Assistant City Manager

Approved by: R. Leon Churchill, Jr., City Manager

ATTACHMENTS:

Attachments: Exhibit A - List of Council Appointments for 2013

2013 - COUNCIL COMMITTEES/COMMISSIONS

Committee/Commission	Meetings Held	Council Members
City/Chamber Liaison	Quarterly	Mayor Ives Council Member Young
City/Schools Liaison	Every other month	Council Member Rickman Mayor Pro Tem Maciel
Investment Review Committee	Quarterly	Council Member Manne Mayor Pro Tem Maciel
South County Fire Authority	Quarterly	Mayor Pro Tem Maciel Council Member Rickman
*Tracy Area Public Facilities Financing Agency	As needed, with an annual meeting in May	Council Member Manne Council Member Young
**City Selection Committee	Annually, additional meetings as needed	Mayor Ives Mayor Pro Tem Maciel - Alternate
**Community Development Block Grant Policy Advisory Committee	As needed, in conjunction with the distribution of the CDBG grants.	As needed
**Council of Governments	Monthly, in Stockton at 5:30 p.m. on the fourth Thursday of the month.	Mayor Ives Mayor Pro Tem Maciel - Alternate
**Duel Vocational Institution, Advisory Committee	Alternate Months	Mayor Pro Tem Maciel
**San Joaquin County Water Advisory Commission	Monthly	Mayor Ives, Alternate
**San Joaquin Partnership	Monthly, on the fourth Thursday of each month	Mayor Ives Mayor Pro Tem Maciel - Alternate
**San Joaquin Regional Rail Commission	Monthly	Mayor Ives
**Solid Waste Management Plan Advisory Task Force	As needed	Council Member Young
**Special City Selection Committee, SJVAPCD	As needed	Council Member Manne Mayor Pro Tem Maciel -Alternate
**League of California Cities, Central Valley Division Executive Committee	Quarterly	Mayor Pro Tem Maciel
***Oversight Board of the Successor Agency to the City of Tracy Community Development Agency	First Tuesday of Each Month at 3:30 p.m.	Mayor Pro Tem Maciel Mayor Ives - Alternate
Joint City/County Criminal Justice Task Force (Appointed at 08/20/2013 Council Meeting)	As needed	Mayor Pro Tem Maciel Council Member Rickman Charles Manne (Alternate)

*Ad Hoc Committee **Outside Agencies

COUNCIL COMMITTEES - 2013

Following is a current list of both standing committees and ad hoc committees. Some of these appointments are City of Tracy appointments to a larger body, while others are City directed activities only.

I. **STANDING COMMITTEES**

A. **City/Chamber Liaison Committee**

1. Brent H. Ives, Mayor
2. Nancy Young, Council Member
3. R. Leon Churchill, Jr., City Manager

Meets quarterly typically on the third Monday of the designated month at 5:00 p.m. at the Chamber to discuss issues of concern to both the City and the Chamber, i.e. Fourth of July activities, Downtown activities, Bean Festival, etc.

B. **City/Schools Liaison Committee**

1. Michael Maciel, Mayor Pro Tem
2. Robert Rickman, Council Member
3. R. Leon Churchill, Jr., City Manager
4. Police Chief Hampton
5. Kuldeep Sharma, City Engineer
6. Andrew Malik, Director of Development and Engineering Services
7. Maria Hurtado, Assistant City Manager

Meets every other month with School District officials to discuss issues of mutual concern, i.e. school pedestrian routes, bus routes, facilities, crossing guards, etc.

C. **Community Access Committee – (Disbanded by Council - City Council meeting 03/06/07)**

D. **Economic Development Committee (Disbanded by Resolution 2007-207 – City Council meeting 8/21/07)**

E. Investment Review Committee

1. Charles Manne, Council Member
2. Michael Maciel, Mayor Pro Tem
3. Ray McCray, Treasurer
4. Jenny Haruyama, Administrative Services Department Director
5. R. Leon Churchill, Jr., City Manager

Meets on a quarterly basis to address issues involving investment of the City's funds and management of the City's portfolio. Meetings are usually held on the last Monday of the quarter at 5:30 p.m. in Room 109 at City Hall.

F. South County Fire Authority (SCFA)

1. Michael Maciel, Mayor Pro Tem
2. Robert Rickman, Council Member
3. Alternate

The SCFA consists of four members - two Council Members appointed annually by the City Council, and two Board Members of the Tracy Rural Fire Protection District appointed annually by the Board. The Board of Directors meets on a quarterly basis, and has the responsibility to manage and administer the fire protection services provided to the jurisdictional area of the South County Fire Authority.

G. Tracy Tomorrow and Beyond (Disbanded by Resolution 2007-081 – City Council meeting 5/1/07)

II. AD HOC COMMITTEES

A. Downtown Revitalization Task Force – (Disbanded by Council - City Council meeting 01/06/09)

B. Community Park Design Subcommittee (Disbanded by Council - City Council meeting 01/02/07)

C. Tracy Area Public Facilities Financing Agency (TAPFFA)

1. Charles Manne, Council Member
2. Nancy Young, Council Member
3. Jenny Haruyama, Administrative Services Department Director

TAPFFA was formed as a Joint Power Authority between the City, Tracy School District, and Jefferson School District. The JPA was authorized to issue Mello-Roos bonds primarily to build new schools in the Residential Specific Plan area. With the ultimate build out of the TAPFFA area usually only a brief annual meeting of the TAPFFA Board of Directors is necessary in order to approve the

budget and levy the necessary tax for the duration of the bonds. The annual meeting is normally held in May.

III. THIRD AGENCY MEMBER APPOINTMENTS

A. City Selection Committee

1. Brent H. Ives, Mayor
2. Michael Maciel, Mayor Pro Tem - Alternate

This committee is composed of the Mayors of the cities in San Joaquin County and addresses issues related to membership and appointments to regional boards, such as LAFCO, Delta Protection Agency, and the San Joaquin Valley Unified Air Pollution Control District, etc.

B. Community Development Block Grant Policy Advisory Committee

- 1.

Meets as needed in conjunction with the distribution of the CDBG grants.

C. Council of Governments (COG)

1. Brent H. Ives, Mayor
2. Michael Maciel, Mayor Pro Tem (Alternate)

The Council of Governments meets monthly and deals with regional issues, including transportation issues, habitat mitigation, regional rail issues, airport land use matters, etc. Meetings are held in Stockton at 5:30 p.m. on the fourth Thursday of the month.

D. Deuel Vocational Institution, Citizens Advisory Committee

Contact: Martina Virrey, Community Partnership Manager (209/830-3891)
or martina.virrey@cdcr.ca.gov

1. Michael Maciel, Mayor Pro Tem

This subcommittee serves in an advisory capacity to Deuel Vocational Institution, a state prison located to the southeast of Tracy. The subcommittee's primary objective is to promote effective communication between the Institution and the community at large. California Penal Code Section 5056 requires two persons shall be appointed for two year terms from nominations submitted by the local City Council in whose district the prison is located. Individuals nominated may be elected officials or involved residents of the City. Meetings are normally held on the second Thursday of odd numbered months from 9:00 a.m. to 10:00 a.m.

E. Local Transportation Authority Citizens Advisory Committee
(COG) Contact: COG (468-3913)

1. Vacant (Citizen appointed by Mayor)

F. San Joaquin County Library Task Force – (Disbanded by Council - City Council meeting 01/06/09)

G. San Joaquin County Water Advisory Commission

Contact: Mel Lytle, San Joaquin County Public Works Dept. (468-3000)

1. David Ferguson, Director of Public Works
2. Brent H. Ives, Mayor (Alternate)

Appointed by the Board of Supervisors, this Commission acts in an advisory capacity to the San Joaquin County Flood Control and Water Conservation District. Consists of 22 members from the various cities and water agencies in San Joaquin County. Meets monthly.

H. San Joaquin Partnership

Contact: Chris Youngsma, (956-3380)

1. Brent H. Ives, Mayor
2. Michael Maciel, Mayor Pro Tem (Alternate)

The San Joaquin Partnership is a non-profit, private-public economic development corporation assisting business and industry to locate into San Joaquin County. Meets on the fourth Thursday of each month.

I. San Joaquin Regional Rail Commission

Contact: Rail Commission staff (468-3025)

1. Brent H. Ives, Mayor

The San Joaquin Regional Rail Commission oversees the development of rail services on a regional basis. Meets monthly.

J. Solid Waste Management Plan Advisory Task Force

Contact: Tom Horton, SJC Public Works Department – (209/468-3066)

1. Nancy Young, Council Member
2. David Ferguson, Director of Public Works

This task force is comprised of elected representatives of the governmental agencies responsible for preparing the County Integrated Waste Management Plan. The duties of the task force include: identifying solid waste management issues of County-wide or regional concern; facilitating the development of multi-jurisdictional arrangements for the marketing of recyclable materials; developing goals, policies and procedures consistent with guidelines and regulations adopted by the

Department of Resources Recycling and Recovery, and advising the Board of Supervisors on matters pertaining to the County-wide Household Hazardous Waste Program. Meets as needed.

K. Special City Selection Committee, SJVAPCD

Contact: Sayed Sadredin, Executive Director – (559/230-6036)

1. Michael Maciel, Mayor Pro Tem
2. Charles Manne, Council Member (Alternate)

The Committee is charged with making appointments of city representatives to the San Joaquin Valley Air Pollution Control District's Governing Board.

L. League of California Cities, Central Valley Division Executive Committee

1. Michael Maciel, Mayor Pro Tem

Meets Quarterly

M. Oversight Board of the Successor Agency to the City of Tracy Community Development Agency

1. Michael Maciel, Mayor Pro Tem
2. Brent Ives, Mayor (Alternate)

Meets on the first Tuesday of each month at 3:30 p.m.

N. Joint City/County Criminal Justice Task Force

1. Michael Maciel, Mayor Pro Tem
2. Robert Rickman, Council Member
3. Charles Manne, Council Member (Alternate)

Meets when needed.