



AGENDA

Special Workshop of the
CAPITOLA CITY COUNCIL
Monday, January 10, 2011 – 12:00 Noon
City Hall Community Room
420 Capitola Avenue
Capitola, California

1. ROLL CALL

Council Members Harlan, Termini, Nicol, Storey, and Mayor Norton

2. CITY COUNCIL WORKSHOP

- A. Council Member Handbook. Presentation by the City Manager's Department.
- B. Brown Act/Ethics/Public Records Act. Presentation by City Attorney John Barisone.
- C. Best Practices. Presentation by Dick Wilson, retired City Manager from the City of Santa Cruz.
- D. Council discussion of Meeting Practices and Protocols:
 - Rosenberg Rules of Order
 - The Riggins Rules
 - Public Speaker Time Limits
 - Protocol for adding items to the Agenda (Municipal Code §2.04.140)
 - Managing the Meeting and Agenda Flow

3. ADJOURNMENT

Adjourn to a Regular Joint Meeting of the City Council/Redevelopment Agency to be held on Thursday, January 13, 2011, in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

If you require special assistance in order to attend the meeting, including needs addressed by ADA, please notify the City at 831-475-7300 at least 3 days prior to meeting.

CITY OF CAPITOLA

City Council Member Handbook



**Approved on March 27, 2003
Revised 9/07**

**CITY OF CAPITOLA
420 Capitola Avenue
Capitola, CA 95010**

CITY COUNCIL MEMBER HANDBOOK

INDEX

INTRODUCTION	2
CHAPTER 1: Types of Meetings, Meeting Guidelines & Procedures	6
CHAPTER 2: Council Member Compensation	10
CHAPTER 3: City Council & Redevelopment Agency Director Powers	11
CHAPTER 4: Boards, Commissions and Committees	13
CHAPTER 5: Conflict of Interest	17
CHAPTER 6: The Brown Act – Open Meeting Law	19
CHAPTER 7: City Organization.....	20
CHAPTER 8: Council/Staff Relationships	
Conduct and Support Provided to Council	23

INTRODUCTION

The City Council is composed of five Council Members, all of who are directly elected by the voters in the City of Capitola to serve a four-year term. The Council elects the Mayor and Vice-Mayor annually. Although not granted special decision-making powers, the Mayor does represent the City in all ceremonial and official affairs. The City's Municipal elections are held the first Tuesday of November in each even-numbered year.

The people of the City of Capitola elected to adopt an ordinance limiting the terms of elected officials to two (2) consecutive terms. Ordinance No. 844 was adopted on November 26, 2002.

The City Council meets regularly twice monthly on the second and fourth Thursdays. The purpose of the City Council is to establish local laws, set policy, reject or approve programs, allocate funds and provide direction, through the City Manager, to City staff to implement its policy and administer to the needs of the City organization. The Council has the authority to appoint the City Manager, the City Attorney and members to various local and regional committees, commissions and other boards.

City Council members also serve as Directors of the Capitola Redevelopment Agency and are Board Members of the Capitola Financing Authority.

Since the City of Capitola is a General Law City, as opposed to a charter city, its Council must act within the framework of limitations and procedures established by State Law such as the California Government Code or the Election Code. Local laws are established by ordinance and are compiled in a book called the Municipal Code. These laws are enforceable by the City, and violations thereof can constitute a misdemeanor or an infraction. Other directives and policies of the City Council are recorded in Council resolutions and Council minutes.

CHAPTER 1

TYPES OF MEETINGS, MEETING GUIDELINES & PROCEDURES

I. MEETING SCHEDULE

REGULAR MEETINGS

Regular meetings are held the second and fourth Thursday of each month beginning at 7:00 p.m. In the event that a regular meeting of the Council falls on a legal holiday, the meeting may be rescheduled or cancelled. The City Council has typically taken one or both meetings in August off to accommodate vacations. Regular meetings of the City Council are generally followed preceded by a meeting of the Redevelopment Agency.

Regular meetings are held in the City Hall Council Chambers, 420 Capitola Avenue, Capitola.

CLOSED SESSION MEETINGS (Closed to the public)

Closed Session Meetings are regulated pursuant to the Brown Act. Closed sessions are typically held prior to a City Council Meeting. Certain defined circumstances exist wherein the Council may meet without the public in attendance. Such circumstances include:

1. Real Property. The purchase, sale, exchange or lease of real property with the City's negotiator (Cal Govt. Code Section 54956.8)
2. Litigation Pending or a significant exposure to litigation, or the decision to initiate litigation; the litigation or title must be identified in open session unless the Council states that to do so would jeopardize its ability to conclude existing settlement negotiations or effectuate service of process (Cal Govt. Code Section 54956.9)
3. Compensation (salaries and benefits) of employees; to review its position and instruct designated representatives (Cal Govt. Section 54957.6).
4. Personnel. The appointment, employment, evaluation of performance or dismissal of a public employee, or to hear complaint against the employee, unless the employee requests a public hearing (Cal Govt. Code Section 54957.6).

No member of the Council, employee of the City, or anyone else present shall disclose to any person the content or substance of any discussion, which takes place in a closed session.

STUDY SESSIONS

Often referred to as "work sessions", the purpose of these meetings is for informal discussions between staff, advisory bodies or consultants, the public and the City Council regarding specific programs, projects or policies. These meetings are public and subject to the Brown Act.

EMERGENCY MEETINGS

Given certain emergencies as defined by the Brown Act, the City Council may meet without notice.

SPECIAL MEETINGS

The Mayor or a majority of the members of the City Council may call special meetings. Written notice for each special meeting must be given not less than twenty-four (24) hours before such meeting to each member of the City Council. Written notice must be posted and given to the media twenty-four hours prior to a special meeting. No business other than that announced and posted shall be discussed.

II. AGENDA

ESTABLISHING THE COUNCIL AGENDA

The purpose of the agenda is to publicly announce and disclose the City's business before the Council and to provide a framework within which Council meetings are to be conducted. The City Manager is responsible for compiling the agenda and will review the agenda materials with the Mayor, or in the Mayor's absence, the Vice-Mayor. The complete agenda packet is usually published before the close of business on the Friday prior to the Council meeting. Agendas are posted on the City Web Site (<http://www.ci.capitola.ca.us/>), the Capitola Post Office and Capitola Library.

PLACING AN ITEM ON THE AGENDA

The Mayor and the City Manager have the authority to place an item on the Council agenda (CMC 2.04.140). A majority of a quorum of the City Council may order an item placed on the agenda. The City Council may place a matter on the agenda after the 72-hour posting period in the manner provided for by the Government Code. The chair of a board, commission or committee, the City Treasurer, City Clerk, or City Attorney may place a matter on the agenda provided the subject is reasonably related to their powers and duties, and is within the authority of the City Council. All others must direct their agenda request to the City Council, the Mayor, or the City Manager.

EMERGENCY ITEMS

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

DELIVERY AND DISTRIBUTION OF AGENDA PACKETS

The City Council Agenda packets are prepared by the City Manager's office. Barring unavoidable difficulties or holidays, the Agenda packets will be distributed to members of the City Council on the Friday evening preceding the Thursday City Council Meeting. All Council Members will receive a PDF version of the packet via e-mail. Council Members may also request a hard copy of the agenda packet to be delivered to them. Each Agenda item shall be composed of the Agenda Report and all backup material needed for the City Council to take its action.

ORDER OF BUSINESS shall be as follows:

OPEN SESSION

In the council Chambers, an announcement regarding items to be discussed in Closed Session will be made and an opportunity for the public to comment on Closed Session will be available.

CLOSED SESSION (not open to the public)

OPEN SESSION

Roll Call and pledge of allegiance

Presentations

1. Report on Closed Session (Actions taken by the City Council during closed session usually reported by the City Attorney)
2. Oral Communications
 - a. Additions and/or deletions to Agenda
 - b. Public Comments
 - c. Staff Comments
 - d. Council Members/City Treasurer report on attendance at meetings or other activities where they represent the City.
 - e. Committee Reports/Appointments
 - f. Approval of Check Register
3. Consent Calendar
4. Public Hearings
5. Other Business
Consent Calendar items that have been previously pulled for separate discussion
6. Oral Communications (Additional requests for information, comments or observations by the Council, staff or the public.)
7. Adjournment

NOTIFICATION

Agendas for regular meetings must be posted 72 hours in advance of the meeting and must meet various requirements (Government Code Section 54954.2). Agendas are posted in the Council Chambers foyer, the Capitola Library, Post Office, City Hall and the City web site www.ci.capitola.ca.us.

III. MEETING PROCEDURES

PRESIDING OFFICER

The Mayor is the Presiding Officer and acts as Chair at Council meetings and Redevelopment Agency meetings. In the absence or incapacity of the Mayor, the Vice Mayor will serve as Presiding Officer. If both the Mayor and Vice Mayor are absent, it has been the practice of the Council to select the immediate Past Mayor as presiding officer.

Seating arrangement of the Council: Following the annual reorganization of the City Council, the Mayor, with the approval of individual Council Members, shall establish seating arrangements for regular Council meetings.

Signing of City Documents: The Mayor, unless unavailable or disqualified, shall sign all ordinances, resolutions and other documents which require an official signature, except where the City Manager has been authorized by Council to sign documents. In the event the Mayor is unavailable, the Vice Mayor's signature may be used.

QUORUM

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

CITY COUNCIL GENERAL POLICIES AND RULES OF ORDER

City Council Minutes: The City Clerk prepares the minutes for all regular and special meetings of the City Council and submits for approval and/or correction on the Consent Calendar at a regular City Council Meeting. The minutes of a preceding Council Meeting may be approved without reading; provided that the City Clerk has previously furnished each member of the Council with a copy of the minutes and that a majority of the Council has not requested such a reading. The primary purpose of City Council Meeting Minutes is to record the actions taken by the City Council. The Minutes shall also include a record of all persons addressing the City Council by name, city of residence, and subject or position.

Correction of Council Minutes: When a Council Member wishes to correct the minutes, he/she should contact the City Clerk in advance of the meeting with the correction. The City Clerk will then verify the correction by listening to the recording of the meeting. Upon verification of an error in the minutes, the City Clerk will provide the corrections to the Council at the meeting. If time constraints prevent this procedure, the Council should continue the approval of the minutes to the next meeting and direct the City Clerk to verify the error.

Notification of Meeting Absences: Members of the City Council shall notify the City Manager or City Clerk when they are unable to attend a City Council Meeting by email or telephone.

City Council Meeting Curfew: The City Council meeting curfew is 11:30 p.m. At 11:15 p.m., the City Council will review the remaining Agenda items and make a decision regarding continuing with the meeting or terminating the meeting. If the meeting is terminated, the Council shall decide which items will be considered before the 11:30 p.m. curfew, which items will be continued, and to what meeting the continued items would be considered.

Reordering Agenda Items: The Mayor may, with Council concurrence, reorder items on the Agenda to accommodate the public or to address other concerns (2.04.190).

Meeting Decorum: While the City Council is in session, all persons shall preserve order and decorum. Any person making personal, impertinent, or slanderous remarks, or becoming boisterous or otherwise disrupting the Council meeting shall be barred by the Mayor from further attendance at said meeting unless permission for continued attendance is granted by a majority vote of the City Council.

Obtaining the floor: A member of the City Council or staff shall first address the Mayor and gain recognition. Comments and questions should be limited to the issue before Council.

A Council Member, once recognized, shall not be interrupted when speaking unless it is to call him/her to order. If a member, while speaking, is called to order, he/she shall cease speaking until the question of order is determined and, if in order, he/she shall be permitted to proceed.

Questions of Staff: A Council Member shall, after recognition by the Mayor, address questions to the designated staff member.

PARLIAMENTARY PROCEDURE

Municipal Code Section 2.04.210, Paragraph G., pertains to “Rules of Order” governing city meetings. That code section stipulates that rules of order for the city council, as well as city advisory bodies, shall be designated by resolution. At its February 8, 2006, meeting, the City Council adopted Resolution No. 3611 designating, “*Rosenberg’s Rules of Order: Simple Parliamentary Procedures for the 21st Century,*” as the city’s rules of order.

VOTING PROCEDURES

When present, all Council Members shall vote. The votes shall be one of the following: Aye, No, Abstain or Disqualified (if a council member has a conflict of interest and recuses him/herself). If a member of the body does not vote, they “Abstain”. No member of the Council shall be allowed to explain his/her vote or discuss the question while the roll is being called, and no member shall be allowed to change his vote after the vote is announced by the presiding officer (CMC 2.04.250). Rules of Order, however, do allow for the reconsideration of a matter at the same meeting or at the very next meeting of the body, where the item was first voted upon. A motion to reconsider must be made by a member who voted in the majority on the original motion. Under reconsideration votes can change.

No ordinance, resolution or motion shall be passed or become effective without receiving the affirmative vote of the majority of the Council quorum, which is present. A conflict of interest shall be declared whenever appropriate and in compliance with State law. The Council Member who has a conflict will briefly explain the conflict, step down and leave the room. The Council Member shall not make, participate in making or influence the decision. The Council Member will be disqualified in the recorded vote.

The Mayor shall restate the motion prior to the vote.

Tie votes: Should a tie vote occur, the Mayor, unless overridden by a majority of present council members, may continue the matter to another meeting. When there is a tie council vote on an appeal from a board or commission action, unless the matter is continued, the appeal will be deemed denied and the board or commission action becomes final (CMC 2.04.180).

PRESENTATIONS

Presentations shall be scheduled as necessary to recognize persons or groups, promote events or to provide an update on matters of community interest. These are informational, ceremonial and other activities before the Council that do not require any decision on the part of the Council. The Mayor approves all presentation requests. Presentations are limited to 15 minutes.

ORAL COMMUNICATIONS

Members of the public may address the City Council in a variety of ways. Written comments or material distributed at the meeting will be made a part of the public record. Oral communications on matters that are not on the agenda and are not public hearing items may be provided during the Oral Communications period at the beginning and end of every meeting.

Pursuant to the Brown Act, no action may be taken on issues not listed on the agenda. Staff may be asked to follow-up on such items or schedule an item for a future meeting.

Oral comments before the City Council should be limited to three (3) minutes. The maximum time for public comments at the beginning of the meeting is 30 minutes.

Council Members may question the person addressing the Council at the conclusion of the person's comments. Such questions shall be directed to the person through the Mayor. If a member of the audience has addressed the Council on matters, which are not on the agenda, Council Members should refrain from extended discussion of the matter. If a Council Member so wishes the Council Member may direct the City Manager to place the matter on a future agenda.

CONSENT ITEMS

Consent items are the first items on the agenda. Only items that are routine and usually not controversial or have been addressed by the Council at prior meetings or are ministerial in nature are to be placed on the Consent Agenda. A Council Member, Treasurer, Staff or a member of the public may pull any item for discussion. Pulled items are placed after Other Business or the Mayor may reorder to another place on the agenda.

Minor Questions. A Council Member may ask questions on any item without it being pulled. When a Council Member has a minor question for clarification concerning a consent item that will not involve extended discussion, the item may be discussed prior to action on the consent calendar for clarification. Council Members are encouraged to seek clarifications from staff prior to the meeting.

PUBLIC HEARINGS

The City Council conducts public hearings on applications, projects and other matters as required to provide due process of law or, as may be determined by Council or staff of such an interest to the public that the solicitation of public comment is desired.

OTHER BUSINESS

Other Business items are acted upon individually. The public may address the Council on an Other Business item. Persons addressing the Council on an item shall confine their remarks to the matter under consideration by the Council.

ORAL COMMUNICATIONS

This is a second opportunity for a member of the Council, Staff, Treasurer or the Public to address the Council on items not on the agenda. Refer to definition above.

IV. MEETING COVERAGE

All City Council meetings are televised “live” on cable Channel 8. The purpose of cable casting City Council meetings is to enhance the awareness and education of the general public regarding the actions and deliberations of the City Council. Meetings are re-broadcasted on Community Television of Santa Cruz County.

CHAPTER 2

COUNCIL MEMBER COMPENSATION

Council compensation and benefits are established by Council Action.

SALARIES FOR COUNCIL MEMBERS & REDEVELOPMENT AGENCY BOARD MEMBERS

Compensation for Council Members is \$500 per month pursuant to Capitola Municipal Code Section 2.04.275 (Ordinance No. 901 adopted 3/23/06). Compensation for expenses related to conferences, dues, memberships, subscriptions and supplies is reimbursable and must be submitted for approval and payment to the City Manager. Those expenses then must be reported by the Council Member either written or orally at the next regular Council Meeting. When acting in the capacity of a Redevelopment Agency Director, the Director will receive \$30 per meeting, not to exceed \$120 per month.

RETIREMENT, MEDICAL, DENTAL AND VISION

City Council members may obtain medical, dental and vision insurance through the City, but they must pay the entire premium. Please see the Executive Assistant to the City Manager for further information on this and eligibility for retirement benefits. Council members will also be enrolled in either PARS or CALPERS retirement system depending on their choice.

CHAPTER 3

CITY COUNCIL & REDEVELOPMENT AGENCY DIRECTOR POWERS

CITY COUNCIL MAYOR – APPOINTMENT, POWER AND DUTIES

The Mayor shall preside at all meetings of the City Council and perform such other duties consistent with the office as may be imposed by the Council. The Mayor can place matters on the agenda. The Mayor shall be entitled to, and must vote when present, but shall possess no veto power.

The Mayor shall be recognized as the official head of the City for all ceremonial purposes.

Appointment: After each general municipal election, the City Council reorganizes and selects its mayor and mayor pro tempore. In off election years CMC Section 2.04.150 provides that, “At a regular meeting which falls approximately one year after the last general municipal election, the City Council shall consider choosing a new mayor and a new mayor pro tempore. Any City Council member is eligible for either of those two positions.”

MAYOR PRO TEMPORE (Vice Mayor)

In case of the temporary absence or inability of the mayor to act as presiding officer the mayor pro tempore shall preside. In case of the absence or disability of both the mayor and mayor pro tempore the council shall elect one of its members to act as mayor pro tempore (CMC 2.04.160).

APPOINTMENT OF STANDBY CITY COUNCIL MEMBERS

Government Code Sections 8653 and following provide that the City Council shall have the authority to appoint up to three standby City Council Members per Council position. Such standby members would serve as City Council persons in the event that a Council Member is “unavailable” in an “emergency” as those words are defined in the California Emergency Services Act.

To become effective the nomination must be approved by the City Council, and the nominee must take the oath of office (CMC 2.04.165).

GENERAL POWERS OF THE COUNCIL

Subject to the provisions of law and the delegation of power to any person, officer, Board or Commission, the Council shall have the power in the name of the City, to do and perform all acts and actions appropriate to a municipal corporation that are not specifically forbidden by the Constitution and laws of the State of California or the United States Government.

ORDINANCES

Ordinances are the laws of a municipality. City Councils are given the power to adopt ordinances by Government Code Section 37100 as long as those ordinances are not in conflict with the laws and the Constitution of the State of California or the United States.

An ordinance is the most binding form of action taken by the City Council; the violation may be a misdemeanor. It is an act of law. Ordinances are generally introduced at one Council Meeting and adopted at the next, becoming effective 30 days after adoption. If an ordinance relates to zoning and is included in the Local Coastal Plan (LCP), such ordinances would not become effective until approval by the California Coastal Commission.

RESOLUTIONS

A resolution constitutes a written action or decision. However, it usually does not demand the legal processing required of an ordinance. A resolution is generally introduced and adopted at the same meeting and becomes effective immediately.

CAPITOLA REDEVELOPMENT AGENCY

The City Council also acts in the capacity of the Board of Directors for the City of Capitola Redevelopment Agency. The Capitola Redevelopment Agency was formed on June 24, 1982, with the adoption of a Redevelopment Plan. Redevelopment is a process created through State of California law to assist city and county governments in eliminating blight from a designated area, and to implement desired development, reconstruction, and rehabilitation of land and buildings.

CHAPTER 4

BOARDS, COMMISSIONS & COMMITTEES

The purpose of most committees, commissions or boards (advisory bodies) is to serve as advisory bodies to the City Council. Commissions and boards focus on one area of interest (i.e. planning issues, financial issues, Village issues, Art programs, etc.), and through legislation, are given specific duties and powers relating to the particular subject area. Advisory Bodies are either mandated by law or established by the City Council by adoption of an ordinance or resolution. Ad-hoc committees are generally short-term bodies, which may be formed by the Council to provide information or assistance on a special task. Ad-hoc committees generally are dissolved after their specific task is completed.

The following information offers a *brief synopsis* of the City's Commissions, Committees & Boards.

Architectural & Site Review Committee

The Architectural and Site Review committee consists of five members as follows: an Architect; Landscape Architect; Historian; Building Official; Associate Planner and the Public Works Director. The Mayor, with the concurrence of the Council, appoints the Architect, Historian and the Landscape Architect; however, a majority of the Council may remove them. Pursuant to CMC 17.63.020 B, the member's term expires one month after the certification of any regular election of City Council members. Architectural & Site Review members are compensated \$50 per month, and are required to receive AB1234 Ethics training every 2 years as well as file a Statement Of Economic Interest form with the City Clerks office.

The purpose of this committee as defined in Capitola Municipal Code Section 17.63.010, is "...to maintain the character and integrity of the neighborhood by promoting excellence of development, preventing undue traffic hazards or congestion, encouraging the utilization of solar energy, and encouraging the most appropriate development and use of land in harmony with the neighborhood. In fulfilling its intent, architectural and site approval may contain reasonable conditions which exceed the basic development standards listed elsewhere in this title."

This committee meets the 2nd and 4th Wednesday of the month at 3:30 p.m. in the City Hall Community Room. The staff contact is the Associate Planner and the Senior Planner.

Art & Cultural Commission

The Art & Cultural Commission meets the 2nd Tuesday of the month at 6:30 p.m. in the City Council Chambers. The Art & Cultural Commission consists of seven members: 1 Council Member, 1 Planning Commissioner, 1 Artist or Art Organization Representative, 1 Art Professional and 3 "At-Large" members. Appointments to the commission shall be made by the City Council. The term of a commissioner is two years. Members are required to submit a Statement of Economic Interest form annually to the City Clerk.

The duties of the Art & Cultural Commission are defined in Section 2.56.050 the Capitola Municipal Code as follows:

The Art & Cultural Commission shall have the following duties and responsibilities:

- a. Advise the City Council as to the allocation of public funds for the support and encouragement of existing and new programs in the arts, and for the acquisition by purchase, gift or otherwise, of works of art;
- b. Subject to City Council approval, initiate, sponsor or direct special programs which will enhance the cultural climate of the City;
- c. Establish a close liaison with other commissions and civic organizations in order to foster public interest in the arts;
- d. Advise the City Council concerning the interpretation and implementation of the City's established policies and practices, including the Art & Cultural Master Plan, as they relate to the Art & Cultural Commission's objectives;
- e. In February of each year, prepare for City Council review an assessment of the Art & Cultural Commission's goals, plans and objectives from the prior fiscal year and recommend for Council approval the Art & Cultural Commission's goals, plans and objectives for the next fiscal year.
- f. Perform such other functions and duties as may be directed by the City Council.

Commission on the Environment

This commission provides advice and recommendations to the City Council on matters affecting the various environmental assets in and about the City. The commission has broad discretion on determining which assets are environmental, but does not have the ability to consider matters considered by other standing committees or commissions.

The COE is to be comprised of seven members: the Mayor, an appointee of the Mayor, an appointee from each Council Member, and an appointee from the Planning Commission. Although the COE is required to meet quarterly at a minimum, it generally meets monthly on the first Tuesday of the month. The staff liaison is the Associate Planner.

Finance Advisory Committee

The Finance Advisory Committee advises the City Council on financial matters pertaining to the governing of the City, as well as on the use of fiscal resources. The Committee consists of 8 members, including the Mayor, Vice-Mayor, Redevelopment Treasurer, the City Treasurer and 3 public members by the Council Members not on the committee. Members are selected by the City Council on the basis of their knowledge, experience, and qualifications in financial management and related areas.

The Finance Committee's purpose is:

1. To provide financial and budget alternatives to the city Council
2. To provide financial and budget advice to the City Manager
3. To conduct financial studies at the request of the City Council or the City Manager
4. To review the budget and financial reports of the City and Redevelopment Agency.

The Finance Committee meets the third Tuesday of the month at 6:30 p.m. in the City Hall Community Room. The staff liaison is the Finance Director.

Historical Museum Board

The Historical Museum Board consists of seven members who are appointed by the Mayor subject to the approval of three council members (may include the Mayor) for a term of 3 years. The Capitola Museum's purpose is to promote, through the establishment and maintenance of a museum and allied projects, a program that will bring a better understanding and appreciation by the Capitola community of its history, architecture, culture, technology, and its creative and natural environments.

The duties of the board as specified in Section 2.28.030 of the Municipal code are: "to advise the council and the city manager on the following and related items: financial affairs of the museum; general museum administration; formulation of long term museum plans; formulation of written policies for acquisition by the city of museum objects; and steps that can be taken to bring about a better understanding and appreciation by the Capitola community of its history, architecture, culture, technology, and its creative and natural environment through the promotion of the City's museum and allied projects."

The Historical Museum Board meets the first Thursday of the month at 5:30 p.m. in the City Hall Community Room.

Planning Commission

The Planning Commission is a five-member body primarily responsible for making decisions about discretionary land use permits. The Planning Commission also makes recommendations to the City Council regarding General Plan, Zoning Ordinance and other legislative policy matters, and carries out certain code enforcement duties. The commission implements local land use policy through its decisions about whether to approve, conditionally approve, or deny applications for use and development of land located within the City limits. It is also responsible for other duties consistent with State Planning, Zoning and Development Law.

Each Council member appoints a Planning Commissioner. Planning Commissioners are compensated \$250 per month. The term of the commissioners terminates fourteen days after the next regular election of Council Members. Planning Commissioners are required to file Statements of Economic Interest forms annually and to receive AB1234 (ethics) training every 2 years. The staff liaison is the Community Development Director.

The Planning Commission meets the first and third Thursday of the month at 7:00 p.m. in the Council Chambers. Planning Commission meetings are televised “live” on Capitola Community Channel 8 and re-broadcast at a later time.

Village Master Plan Advisory Committee

This committee was originally created on November 22, 1994, and has been amended several times since then. Resolution No. 3470, adopted June 9, 2005, amended the term, categories of representation, and extended the committee to June 30, 2009. The Committee is comprised of a total membership of 20 individuals representing various segments of the community. Key responsibilities of the Village Master Plan Advisory Committee, as identified by Committee Members, are as follows. Input on land use in the Village, review of traffic circulation through the Village, development of a Village parking plan, design review of Village improvements, Village landscaping, and coordination of a Village Public Art Master Plan.

The Committee meets 6 to 7 times a year (check web site) on the fourth Tuesday of the month. No meetings are typically held during the summer and holiday months.

Wharf Working Group

The Wharf Working Group's purpose is the discussion of issues relevant to the operation, maintenance, and livelihood of the Capitola Municipal Wharf. Members include the Public Works Director, two council members and wharf business owners.

The group meets the fourth Tuesday of each month at 12 Noon at the Wharf House Restaurant or as determined by the members of the group.

CHAPTER 5

CONFLICT OF INTEREST

CONFLICT OF INTEREST

The California Government Code provides that "No public official at any level of state or local government shall make, participate in making, or in any way attempt to use an official position to influence a governmental decision in which there is a financial interest."

As of January 1, 2003, the California Government Code requires a public official who has a disqualifying conflict of interest to take the following steps: (1) Publicly identify the financial interest giving rise to the conflict of interest or potential conflict of interest in detail sufficient to be understood by the public (however, in so doing, the Council Member is not required to specifically identify his or her residence address); (2) recuse him or herself from discussing and voting on the matter; and (3) leave the room until after the discussion, vote and any other disposition of the matter is concluded unless the matter has been placed on the Council's consent agenda and is not pulled for discussion.

There are two primary laws that govern conflicts of interest for public officials in California – the Political Reform Act and Government Code Section 1090.

Annual disclosure statements are required of all Council Members by the Fair Political Practice Commission (Government Code Section 81000 et seq.) that indicate potential conflicts of interest including sources of income, ownership of property and receipt of loans and gifts. The City Clerk provides Council Members with the necessary forms by February of each year. These statements are required upon assuming office within 30 days, annually and upon leaving office within 30 days and are open to public inspection.

Generally speaking, when a matter comes before a commission or committee in which a member knows or has reason to know that there is a financial interest, the financial interest should be disclosed for the record, the member must disqualify himself or herself and leave the room during the discussion. Once disqualified, the member may not be counted toward establishment of a quorum, may not vote and must refrain from attempting to use his or her official position to influence the decision. An official does not influence or attempt to influence a governmental decision by appearing before an agency, including the one from which the official is disqualified, in the same manner as any other member of the general public, i.e., the official may represent himself or herself in speaking to the commission or committee from the floor.

A member does not have a financial interest in a decision unless it is reasonably foreseeable that the decision of the council, commission or committee will have a material effect on:

- Any business entity in which the member or the member's spouse has a direct or indirect interest worth more than \$2,000.
- Any real property in which the member or the member's spouse has a direct or indirect interest worth more than \$2,000.

- Any source of income, other than loans by a commercial lending institution in the regular course of business, aggregating \$500 or more in value received by or promised to the member or member's spouse within 12 months prior to the time when the decision is made.
- Any business entity in which the member or member's spouse is a director, officer, partner, trustee, employee or holds any position of management.

The rules for determining whether the effect of a decision is material are rather complicated as they relate to the effect on a business entity and depend on the dollar amount and the relationship to the business. The rules relating to the effect on real property are also somewhat complex, but may be summarized as follows:

- If the member or the member's spouse has an interest in real property within 500 feet of the property, which is the subject of the decision, the effect is material unless there is no financial effect.

It should be pointed out that the above situation does not constitute a conflict of interest when the effect of the decision on the member's financial interest is no different than the affect on other members of the public generally. It should be mentioned also that a member does not have a conflict of interest due to membership in a non-profit organization such as the American Legion, Rotary, Kiwanis, etc., even when the decision would effect that organization unless the member either receives income from the organization or can sell his or her interest in the property.

The above is a brief summary of the conflict of interest law. While it is hoped that this informal advice will assist members, it does not provide immunity from prosecution, civil or criminal, under the Act if the advice should later prove to be incorrect. Only the Fair Political Practices Commission can provide such immunity, and only if a member submits a question to them in writing and receives a written response. If there is any doubt in a member's mind as to whether or not a conflict situation exists, the member should disqualify him or herself and not participate in the matter. They may also consult with the City Attorney.

AB 1234 - LOCAL AGENCIES: COMPENSATION AND ETHICS

February 22, 2005, Assembly Member Salinas introduced AB 1234. On October 7, 2005, AB 1234 was Chaptered by the Secretary of State as Chapter 700, Statutes of 2005. AB 1234 mandates that ethics training be provided by any local agency that pays any compensation, salary, or stipend to, or reimburses the expenses of, members of a legislative body. The training must be provided to each member of the legislative body, each elected official, and any employees who may be designated by an agency to receive the training. After initial training, members must be provided training every two years thereafter. Specific topics are required to be covered in such training and include gift limitations, honoraria prohibitions, conduct upon leaving office, etc. Local officials may fulfill their Ethics Training requirement by completing the online course. After completing the online course, officials need to print the certificate and submit it to the City Clerk's Office. Below are website links to the online course: <http://localethics.fppc.ca.gov> or <http://www.localethics.fppc.ca.gov>.

CHAPTER 6

THE BROWN ACT – OPEN MEETING LAW

The Ralph M. Brown Act, which was passed in 1953, has become a public meeting law for the State. The opening section of the law states that:

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

The Act extends to any advisory commission, committee or body of a local agency. Its relevant provisions include the following: with some exceptions, meetings of advisory bodies must be held within the territory of the local agency, meetings must be open to the public, and notice of meetings must be delivered prior to the meeting to the press and public pursuant to the provisions of the California Government Code.

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

1. An emergency situation exists, (determined by a majority of the Council)
2. That the need to take action arose subsequent to the agenda being posted (determined by 4/5 of the Council; or if less than 4/5 are present, by unanimous vote.)
3. The item was continued to another meeting that was scheduled and posted within five days of the original agenda (Cal Govt. Code Section 54954.2).

A "meeting" takes place whenever a quorum of the commission is present, no matter how informal, and business is discussed or transacted. This includes study sessions and other informal gatherings, but will normally not apply to a social gathering. Attendance at general conferences involving discussion of broad issues and which officials attend from a variety of jurisdictions such as the League of California Cities are not generally considered to be "meetings."

Existing law provides that any member of a legislative body who attends a meeting of the legislative body where action is taken in violation of the Brown Act, with knowledge of the fact that a violation occurred, is guilty of a misdemeanor. The new provisions limit the penalty to any member who attends a meeting where action is taken in violation of the Act "with wrongful intent to deprive the public of information to which it is entitled..."

"Action taken" means a collective decision made by a majority of the members of the legislative body, a collective commitment or promise to make a positive or negative decision, or an actual vote by the majority of the members on a motion, proposal, resolution, order or ordinance.

Any questions concerning the effect of the Brown Act should be directed to the City Attorney, City Manager or City Clerk.

CHAPTER 7

CITY ORGANIZATION

CITY MANAGER

Under the Council-Manager form of government used by the City of Capitola, the City Council appoints a City Manager to serve as the City's chief administrative officer and be responsible for ensuring the policies of the City Council are implemented. The City Manager provides administrative direction and leadership to all City departments. The City Manager's Office is responsible for a wide variety of activities including general administration, budget, recreation, personnel and labor relations, and the Redevelopment program. The City Manager acts in several capacities for the City including but not limited to: Personnel Officer, Employee Relations Officer, Emergency Services Director, Executive Director of the Redevelopment Agency, and other titles of authority. Furthermore, the City Manager in representing the City sits on several boards including but not limited to: Monterey Bay Area Self Insurance Authority, Santa Cruz Consolidation Communications Center, and Work Force Investment Board.

Office of the City Clerk

The City Clerk is appointed by the City Manager. The City Clerk serves as Clerk to the City Council and Secretary to the Redevelopment Agency and Financing Authority; responsible for the administration of all municipal elections; maintains all official records and documents such as Agendas, Minutes, Resolutions and Ordinances (Capitola Municipal Codes) of the City Council, Redevelopment Agency, and Commissions and Committees established by the City Council, is the main communication point between citizens and the municipal government; and other duties as may be directed by the City Manager.

Personnel

Although Personnel is not a separate department, it is a function of the City Manager's Department. Personnel includes employee recruitment, employee relations and labor negotiations.

Recreation

The Recreation program is not a department. It too is under the City Manager Department and plans, organizes, schedules, markets, oversees and evaluates recreation and leisure services offered to the City of Capitola and the broader community beyond the City's borders. These services come in a variety of formats, including City-staffed programs such as the Junior Lifeguard program, Camp Capitola, Summer Aquatics, and approximately 35 Adult Sports Leagues, as well as over 1,050 Classes offered by Contract Instructors. The City Manager's Department also manages the Capitola Community Center and the Jade Street Park Community Gardens.

CITY ATTORNEY

The City Attorney is a contract position as of FY01/02. The City Attorney represents the City as primary Counsel in all legal matters. To this end, the City Attorney provides legal analysis and advice on a variety of matters and assists staff with legal issues such as: municipal code interpretation, understanding and complying with state and federal laws, drafting various legal documents such as agreements, resolutions and ordinances; provides counsel on labor matters and employee/employer relations; provides counsel on mobile home rent control; and, acts as General Counsel to the Redevelopment Agency.

OTHER CITY DEPARTMENTS

The City Departments are: Building, City Manager, Finance, Public Works, Police, and Community Development. These Departments provide expertise and service to the members of the public, the business community and the City Council.

Building

The Building Department provides plan checking and building inspection services to assure compliance with the California Building Code. The Building Department also enforces the provisions of the State Housing Code and Abatement of Dangerous Building Code. In addition, the Building Official serves as the City of Capitola's Americans with Disabilities Act compliance officer and staff to the City's Americans with Disabilities Act Advisory Committee.

Finance

Finance provides staff support to internal departments, assures legal and financial accountability to the public, and provides superior customer service to both internal and external clientele. Finance maintains a standard of excellence in financial reporting and oversight, and administers all of the City & RDA funds and accounts, as well as the Comprehensive Annual Financial Report. Finance directs the City's finance functions including; accounts payable; payroll; accounts receivable; cash receipts; bank statement reconciliation; business licenses; collection of Transient Occupancy Tax; operating budget; preparation of financial reports; preparation of monthly Treasurer's Report; and analysis of fiscal impact.

Police

The Police Department carries out implementation of it's mission to prevent and deter crime by the utilization of patrol in response to calls for service; Problem Oriented Policing, projects and directed patrol; Detectives performing comprehensive investigations and liaison with other local law enforcement agencies; parking enforcement; Diversion programs, and city wide traffic enforcement.

Community Development

The Community Development Department (CDD) advises, administers and implements policies established by the Planning Commission and the City Council on matters concerning the orderly growth and physical and economic development of the City. CDD is responsible for: development services including current planning, zoning administration and implementation of the California Environmental Quality Act; Advanced planning, the City General Plan, and its Housing Element; reviewing and processing of development applications, neighborhood conservation in terms of zoning code compliance; the facilitation of provisions for affordable housing via the Redevelopment Agency (RDA) Housing Set-Aside Programs, CDBG (Community Development Block Grant) funding, HOME loans, and other RDA programs; provides staff to the RDA, Planning Commission, and the Architectural and Site Review Committee.

Public Works

The Public Works Department is composed of four divisions: Streets, Parks, Facilities and Fleet Maintenance.

The Street Division provides for maintenance and improvement of the City's streets and highways. It also provides maintenance of Soquel Creek, Capitola Lagoon, City owned buildings and the municipal wharf. Project design and construction along with a pavement management program and grant writing is also performed by this department.

The Facilities Division provides for maintenance and operation of all City owned buildings, including City Hall, Jade Street Community Center, and the Municipal Wharf.

The Parks Division is committed to developing and maintaining the City parks in such a manner as to allow all members of our community to enjoy these jewels. Using professional staff and technologies to maintain top rated playing surfaces, beautiful landscaping and safe facilities are top priorities for this division.

The Fleet Division maintains all mobile equipment for the City in the safest operating condition possible while striving to minimize repair times and costs.

CHAPTER 8

COUNCIL/STAFF RELATIONSHIPS CONDUCT AND SUPPORT PROVIDED TO COUNCIL

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

DIRECTION TO STAFF

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

REQUESTS FOR INFORMATION

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

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

GUIDELINES FOR STAFF

City staff will make every effort to respond in a timely and professional manner to all requests made by individual Council Members for information or assistance, provided that in the judgment of the City Manager the request is not of a magnitude, either in terms of workload or policy, which would require that it more appropriately be assigned to staff through the collective direction of the City Council.

In terms of making this judgment, the following guidelines should be considered: 1) the request should be specific and limited in scope so that staff can respond without altering other priorities and with only minimal delay to other assignments; 2) the request should only impose a “one-time” work requirement, as opposed to an on-going work requirement; 3) the response to the request should not require a significant allocation of staff resources (generally defined as consisting of more than one staff person, or a single staff person working on an issue in excess of 1-2 hours); or 4) be of material cost to the City.

INFORMATION DISTRIBUTION

In cases where a staff response to an individual Council Member request involves written material that may be of interest to other Council Members, the City Manager will provide copies of the material to all other Council Members.

SUPPORT PROVIDED TO THE CITY COUNCIL

Clerical Support: General administrative support to the Council Members is provided through the City Manager and the City Clerk.

Office Equipment/Supplies: Council Members are authorized to use City printing and reproduction facilities, stationery, postage and other similar services and supplies provided that the use is for City purposes. The use should not interfere with the performance of duties by the City's employees.

Mail: City Council Members receive a large volume of mail and other materials from the public and staff. The City maintains mailboxes for each Council Member. Meeting agenda materials are delivered on Fridays before Council meetings.

Email: Each Council Member can choose to provide their personal email address to be listed on the city's website, or they may have a city email address set up so that the public would not be able to view the Council Member's personal email address. Email addresses are also included on the Council Member List, which is provided to members of the public upon request. Council Members must inform the City Clerk of their email preference and also make arrangements with the City's Information Systems Specialist to set up their email. In addition to an individual email address, a "citycouncil@ci.capitola.ca.us" email address is set up, which includes all Council Members and the City Clerk. A link to this email address is included on the website.

Telephone: Each Council Member will receive a City Hall telephone extension number for messages from the public. These telephone extensions can be accessed by individual council members from their home, office or cell phones. Council Members must make arrangements with the City Hall Receptionist to set up their personal greeting and receive instructions on accessing their messages. Council Member telephone extensions are included on the city's website and scrolled on Community Channel 8. If a council member prefers another telephone number, other than the City Hall Extension number, to be included on the website and/or scroll, that information should be provided to the City Clerk.

City Hall Extension Voice Mail Instructions: (Complete written instructions are available from the Receptionist)

1. Call **475-5750**
2. Press *
3. Enter your User ID
4. Enter your Security Code and Press #
5. To listen to messages, Press **1**

Council Member Personal Information Available to the Public: Council Member information is included on the City's website, Community Channel 8 scroll, lists provided to the public upon request, etc. Council Members will inform the City Clerk of their personal information preferences, including address (City Hall, home or office), telephone, email, agenda packet delivery, etc. It will be up to individual council members to inform the City Clerk when this information changes.

USE OF COUNCIL CHAMBERS & COMMUNITY ROOM

The Executive Assistant to the City Manager is responsible for maintaining a calendar and request for the use of the Council Chambers and the City Hall Community Room. Requests for usage of the Jade Street Community Center are made through the Recreation Department. Use of the Council Chambers or Community Room for regular meetings by City commissions, committees and other advisory bodies shall take precedence over any other group or agency. Use of the rooms is available for other Community Groups on a first-come first-serve basis after City, City-affiliated and other regular uses are scheduled.

Originally Approved: 3/27/03
Updated: 8/04, 1/07, 9/07



Ethics Resources Available for Local Officials

The ABCs of Open Government Laws, 2010. *Newly updated!* Transparency in government is vital in promoting public trust. This pamphlet explains the key provisions of the Brown Act and the Public Records Act. Price: \$10 for set of 5 pamphlets

Key Ethics Law Principles, 2009. This handy, four-page pamphlet summarizes the kinds of issues and financial interests that ought to trigger a conversation with one's agency counsel about what the law requires. The cardstock format is portable enough to keep with public agency agenda packets and the like. Price: \$5 for set of 5 pamphlets

Understanding the Basics of Public Service Ethics: Perk Issues, Including Compensation, Use of Public Resources and Gifts, 2009. This guide focuses on laws relating to public officials and personal advantages and perks. These laws are both complex and sometimes counter-intuitive. A key goal of this guide is to alert local officials to when to ask for legal advice on how these laws apply in a particular situation. Price: \$10

Understanding the Basics of Public Service Ethics: Fair Process Laws and Merit-Based Decision-Making, 2009. Other ethics laws require that public agency decision-making processes meet minimum standards of fairness. For this reason, the laws should be viewed as a floor for conduct, not a ceiling. Just because a given course of conduct is legal does not mean that it is ethical (or the public will perceive it as such). Price: \$10

Understanding the Basics of Public Service Ethics: Transparency Laws, 2009. There is an adage about one's life being an open book. No where is this truer than for public officials and their finances. The bottom line is when people join the ranks of public servants, the public gets to learn a great deal about their financial lives. The voters created these disclosure requirements when they approved the Political Reform Act in 1974. Price \$10

Understanding the Basics of Public Service Ethics: Promoting Personal and Organizational Ethics, 2009. This booklet helps elected officials and agency staff set their sights higher than the minimum requirements of the law. It provides concrete steps public sector leaders can take to promote ethics not only in their own behaviors, but throughout their organization. Price \$10

Understanding the Basics of Public Service Ethics: Personal Financial Gain Laws, 2009. Some ethics laws require transparency: they provide the public and the media with information on how the public's business is being conducted, who is receiving campaign contributions and gifts from whom, and what kinds of financial interests a public official has. With transparency laws, the public judges whether a public official or group of public officials is acting in a trustworthy. Price: \$10

Walking the Line: What to Do if You Suspect an Ethics Problem, 2005. This pamphlet answers the most frequently-posed question to the Institute with an eight-step process. The pamphlet also has a comprehensive charts relating to ethics laws and the consequences for violating such laws. Price: \$10

Success in Public Service: What You Need to Know Before You Are Appointed or Elected, 2006. This pamphlet is designed to be included in candidate information packets, as well as packets for those seeking appointments to boards and commissions. It provides a brief overview of ethics law requirements for those seeking public office. Price: \$5 for set of 5

Win the Right Way: How to Run Effective Local Campaigns in California, 2005. Interested in promoting clean campaigns in your city? A collaborative effort with UC Berkeley's Center for Campaign Ethics, the book describes how to run a successful and clean campaign for local office. Price: \$20

Visit our Website www.ca-ilg.org for electronic options.
To order hard copies, please see reverse or visit www.ca-ilg.org.

Ethics Order Form

Title of Publications	Qty.	Unit Price	*Less 10% Quantity Discount	Total
<i>The ABCs of Open Government Laws (2010) (only sold in sets of 5)</i>		\$10 for 1 Set		
<i>Four Page Summary: Key Ethics Law Principles (2009) (only sold in sets of 5)</i>		\$5 for 1 Set		
<i>Understanding the Basics of Perk Issues, Including Compensation, Use of Public Resources and Gift Laws (2009)</i>		\$10		
<i>Understanding the Basics of Fair Process Laws and merit-Based Decision-Making (2009)</i>		\$10		
<i>Understanding the Basics of Transparency Laws (2009)</i>		\$10		
<i>Understanding the Basics of Promoting Personal & Organizational Ethics (2009)</i>		\$10		
<i>Understanding the Basics of Personal Financial Gains Laws (2009)</i>		\$10		
<i>Understanding the Basics complete set (executive summary tabs, four-page overview and above 5 chapter books) (2009)</i>		\$45		
<i>Walking the Line: What to Do When You Suspect an Ethics Problem (2005)</i>		\$10		
<i>Success in Public Service: What You Need to Know Before You are Appointed of Elected (2006) (only sold in sets of 5)</i>		\$5 for 1 Set		
<i>Win the Right Way: How to Run Effective Local Campaigns in California (2005)</i>		\$20		
Shipping/Handling Charges		Rush Service Add 3%		
<i>Order Amount</i>	<i>Add</i>	<i>Order Amount</i>	<i>Add</i>	Subtotal
\$1 - \$9.99	\$3.00	\$75 - \$124.99	\$13.00	Sales Tax 8.75%
\$10 - \$24.99	\$7.00	\$125 - \$199.99	\$16.00	Shipping/Handling (see table at left)
\$25 - \$74.99	\$9.00	\$200 - \$349.99	\$20.00	Total
		\$350 and up	8% of total	

*QUANTITY DISCOUNT: 10% price discount for five or more units of the same set of resources (1 set is one unit)

Mail Publications to:

ORGANIZATION

NAME _____ TITLE _____

ADDRESS (No P.O. Box Please) _____

CITY _____ STATE _____ ZIP _____

TELEPHONE _____ EMAIL _____

PAYMENT MUST BE INCLUDED TO PROCESS ORDER

Send Payment with Order Form to:

Institute for Local Government
 ATTN: Publications
 1400 K Street, Suite 205
 Sacramento, CA 95814

Direct line: (916) 658-8269

Fax credit card orders to:
 (916) 444-7535

___ Check ___ VISA ___ MasterCard

Name of Cardholder: _____

Credit Card Number: _____

Expiration Date: ____ / ____ Billing zip code _____

Authorized Signature: _____

The
ABC
of Open Government Laws

The underlying philosophy of the open government laws is that public agency processes should be as transparent as possible. Such transparency is vital in promoting public trust in government.

This concept of governmental transparency is so important to the public that some 83 percent of voters supported adding it to California's constitution by adopting Proposition 59 in 2004.

California's open government laws require public officials to:

A

Conduct meetings of public bodies openly, except for limited circumstances under which the law allows the public's business to be conducted privately in closed sessions.

B

Allow the public to participate in meetings of public bodies through a public comment process.

C

Allow inspection and copying of public records, except when non-disclosure is authorized by law.

This pamphlet summarizes these three requirements in general terms.

Local officials are also encouraged to consult with their agency attorneys for information about how these requirements apply in any given situation or more information about this area of the law.

The Institute is able to make this resource available to local officials and others as a result of much appreciated financial support from:



The Institute is grateful for this firm's ongoing commitment to public service ethics and public service ethics education.

All decisions regarding the final content of this pamphlet were the Institute's.

A Conducting the Public's Business in Public

General Rules

- Elected and most appointed local-agency bodies – which include many advisory committees – must conduct their business in open and public meetings.
- A "meeting" is any situation involving a majority of a public body in which agency business is transacted or discussed. In other words, a majority of the body cannot talk privately about a matter of agency business no matter how the communication occurs, whether by telephone or e-mail, or at a local coffee shop.
- The public must be informed of 1) the time and place of and 2) the issues to be addressed at each meeting. In general, public officials may only discuss and act on items included on the posted agenda for a meeting. The agenda must be posted at least 72 hours in advance of a regular meeting and written in a way that informs people of what business will be discussed. Members of the public may request a copy of the agenda packet be mailed to them at the time the agenda is posted or upon distribution to the governing body. Many local agencies also post these materials on their websites. And/or maintain e-mail lists to make agendas available.

Key Things to Know **→**

- **Advisory Bodies.** Advisory bodies formally created by the governing body are subject to the open meeting laws. In some cases, committees of less than a quorum of the public body are also subject to these laws.
- **Serial Meetings.** Avoid unintentionally creating a "serial" meeting—a series of communications that result in a majority of the body's members discussing, deliberating, or taking action on a matter of agency business.

A Conducting the Public's Business in Public

- **Permissible Gatherings.** Not every gathering of members of a public body outside a noticed meeting violates the law. For example, a violation would not occur if a majority of the members attend the same educational conference or attend a meeting not organized by the local agency as long as members do not discuss among themselves agency business except as part of the gathering. Nor is attendance at a social or ceremonial event in itself a violation. The basic rule to keep in mind is a majority of the members cannot gather and discuss agency business except at an open and properly noticed meeting.
- **Closed Sessions.** The open meeting laws include provisions for private discussions under very limited circumstances. The reasons for holding the closed session must be noted on the agenda and different disclosure requirements apply to different types of closed sessions.
- **Posting and Following the Agenda.** In general, public officials may only discuss and act on items included on the posted agenda for a meeting. However, they or staff may briefly respond to questions or statements during public comments that are unrelated to the agenda items. Officials can also request staff to look into a matter or place a matter on the agenda for a subsequent meeting. Only under unexpected circumstances can matters that are not on the agenda be discussed or acted upon.

► Consequences of Non-Compliance with Open Meeting Requirements

- **Nullification of Decision.** Many decisions that are not made according to the open meeting laws are voidable. After asking the agency to cure the violation, either the district attorney or any interested person may sue to have the action declared invalid.
- **Criminal Sanctions.** Additionally, members of the body who intentionally violate the open meeting laws may be guilty of a misdemeanor. The penalty for a misdemeanor conviction is imprisonment in county jail for up to six months or a fine of up to \$1,000 or both.

► Example

If two members of a five-member public body consult outside of a public meeting (which is not in and of itself a violation) about a matter of agency business and then one of those individuals consults with a third member on the same issue, a majority of the body has consulted on that issue. Note the communication does not need to be in person and can occur through a third party. For example, sending or forwarding e-mail can be sufficient to create a serial meeting, as can a staff member's polling the body's members in a way that reveals the members' positions to one another.

- **Taping or Recording of Meetings Is Allowed.** Anyone attending a meeting may photograph or record it with an audio or video recorder unless the governing body makes a finding that the noise, illumination, or obstruction of view will disrupt the meeting. Any meeting tape or film made by the local agency becomes a public record that must be made available to the public for at least 30 days.
- **Sign-In Must Be Voluntary.** Members of the public cannot be required to register their name or satisfied any other condition for attendance. If an attendance list is used, it must clearly state that signing the list is voluntary.

- **Other Measures.** Either the district attorney or any interested person may sue to remedy past and prevent future violations of the open meeting laws. Another remedy, under certain circumstances, is for a court to order that all closed sessions be tape-recorded. Regulations of public participation beyond those allowed by applicable statutory and constitutional principals can be a civil rights violation.
- **Attorneys' Fees and Costs.** Attorneys' fees and costs may be awarded to those who successfully challenge open meeting violations.

B The Public's Right to Participate in Meetings

General Rules

- **Democracy in Action.** The public has a right to address the public body at any meeting. A public official's role is to both hear and evaluate these communications.
- **The Public's Right to be Heard.** Generally, every regular meeting agenda must provide an opportunity for the public to address the public body on any item within the body's jurisdiction. If the issue of concern is one pending before the body, the opportunity must be provided before or during the body's consideration of that issue.

Open-Government-Is-Good-Politics Note

The media are highly vigilant in monitoring compliance with open government requirements—and quick to report on perceived violations.

Key Things to Know

- **Anonymous Speech Must Be Permitted.** Members of the public cannot be required to give their name or address as a condition of speaking. The clerk or presiding officer may request speakers to complete a speaker card, or identify themselves "for the record," but must respect a speaker's desire for anonymity.
- **Reasonable Time Limits May Be Imposed.** Local agencies may adopt reasonable regulations to ensure everyone has an opportunity to be heard in an orderly manner. For example, some agencies impose a uniform time limit on each person providing public comments on an issue.
- **Dealing with Dissension.** The chair cannot stop speakers from expressing their opinions or their criticism of the body. If an individual or group willfully interrupts a meeting and order cannot be restored, the room may be cleared. Members of the media must be allowed to remain and only matters on the agenda can be discussed.

C The Public's Right To Access Agency Documents and Records

General Rules

- Public agencies must generally make their records available for inspection by the public. Disclosure is the rule; withholding is the exception. In addition, there are a number of state laws that require affirmative disclosure of certain kinds of information (for example, by posting the information on the agency's website).

Key Things to Know

- **Agenda and Meeting Materials.** Copies of the agenda materials and other documents not exempt from disclosure distributed to the body must be available to the public. Any nonexempt materials prepared by the local agency must be available for public inspection at the meeting. Materials prepared and distributed by some other person must be made available after the meeting.
- **Scope of Access.** The public has the right to see nonexempt materials that are created as part of the conduct of the people's business. These materials include any writing that was prepared, owned, used, or retained by a public agency. This can include documents, computer data, e-mails, facsimiles, and photographs.
- **Presumption and Exceptions.** Written materials are presumed to be a public record unless an exception applies. There are a number of exceptions. For example, personnel records are typically exempt from disclosure because their release may violate an employee's privacy rights.

The public's right of access to public records is broadly construed and applies to many documents that public officials might otherwise assume are protected from disclosure.

Consequences of Violation

Anyone can sue the agency to enforce his or her right to access public records subject to disclosure. If the agency loses or otherwise produces the records as the result of the lawsuit, it must pay costs and attorneys fees.

Beyond Legal Minimums

It is important to note that the requirements discussed in this pamphlet are legal minimums for local government transparency in decision-making. Local agencies can provide for greater transparency.

In thinking about how an agency might provide for greater transparency, questions local agency officials might ponder include the following:

- 1 How can the agency make public information more readily available and easily understandable by the public in order to promote public trust and confidence in the agency and demonstrate the agency's commitment to transparency?
- 2 Are there kinds of information that are already publicly available in some form, but could be made available more conveniently to the public (for example, through voluntarily posting the information on the agency's website or including links on the agency's website to where information is available on other websites)?
- 3 What kinds of information might be of interest to a cross-section of the public relating to the agency's operations and decision-making processes? Are there ways this information can be made available without individual members of the public having to ask for it?

Ongoing consideration of these kinds of questions enables a local agency's officials to engage in collective discussion and decision-making about ways in which their agency can set its sights higher than the minimum requirements of the law.

A Note on Civility in Public Discourse

For communities to be able to work through difficult issues, it's important that people be able to express differing opinions about what best serves the public's interests in a respectful and civil manner.

This includes focusing on the *merits* of one's position. Even if people disagree about what's best for the community in this situation, it doesn't mean that those holding different views are bad people. Treat others with the same respect as one would like to be treated. Questioning others' motives or intelligence, being hostile, engaging in name-calling or making threats undermines one's effectiveness.

No matter how passionate one is about an issue, the goal is to conduct oneself in a way that will add to one's credibility and standing as a thoughtful member of the community.

Resources for Further Information

California's open government laws are complex and extensive. Consult the following resources for more information on these laws.

- Understanding the *Basics of Public Service Ethics: Transparency Laws*, available at www.ca-ilg.org/transparency (includes discussions of other kinds of disclosure laws, in addition to Open Meeting Law and Public Records Act).
- *Open and Public IV: A User's Guide to the Ralph M. Brown Act, 2d Edition*, 2010. Available on the League of California Cities website at www.cacities.org or by calling 916.658.8200.
- *The People's Business: A Guide to the California Public Records Act*, 2008. Available on the League of California Cities website at www.cacities.org or by calling 916.658.8200.

Local officials should also consult their agency counsel with questions.

The Attorney General also offers guides on these laws; they are available from the Attorney General's website: http://ag.ca.gov/publications/2003_Intro_BrownAct.pdf (Brown Act Guide) and http://ag.ca.gov/publications/2003_Intro_BrownAct.pdf (Public Records Act).



The Institute for Local Government promotes good government at the local level with practical, impartial, and easy-to-use resources for California communities.

ILG is the research and education affiliate of the California State Association of Counties and the League of California Cities.

1400 K STREET, SUITE 205
SACRAMENTO, CALIFORNIA 95814
TELEPHONE: 916.658.8208 • FAX: 916.444.7535

Rosenberg's Rules of Order:
Simple Parliamentary
Procedures for the 21st Century



MISSION:

To restore and protect local control for cities through education and advocacy to enhance the quality of life for all Californians.

VISION:

To be recognized and respected as the leading advocate for the common interests of California cities.



About the League of California Cities

Established in 1898, the League of California Cities is a member organization that represents California's incorporated cities. The League strives to protect the local authority and autonomy of city government and help California's cities effectively serve their residents. In addition to advocating on cities' behalf at the state capitol, the League provides its members with professional development programs and information resources, conducts educational conferences and research, and publishes *Western City* magazine.

About *Western City* Magazine

Western City is the League of California Cities' monthly magazine. *Western City* provides lively, interdisciplinary analyses of issues affecting local governance. Its goal is to offer immediately practical ideas, information and bigger-picture policy issues and trends. For more information, visit www.westerncity.com.

"Rosenberg's Rules of Order" first appeared in *Western City* magazine in August and September 2003.

About the Author

Dave Rosenberg is an elected county supervisor representing the 4th District in Yolo County. He also serves as director of community and intergovernmental relations, director of operations, and senior advisor to the governor of California. He has served as a member and chair of numerous state and local boards, both appointed and elected, and also served on the Davis City Council for 12 years, including two terms as mayor. He has taught classes on parliamentary procedure and has served as parliamentarian for large and small governing bodies. In the fall of 2003, Gov. Davis appointed Rosenberg as a judge of the Yolo County Superior Court.

Rosenberg's Rules of Order: Simple Parliamentary Procedures for the 21st Century

by Dave Rosenberg

The rules of procedure at meetings should be simple enough for most people to understand. Unfortunately, that hasn't always been the case. Virtually all clubs, associations, boards, councils and bodies follow a set of rules, *Robert's Rules of Order*, which are embodied in a small but complex book. Virtually no one I know has actually read this book cover to cover.

Worse yet, the book was written for another time and purpose. If you are running the British Parliament, *Robert's Rules of Order* is a dandy and quite useful handbook. On the other hand, if you're running a meeting of a five-member body with a few members of the public in attendance, a simplified version of the rules of parliamentary procedure is in order. Hence, the birth of "Rosenberg's Rules of Order."

This publication covers the rules of parliamentary procedure based on my 20 years of experience chairing meetings in state and local government. These rules have been simplified and slimmed down for 21st century meetings, yet they retain the basic tenets of order to which we are accustomed.

"Rosenberg's Rules of Order" are supported by the following four principles:

1. Rules should establish order. The first purpose of the rules of parliamentary procedure is to establish a

framework for the orderly conduct of meetings.

2. Rules should be clear. Simple rules lead to wider understanding and participation. Complex rules create two classes: those who understand and participate and those who do not fully understand and do not fully participate.

3. Rules should be user-friendly. That is, the rules must be simple enough that citizens feel they have been able to participate in the process.

4. Rules should enforce the will of the majority while protecting the rights of the minority. The ultimate purpose of the rules of procedure is to encourage discussion and to facilitate decision-making by the body. In a democracy, the majority rules. The rules must enable the majority to express itself and fashion a result, while permitting the minority to also express itself (but not dominate) and fully participate in the process.

The Chairperson Should Take a Back Seat During Discussions

While all members of the governing body should know and understand the rules of parliamentary procedure, it is the chairperson (chair) who is charged with applying the rules of conduct. The chair should be well versed in those

rules, because the chair, for all intents and purposes, makes the final ruling on the rules. In fact, all decisions by the chair are final unless overruled by the governing body itself.

Because the chair conducts the meeting, it is common courtesy for the chair to take a less active role than other members of the body in debates and discussions. This does *not* mean that the chair should not participate in the debate or discussion. On the contrary, as a member of the body, the chair has full rights to participate in debates, discussions and decision-making. The chair should, however, strive to be the last to speak at the discussion and debate stage, and should not make or second a motion unless he or she is convinced that no other member of the body will do so.

The Basic Format for an Agenda Item Discussion

Formal meetings normally have a written, published agenda; informal meetings may have only an oral or understood agenda. In either case, the meeting is governed by the agenda and the agenda constitutes the body's agreed-upon road map for the meeting. And each agenda item can be handled by the chair in the following basic format.

First, the chair should clearly announce the agenda item number and should clearly state what the subject is. The chair should then announce the format that will be followed.

Second, following that agenda format, the chair should invite the appropriate people to report on the item, including any recommendation they might have. The appropriate person may be the chair, a member of the governing body,

There are exceptions to the general rule of free and open debate on motions. The exceptions all apply when there is a desire to move on.

a staff person, or a committee chair charged with providing information about the agenda item.

Third, the chair should ask members of the body if they have any technical questions for clarification. At this point, members of the governing body may ask clarifying questions to the people who reported on the item, and they should be given time to respond.

Fourth, the chair should invite public comments or, if appropriate at a formal meeting, open the meeting to public input. If numerous members of the public indicate a desire to speak to the subject, the chair may limit the time of each public speaker. At the conclusion of the public comments, the chair should announce that public input has concluded (or that the public hearing, as the case may be, is closed).

Fifth, the chair should invite a motion from the governing body members. The chair should announce the name of the member who makes the motion.

Sixth, the chair should determine if any member of the body wishes to second the motion. The chair should announce the name of the member who seconds the motion. It is normally good practice for a motion to require a second before proceeding with it, to ensure that it is not just one member of the body who is interested in a particular approach. However, a second is not an absolute requirement, and the chair can proceed with consideration and a vote on the motion even when there is no second. This is a matter left to the discretion of the chair.

Seventh, if the motion is made and seconded, the chair should make sure everyone understands the motion. This is done in one of three ways:

1. The chair can ask the maker of the motion to repeat it;
2. The chair can repeat the motion; or
3. The chair can ask the secretary or the clerk of the body to repeat the motion.

Eighth, the chair should now invite discussion of the motion by the members of the governing body. If there is no desired discussion or the discussion has ended, the chair should announce that the body will vote on the motion. If there has been no discussion or a very brief discussion, the vote should proceed immediately, and there is no need to repeat the motion. If there has been substantial discussion, it is normally best to make sure everyone understands the motion by repeating it.

Debate on policy is healthy; debate on personalities is not. The chair has the right to cut off discussion that is too personal, too loud or too crude.

Ninth, the chair takes a vote. Simply asking for the "ayes" and then the "nays" is normally sufficient. If members of the body do not vote, then they "abstain." Unless the rules of the body provide otherwise or unless a super-majority is required (as delineated later in these rules), a simple majority determines whether the motion passes or is defeated.

Tenth, the chair should announce the result of the vote and should announce what action (if any) the body has taken. In announcing the result, the chair should indicate the names of the members, if any, who voted in the minority on the motion. This announcement might take the following form: "The motion passes by a vote of 3-2, with Smith and Jones dissenting. We have passed the motion requiring 10 days' notice for all future meetings of this governing body."

Motions in General

Motions are the vehicles for decision-making. It is usually best to have a motion before the governing body prior to discussing an agenda item, to help everyone focus on the motion before them.

Motions are made in a simple two-step process. First, the chair recognizes the member. Second, the member makes a motion by preceding the member's desired approach with the words: "I move ..." A typical motion might be: "I move that we give 10 days' notice in the future for all our meetings."

The chair usually initiates the motion by:

1. Inviting the members to make a motion: "A motion at this time would be in order."
2. Suggesting a motion to the members: "A motion would be in order that we give 10-days' notice in the future for all our meetings."
3. Making the motion.

As noted, the chair has every right as a member of the body to make a motion, but normally should do so only if he or she wishes a motion to be made but no other member seems willing to do so.

The Three Basic Motions

Three motions are the most common:

1. **The basic motion.** The basic motion is the one that puts forward a decision for consideration. A basic motion might be: "I move that we create a five-member committee to plan and put on our annual fundraiser."
2. **The motion to amend.** If a member wants to change a basic motion that is under discussion, he or she would move to amend it. A motion to amend might be: "I move that we amend the motion to have a 10-member committee." A motion to amend takes the basic motion that is before the body and seeks to change it in some way.

3. The substitute motion. If a member wants to completely do away with the basic motion under discussion and put a new motion before the governing body, he or she would “move a substitute motion.” A substitute motion might be: “I move a substitute motion that we cancel the annual fundraiser this year.”

Motions to amend and substitute motions are often confused. But they are quite different, and so is their effect, if passed.

A motion to amend seeks to retain the basic motion on the floor, but to modify it in some way.

A substitute motion seeks to throw out the basic motion on the floor and substitute a new and different motion for it.

The decision as to whether a motion is really a motion to amend or a substitute motion is left to the chair. So that if a member makes what that member calls a motion to amend, but the chair determines it is really a substitute motion, the chair's designation governs.

When Multiple Motions Are Before The Governing Body

Up to three motions may be on the floor simultaneously. The chair may reject a fourth motion until the three that are on the floor have been resolved.

When two or three motions are on the floor (after motions and seconds) at the same time, the *first* vote should be on the *last* motion made. So, for example, assume the first motion is a basic “motion to have a five-member committee to plan and put on our annual fundraiser.” During the discussion of this motion, a member might make a second motion to “amend the main motion to have a 10-member committee, not a five-member committee, to plan and put on our annual fundraiser.” And perhaps, during that discussion, a member makes yet a third motion as a “substitute motion that we not have an annual fundraiser this year.” The proper procedure would be as follows.

First, the chair would deal with the *third* (the last) motion on the floor, the substitute motion. After discussion and debate, a vote would be taken first on the third motion. If the substitute motion *passes*, it would be a substitute for the basic motion and would eliminate it. The first motion would be moot, as would the second motion (which sought to amend the first motion), and the action on the agenda item would be complete. No vote would be taken on the first or second motions. On the other hand, if the substitute motion (the third motion) *failed*, the chair would proceed to consideration of the second (now the last) motion on the floor, the motion to amend.

If the substitute motion failed, the chair would then deal with the second (now the last) motion on the floor, the motion to amend. The discussion and debate would focus strictly on the amendment (should the committee be five or 10 members). If the motion to amend *passed*, the chair would now move to consider the main motion (the first motion) as *amended*. If the motion to amend failed, the chair would now move to consider the main motion (the first motion) in its original format, not amended.

The challenge for anyone chairing a public meeting is to accommodate public input in a timely and time-sensitive way, while maintaining steady progress through the agenda items.

Third, the chair would now deal with the first motion that was placed on the floor. The original motion would either be in its original format (five-member committee) or, if amended, would be in its amended format (10-member committee). And the question on the floor for discussion and decision would be whether a committee should plan and put on the annual fundraiser.

To Debate or Not to Debate

The basic rule of motions is that they are subject to discussion and debate. Accordingly, basic motions, motions to amend, and substitute motions are all eligible, each in their turn, for full discussion before and by the body. The debate can continue as long as members of the body wish to discuss an item, subject to the decision of the chair that it is time to move on and take action.

There are exceptions to the general rule of free and open debate on motions. The exceptions all apply when there is a desire of the body to move on. The following motions are *not* debatable (that is, when the following motions are made and seconded, the chair must immediately call for a vote of the body without debate on the motion):

A motion to adjourn. This motion, if passed, requires the body to immediately adjourn to its next regularly scheduled meeting. This motion requires a simple majority vote.

A motion to recess. This motion, if passed, requires the body to immediately take a recess. Normally, the chair determines the length of the recess, which may range from a few minutes to an hour. It requires a simple majority vote.

A motion to fix the time to adjourn. This motion, if passed, requires the body to adjourn the meeting at the specific time set in the motion. For example, the motion might be: “I move we adjourn this meeting at midnight.” It requires a simple majority vote.

A motion to table. This motion, if passed, requires discussion of the agenda item to be halted and the agenda item to

be placed on "hold." The motion may contain a specific time in which the item can come back to the body: "I move we table this item until our regular meeting in October." Or the motion may contain no specific time for the return of the item, in which case a motion to take the item off the table and bring it back to the body will have to be taken at a future meeting. A motion to table an item (or to bring it back to the body) requires a simple majority vote.

A motion to limit debate. The most common form of this motion is to say: "I move the previous question" or "I move the question" or "I call for the question." When a member of the body makes such a motion, the member is really saying: "I've had enough debate. Let's get on with the vote." When such a motion is made, the chair should ask for a second to the motion, stop debate, and vote on the motion to limit debate. The motion to limit debate requires a two-thirds vote of the body. Note that a motion to limit debate could include a time limit. For example: "I move we limit debate on this agenda item to 15 minutes." Even in this format, the

the motion fails. If one member is absent and the vote is 3-3, the motion still fails.

All motions require a simple majority, but there are a few exceptions. The exceptions occur when the body is taking an action that effectively cuts off the ability of a minority of the body to take an action or discuss an item. These extraordinary motions require a two-thirds majority (a super-majority) to pass:

Motion to limit debate. Whether a member says, "I move the previous question," "I move the question," "I call for the question" or "I move to limit debate," it all amounts to an attempt to cut off the ability of the minority to discuss an item, and it requires a two-thirds vote to pass.

Motion to close nominations. When choosing officers of the body, such as the chair, nominations are in order either from a nominating committee or from the floor of the body. A motion to close nominations effectively cuts off the right of the minority to nominate officers, and it requires a two-thirds vote to pass.

pend the rules for a particular purpose. For example, the body (a private club) might have a rule prohibiting the attendance at meetings by non-club members. A motion to suspend the rules would be in order to allow a non-club member to attend a meeting of the club on a particular date or on a particular agenda item.

The Motion to Reconsider

There is a special and unique motion that requires a bit of explanation all by itself: the motion to reconsider. A tenet of parliamentary procedure is finality. After vigorous discussion, debate and a vote, there must be some closure to the issue. And so, after a vote is taken, the matter is deemed closed, subject only to reopening if a proper motion to reconsider is made.

A motion to reconsider requires a majority vote to pass, but there are two special rules that apply only to the motion to reconsider.

First is the matter of timing. A motion to reconsider must be made at the meeting where the item was first voted upon or at the very next meeting of the body. A motion to reconsider made at a later time is untimely. (The body, however, can always vote to suspend the rules and, by a two-thirds majority, allow a motion to reconsider to be made at another time.)

Second, a motion to reconsider may be made only by certain members of the body. Accordingly, a motion to reconsider may be made only by a member who voted *in the majority* on the original motion. If such a member has a change of heart, he or she may make the motion to reconsider (any other member of the body may second the motion). If a member who voted *in the minority* seeks to make the motion to reconsider, it must be ruled out of order. The purpose of this rule is finality. If a member of the minority could make a motion to reconsider, then the item could be brought back to the body again and again, which would defeat the purpose of finality.

If you are running the British Parliament, Robert's Rules of Order is a dandy and quite useful handbook.

motion to limit debate requires a two-thirds vote of the body. A similar motion is a *motion to object to consideration of an item*. This motion is not debatable, and if passed, precludes the body from even considering an item on the agenda. It also requires a two-thirds vote.

Majority and Super-Majority Votes

In a democracy, decisions are made with a simple majority vote. A tie vote means the motion fails. So in a seven-member body, a vote of 4-3 passes the motion. A vote of 3-3 with one abstention means

Motion to object to the consideration of a question. Normally, such a motion is unnecessary, because the objectionable item can be tabled or defeated straight up. However, when members of a body do not even want an item on the agenda to be considered, then such a motion is in order. It is not debatable, and it requires a two-thirds vote to pass.

Motion to suspend the rules. This motion is debatable, but requires a two-thirds vote to pass. If the body has its own rules of order, conduct or procedure, this motion allows the body to sus-

If the motion to reconsider passes, then the original matter is back before the body, and a new original motion is in order. The matter may be discussed and debated as if it were on the floor for the first time.

Courtesy and Decorum

The rules of order are meant to create an atmosphere where the members of the body and the members of the public can attend to business efficiently, fairly and with full participation. And at the same time, it is up to the chair and the members of the body to maintain common courtesy and decorum. Unless the setting is very informal, it is always best for only one person at a time to have the floor, and it is always best for every

It is usually best to have a motion before the governing body prior to discussing an agenda item, to help everyone focus.

lege relate to anything that would interfere with the normal comfort of the meeting. For example, the room may be too hot or too cold, or a blowing fan might interfere with a person's ability to hear.

Order. The proper interruption would be: "Point of order." Again, the chair would ask the interrupter to "state your point." Appropriate points of order

Withdraw a motion. During debate and discussion of a motion, the maker of the motion on the floor, at any time, may interrupt a speaker to withdraw his or her motion from the floor. The motion is immediately deemed withdrawn, although the chair may ask the person who seconded the motion if he or she wishes to make the motion, and any other member may make the motion if properly recognized.

Motions to amend and substitute motions are often confused. But they are quite different, and so is their effect, if passed.

speaker to be first recognized by the chair before proceeding to speak.

The chair should always ensure that debate and discussion of an agenda item focus on the item and the policy in question, not on the personalities of the members of the body. Debate on policy is healthy; debate on personalities is not. The chair has the right to cut off discussion that is too personal, too loud or too crude.

Debate and discussion should be focused, but free and open. In the interest of time, the chair may, however, limit the time allotted to speakers, including members of the body. Can a member of the body interrupt the speaker? The general rule is no. There are, however, exceptions. A speaker may be interrupted for the following reasons:

Privilege. The proper interruption would be: "Point of privilege." The chair would then ask the interrupter to "state your point." Appropriate points of privi-

relate to anything that would not be considered appropriate conduct of the meeting; for example, if the chair moved on to a vote on a motion that permits debate without allowing that discussion or debate.

Appeal. If the chair makes a ruling that a member of the body disagrees with, that member may appeal the ruling of the chair. If the motion is seconded and after debate, if it passes by a simple majority vote, then the ruling of the chair is deemed reversed.

Call for orders of the day. This is simply another way of saying, "Let's return to the agenda." If a member believes that the body has drifted from the agreed-upon agenda, such a call may be made. It does not require a vote, and when the chair discovers that the agenda has not been followed, the chair simply reminds the body to return to the agenda item properly before them. If the chair fails to do so, the chair's determination may be appealed.

Special Notes About Public Input

The rules outlined here help make meetings very public-friendly. But in addition, and particularly for the chair, it is wise to remember three special rules that apply to each agenda item:

Rule One: Tell the public what the body will be doing.

Rule Two: Keep the public informed while the body is doing it.

Rule Three: When the body has acted, tell the public what the body did.

Public input is essential to a healthy democracy, and community participation in public meetings is an important element of that input. The challenge for anyone chairing a public meeting is to accommodate public input in a timely and time-sensitive way, while maintaining steady progress through the agenda items. The rules presented here for conducting a meeting are offered as tools for effective leadership and as a means of developing sound public policy. ■

SKU 1533

\$5.00

To order additional copies of this publication, call (916) 658-8257 or visit www.cacities.org/store.

© 2003 League of California Cities.
All rights reserved.



LEAGUE
OF CALIFORNIA
CITIES

1400 K Street
Sacramento, CA 95814
(916) 658-8200
Fax (916) 658-8240
www.cacities.org



*This publication is printed
on recycled paper*

The Riggins Rules

Suggested Do's and Don't's for the Conduct of Public Hearings and the Department of Members of Boards, Commissions & Other Bodies.

By Fred Riggins - Former Chairman of the Phoenix, Arizona Planning Commission

1. Don't accept an appointment or nomination to a Board, Commission, or Council unless you expect to attend 99.9999 percent of the regular and special meetings, including inspection trips, briefings and public functions where your presence is expected.

If your participation falls below 85 percent during any 6 month period, you should tender your resignation. You aren't doing your job. You aren't keeping well enough informed to make intelligent decisions, and you are making other people do your work for you and assume your not inconsiderable responsibility. Your effectiveness and the regard given to your opinions by other members will be in direct ratio to your attendance.

2. Do create a good impression of city government. Remember that this is the first important contact that many of the people in the audience have had with the administration of their city and for some, this is the most important matter in which they have ever been involved. Many will never be back again and many will never have another such contact and experience. Your performance will create in their minds the picture, which they will always carry with them of "the way the city is run." Make it as pleasant and comforting a picture as possible.

3. Do be on time. If the hearing scheduled at 7:30, the gavel should descend at the exact hour, and the bearing begun, if there is a quorum. If you have to wait ten minutes for a quorum and there are 100 people in the room, the straggler has wasted two full working days of someone's time besides creating a very bad beginning for what is a very important occasion for most of those present

4. Don't dress like a bum. Shave, wear a tie and remember that a coat is never out of place. The people in the audience think you are a very important person. Don't disappoint them by your appearance, conduct, and attitude.

5. Don't mingle with friends, acquaintances, unknown applicants or objectors in the audience before the meeting & during a recess period, if it can be politely avoided. You will invariably create the impression with the uninformed that there is something crooked going on, especially when you vote favorably on the case of the applicant you were seen conversing with. When the other fellow's case comes up and you deny it, he says, "Well, it's easy enough to see that you've gotta know the right people if you ever expect to get anywhere around here." Save your socializing for some other time and place.

6. Don't discuss a case privately and as a single member of a body with an applicant or objector prior to the filing and prior to the hearing if it can be politely avoided. In the event that it is not avoidable, and many times it is not, be very non-committal, don't be too free with advice and by all means explain that you are only one member of the body. That you have not had an opportunity to study the matter thoroughly, that you have not seen the staff recommendation, and that you have no way of knowing what opposition there may develop or what will occur at the public hearing.

Be certain that the person concerned understands that you cannot commit yourself in any manner, except to assure him that he may expect a fair and impartial hearing. Even if the case looks pretty good to you it is wise to be pessimistic about the chances of securing approval. If you give him encouragement and any advice and he is then denied, he will hate you until your dying day and tell everyone in town that he did just exactly what you told him to do and then, like a dirty dog, you voted against him.

7. Do your homework. Spend any amount of time necessary to become thoroughly familiar with each matter which is to come before you. It is grossly unfair to the applicant and to the City for you to act on a matter with which you have no previous knowledge or with which you are only vaguely familiar. And you will make some horrible and disturbing decisions.

8. Don't indicate by word or action how you intend to vote during the portion of the hearing devoted to presentations by the applicant, presentations by any persons appearing in objection, and comments by members of the staff.

During this period your body is the judge and the jury and it is no more appropriate for you to express an opinion as to the proper decision, prior to hearing *all* of the testimony, than it would be for a judge or any member to announce his firm conviction in the middle of a court trial regarding the guilt or innocence of the defendant. This is not clearly understood by a majority of persons sitting on hearing bodies.

It is not too difficult to phrase one's questions or comments in a manner that implies that you are seeking information rather than stating an irrefutable fact and that your mind is closed to further argument

One does not say, "I happen to know that the applicant has no intention of placing an apartment building on this site. In fact, it has been sold subject to zoning and the purchaser intends to put a mobile home park here if he can get a special permit." Rather than this, one could say, "We have been furnished with some information which indicates that perhaps your plans are not too firm regarding the development you propose. In fact, there are some who are concerned about a rumor that the property is being sold and that the new owner planned to put a mobile home park at this location, if he can secure the necessary permit. Would you care to comment on this concern of the neighborhood and tell us if there is any truth in this rumor?" The same result is accomplished, the information is brought out and made part of the public record and you don't look as if you are leading the attack to secure the defeat of the applicant's request.

9. Don't fail to disqualify yourself if either directly or indirectly you have any financial interest in the outcome of the hearing, *and* let your conscience be your guide where it could be said that moral, ethical, political, or other considerations, such as personal animosity, would not permit you to make a fair and impartial decision.

In disqualifying yourself, *do not* state your reasons inasmuch as the mere statement of your reasons can be construed as exerting influence on your fellow members. To avoid all accusations of undue influence, it is generally wise to leave the room and ask that the record show that you did so and that you did not indicate by word or action whether you were in favor of, or opposed to, the matter under discussion.

10. Do rotate the seating in some regular manner each successive meeting to prevent a "strong" member from gradually dominating a "weak" and indecisive member always seated next to him. This will also prevent the forming of little cliques or a not infrequent grouping of members to the left of the Chair who always oppose those to the right of the Chair, regardless of the merits of the case, to the great detriment of the applicant, the City and other interested parties.

11. Do be polite and impartial. Be as helpful as possible to the nervous, the frightened and the uneducated, and patient with the confused.

12. Do be attentive. Those appearing before you have probably spent hours and hours rehearsing their arguments. The least you can do is *listen* and make them think that you are as interested as you should be. Refrain from talking to other members, passing notes and studying unrelated papers.

13. Don't interrupt a presentation until the question period, except for very short and *necessary* clarifying remarks or queries. Most applicants have arranged their remarks in a logical sequence and the thing about which you are so concerned will probably be covered if you force yourself to be quiet for a few minutes. You can wreck his whole case by a long series of unnecessary questions at the wrong time. He will be your enemy forever.

14. Don't permit more than one person at the podium or microphone at any one time.

15. Don't permit a person to directly question or interrogate other persons in the audience.

All questions should be addressed to the Chair and to the hearing body. When this person has finished his discussion and stated the questions to which he would like to have answers, then the Chair will permit those who care to make an answer to come forward and do so, but only voluntarily. Do not permit anyone to *demand* answers to all and sundry questions, especially if it is obviously done for the purpose of harassment

16. Don't use first names in addressing *anyone at all* during the course of the hearing. This includes audience, applicants, members of your particular body, even if the person concerned is your brother or your best friend.

Nothing, repeat nothing creates a more unfavorable impression on the public than this practice. It is poor "hearing manners," destroys the formality of the occasion, and makes the uninformed certain that some sort of "buddy-buddy deal" is about to be consummated. If you just can't bring yourself to call someone Mr. or Mrs., use the third person form and call him "the applicant," or "the person who is objecting," or "the gentleman (or lady)," who is appearing here in connection with this case.

17. Do show great respect for the Chair, always addressing the Chairman as "Mr. Chairman," "The Chairman," or "Chairman Jones," and always wait to be recognized before continuing. This will set an example for applicants and others wishing to be heard and will contribute a great deal toward the orderliness of the proceedings.

18. Don't be critical of attorneys who sometimes feel impelled to give unnecessarily lengthy presentations on behalf of their clients. Avoid the strong temptation to make matters as difficult as possible for them. They are just trying to make a living and must convince their clients that they are really earning the rather substantial fee which they feel their service merits.

19. Don't indulge in personalities and don't permit anyone else to do so.

20. Don't try to make the applicant or any other person appearing before you look like a fool by the nature of your questions or remarks. This is often a temptation, especially when it is apparent that someone is being slightly devious and less than forthright in his testimony. But don't do it. If you must "expose" someone, do it as gently and kindly as possible.

21. Don't become involved in altercations. Some persons seem to come to hearings with the express purpose of "telling them guys down there how the cow ate the cabbage." If you answer their irrelevant rantings, you are immediately involved in a *fight*.

Don't answer or try to defend yourself. You are there to hear testimony and make decisions based thereon, not to head up a debating society. Remember, you are the judge and jury. In most cases, it is sufficient to say, "thank you for coming here and giving us the benefit of your thinking. I am sure that the members of this body will give your remarks serious consideration when they are making their individual determinations on the merits of this case. Is there anyone else who wishes to be heard?"

22. Do invite interested parties to come forward where they can see when an applicant is discussing or talking from a diagram, site plan, or exhibit which is not visible to the audience.

23. Do not permit people to speak from the audience. If it is important enough for them to speak at all, it is important for them to be recognized, come forward, give their name and address, and say what they care to, if their remarks are pertinent.

24. Do not permit people to leave the podium or the microphone and approach closer to the hearing body except in unusual circumstances, usually to show a small exhibit or to explain some detail. This ordinarily breaks down into a small mumbling session at one end of the dais with one or two members of the hearing body, the others are uncertain about what is going on. The conversation usually does not get recorded, cannot be heard by the audience, and is almost impossible to control from the Chair.

25. Don't become involved in neighborhood quarrels or wind up as the referee even if you are a veritable Solomon. No matter how fair or impartial you should be, both sides will be mad at you. Stick to the merits of the case and rule out-of-order testimony which is irrelevant, personal hearsay, and not pertinent to the matter being heard.

26. Don't be vindictive and "punish" the applicant for some real or imagined affront to you or your Body on some previous occasion, perhaps bearing no relation to the present hearing. It must be assumed that he is there legally, he has a right to be heard, and he has a right to a fair and impartial hearing on the merits of his present case without reference to something which he might or might not have done in the past or will perhaps do in the future.

27. Don't try to be a hero to beautiful women, little old ladies, widowed mothers with tiny infants in their arms, and the financially and socially distressed. Be sympathetic, but objective, and don't get carried away with such a strong desire to help that you throw the rule book out the window. Ninety-nine times out of a hundred you will do them some kind of questionable service at the expense of their neighbors or the City and your kind-hearted action will come back to haunt you much sooner than anyone could have imagined. Stick to the rules.

28. Don't assume the role of fairy godfather to those who have become involved in bad business deals or other self-imposed difficulties.

29. Do not fail to give a reason when making a motion for approval or denial of an applicant's request. If you fail to do this, the applicant, any objectors, a reviewing body of higher authority, or the courts may well assume that your decision was an arbitrary one not supported by the facts and should be reversed. Always mention the staff recommendation.

30. Do not take staff recommendations lightly. These recommendations are made after much study by professional people with years of experience in their field and are based on pertinent laws, ordinances, regulations, policies, and practices developed by you and your predecessors. The recommendations of a good staff in possession of all the facts will almost always produce a *technically correct* recommendation.

Your job is to temper this recommendation with information developed during the hearings, which was not available to the staff. It is not unusually for the staff to voluntarily reverse or change the details of its recommendation during the course of a hearing. Always announce the staff recommendations prior to hearing any testimony and always make appropriate mention of it in the final decision.

31. Don't forget that the staff is there to help you in any way possible. It is composed of very capable professional people with vast experience. Lean on them heavily. They can pull you out of many a bad spot if you give them a chance. Or they may just sit and let you stew, if you do not give them the respect, which is their due. Remember that their usual practice is to remain silent unless they are specifically asked to comment. Most of them consider it presumptuous and unprofessional to inject any unsolicited comments into the hearings. Always ask them to comment prior to the final vote.

32. Don't try to answer technical questions even if you are sure that you know the answer. You probably *don't* and will wind up looking like a fool. Refer these matters to the staff. That is one of the things they are there for. They have intimate day-by-day working experience with all the pertinent ordinances and can nearly always give a timely, up-to-the-minute, professional dissertation on any subject in their field. And besides, it makes them feel more important and helps create an image of competency, which is most helpful in assuring the public that their case has received more than a cursory glance and an arbitrary decision.

Lay members of a hearing body who "explain" ordinances to the audience usually wind up their less than accurate remarks with the pretty lame comment, "That's the way I understand it and if I am wrong, I would appreciate it if the staff would correct me." The staff usually does correct them, and ordinarily at some length. *Don't* try to show how smart you are because you're not.

33. Don't try to ease your conscience and toss the applicant a bone by granting him something less than he asked for, something he doesn't want, and something he can't use. In all cases where it is appropriate, *give him what he asked for or deny it*. To do otherwise will only encourage applicants to ask for the "moon and the stars" in the hope that they will, at the worst, get the minimum requirements. A reputation for approving or denying applications as filed will result in much more realistic requests and make your job much easier.

34. Do vote by roll call, except for routine administrative matters. This is wonderful character training for each member of the body and emphasizes the "moment of truth" when he must look the applicant in the eye, make his own individual decision, and say "aye" or "nay" in a loud clear voice, all alone, with no one to hide behind. The alternate voting method is difficult for the Secretary to record, doesn't mean anything on a tape recording, is many times quite confusing and gives cowards an opportunity to change their minds and vote twice when they are caught in the minority.

35. Don't show any displeasure or elation, by word or action, over the outcome of a vote. This is very bad hearing manners and won't lead to the maintenance of a friendly cooperative spirit among members of the Body. It will lead to the creation of little cliques whose members vote in a block and become more interested in clobbering each other than in making fair and equitable decisions.

36. Do discourage any post-mortem remarks by applicants, objectors, or members after the final vote and decision are announced, especially those afterthoughts designed to reopen the case. It will invariably result an unpleasant wrangle. Just say, "I'm sorry, but the final decision has been made. If you wish to submit additional testimony, it will be necessary for you to state your reasons by letter and the Body will decide at a subsequent meeting whether or not they wish to reopen the case. The next case on the agenda will be _____."

37. Do not hesitate to continue a case or take it under advisement if more information or greater deliberation is truly necessary, but do not use these administrative actions merely to avoid or delay making a decision before a hostile applicant or audience.

38. Do sit down and have a long soul searching session with yourself if you find you are consistently "out in left field," that no one seems inclined to second your profound motions, and that you are quite often a minority of one. You might be theoretically right, and probably are, but give some thought to what is practical, and just. Don't be "stiff-necked" in your opinions. Give a little.

39. Don't select chairmen on a seniority basis alone and *don't* pass the office along from member to member as a reward and honor. The nicest guy in the world, the hardest working, the most interesting and your most valuable member can be indescribably horrible in the Chair. This is just one of those facts of life which is hard to explain, but unfortunately, all too true.

As occasion presents itself, give prospective Chairmen a chance to preside, head up a sub-committee, report on special projects, and otherwise prepare themselves and demonstrate their abilities and leadership under pressure.

CAPITOLA MUNICIPAL CODE

2.04.140 Agenda.

The following have authority to place a matter on the council agenda:

- A. The mayor or any member of the city council;
- B. The city manager;
- C. The city council may, after the seventy-two hour agenda-posting deadline has expired, add items to the agenda in the manner provided in Government Code Section 54954.2(b). A majority of a quorum of the city council may order that any designated matter be on any future agenda;
- D. The chair of any board or commission, provided the subject is reasonably related to the powers and duties of the body and concerns a matter upon which the council has authority to act;
- E. The city treasurer, city clerk, or city attorney, provided the subject is reasonably related to their powers and duties and concerns a subject upon which the council has authority to act.

Other persons must direct their agenda requests to the city council (at council meetings), the mayor, or the city manager. Agendas shall otherwise be prepared under the direction of the city manager and shall be posted, noticed and distributed in accordance with the Brown Act. For purposes of Government Code Section 54954.2(a), agendas shall be posted in the entrance area to the city council chambers. (Ord. 919 § 1, 2007; Ord. 830 § 1 (part), 2001; Ord. 375 (part), 1974)