



CITY OF COACHELLA

CITY COUNCIL

POLICIES, RULES AND PROCEDURES

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CITY OF COACHELLA

CITY COUNCIL

POLICIES, RULES AND PROCEDURES

1.0 MAYOR-ELECT AND COUNCIL-MEMBERS ELECT

1.1 Ralph M. Brown Act

- Any person elected to serve as the Mayor or a Council Member who has not yet assumed the duties of the subject office shall conform his or her conduct to the regulations of the Ralph M. Brown Act (the "Brown Act") and such persons shall be treated for purposes of enforcement of the Brown Act as if he or she has already assumed office.

1.2 Copy of Ralph M. Brown Act

Any person elected to serve as the Mayor or a Council Member who has not yet assumed the duties of the subject office shall be provided a copy of the Brown Act.

2.0 OPEN AND PUBLIC MEETINGS

2.1 Majority of the City Council

- Any congregation of a majority of the City Council at the same time and place to hear, discuss, or deliberate upon any item that is within the City Council's or the City's subject matter jurisdiction shall be noticed and conducted in strict compliance with the Brown Act.

2.2 Serial Meetings

- Any use of direct communication, personal intermediaries, or technological devices by a majority of the City Council for the purpose of developing a collective concurrence as to action to be taken on an item by the City Council shall be prohibited outside the context of a properly noticed public meeting of the City Council.

3.0 EXCEPTION TO OPEN AND PUBLIC MEETINGS REQUIREMENTS

3.1 Individual Contacts

- Individual contacts or conversations between a Council Member and any other person can take place outside the context of a noticed public meeting.

3.2 Grand Jury Testimony

- A majority of the body and/or individual Council Members may testify in private before a grand jury.

3.3 Conferences

- A majority of the City Council may attend outside the context of a noticed public meeting a conference or similar gathering open to the public that involves a discussion of issues of general interest to the public or to public agencies of the type represented by the City Council, provided that a majority of the City Council does not discuss among themselves, other than as part of the scheduled program, business of a specified nature that is within the subject matter jurisdiction of the City Council or the City.

3.4 Community Meetings

- A majority of the City Council may attend outside the context of a noticed public meeting an open and publicized meeting organized to address a topic of local community concern by a person or organization other than the City, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within the subject matter jurisdiction of the City Council or the City.

3.5 Meetings With Other Agencies

- A majority of the City Council may attend outside the context of a noticed public meeting an open and noticed meeting of another body of the City, or an open and noticed meeting of a legislative body of another local agency, provided that a majority of the City Council does not discuss among themselves, other than as part of the scheduled meeting, business of a specific nature that is within the subject matter jurisdiction of the City Council or the City.

3.6 Social and Ceremonial Occasions

- A majority of the City Council may attend outside the context of a noticed public meeting a purely social or ceremonial occasion, provided that a majority of the City Council does not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the City Council or the City.

3.7 Attendance at Ad Hoc Advisory Committee Meetings

- An ad hoc committee is legally defined as a committee comprised of no more than two Council Members (less than a quorum). An ad hoc committee is not subject to the Brown Act open meeting requirements. However, if the members of an ad hoc committee communicate with even one additional Council Member regarding a matter within the committee's subject matter jurisdiction, the committee risks the loss of its "ad hoc" status and becomes, instead, a "standing committee" which is subject to the notice, agenda and public participation and location requirements of the Brown Act.

3.8 Attendance at Standing Committee Meetings

- A majority of the City Council may attend outside the context of a notice public meeting of the full City Council an open and noticed meeting of a standing committee of the City Council, provided that the members of the City Council who are not members of the standing committee attend only as observers.

4.0 LOCATION OF MEETINGS

4.1 Location of Regular and Special Meetings

- Regular and Special meetings of the City Council shall be held in the City Council Chambers, City Hall, located at 1515 Sixth Street, Coachella, California.

4.2 Exception; Court Order or Legal Proceedings

- A majority of the City Council may meet outside the jurisdictional boundaries of the City to comply with state or federal law or court order, or attend a judicial or administrative proceeding to which the City is a party.

4.3 Exception; Inspection of Property

- A majority of the City Council may meet outside the jurisdictional boundaries of the City to inspect real or personal property which cannot be conveniently brought within the jurisdictional boundaries of the City provided that the topic of the meeting is limited to items directly related to the real or personal property.

4.4 Exception; Multi-Agency Meetings

- A majority of the City Council may meet outside the jurisdictional boundaries of the City to participate in meetings or discussions of multi-agency significance, provided that any such meeting held pursuant to this subdivision takes place within the jurisdiction of one of the participating local agencies and it is noticed by all participating agencies pursuant to the Brown Act.

4.5 Exception; Meetings With State and Federal Officials

- A majority of the City Council may meet outside the jurisdictional boundaries of the City to meet with elected or appointed officials of the United States or the State of California when a local meeting would be impractical, solely to discuss a legislative or regulatory issue affecting the City and over which the federal or state officials have jurisdiction.

4.6 Exception; City-Owned Facilities

A majority of the City Council may meet outside the jurisdictional boundaries of the City to meet in a facility owned by the agency, provided that the topic of the meeting is limited to items directly related to the facility.

4.7 Exception; Closed Session Regarding Pending Litigation

A majority of the City Council may meet outside the jurisdictional boundaries of the City at the office of the City's legal counsel for a closed session on pending litigation held pursuant to Government Code Section 54956.9, when to do so would reduce legal fees or costs.

5.0 PRESIDING OFFICER

5.1 Mayor

- *The Mayor shall preside at the meetings of the City Council.*

5.2 Mayor Pro Tem

- *If the Mayor is absent or unable to act, the Mayor Pro Tem shall serve until the Mayor returns or is able to act. The Mayor Pro Tem shall have all of the powers and duties of the Mayor in his or her absence.*

5.3 Council Member

- *In the absence of the Mayor and Mayor Pro Tem, the majority of the three remaining Council Members shall select by vote who shall serve as the presiding officer.*

6.0 REGULAR MEETINGS

6.1 Location

- *Regular meetings of the City Council shall be held in the City Council Chambers, City Hall, located at 1515 Sixth Street, Coachella, California.*

6.2 Date and Time

Change to existing Policy:

The City Council shall meet in open session regularly on the second and fourth Wednesdays of each month beginning at 6:00 p.m. in the coachella City Council Chambers, City Hall, located at 1515 Sixth Street, Coachella, California. The Mayor may schedule Closed Sessions of the City Council to commence at any time prior to or after said regular open sessions.

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The Closed Session portion of a regular City Council meeting shall commence at 6:00 p.m. on the second and fourth Wednesday of each month. The Public Session Portion of a regular City Council meeting shall commence at the conclusion of the Closed Session, but no earlier than 7:00 p.m.

6.3 Holidays

- In the event any regular meeting falls on a holiday, said meeting shall be held on the date and time established by a majority of the City Council at the regularly scheduled meeting immediately preceding said holiday.

6.4 Agenda Preparation

6.4.1 City Council

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No Council Member may place an item on the agenda of a city council meeting without the prior consent of the Mayor. In the event the Mayor refuses to grant such consent, a Council Member may place an item on the agenda by obtaining the consent of at least one other Council Member. Council Members requesting an item be placed on an agenda shall communicate the request to the City Manager prior to 5:00 p.m. of the Thursday prior to the next regular City Council Meeting.

6.4.2 City Manager

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(a) It shall be the responsibility of the City Manager, assisted by the City Clerk, to prepare City Council meeting agendas.

(b) Requests for placement of an item on agenda must be submitted to the City Manager or City Clerk.

(c) The City Manager shall have sole discretion as to agenda content, with the exception of those items submitted by Council Members.

6.4.3 Emergency Matters

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Emergency matters will be agendized in the manner provided by this Policy.

6.5 Posting of Agenda

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The agenda for a regular meeting shall be posted at least 72 hours before the regular meeting by the Office of the City Clerk in a location that is freely accessible to members of the public.

6.6 Order of Business

The order of business for a regular meeting of the City Council shall be listed on the agenda in the following order:

6.6.1 Call to Order

- *(a) The Mayor shall call the meeting to order as soon as a majority of the City Council is present but no sooner than the time the meeting has been posted to commence.*

(b) If the Mayor or the Mayor Pro Tem is not present, the City Clerk shall call the meeting to order and shall immediately call for the selection of a temporary presiding officer.

6.6.2 Roll Call

- *(a) The City Clerk shall take a verbal roll call of all Council Members present at the meeting immediately after the presiding officer calls the meeting to order and the names of those present and absent shall be entered in the minutes.*

(b) The order of the roll call shall be alphabetical except that the Mayor shall be called last.

(c) If a majority of the City Council is present, the presiding officer shall declare for the record that a quorum is present.

6.6.3 Closed Session

- *The City Council shall adjourn into closed session for the purposes set forth in this Policy.*

6.6.4 Closed Session Announcements

- *The Presiding Officer shall make those public announcements required pursuant to this Policy or as otherwise required by law.*

6.6.5 Pledge of Allegiance

- *The Presiding Officer shall designate any individual at the meeting to lead the City Council, staff and the public in reciting the Pledge of Allegiance to the United States flag.*

6.6.6 Approval of Agenda

The City Council shall review the agenda during this time of the meeting to determine whether certain items should be repositioned on the agenda in order to accommodate the public. A majority vote of the City Council is required to approve the agenda.

6.6.7 Proclamations

Proclamations, certificates of appreciation and other forms of formal recognition initiated by the Mayor or the City Council shall be presented during this time of the meeting.

6.6.8 Written Communications

Written or oral communications, petitions, and remonstrances received by the Mayor or the City Council shall be presented during this time of the meeting.

6.6.9 Public Comments

(a) The public shall have an opportunity to directly address the City Council on any item of interest to the public that is not on the agenda but is within the subject matter jurisdiction of the City Council. The City Council shall not prohibit public criticism of its policies, procedures, programs, services, acts or omissions.

(b) The public does not have to be provided an opportunity to address the City Council on any item that has already been considered by a committee, composed exclusively of members of the City Council, at a public meeting wherein all interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the City Council.

(c) The City Council is prohibited from taking any action on any item not appearing on the agenda unless the action is otherwise authorized by law.

(d) Each speaker shall be entitled to speak during the public comment period for a total of five minutes, unless waived by the Presiding Officer or a majority of the City Council.

6.6.10 Approval of Minutes

- (a) *The Presiding Officer shall call for corrections to the minutes as necessary. The approval of the minutes may be done by unanimous consent by the Presiding Officer who shall state either "the minutes stand approved as received" or "the minutes stand approved as corrected".*

(b) *A motion to approve is not required, except in the instance where there is disagreement among the Council Members concerning a correction.*

(c) *Unless the reading of the Minutes of the previous City Council meeting is requested by the majority of the City Council, such minutes may be approved without reading if the City Clerk has furnished each Council Member with a copy thereof.*

6.6.11 Consent Calendar

- (a) *The consent calendar is intended to save time by allowing approval of several routine, non-controversial items with a single motion.*

(b) *The consent calendar shall be limited to those items upon which there is clear consensus.*

(c) *The individual items will not be discussed or debated unless pulled from the Consent Calendar for the discussion.*

(d) *The demand register listing the charges made against each budgetary fund and account since the previous City Council meeting may be received and filed during Consent Agenda.*

(e) *A separate list of all checks written shall be provided to the City Council to document the demand register.*

(f) *To avoid delay, checks may be written for budgeted expenditure items and may be mailed to vendors prior to City Council receipt and filing of the demand register.*

6.6.12 Legislative and Administrative Calendar

- *Legislative and Administrative items are those that do not*

involve a public hearing and those that could not be added to the Consent Calendar. Typically, legislative items include consideration of proposed ordinances and resolutions and approval of contracts and other forms of agreements.

6.6.13 Quasi-Judicial Public Hearing Calendar

(a) Generally, quasi-judicial public hearings are those involving a request for an exception to be made to a City ordinance or policy or those involving an appeal of the application or interpretation of a particular ordinance or policy to a specific property, individual, interests or situation.

(b) A quasi-judicial public hearing requires the City Council to make specific factual findings, based upon the evidence and testimony presented to the City Council.

(c) Unless otherwise required by state law or the Municipal Code, public hearings shall be conducted in the following order:

(i) Staff review

(ii) Questions of Staff by Council Members

(iii) Public hearing opened by the Presiding Officer

(iv) Testimony by person who is the subject of the hearing

(v) Response to testimony by Staff

(vi) Rebuttal testimony by person who is the subject of the hearing to comments made by Staff

(vii) Public testimony

(viii) Public hearing closed by the Presiding Officer

(ix) Questions by Council Members

(x) Discussion by Council Members

(xi) Action by City Council

(d) Questions or comments from the public shall be limited to the subject under consideration, and be limited to three minutes per speaker.

(i) A request for more time to speak or present graphics or slides may be handled by the Presiding Officer under general consent.

(ii) If the Mayor or any Council Member objects to a request for more time to speak or present graphics or slides, the request may only be granted by a majority vote of the City Council.

(e) Information, plans, etc. pertaining to a matter scheduled for public hearing may be submitted to the City Council either prior to the commencement of the City Council Meeting for which the public hearing is scheduled or at the time prior to the close of the public hearing.

(f) Any written documentation to be considered by the City Council at a public hearing, whether provided by a member of the public or a Council Member, must first be presented to the City Clerk, who shall be responsible for retaining the original of the document as a public record and delivering a copy to each of the Council Members and relevant City personnel.

6.6.14 Reports and Requests

(a) The Mayor or any Council Member may introduce any new item of business under the Reports and Requests portion of the Agenda, for purposes of placing the item on a future agenda for deliberation and/or action. No discussion of such items shall be allowed and no action on such matters may be taken until a subsequent meeting unless otherwise specifically permitted by this policy or any other applicable law.

(b) The Mayor or any Council Member may make announcements under the Reports and Requests portion of the Agenda for purposes of providing general information to the general public, including committee reports.

(c) The City Council may respond to any public comment on an item or matter which has not been placed on the Agenda by taking any of the actions set forth below:

(i) Briefly responding to the statements made or questions posed;

(ii) Asking a question for clarification;

(iii) Making a brief report on his or her own activities;

(iv) Providing a reference to administrative staff or other resources for factual information; and/or

(v) Requesting administrative staff to report back to the City Council at some subsequent meeting concerning a matter raised by the public or taking action to direct administrative staff to place a matter of business on a future agenda.

6.6.15 Adjournment

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The Presiding Officer shall adjourn the meeting in accordance with Robert's Rules of Order, as set forth in this Policy.

6.7 Adjourned Meeting

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When a regular or adjourned regular meeting is adjourned by a majority of the City Council or by the City Clerk when less than a quorum is present, the resulting adjourned regular meeting is a regular meeting for all purposes.

7.0 SPECIAL MEETINGS

7.1 Call of Special Meeting

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(a) A special meeting may be called at any time by the Mayor or by a majority of the City Council.

(b) The call of the special meeting shall specify the time and place of the special meeting and the business to be transacted or discussed.

(c) The call of the special meeting shall be posted at least 24 hours prior to the special meeting in a location that is freely accessible to members of the public.

7.2 Notice of Special Meeting

(a) Written notice of the special meeting must be delivered personally or by any other means and shall be received at least 24 hours before the time of the special meeting.

(b) The written notice may be dispensed with as to any Council Member who at or prior to the time the special meeting convenes files with the City Clerk a written waiver of notice and such a waiver may be given by telegram.

(c) The written notice may also be dispensed with as to any Council Member who is actually present at the special meeting at the time it convenes.

(d) Written notice of the special meeting must either be personally delivered by any means to each local newspaper of general circulation and radio or television station requesting notice in writing at least 24 hours before the time of the special meeting.

(e) The notice of the special meeting shall specify the time and place of the special meeting and the business to be transacted or discussed.

(f) The notice of the special meeting shall be posted at least 24 hours prior to the special meeting in a location that is freely accessible to members of the public.

(g) Every notice for a special meeting shall provide an opportunity for members of the public to directly address the City Council concerning any item that has been described in the notice for the meeting before or during consideration of that item.

7.3 Scope of Special Meeting

Business not identified in the call of the special meeting shall not be considered at the special meeting by the City Council.

7.4 Location

Special meetings of the City Council shall be held at the City Council Chambers, City Hall, located at 1515 Sixth Street, Coachella, California.

8.0 EMERGENCY MEETINGS

8.1 Notice Requirements

(a) The City Council may hold an emergency meeting without providing 24-hours notice in the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities.

(b) The City Clerk shall, one hour prior to the emergency meeting, provide telephonic notice to each newspaper, radio and television station that has requested notice of special meetings.

(c) In the event that telephone services are not functioning, the notice requirements of this Section do not apply; however, the City Clerk shall, as soon as possible after the emergency meeting, notify those newspapers, radio and television stations of the holding and the purpose of the meeting and any action that was taken at the meeting.

(d) With the exception of the 24-hour notice requirements, all other special meeting requirements set forth in this Policy shall apply to an emergency meeting called pursuant to this Section.

(e) The City Clerk shall, as soon after the meeting as possible and for a minimum 10 days thereafter, post in a public place, the following:

(i) The minutes of the meeting;

(ii) A list of persons who the City Clerk notified or attempted to notify regarding the meeting;

(iii) A copy of the roll call vote; and

(iv) A description of any actions taken at the meeting.

8.2 Closed Session

The City Council may not meet in closed session during an emergency meeting called pursuant to this Section.

8.3 Definition of "Emergency Situation"

- *"Emergency situation" means any of the following:*

Work stoppage or other activity which severely impairs public health, safety, or both, as determined by a majority of the City Council.

Crippling disaster which severely impairs public health, safety, or both, as determined by a majority of City Council.

9.0 TELECONFERENCING

9.1 Electronic Means

The City Council may conduct "teleconferenced" meetings at which members of the City Council are in different locations, connected by electronic means, through either audio or video, or both, for the benefit of the public in connection with any meeting or proceeding authorized by law and within the subject matter jurisdiction of the City Council.

9.2 Requirements

- *(a) All teleconferenced meetings shall comply with all the requirements listed below and all otherwise applicable provisions of law relating to the specific type of meeting.*

(b) The notice and agenda of the meeting shall identify all teleconferenced locations and an agenda shall be posted at each location.

(c) Each teleconferenced location shall be accessible to the public.

(d) The agenda shall provide an opportunity for members of the public to address the City Council directly at each teleconferenced location.

(e) During the teleconferenced, at least a quorum of the City Council shall participate from locations within the boundaries of the City.

(f) All votes taken shall be by roll call.

(g) The meeting shall be conducted in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the City

Council.

(h) No action may be taken by secret ballot.

10.0 ADJOURNED MEETINGS

10.1 Majority of the City Council

- A majority of the City Council may adjourn any regular, adjourned regular, special or adjourned special meeting to a time and place specified in the order of adjournment.

10.2 Less Than a Quorum

- Less than a quorum may so adjourn from time to time.

10.3 City Clerk

- If all members are absent from any regular or adjourned regular meeting, the City Clerk or his or her designee may declare the meeting adjourned to a stated time and place.

10.4 Notice of Adjourned Meeting

- (a) If the City Clerk or his or her designee adjourned the meeting, she or he shall cause a written notice of the adjournment to be given in the same manner as a special meeting, unless such notice is waived as provided for special meetings.

(b) A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the regular, adjourned regular, special or adjourned special meeting was held within 24 hours after the time of the adjournment.

(c) When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, the adjourned meeting shall be held at the hour specified for regular meetings by ordinance, resolution, by law, or other rule.

11.0 CONTINUED PUBLIC HEARINGS

11.1 Order or Notice of Continuance

- Any hearing being held, or noticed or ordered to be held by the City Council at any meeting may by order or notice of continuance be continued or recontinued to any subsequent meeting of the City Council in the same manner and to the same extent set forth in this Policy for the adjournment of meetings.

11.2 Less Than 24 Hours Continuance

- 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 declaration of continuance was adopted or made.

12.0 AGENDAS

12.1 Content

- (a) The agenda shall specify the time and location of the meeting.

(b) Every agenda shall contain a brief general description of 20 words or less of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session.

13.0 NON-AGENDIZED ITEMS

-

13.1 Responses

- (a) No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of the City Council or staff may briefly respond to statements made or questions posed by persons exercising their public testimony rights under Government Code Section 54954.3.

(b) A Council Member or the staff on their own initiative or in response to questions posed by the public, may ask a question for clarification, make a brief announcement, or make a brief report on his or her own activities.

(c) A Council Member, or the City Council itself may provide a reference to staff

or other resources for factual information, request staff to report back to the City Council a subsequent meeting concerning any matter, or take action to direct staff to place a matter of business on a future agenda.

13.2 Emergency Items

-(a) The City Council may add an emergency item that does not appear on the agenda pursuant to the following: (a) prior to discussing the item, the City Council publicly identifies the item, and (b) a majority of the City Council determines that an emergency situation exists.

(b) For purposes of this Section, "emergency situation" means any of the following: (a) work stoppage or other activity which severely impairs public health, safety, or both, or (b) a crippling disaster which severely impairs public health, safety, or both.

13.3 Urgency Items

-The City Council may add an urgency item that does not appear on the agenda pursuant to the following: (a) prior to discussing the item, the City Council publicly identifies the item, and (b) at least two-thirds of the Council Members present at the meeting, or, if less than two-thirds of the members are present, an unanimous vote of those Council Members present, determine that there is a need to take immediate action, and (d) the need for action came to the attention of the local agency after the posting of the agenda.

14.0 CLOSED SESSIONS

14.1 Proper Purposes

-The City Council may hold a closed session to discuss the following matters:

14.1.1 License/Permit Determination

Whenever the City Council determines that it is necessary to discuss and determine whether an applicant for a license or license renewal, who has a criminal record, is sufficiently rehabilitated to obtain the license, the City Council may hold a closed session with the applicant and the applicant's attorney, if any, for the purpose of holding the discussion and making the determination.

If the City Council determines, as a result of the closed session, that the issuance or renewal of the license should be denied, the applicant shall be offered the opportunity to withdraw the application. If the applicant withdraws the application, no record shall be kept of the discussions or decisions made at the closed session and all matters relating to the closed session shall be confidential. If the applicant does not withdraw the application, the City Council shall take action at the public meeting during which the closed session is held or at its next public meeting denying the application for the license but all matters relating to the closed session are confidential and shall not be disclosed without the consent of the applicant, except in an action by an applicant who has been denied a license challenging the denial of the license.

14.1.2 Real Property Negotiations

The City Council may hold a closed session with its negotiator during any eminent domain proceeding and/or prior to the purchase, sale, exchange, or lease of real property by or for the City Council to grant authority to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease. For purposes of this Section, "lease" includes renewal or renegotiation of a lease.

Prior to the closed session, the City Council shall hold an open and public session in which it identifies its negotiators, the real property or real properties which the negotiations may concern, and the person or persons with whom its negotiators may negotiate. Negotiators may be members of the City Council.

14.1.3 Existing/Pending Litigation

The City Council, based on advice of its legal counsel, may hold a closed session to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the City in the litigation.

"Litigation" includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator, and such litigation shall be considered "pending" or "existing" if the City is a party and the litigation has been initiated formally.

Prior to the closed session authorized by this Section, the Presiding Officer shall state the title of or otherwise specifically identify the litigation to be discussed, unless the City Attorney advises that to do so would jeopardize the City's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

14.1.4 Anticipated Litigation

The City Council may, on the advice of the City Attorney or other designated legal counsel, hold a closed session when the City Council has determined that, based on existing facts and circumstances, there is a significant exposure to litigation against the City.

"Existing facts and circumstances" shall consist of one of the following:

(a) Facts and circumstances that might result in litigation against the City but which the City believes unknown to a potential plaintiff or plaintiffs, which facts and circumstances need not be disclosed.

(b) Facts and circumstances, including, but not limited to, an accident, disaster, incident, or transnational occurrence that might result in litigation against the City and that are known to a potential plaintiff or plaintiffs, which facts or circumstances shall be publicly stated on the agenda or announced.

(c) The receipt of a claim pursuant to the Tort Claims Act or some other written communication from a potential plaintiff threatening litigation.

(d) A statement made by a person in an open and public meeting threatening litigation on a specific matter within the City Council's subject matter jurisdiction.

(e) A statement threatening litigation made by a person outside an open and public meeting on a specific matter within the City Council's subject matter jurisdiction, provided the City official or employee who received knowledge of the threat makes a contemporaneous or other record of the statement prior to the meeting. The record of the threat does not need to

identify the alleged victim of unlawful or tortious sexual conduct or anyone making the threat on their behalf, nor must it identify a public employee who is the alleged perpetrator of any unlawful or tortious conduct upon which the threat of litigation is based, unless the identity of the person has been publicly disclosed.

"Litigation" includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator.

The City shall be considered to have a "significant exposure to litigation" if an officer or employee of the City has significant exposure to litigation concerning prior or prospective activities or alleged activities during the course and scope of that office or employment, including litigation in which it is an issue whether an activity is outside the course and scope of the office or employment.

14.1.5 Initiation of Litigation

The City Council may, on the advice of the City Attorney or other designated legal counsel, hold a closed session when, based on existing facts and circumstances, the City Council has decided to initiate or is deciding whether to initiate litigation.

"Litigation" includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator.

14.1.6 Liability Claims

The City Council may hold a closed session to discuss a claim for the payment of tort liability losses, public liability losses, or workers' compensation liability incurred by the City.

14.1.7 Threat to Public Services or Facilities

The City Council may hold a closed session to discuss an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities.

"Emergency situation" means any of the following:

Work stoppage or other activity which severely impairs public health, safety, or both, as determined by a majority of the City Council.

Crippling disaster which severely impairs public health, safety, or both, as determined by a majority of City Council.

14.1.8 Threat to Security of or Access to Public Services or Facilities

- *The City Council may hold a closed session meeting with the Attorney General, district attorney, chief of police, or their respective deputies, on matters posing a threat to the security of public buildings or a threat to the public's right of access to public services or public facilities.*

14.1.9 Personnel Matters

- *The City Council may hold a closed session meeting during a regular or special meeting to consider the appointment, employment, evaluation of performance, discipline, or dismissal of a public employee or to hear complaints or charges brought against the employee by another person or employee unless the employee requests a public session.*

In the instance where a closed session is called to hear specific complaints or charges brought against an employee by another person or employee, the employee shall be given written notice of his or her right to have the complaints or charges heard in an open session rather than a closed session.

Such notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding the session.

The City Council may exclude from the public or closed meeting, during the examination of a witness, any or all other witnesses in the matter being investigated by the City Council.

For the purposes of this Section, the term "employee" shall include an officer of the City or an independent contractor who functions as an officer or an employee but shall not include the Mayor, Council Members, other elected officials, or independent contractors who do not function as an officer or an employee of the City.

Closed sessions held pursuant to this Section shall not include discussion or

action on proposed compensation except for a reduction of compensation that results from the imposition of discipline.

14.1.10 Labor Negotiations

The City Council may hold closed sessions with the City's designated representatives for the purpose of reviewing its position and instructing the local agency's designated representatives regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits of its represented and unrepresented employees, and, for represented employees, any other matter within the statutorily provided scope of representation.

Closed sessions with the local agency's designated representative regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits may include discussion of an agency's available funds and funding priorities, but only insofar as these discussions relate to providing instructions to the local agency's designated representative.

Closed sessions, as permitted in this Section, may take place prior to and during consultations and discussions with representatives of employee organizations and unrepresented employees.

For the purposes enumerated in this Section, the City Council may also meet with a state conciliator who has intervened in the labor negotiations proceedings.

For the purposes of this Section, the term "employee" shall include an officer or an independent contractor who functions as an officer or an employee, but shall not include any elected official, member of a legislative body, or other independent contractors.

14.2 Safe Harbor Language

- For purposes of describing closed session items, the agenda should describe closed sessions as provided below:

14.2.1 License/Permit Determination

- License/Permit Determination

Government Code Section 54956.7

Applicant(s): (Specify number of applicants)

14.2.2 Real Property Negotiations

- Conference with Real Property Negotiators

Government Code Section 54956.8

Property: (Specify street address, or if no street address, the parcel number or other unique reference, of the real property under negotiation)

Agency Negotiator: (Specify names of negotiators attending the closed session. If circumstances necessitate the absence of a specified negotiator, an agent or designee may participate in place of the absent negotiator so long as the name of the agent or designee is announced at an open session held prior to the closed session.)

Negotiating Parties: (Specify name of party (not agent))

Under Negotiation: (Specify whether instruction to negotiator will concern price, terms of payment, or both)

14.2.3 Existing Litigation

- Conference with Legal Counsel--Existing Litigation

Government Code Section 54956.9, subd. (a)

Name of case: (Specify by reference to claimant's name, names of parties, case or claim numbers)

Case name unspecified: (Specify whether disclosure would jeopardize service of process or existing settlement negotiations)

14.2.4 Anticipated Litigation

- Conference with Legal Counsel--Significant Exposure to Litigation

Government Code Section 54956.9, subd. (b)

(Specify number of potential cases)

14.2.5 Initiation of Litigation

- Conference with Legal Counsel--Initiation of Litigation

Government Code Section 54956.9, subd. (c)

(Specify number of potential cases)

14.2.6 Liability Claims

- *Liability Claim*

Government Code Section 54956.95

Claimant: (Specify name unless unspecified pursuant to Section 54961)

Agency Claimed Against: (Specify name)

14.2.7 Threat to Public Services or Facilities

- *Threat to Public Services or Facilities*

Government Code Section 54957

Consultation with: (Specify name of law enforcement agency and title of officer)

14.2.8 Public Employee Appointment

- *Public Employee Appointment*

Government Code Section 54957

Title: (Specify description of position to be filled)

14.2.9 Public Employment

- *Public Employment*

Government Code Section 54957

Title: (Specify description of position to be filled)

14.2.10 Public Employee Performance Evaluation

- *Public Employee Performance Evaluation*

Government Code Section 54957

Title: (Specify position title of employee being reviewed)

14.2.11 Public Employee Discipline/Dismissal/Release

- Public Employee Discipline

Government Code Section 54957

(Discipline includes potential reduction of compensation.)

Public Employee Dismissal

Government Code Section 54957

Public Employee Release

Government Code Section 54957

14.2.12 Labor Negotiations

- Conference with Labor Negotiators: Employee Organization

Government Code Section 54957.6

Agency Designated Representatives: (Specify names of designated representatives attending the closed session. If circumstances necessitate the absence of a specified designated representative, an agent or designee may participate in place of the absent representative so long as the name of the agent or designee is announced at an open session held prior to the closed session.)

Employee Organization: *(Specify name of organization representing employee or employees in question)*

Conference with Labor Negotiators: Unrepresented Employee

Government Code Section 54957.6

Agency Designated Representatives: (Specify names of designated representatives attending the closed session. If circumstances necessitate the absence of a specified designated representative, an agent or designee may participate in place of the absent representative so long as the name of the agent or designee is announced at an open session held prior to the closed session.)

Unrepresented employee: (Specify position title of unrepresented employee who is the subject of the negotiations)

14.2.13 Case Review/Planning

- Case Review/Planning

Government Code Section 54957.8

14.3 Pre-Closed Session Announcements

- Prior to holding any closed session, the legislative body of the local agency shall disclose, in an open meeting, the item or items to be discussed in the closed session. The disclosure may take the form of a reference to the item or items as they are listed by number or letter on the agenda.

14.4 Permissible Closed Session Attendees

- Attendance of a closed session is limited to those persons actually necessary to advise or take direction from the City Council given the specifically permitted purpose of the session. This means the City Attorney, City Manager, Department Heads, and certain of the City's experts, negotiators and consultants.

Third parties not serving as agents of the City cannot attend a closed session, with the exception of witnesses in the event of a closed session to hear charges or complaints against a City employee and/or candidates for any position the City Council is authorized to hire or retain.

14.5 Post Closed Session Announcements

- After any closed session, the City Council shall reconvene into open session prior to adjournment and disclose the action taken in the closed session pertaining to the following subject matters:

14.5.1 License/Permit Determination

- The City Council shall publicly report any action taken in closed session and the vote or abstention of every member present thereon, as follows:

(a) If the applicant withdraws the application, no record shall be kept of the discussions or decisions made at the closed session and all matters relating to the closed session shall be confidential.

(b) If the applicant does not withdraw the application, the City Council shall take action at the public meeting during which the closed session is held or at its next public meeting denying the application for the license but all matters relating to the closed session are confidential and shall not be disclosed without the consent of the applicant, except in an action by an applicant who has been denied a license challenging the denial of the license.

14.5.2 Real Property Negotiations

- The City Council shall publicly report any action taken in closed session and the vote or abstention of every member present thereon, as follows:

(a) Approval of an agreement concluding real estate negotiations shall be reported after the agreement is final, as specified below:

(b) If its own approval renders the agreement final, the body shall report that approval and the substance of the agreement in open session at the meeting during which the closed session is held.

(c) If final approval rests with the other party to the negotiations, the City shall disclose the fact of that approval and the substance of the agreement upon inquiry by any person, as soon as the other party or its agent has informed the local agency of its approval.

14.5.3 Existing Litigation

*- (a) **Relief.** The City Council shall publicly report any action taken in closed session and the vote or abstention of every member the City Council's decision to instruct its legal counsel to defend, or seek or refrain from seeking appellate review or relief, or to enter as an amicus curiae in any form of litigation must be reported in open session at the public meeting during which the closed session is held. The report shall identify, if known, the adverse party or parties and the substance of the litigation.*

*(b) **Settlement.** The City Council shall publicly report any action taken in closed session and the vote or abstention of every member the City Council's decision to approve a settlement of pending litigation after the settlement is deemed final, as specified below:*

(i) If the City Council accepts a settlement offer signed by the opposing party, the City Council shall report its acceptance and identify the substance of the agreement in open session at the public meeting during which the closed session is held.

(ii) If final approval rests with some other party to the litigation or with the court, then as soon as the settlement becomes final, and upon inquiry by any person, the City shall disclose the fact of that approval, and identify the substance of the agreement.

14.5.4 Initiation of Litigation

- *The City Council shall publicly report any action taken in closed session and the vote or abstention of every member regarding the City Council's decision to initiate or intervene in an action and that the action, the defendants, and the other particulars shall, once formally commenced, be disclosed to any person upon inquiry, unless it is determined by the City Attorney that such disclosure would jeopardize the City's ability to effectuate service of process on one or more unserved parties, or that such disclosure would jeopardize the City's ability to conclude existing settlement negotiations to its advantage.*

14.5.5 Liability Claims

- *The City Council shall publicly report any action taken in closed session and the vote or abstention of every member regarding disposition reached as to claims for the payment of tort liability losses. The report shall identify the name of the claimant, the substance of the claim, and any monetary amount approved for payment and agreed upon by the claimant.*

14.5.6 Public Employee Appointment

- *The City Council shall publicly report any action taken in closed session and the vote or abstention of every member regarding the City Council's decision to appoint any individual as a public employee and announce the title of the position at the public meeting during which the closed session is held.*

14.5.7 Public Employment

-

The City Council shall publicly report any action taken in closed session and the vote or abstention of every member regarding the City Council's decision to employ any individual as a public employee in and announce the title of the position at the public meeting during which the closed session is held.

14.5.8 Public Employee Performance Evaluation

-

The City Council shall publicly report any action taken in closed session and the vote or abstention of every member regarding any City Council decision that affects the employment status of a public employee and announce the title of the position at the public meeting during which the closed session is held.

14.5.9 Public Employee Discipline/Dismissal/Release

-

The City Council shall publicly report any action taken in closed session and the vote or abstention of every member regarding the City Council's decision to dismiss, accept the resignation of, or otherwise affect the employment status of a public employee and announce the title of the position at the public meeting during which the closed session is held.

The report of a dismissal or of the nonrenewable of an employment contract shall be deferred until the first public meeting following the subject employee's exhaustion of administrative remedies, if any.

14.5.10 Labor Negotiations

-

Approval of an agreement concluding labor negotiations with represented employees pursuant to Section 54957.6 shall be reported after the agreement is final and has been accepted or ratified by the other party. The report shall identify the item approved and the other party or parties to the negotiation and disclose the vote or abstention of every member of the City Council regarding the subject agreement.

14.6 Confidentiality

- *Proceedings conducted in closed session are deemed confidential and no person in attendance at a closed session shall publicly disclose the discussions or the actions taken in closed session, unless otherwise permitted or required under the law.*

14.7 Penalties and Remedies for Breach of Confidentiality

- *Any Council Member who discloses any information or documentation learned or obtained from a closed session may be subject to an official reprimand by the City Council. Any Council Member who is subject to a possible reprimand by the City Council shall be entitled to participate in the discussion and debate regarding his or her behavior or conduct that is the subject of the possible reprimand.*

An official reprimand by the City Council can only be approved upon an affirmative vote of at least four Council Members if all are present, or three affirmative votes if less than all are present. All actions regarding an official reprimand by the City Council shall take place in accordance with principles of due process as determined by the City Attorney.

15.0 VOTING

15.1 Secret Ballots

- *No preliminary or final action taken by the City Council shall be made by secret ballot.*

15.2 Abstentions

- *Every Council Member shall vote unless otherwise disqualified for cause, or excepted by vote of the City Council or by opinion of the City Attorney. Prior to abstaining, a Council Member shall publically state the reason for the abstention. A Council Member who abstains shall in effect consent that a majority of the quorum may act for him or her. Tie votes resulting from an abstention shall be lost motions and may be reconsidered.*

15.3 Abstaining Due to Conflict

- *A Council Member with a disqualifying financial interest may remain seated on the dais in an open session during deliberations of the governmental decision in*

which he or she is disqualified; however, the disqualified member's presence shall not be counted toward achieving a quorum.

During closed session, a Council Member with a disqualifying financial interest shall not be present when the decision is considered or obtain or review a recording or any non-public information regarding the governmental decision.

15.4 Legally Required Participation

A Council Member who is otherwise disqualified from making a governmental decision may participate in the decision when his or her participation is legally required. A Council Member's participation is "legally required" when it is impossible for the decision to be made without the participation of the disqualified member. Participation is not legally required to break a tie or when a quorum can be convened of other Council Members who are not disqualified, whether or not such other Council Members are actually present at the time of the disqualification. For purposes of this section, a "quorum" shall constitute the minimum number of members required to conduct business and when the vote of a supermajority is required to adopt an item, the "quorum" shall be that minimum number of members needed for that adoption. This rule of necessity allows the participation of the fewest number of disqualified persons necessary to constitute a quorum.

When a disqualified Council Member is legally required to participate, he or she must disclose the existence of the conflict and describe with particularity the nature of his or her economic interest and give a summary description of the circumstances under which he or she believes the conflict may arise. Either the official with the conflict or another public official shall disclose the legal basis for concluding that there is no alternative source of decision.

If the decision is made during an open session, the disclosure must be made orally by either the conflicted official or another public official before the decision is made. If the decision is made during a closed session of a meeting, the disclosures must be made orally during the open session either before the body goes into closed session or immediately after the closed session. The information contained in disclosure made during an open or closed session must be made a part of the official public record, either as a part of the minutes or as a writing filed with the City Clerk within 30 days after the meeting. The writing must be placed in a public file. If the decision is made or participated in other than during an open or closed session of a public meeting, the disclosure shall be made in writing which is to be filed with the City Clerk within 30 days after the meeting and placed in a public file.

If a quorum of the remaining Council Members cannot be achieved to make a legally required decision without using persons previously disqualified, and if no

other method of decision making exists, the City Clerk shall provide straws of varying lengths from which all disqualified Council Members shall randomly select. The number of straws to be drawn shall be the number needed to establish a quorum. Council Members drawing the longest straws shall be selected to participate in the decision for the duration of the proceedings in all related matters unless a Council Member previously disqualified no longer has a financial interest in the decision. The disqualified Council Member who participates under the authority of this Section may participate fully in the matter, including taking part in deliberations and voting in open sessions and in closed sessions; however, the reinstated Council Member may not attempt to influence the outcome of the matter by engaging in private discussions with other Council Members or persons.

15.5 Ordinances

- *Three affirmative votes of the City Council are required to introduce and approve all ordinances.*

15.6 Resolutions

- *The City Council may approve a resolution with a simple majority of those Council Members present at the meeting provided the resolution does not involve the expenditure of funds.*

15.7 Resolutions and Orders for the Payment of Money

Three affirmative votes of the City Council are required to approve all resolutions and orders for the payment of money.

15.8 Termination of City Manager and City Attorney

- *Three affirmative votes of the City Council are required to suspend or terminate the City Manager or terminate the City Attorney.*

15.9 Reprimands by the City Council

- *All official reprimands by the City Council shall require four affirmative votes if all Council Members are present, or three affirmative votes if less than all Council Members are present.*

15.10 Tie Votes

- *Tie votes shall be lost motions. When all Council Members are present, a tie vote on whether to grant an appeal from official action shall be considered a denial of such appeal, unless the City Council takes other action to further consider the*

matter. If a tie vote results at a time when less than all Members of the Council are present, the matter shall automatically be continued to the agenda of the next regular meeting of the City Council, unless otherwise ordered by the City Council.

16.0 PUBLIC ATTENDANCE AT MEETINGS

16.1 Condition of Attendance

- *A member of the public shall not be required, as a condition to attendance at a City Council meeting, to register his or her name, to provide other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to his or her attendance.*

16.2 Attendance Lists, Registers and Questionnaires

- *If an attendance list, register, questionnaire, or other similar document is posted at or near the entrance to the room where the meeting is to be held, or is circulated to the persons present during the meeting, it shall state clearly that the signing, registering, or completion of the document is voluntary, and that all persons may attend the meeting regardless of whether a person signs, registers, or completes the document.*

16.3 Right to Record Meetings

- *Any person attending an open and public meeting of the City Council shall have the right to record the meeting with an audio or video tape recorder or a still or motion picture camera unless the City Council determines that the recording cannot continue without noise, illumination, or obstruction of view that constitutes, or would constitute, a persistent disruption of the meeting.*

16.4 Broadcast Meetings

- *The City Council shall not prohibit or otherwise restrict the broadcast of its open and public meetings in the absence of a reasonable finding that the broadcast cannot be accomplished without noise, illumination, or obstruction of view that would constitute a persistent disruption of the proceedings.*

17.0 PUBLIC DOCUMENTS AND RECORDS

17.1 Requests for Agendas

- Upon receipt of a written request of a copy of an agenda, the City Clerk shall cause the requested materials to be mailed at the time the agenda is posted or upon distribution to all, or a majority of all, of the Council Members, whichever occurs first. Failure of the requesting person to receive the agenda or agenda packet pursuant to this Section shall not constitute grounds for invalidation of the actions of the legislative body taken at the meeting for which the agenda or agenda packet was not received.

17.2 Recordings

- Any tape or film record of an open and public meeting made for whatever purpose by or at the direction of the local agency shall be subject to inspection pursuant to the California Public Records Act, provided that such record has not been erased or destroyed in manner consistent with the law. Any inspection of a video or tape recording shall be provided without charge on a video or tape player made available by the local agency.

17.3 Documents Distributed to City Council

- Agendas of public meetings and any other documents, 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 of the City Council are disclosable public records and shall be made available upon request without delay unless exempt from disclosure under the California Public Records Act.

Such documents 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 the local agency or a member of its legislative body, or after the meeting if prepared by some other person.

17.4 Closed Session Documents

- The City Council shall provide to any person who has submitted a written request within 24 hours of the posting of the agenda, or to any person who has made a standing request for all documentation as part of a request for notice of meetings, if the requester is present at the time the closed session ends, copies of any contracts, settlement agreements, or other documents that were finally approved or adopted in the closed session.

If the action taken results in one or more substantive amendments to the related documents requiring retyping, the documents need not be released until the

retyping is completed during normal business hours, provided that the Presiding Officer or his or her designee orally summarizes the substance of the amendments for the benefit of the document requester or any other person present and requesting the information. The documentation referred to in this paragraph shall be available to any person on the next business day following the meeting in which the action referred to is taken or, in the case of substantial amendments, when any necessary retyping is complete.

18.0 ADMINISTRATIVE MATTERS

The City Council and individual Council Members shall deal with the administrative services of the City only through the City Manager, consistent with Coachella Municipal Code Section 2-76.

19.0 MEDIA RELATIONS

19.1 Media Releases

- *All media releases regarding any position, decision or action of a majority of the City Council shall be prepared by the Public Information Officer or City Manager's designee on behalf of the City Council.*

The Mayor and Council Members are prohibited from preparing and distributing media releases on behalf of the majority of the City Council unless authorized by a majority of the City Council or the City Manager.

19.2 Media Contact

- *The Mayor and Council Members are prohibited from making any representations to the media on behalf of the City Council which does not accurately reflect or which are contrary to the City Council's official position, decision or action on any matter or issue.*

19.3 Disclosure of Confidential Information to Media

- *The Mayor and Council Members shall not disclose any information deemed to be confidential under the Brown Act or other applicable law to the media unless authorized or waived by a majority of the City Council.*

19.4 First Amendment

- *Nothing in this Section is intended to hinder, interfere, prevent or prohibit the Mayor or any Council Member from engaging in any activities protected by the First Amendment of the United States Constitution or the California Constitution.*

19.5 Reprimand

- *Any violation of the provisions set forth in this Section by the Mayor or any Council Member shall be grounds for reprimand as set forth in this policy.*

20.0 COMMUNICATIONS

20.1 Staff Correspondence

- *Copies of all correspondence from staff, city consultants and/or independent contractors which are addressed to the Mayor or any individual Council Member shall be provided to all Council Members.*

20.2 Requests for Information

- *All requests for information from staff, city consultants and/or independent contractors made or submitted by the Mayor or Members of the City Council in their capacity as officials of the City or its related agencies, shall be in writing and copies of all such requests shall be provided to all Council Members.*

20.3 Public Correspondence

- *Correspondence from the public that is addressed to the Mayor or any individual Council Member shall be made available to any other Council Member only if a request is made in writing and submitted to the City Clerk and the document is subject to disclosure under the California Public Records Act.*

21.0 TRAVEL AND BUSINESS EXPENSES

The Mayor and Council Members shall comply with all travel and business expense policies set forth in the "Travel and Business Expense Policy".

22.0 CITY COUNCIL SALARIES

22.1 Amount

- Each Council Member shall receive a salary consistent with the applicable provisions of the Municipal Code.

22.2 Pay Schedule

- All sums to be paid as salaries to Council Members shall be a debt to the City and shall be paid monthly.

23.0 CONTRACTUAL CONFLICTS OF INTEREST

23.1 Prohibition

- Council Members are prohibited from being financially interested in any contract made by them in their official capacity.

23.2 "Making" a Contract Defined

- "Making" a contract as used in this Section includes participating in preliminary discussions, negotiations, compromises, reasoning, planning, drawing of plans and specifications and solicitation for bids or otherwise attempting to influence the execution of the contract directly or indirectly to promote a personal interest.

23.3 Remote Interest

- A Council Member shall not be deemed to be interested in a contract if he or she has only a "remote interest" in the contract and if the fact of that interest is disclosed to the City Council and the interest noted in the official records and thereafter the City Council authorizes, approves or ratifies the contract without counting the vote or votes of the Member with the remote interest. A Council Member who has a financial interest in a contract and who influences or attempts to influence another Council Member to enter into the contract shall not be deemed to have a "remote interest" within the meaning of this Section.

Remote interests include the following:

The official is an employee or agent of the contracting party and the

contracting party employs 10 or more employees and the official has been an agent for the contracting party for at least three years.

The official is an officer of a nonprofit corporation which is the contracting party.

The official is an attorney of the contracting party and no consideration or commission will be received as a result of the subject contract and the official has an ownership interest of 10 percent or more in the law office/firm representing the contracting party.

The official is an agent/broker of the contracting party and no consideration or commission will be received as a result of the subject contract and the official has an ownership interest of 10 percent or more in the firm representing the contracting party.

(e) The official is a supplier of services or goods to the contracting party and has supplied such goods to the contracting party for at least five years prior to the official's appointment or election to office.

(f) The official is the landlord of the contracting party.

(g) The official is the tenant of the contracting party.

(h) The official is an employee of the contracting party which is a nonprofit corporation.

(i) The official is parent of the contracting party who is the official's minor child.

23.4 Non-prohibited Interests

A Council Member shall not be deemed to have a prohibited financial interest under the following circumstances:

The Council Member owns less than three percent of the contracting party's shares and the official's total annual income from dividends or any other income from the contracting party amounts to less than five percent of his or her annual income.

The Council Member is reimbursed for his or her actual and necessary expenses incurred in the performance of his or her official duties.

The Council Member receives public services provided by the City in the same manner as the public.

The Council Member is the City's landlord concerning property which is not the subject of the contract in question.

Council Member's spouse or domestic partner is also a public official and the spouse or domestic partner has been in office for at least one year.

The Council Member is a non-salaried member of a nonprofit corporation and the official's interest is disclosed to the City Council at the time the contract is first considered and the disclosure is noted in the City Council's official records.

The Council Member is a non-compensated officer of a nonprofit tax exempt corporation which as a primary purpose supports the functions of a public body or to which the public body has a legal obligation to give particular consideration and the interest is noted in the City Council's official records.

The Council Member is an employee of the contracting party which is a government agency and the contract does not involve the official's employment unit.

The Council Member is the attorney for the contracting party and the official will not receive any commission or consideration as a result of the contract and the official owns less than 10 percent in the law practice or firm.

The Council Member is an owner, officer, employee, or agent of the contracting party in the capacity of stockbroker, insurance agent/broker, or real estate agent/broker and the official will not receive any commission or consideration as a result of the contract and the official owns less than 10 percent in the stock brokerage firm, insurance firm, or real estate firm.

The Council Member is an officer or employee of a bank or savings and loan and has a non-interest in the contracts of parties who are depositors or borrowers at the official's institution.

The Council Member owns less than 10 percent of a bank or savings and loan which is the contracting party and has a non-interest in the contracts of parties who are depositors of borrowers at the official's institution.

24.0 FINANCIAL DISCLOSURE REQUIREMENTS

24.1 Statement of Economic Interest

- *Upon assumption of office and annually thereafter, and upon leaving office, Council Members shall file a Statement of Economic Interest with the City Clerk which discloses those economic interests that might cause a financial conflict of interest to arise in the performance of their duties. Effective January 1, 2001, those interests which must be disclosed are as follows:*

(a) Investments worth \$2,000 or more in a business entity located in or doing business within the City;

(b) Interests worth \$2,000 or more in real property located within the City;

A source, located in, or doing business in the City from which income (including loans) was received during the reporting period aggregating \$500 or more;

Any source of a gift aggregating \$50 or more, whether or not the source does business in the City.

24.2 Duty to Obtain Assistance and Advise

- *It is the duty of each Council Member to obtain assistance and advise regarding financial disclosure requirements.*

25.0 DISQUALIFYING CONFLICT ARISING FROM FINANCIAL INTEREST IN A DECISION

25.1 Prohibitions

- *Council Members are prohibited from making, participating in the making, or using their official position to influence the making of any decision in which they have a financial interest under the Political Reform Act and related regulations.*

25.2 "Making" a Decision Defined

- *"Making" a decision as used in this Section includes voting on a matter, appointing a person, obligating or committing the City to a course of action or entering into a contractual agreement on behalf of the City. Determining not to act is also making a decision under the Political Reform Act.*

25.3 "Participating" in a Decision Defined

- *"Participating" in a governmental decision means negotiating without significant substantive review with a public agency or private individual regarding a governmental decision. Participation also includes those who advise or make recommendations to the decision maker either directly or without significant substantive review by either: (i) conducting research or making any investigation which requires the exercise of judgment on the part of the official the purpose of which is to influence a governmental decision, or (ii) preparing or presenting any report, analysis or opinion, orally or in writing, which requires the exercise of judgment on the part of the official the purpose of which is to influence a governmental decision. Participation does not include ministerial, secretarial, manual or clerical acts, since those acts do not involve policy making judgment or discretion.*

25.4 Disclosure

- *If a Council Member determines not to act because of a financial interest, that determination may be accompanied by an oral or written disclosure of the Council Member's disqualifying financial interest.*

25.5 Abstaining Due to Conflict

- *A Council Member with a disqualifying financial interest may remain seated on the dais in an open session during deliberations of the governmental decision in which he or she is disqualified; however, the disqualified member's presence shall not be counted toward achieving a quorum.*

During a closed meeting of a meeting, a Council Member with a disqualifying financial interest shall not be present when the decision is considered or obtain or review a recording or any non-public information regarding the governmental decision.

25.6 Duty to Obtain Assistance and Advise

- *It is the duty of each Council Member to obtain assistance and advise to determine whether he or she has a disqualifying financial interest.*

26.0 OBTAINING ASSISTANCE AND ADVISE

26.1 Fair Political Practices Commission

- Council Members are encouraged to consult directly with the Fair Political Practices Commission (F.P.P.C.) to answer questions pertaining to economic interest disclosure requirements or to determine whether they are disqualified from participating in a particular governmental decision due to a financial interest.

26.2 Informal and Formal Advise

- The F.P.P.C. provides both informal telephonic advise and formal written advise; however, only formal written advise issued by the F.P.P.C. provides immunity against an F.P.P.C. enforcement action. The telephone number for the F.P.P.C. is (916) 322-5660.

26.3 City Attorney Consultation

- Council Members may also consult with the City Attorney regarding disclosure and conflict of interest issues; however, the advise of the City Attorney does not provide the immunity of the F.P.P.C. formal advise letter.

27.0 GIFTS

27.1 "Gift" Defined

- "Gift" means a payment or other benefit provided to an individual that confers a personal benefit for which he or she does not provide goods or services of equal or greater value. A gift includes a rebate or discount of anything of value unless the rebate or discount is made in the regular course of business to members of the public.

27.2 Limitations

- Effective January 1, 2001, a Council Member shall not accept gifts valued at \$320 or more in a calendar year from any single source, if he or she is required to report income or gifts from that source pursuant to the Political Reform Act. Gifts of \$50 or more must be disclosed along with specific information about the name, address, amount, date of the gift, and business of the donor. It is the duty of each Council Member to obtain assistance and advise regarding gift

limitations, prohibitions and reporting requirements.

28.0 HONORARIA

28.1 "Honoraria" Defined

- *"Honoraria" means any payment made in consideration for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, meal or like gathering.*

28.2 Prohibitions

- *A Council Member shall not accept any honoraria. It is the duty of each Council Member to obtain assistance and advise to determine whether receipt of a payment or other thing of value qualifies as a prohibited honoraria.*

29.0 TRAVEL PAYMENTS

Certain types of travel payments must be reported on a Statement of Economic Interest and are limited to \$320; other types of travel payments are reportable but not limited to \$320 and still other types of payments are not required to be reported and are not subject to any gift limitation. Finally, certain types of travel payments are a form of prohibited honoraria. It is the duty of each Council Member to obtain assistance and advise to determine whether travel payments are reportable, restricted or prohibited.

30.0 BIAS

Council Members must be fair and impartial decision makers. A personal interest or involvement in the outcome of a decision or with any participants which is unrelated to the merits requires disqualification. This rule does not preclude holding opinions, philosophies or strong feelings about issues or specific projects; it also does not proscribe expression of views about matters of importance in the community, particularly during an election campaign. However, Council Members must not enter the deliberative process with a preconceived and unalterable view of the outcome of a quasi-judicial proceeding without regard to the evidence.

31.0 DECORUM AND ORDER -- COUNCIL MEMBERS

31.1 Members to be Courteous

- Council Members shall accord the utmost courtesy to each other, to administrative staff and to the public appearing before the City Council and shall refrain at all times from rude, abusive and derogatory remarks or those that reflect upon a person's integrity, motives or personality.

31.2 Requesting Permission to be Excused

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31.2.1 Open Session

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Prior to raising from their seat, Council Members desiring to leave the dais while the Council is in public session shall request the Presiding Officer's permission to be excused.

31.2.2 Closed Session

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Prior to raising from their seat, Council Members desiring to leave the room while the Council is in closed session shall request the Presiding Officer's permission to be excused.

31.3 Use of Communication Devices Prohibited

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While Council is in session, Council Members shall not use telecommunication devices, including but not limited to cellular telephones and pagers, and such devices shall remain off, muted or otherwise disabled.

32.0 DECORUM AND ORDER – STAFF

32.1 City Manager Responsibilities

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The City Manager is responsible for ensuring that members of the administrative staff observe the rules of decorum and order set forth in this Policy.

32.2 Addressing the City Council

- Any administrative staff member desiring to address the City Council or members of the public shall first be recognized by the Presiding Officer. All remarks shall be addressed to the Presiding Officer and not to any one individual Council Member or member of the public. Administrative staff members shall accord the utmost courtesy to the City Council, other administrative staff members and the public.

32.3 Use of Communication Devices Prohibited

- While Council is in session, administrative staff members shall not use telecommunication devices, including but not limited to cellular telephones and pagers, and such devices shall remain off, muted or otherwise disabled.

33.0 DECORUM AND ORDER – MEMBERS OF THE PUBLIC

33.1 Presiding Officer

- Any member of the public desiring to address the City Council or members of the public shall first be recognized by the Presiding Officer. All remarks shall be addressed to the Presiding Officer and not to any one individual Council Member, member of the administrative staff or member of the public.

33.2 Removal

- Any member of the public making impertinent and slanderous remarks or who becomes boisterous while addressing the City Council or while attending the City Council meeting and who refuses to come to order at the direction of the Presiding Officer when such remarks or conduct disrupt the order of the meeting, shall be removed from the Council Chambers by the sergeant-at-arms and may be barred from further attendance before the Council. Unauthorized remarks from the audience, stamping of feet, whistles, yells and similar demonstrations shall not be permitted by the Presiding Officer. The Presiding Officer may direct the sergeant-at-arms to remove such offenders from the room when such offenders disrupt the orderly conduct of the City Council meeting.

33.3 Prosecution

- Aggravated cases shall be prosecuted on appropriate complaint signed by the Presiding Officer.

34.0 ENFORCEMENT OF DECORUM

In extreme cases, such as when a meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals as provided for in this Policy, the Council Members may order the meeting room cleared and continue in session. Only matters appearing on the agenda may be considered in such a session. Duly accredited representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this Section. Nothing in this Section shall prohibit the City Council from establishing a procedure for readmitting an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting.

35.0 PERSONS AUTHORIZED TO BE WITHIN PLATFORM

No person except City Officials shall be permitted within the platform area in front of the City Council dais without the invitation or consent of the Presiding Officer.

36.0 MOTIONS

Following are the rules and procedures related to the various types of motions which may be considered by the City Council.

36.1 Motions, Generally

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When a motion is made and seconded, it shall be stated by the Presiding Officer before debate. Before the motion has been stated by the Presiding Officer it is the property of the mover who can modify it or withdraw it without anyone's consent. Once the motion has been stated by the Presiding Officer, the motion belongs to the City Council and may not be amended or withdrawn

without the consent of the City Council, which can be accomplished by general consent, unless there is an objection, in which case, a majority approval of the City Council is required for the motion to be withdrawn. While there can only be one question on the floor at one time, there can be more than one motion.

36.2 Main Motions

- Main motions are proposals that certain action be taken or an opinion be expressed by the City Council. Main motions are the basis of all parliamentary procedure and are used to bring business before the City Council for consideration and action. Main motions can only be introduced if no other business is pending.

Generally, a main motion cannot be made which interrupts a Council Member who has been assigned the floor. The maker of a main motion has first right to speak it. Main motions require a second, unless the motion is from a committee, and a majority vote. Main motions can be debated and amended. A Council Member can vote against his/her own motion, but cannot speak against it and he or she can modify his/her own motion before it is stated by the Presiding Officer. The Council Member can also offer an amendment after his/her motion has been stated by the Presiding Officer. A Council Member can withdraw his/her motion up to the time it has been stated by the Presiding Officer, and after that he/she must have the permission of the group.

36.3 Privileged Motions

- Privileged motions are those that, while having no relation to the pending question, are of such urgency or importance that they must be handled before any other business that may be pending and they are undebatable. There are three types of privileged motions: questions of privilege and motions to recess and adjourn.

36.3.1 Questions of Privilege

- Questions of privilege relate to the rights of the City Council or any of the Council Members. The motion enables a Council Member to interrupt business on the floor in order to state an urgent request. It is in order only when the comfort, dignity, safety, or reputation of the City Council or any individual Council Member is at stake.

There are two forms of privilege: the general privilege, which affects the City Council and the meeting; and the personal privilege, which affects individual members. The Presiding Officer shall determine whether the privilege is important enough to interrupt business. Any member who claims privilege and attempts to make a speech will be ruled out of order by the Presiding Officer. If motions of privilege are made when no business is pending, they may be debated and amended. After the question of privilege is settled, the speaker who was interrupted has the floor again.

36.3.2 Motion to Recess

A motion to recess proposes a short intermission in the meeting. It temporarily suspends business, which is resumed at the same point at the end of the intermission.

A motion to recess should state the length of the recess or the time for reconvening. A motion to recess requires a second and a majority vote. A motion to recess cannot be debated and can only be amended as to the length or time of the recess.

36.3.3 Motion to Adjourn

A motion to adjourn is used to close the meeting and is out of order when a member has the floor. When a motion to adjourn is made and adopted while business is pending, the unfinished business shall be continued to the next meeting.

A motion to adjourn requires a second and a majority vote. It cannot be debated or amended.

36.4 Subsidiary Motions

Subsidiary motions are made to modify, delay action or dispose of another motion. Subsidiary motions are always considered in order of their rank or order of precedence. When a subsidiary motion is pending, any motion above it in rank is in order; any motion below it in rank is out of order. Subsidiary motions either amend, commit, postpone, limit or cut off debate. These various types of

subsidiary motions are listed in order from the lowest in rank to the highest in rank.

36.4.1 Amendments

A motion may be amended in either of three ways:

(a) adding words or phrases; striking out words or phrases; or

(c) substituting by either striking out and inserting words or by substituting an entire motion or paragraph.

An amendment must relate to the pending motion on the floor to be in order. No new business may be introduced under the pretext of an amendment. Adopting an amendment to a motion does not adopt the motion.

An amendment may also be amended. When this occurs, the first amendment is called a primary amendment and the amendment to the amendment is called a secondary amendment. Only two amendments may be pending at any one time.

A member must obtain the floor to offer an amendment but shall not interrupt a speaker to do so. An amendment must be seconded and requires a majority vote, even if it is applied to a motion that requires a two-thirds vote.

An amendment is out of order if it:

(a) does not relate to the motion; is the same as a negative vote on the motion; is dilatory or foolish; or would make the motion incoherent.

36.4.2 Commit (Refer a Motion)

To commit or refer a motion sends the question on the floor to a City Council Committee so that it can be carefully studied and put into proper form for the remainder of the Council Members to consider.

A motion to commit can be applied to any main motion with any amendments that may be pending. The amendments go with the motion to the committee. A motion to commit must be seconded and requires a majority vote. A motion to commit can be amended and debated, but shall be limited to the desirability of committing and not into the main question.

36.4.3 Postpone

A motion to postpone delays action on a question until later in the same meeting or until the next meeting. If a motion was postponed until the next meeting, the Presiding Officer shall schedule the motion on the agenda for the next regular meeting, under unfinished business.

A motion to postpone may be applied to all main motions, but is out of order when a Council Member has the floor. The motion must be seconded and requires a majority vote. It can be debated, however the debate shall be limited to the desirability of postponing and not into the main question. A motion to postpone can be amended as to the time of the postponement, however, the action cannot be postponed further than the next regular meeting. The motion shall be called up at the designated time.

36.4.4 Limit Debate

A motion to limit debate reduces the number and length of speeches allowed by requiring that debate be limited to a specified period of time.

A motion to limit debate may be used with any motion, but is out of order when a Council Member has the floor. The motion must be seconded and requires a two-thirds vote because it takes away the rights of Council Members. The vote may not be taken by voice but must be taken by a show of hands. A motion to limit debate is not debatable and may only be amended as to the length of speeches or when the vote will be taken.

36.4.5 Motion to Cut Off Debate (Previous Question)

A motion to cut off debate, also known as "previous question" is the motion used to cut off debate and to bring the City Council to an immediate vote on the pending motion. The Presiding Officer shall explain the effect of the motion to the Council Members and shall clarify whether the motion is to apply to all motions on the floor.

A motion to cut off debate can be applied to any pending question but is out of order when a member has the floor. A motion to cutoff debate requires two-thirds vote because the right of Council Members to debate is being curtailed. The motion cannot be debated. Because it requires a two-thirds vote, the vote must be taken by a show of hands.

36.5 Incidental Motions

Incidental motions are those that are related to procedure and not directly related to the question on the floor. They are "incidental" to the main motion. When an incidental motion is made, it must be acted upon before business can continue. The incidental motions are: Point of Order, Appeal, Point of Information, Parliamentary Inquiry, Division, Division of a Question, Objection to the Consideration of a Question and Permission to Withdraw a Motion. These incidental motions have no rank among themselves and are decided as they arise.

36.5.1 Point of Order

Point of order is the motion to use if one feels that the Presiding Officer is failing to operate within the rules.

36.5.2 Appeal

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Appeal is the motion that allows any two Council Members to counter what they feel is an incorrect or unfair ruling of the Presiding Officer. This motion, if seconded, requires the Presiding Officer to submit the ruling to the vote of the City Council, which may vote in favor of the ruling of the Presiding Officer or against the ruling, thereby reversing it.

An Appeal requires a second and a majority vote to reverse the ruling of the Presiding Officer. An Appeal is debatable; however, no member is allowed to speak more than once, except the Presiding Officer, who speaks first in defense of the ruling and may again speak at the end, immediately before the vote.

36.5.4 Point of Information

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Point of information is the motion used to obtain additional information on the subject being considered.

36.5.5 Parliamentary Inquiry

Parliamentary inquiry is a motion that enables the members to obtain parliamentary help.

36.5.6 Division

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Division allows any one Council Member to demand that the Presiding Officer verify a vote. The member does not seek recognition, but sitting in his/her seat calls out, "DIVISION."

To verify a vote, the Presiding Officer must retake the vote in a manner in which the City Council can see and be assured of the correctness of the call. If division has been called on a voice vote, the Presiding Officer retakes the vote by asking for a show of hands.

36.5.7 Division of a Question

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Division of a question may be used when a motion or resolution

contains several parts, and the City Council wishes to vote on each separately. The parts of the motion must be able to stand alone for division of a question to be in order. The motion requires a second and a majority vote.

36.5.8 Objection to the Consideration of a Question

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Objection to the consideration of a question is used when a Council Member feels that it would be harmful for a particular motion to come before the City Council for discussion and vote. There must be two-thirds of the Council Members voting in the negative to suppress the motion.

An objection to the consideration of a question does not require a second but requires a two-thirds vote. The objection cannot be amended and must be made before debate has begun.

36.5.9 Permission to Withdraw a Motion

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Permission to withdraw a motion allows a member who realizes that he/she has made a hasty or ill-advised motion to withdraw it with the consent of the City Council. The Presiding Officer may handle the request by use of general consent.

36.6 Restorative Motions

Restorative motions are those that permit the City Council to rescind and reconsider an action.

36.6.1 Rescission

A motion to rescind is the motion to use to quash or nullify a previously adopted motion. A motion to rescind is not in order when any action has already been taken as a result of the vote. The motion must be seconded and requires a two-thirds vote unless notice has been given at the previous meeting, either verbally or in writing. If notice has been given, the motion requires only a majority vote.

36.6.2 Reconsideration

A motion to reconsider allows the City Council to reconsider the vote on a motion. It enables a majority of the City Council, within a limited time, to bring back a motion for further consideration after it has been acted upon. Its purpose is to prevent hasty or ill-advised action.

A motion to reconsider can only be made by someone who voted on the prevailing or winning side. The motion must be made on the same day that the vote to be reconsidered was taken. The motion requires a second and a majority vote. A motion to reconsider may be debated, which has the effect of opening up the motion to which it is applied to debate. A motion to reconsider may be made and seconded while other business is pending because of its time limit. However, it is not debated and voted on until the business on the floor is completed. All action that might come out of the original motion is stopped at the time that reconsider is made and seconded.

36.7 Authority of the Presiding Officer

The Presiding Officer can rule out of order motions that conflict with the law or with the bylaws, those that repeat the same question on the same day, those that conflict with an already adopted motion, those that operate outside the scope of the City's authority, and those which conflict with or repeat motions held in committee and those which appear dilatory, incorrect, frivolous, or rude. The Presiding Officer can also require a long motion to be submitted in writing.

36.8 Applicability of Roberts Rules of Order

In the absence of a rule herein to govern a point or procedure, Robert's Rules of order, Newly Revised, shall be used as a guide.

37.0 RULINGS OF PRESIDING OFFICER FINAL UNLESS OVERRULED

In presiding over City Council meetings, the Mayor, Mayor Pro Tem, or temporary Presiding Officer shall decide all questions of interpretation of these Rules, points of order or other questions of procedure requiring rulings. Any such decision or ruling shall be final unless overridden or suspended by a majority vote of the Council Members present and voting, and shall be binding and legally effective (even though clearly erroneous) for purposes of the matter under consideration.

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