



PLANNING COMMISSION AGENDA

WEDNESDAY, JULY 8, 2020

The Planning Commission is meeting via teleconference from remote locations in accordance with state and local orders and measures taken as a result of the Covid-19 pandemic.

Members of the public may view and listen to the meeting by following the zoom instructions listed below.

No action will be taken on the topics discussed at this meeting.

INFORMATIONAL WORKSHOP

COMMENCING AT 4:00 P.M.

Mariel Caballero, Chair

Rolando Bonilla, Vice Chair

George Casey Jorge Antonio Garcia

Justin Lardinois Pierluigi Oliverio

Deborah Torrens

**Rosalynn Hughey, Director Planning, Building & Code
Enforcement**

Electronic device instructions:

For participants who would like to join electronically from a PC, Mac, iPad, iPhone or Android device, please click this URL <https://sanjoseca.zoom.us/j/91337129518>. Please ensure your device has audio input and output capabilities.

1. Use a current, up-to-date browser: Chrome 30+, Firefox 27+, Microsoft Edge 12+, Safari 7+. Certain functionality may be disabled in older browsers including Internet Explorer. Mute all other audio before speaking. Using multiple devices can cause an audio feedback.
2. Enter an email address and name. The name will be visible online and will be used to notify you that it is your turn to speak.

Telephone device instructions:

For participants who would like to join telephonically please dial [1 877 853 5257](tel:18778535257) and when prompted, enter meeting Web Id: [913 3712 9518](tel:91337129518)

AGENDA
ORDER OF BUSINESS

WELCOME

Welcome the purpose of the Planning Commission Informational Workshop is to provide new Planning Commissioners with orientation and training including, but not limited to, state and local land use laws and procedures, public meeting requirements, and laws governing the conduct of Planning Commissioners.

ROLL CALL

INTRODUCTION

1. CALL TO ORDER & ORDERS OF THE DAY

2. PUBLIC COMMENT

Public comments to the Planning Commission on non-agendized items. Please contact the Commission in the manner specified on p. 1 of this agenda to comment on any item that is not specified on the agenda. Please use the 'raise hand' feature in Zoom or click *9 to raise a hand to speak or contact 408- 535-3505 to request to speak. Each member of the public may address the Commission for up to three minutes. The commission cannot take any formal action without the item being properly noticed and placed on an agenda. In response to public comment, the Planning Commission is limited to the following options: • Responding to statements made or questions posed by members of the public; or • Requesting staff to report back on a matter at a subsequent meeting; or • Directing staff to place the item on a future agenda.

3. NEW COMMISSIONER ORIENTATION AND TRAINING

New Commissioner Orientation and Training Including, but not limited to, state and local land use laws and procedures, public meeting requirements, and laws governing the conduct of Planning Commissioners. Presentation by various staff.

- a. No action to be taken.

4. ADJOURNMENT



Planning Commissioner Orientation

Maximum height

June 30, 2020



*Planning, Building and
Code Enforcement*

Welcome and Introductions



*Robert K. Manford, PhD
Deputy Director, Planning*

Planning Commission Laws and Policies

City of San José

Vera Todorov, Office of the City Attorney
June 2020



Agenda

1. Brown Act and Sunshine/Open Government Procedures
2. Planning Commission Authority: City Charter, City Code, and Commission Bylaws
3. Applicable Council Policies:
 - 0-4: Consolidated Policy Governing Boards and Commissions
 - 0-36: Council/Commission Code of Conduct
 - 0-15: Code of Ethics for Officials and Employees of the City of San Jose
4. Ethics: Gifts, Conflicts of Interest, and Bias

Brown Act Overview

THE RALPH M. BROWN ACT (Government Code Section 54950 *et seq.*)

“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.”

Brown Act Overview

■ Who is covered?

- “Legislative bodies”
- Commissions
- Standing Committees

Brown Act Overview

■ What is a meeting?

- Congregation of a majority
- Serial communications

Brown Act Overview

■ What is a gathering?

- Majority
- Same time and place
- Hear, discuss, deliberate **OR** take action

Brown Act Overview

- **Serial communications (Illegal Meeting)**
 - Majority of members
 - Series of communications
 - Discuss, deliberate **OR** take action

Brown Act Overview

■ Serial communications

- Face-to-face communications
- Phone calls
- Personal intermediaries
(including City staff)
- Email and text messages
- Discussion groups and blogs

Brown Act Overview

■ Exceptions

- No consultation among majority
 - Conferences/seminars open to public
 - Community meetings open to public
 - Public meetings of other agencies
 - Purely social or ceremonial events

Brown Act Overview

■ How are meetings publicized?

- Agenda posted
- Brief description of items
- No discussion on items not on agenda
 - Limited exceptions

Brown Act Overview

■ Public Participation

- Comment on any agenda item
- Speak anonymously
- Record meeting
- Receive documents
- Minimal limitations
 - Rules of Decorum
 - Time Limits

Brown Act - Enforcement

The Brown Act provides a comprehensive scheme of enforcement tools, including:

- criminal remedies
- taping closed sessions
- civil actions to void actions violating the Act
- actions to adjudicate past actions
- actions for prospective civil and equitable relief
- award of attorneys' fees and costs

Sunshine Reform/Open Govt. Provisions

Resolution No. 77135

	Boards, Committees & Commissions	Other Advisory Entities (Subcommittees)
Regular Agenda Posting ~ Amended Agenda	7 days, action items 72 hrs., requires majority vote under Orders of the Day to hear or defer	3 days
Special Meeting Agenda Posting	4 days, unless 2/3 of members determine that an issues must be resolved in <4 days then no less than 24 hours	24 hours
Minutes	Action minutes, post draft within 10 days of holding meeting	Not required
Recording	Audio record and maintain for 2 years	Not required
Staff Reports	7 days	No posting requirement
Memos from members of the Body	Multiple (but NOT majority) signatures: 72 hrs. Single signature: 72 hrs., unless members make findings for < 72 hrs.	No distribution deadline
Public Testimony	At Chair's discretion, may make allowance for high interest items	At Chair's discretion, may make allowance for high interest items

San Jose City Charter, Section 1000

- **Seven members appointed to four-year terms**
- **Must be U.S. citizens and City of San Jose residents for one year prior to appointment and during incumbency on the Commission**
- **Must be qualified electors of the City of San Jose at time of appointment and during incumbency on the Commission**

Charter Section 1000: Powers and Duties

- (a) Make recommendations to the Council respecting the adoption, amendment or repeal of **master, general, comprehensive, precise or specific plans** for the future development of the City or any part thereof, and periodically review the same;
- (b) Make recommendations to the Council respecting the adoption, amendment or repeal of land use development regulations, including but not limited to **zoning and subdivision regulations**;
- (c) Make recommendations to the Council respecting the adoption, amendment or repeal of; **plans or programs for the redevelopment, regulation or renewal of any areas of the City**
- (d) Make recommendations to the Council regarding **capital improvement programs**; and
- (e) Exercise such other functions and duties as may be expressly given to it by other provisions of this Charter, or exercise such other powers and perform such **other functions and duties as may be prescribed by the Council** not inconsistent with the provisions of this Charter.

Planning Commission - Permit Authority

The Zoning Ordinance further specifies the decision-making body on various permits and which body has appellate authority. The Planning Commission makes:

- Initial decisions on Conditional Use permits
- Appellate decisions on Director's hearing items, Site Development Permits, Planned Development Permits, Special Use Permits, and Variances. (SJMC Section 20.100.220 and Table 20-260)

Municipal Code Chapter 2.8

Governance Requirements

- Chair and Vice Chair are appointed by the Commission (SJMC Sec. 2.08.070)
- Rules and Regulations shall be adopted subject to approval by the Rules and Open Government Committee (SJMC Sec. 2.08.080)
- Quorum = majority of total number of seats on Commission
- All Commission actions require an affirmative vote of a majority of those voting so long as a quorum is present (SJMC Sec. 2.08.095), except for General Plan amendments which require a majority vote of the full Commission membership (4 votes minimum) pursuant to state law (Government Code Sec. 65354)

Planning Commission Bylaws

Planning Commission Resolution No. 64-1, the rules of conduct adopted by the Commission, includes the following topics among others:

- Roles of officers
- Time and place of meetings
- Hearing procedures including time allowed for public speakers and receipt of exhibits

Board And Commissions Policies

■ 0-4: Consolidated Policy Governing Boards and Commissions

- Appointments
- Legislative Process
- Political Activities
- Referral System

Board And Commissions Policies

■ 0-36: Council /Commission Code of Conduct

- Defines role of Council Liaison
- Defines boundaries of Council/Commission Interactions
- Provides General Standards of Conduct for Commissioners including on bias and *ex parte* prohibition communications

Board and Commission Policies

■ 0-15: Code of Ethics

- Applies to all City officers and employees
- Sets forth responsibilities of public service
- Provides general rules for avoiding conflicts and includes prohibition on “appearance” of bias or favoritism

Council Policies: Do's and Don'ts

- DO make recommendations to Council that are of the Commission as a whole and not unduly influenced by any Council member, City staff, or outside entity.
- DON'T participate in any decision-making if you have a real or perceived personal bias or conflict of interest.
- DO make recommendations only on topics within the scope of authority set forth by Council.

Council Policies: More Do's and Don'ts

- DON'T use your Commission title in making personal political endorsements.
- DON'T use your Commission title or speak as a Commissioner unless authorized by the Commission
- DO use City stationery only for official Commission business. All correspondence concerning Commission's business should be processed by staff.

Council Policies: More Do's and Don'ts

- DON'T interview candidates for political office or make endorsements of such candidates.
- DON'T individually or as a body independently support or oppose legislation, including ballot measures.
- DON'T contact City consultants outside of a Commission meeting, unless authorized by the City.
- DO as a body convey any Commission-related concerns to the Commission's Council liaison.

Gifts: State Law Prohibition

Political Reform Act – prohibits the receipt of gifts valued at \$250 or more unless the gift is returned unused to the donor within 30 days of receipt.

Gifts: City Prohibition

The Municipal Code prohibits gifts of \$50 or more from a “Restricted Source.” A Restricted Source is any individual, firm, or entity whose interest or whose employer’s or client’s interest:

- Has been materially affected by the work of such officer or employee of the City within 2 years prior to the time the gift is given; or
- In the future could reasonably be foreseen to be materially affected by the work of such officer or employee of the City. (SJMC Sec. 12.08.110.B)

Conflicts of Interest

The Political Reform Act prohibits public officials at any level of state or local government from making, participating in making, or in any way attempting to use their official position to influence a governmental decision in which they know or have reason to know they have a financial interest. (Government Code Sec. 87100)

Conflicts of Interest

Government Code Sec. 87103

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

Conflict of Interest – Business Entities

Government Code Sec. 87103(a):

Any business entity in which the public official has a direct or indirect investment worth two thousand dollars (\$2,000) or more.

Conflict of Interest – Real Property

Government Code Sec. 87103(b):

Any real property in which the public official has a direct or indirect interest worth two thousand dollars (\$2,000) or more.

Conflict of Interest - Income

Government Code Sec. 87103(c):

Any source of income, except gifts or loans by a commercial lending institution made in the regular course of business on terms available to the public without regard to official status, aggregating five hundred dollars (\$500) or more in value provided or promised to, received by, the public official within 12 months prior to the time when the decision is made.

Conflict of Interest – Business Entity

Government Code Sec. 87103(d):

Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management.

Conflicts of Interest - Gifts

Government Code Sec. 87103(e) (in relevant part):

Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred fifty dollars (\$250) or more in value provided to, received by, or promised to the public official within 12 months prior to the time when the decision is made.

Conflict of Interest – Indirect Interest

Government Code Sec. 87103:

Indirect investment or interest means any investment or interest owned by the spouse or dependent child of a public official, by an agent on behalf of a public official, or by a business entity or trust in which the official, the official's agents, spouse, and dependent children own directly, indirectly, or beneficially a 10-percent interest or greater.

Conflict of Interest - Enforcement

Violations of the Political Reform Act can be pursued in three ways:

1) Administrative proceedings by the FPPC Enforcement Division;

2) Criminal prosecution by a local district attorney or the state attorney general; or

3) Civil action by the public, certain government agencies or the FPPC Enforcement Division.

Conflicts of Interest – Immunity

A public official may obtain immunity from prosecution under the Political Reform Act by requesting a formal written opinion from the FPPC which states **all facts accurately** to the FPPC.

- FPPC will usually respond within 30 days
- The official must follow the FPPC opinion
- The facts cannot change

Conflict of Interest Disclosure

In addition to requiring abstention from participating in making any decision in which the official has a conflict of interest:

- State law requires the official to publicly announce the nature of the conflict before the item is heard and leave the hearing room; and
- City law requires the official to disclose the conflict 24 hours prior to the meeting to the City Clerk and City Attorney on its Declaration of Conflict of Interest Form.

Bias: The Common Law Prohibition

“A public officer is impliedly bound to exercise the powers conferred on him with **disinterested skill, zeal, and diligence and primarily for the benefit of the public.**” (*Nobel v. City of Palo Alto* (1928) 89 Cal.App. 47.)

- Actual injury is not required for violation.
- Bias prohibition applies with greater force to public officials who have a strict responsibility of fidelity to the public interest.

Questions and Answers

THANK YOU for participating in today's training. We hope the information presented is of assistance to you.

Commissioners should not hesitate to contact legal counsel to the Planning Commission with questions.

Policy Context for Land Use Planning



Michael Brillot, Deputy Director, Citywide Planning

Robert K. Manford, PhD, Deputy Director, Planning

David Keyon, Principal Planner, Environmental Review Team



Envision
San José 2040

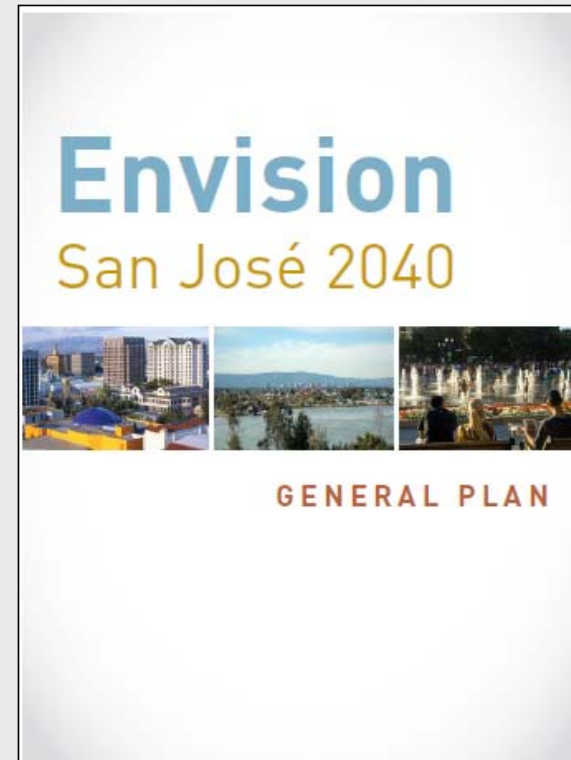
Building a City of Great Places



General Plan Purpose

The General Plan is the City's official policy statement regarding its future character, land use patterns, and quality of development.

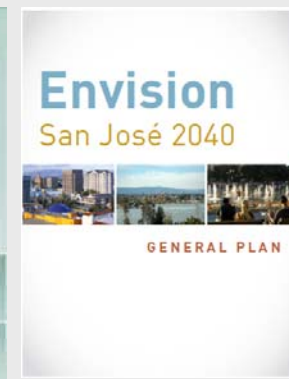
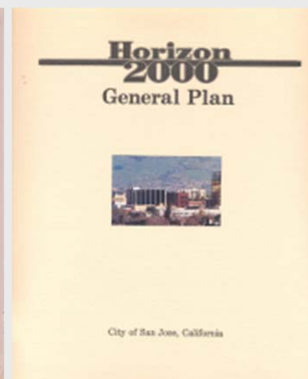
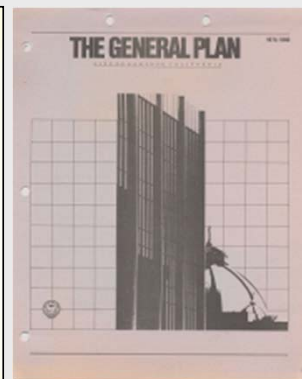
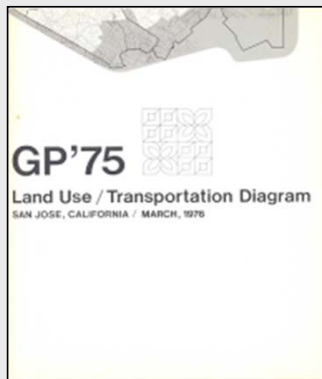
The Blueprint for the City





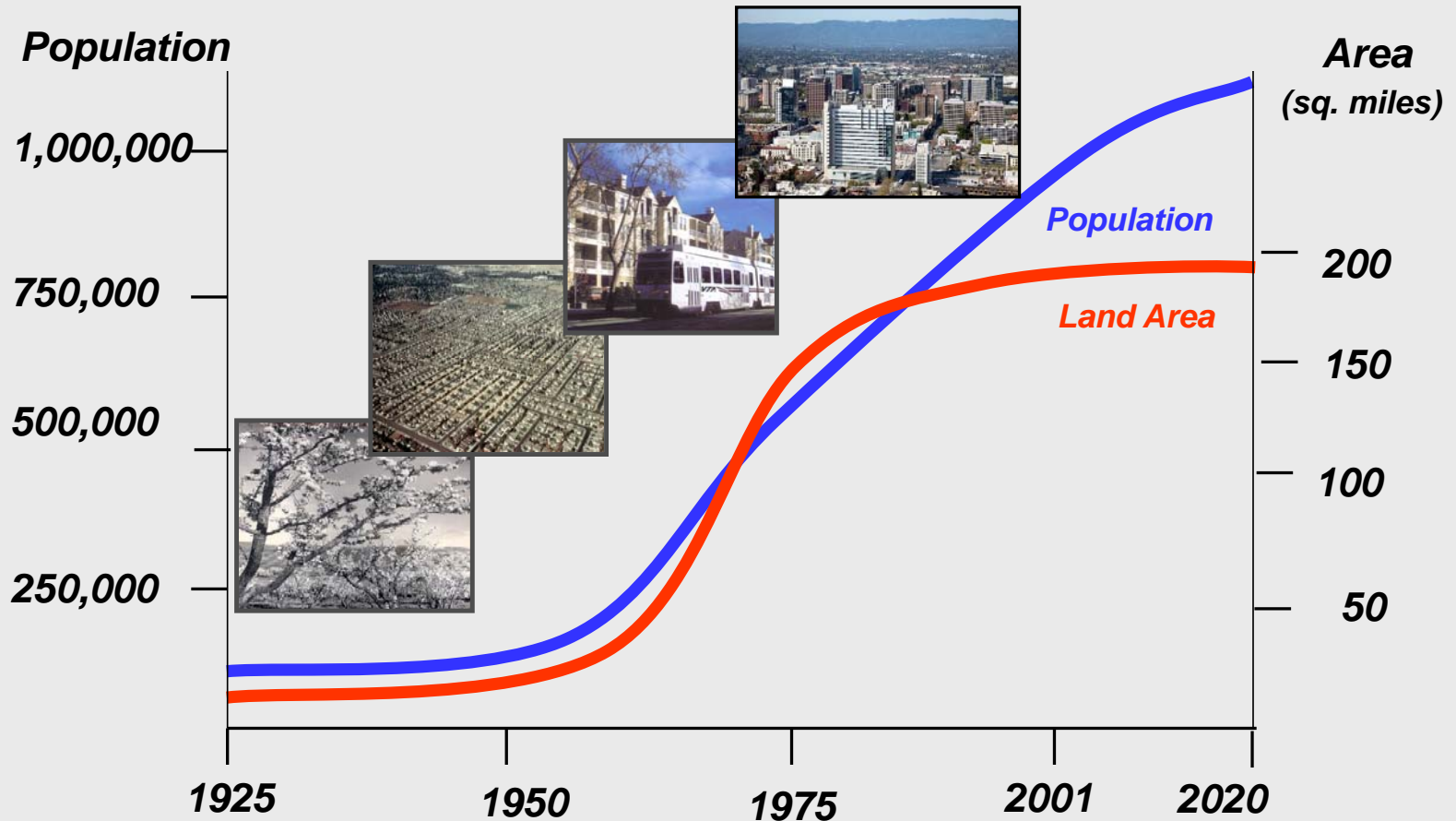
General Plan Purpose

- A Vision for the City's future
- Major Strategies
- Standards for City Services
- Land Use / Transportation Plan

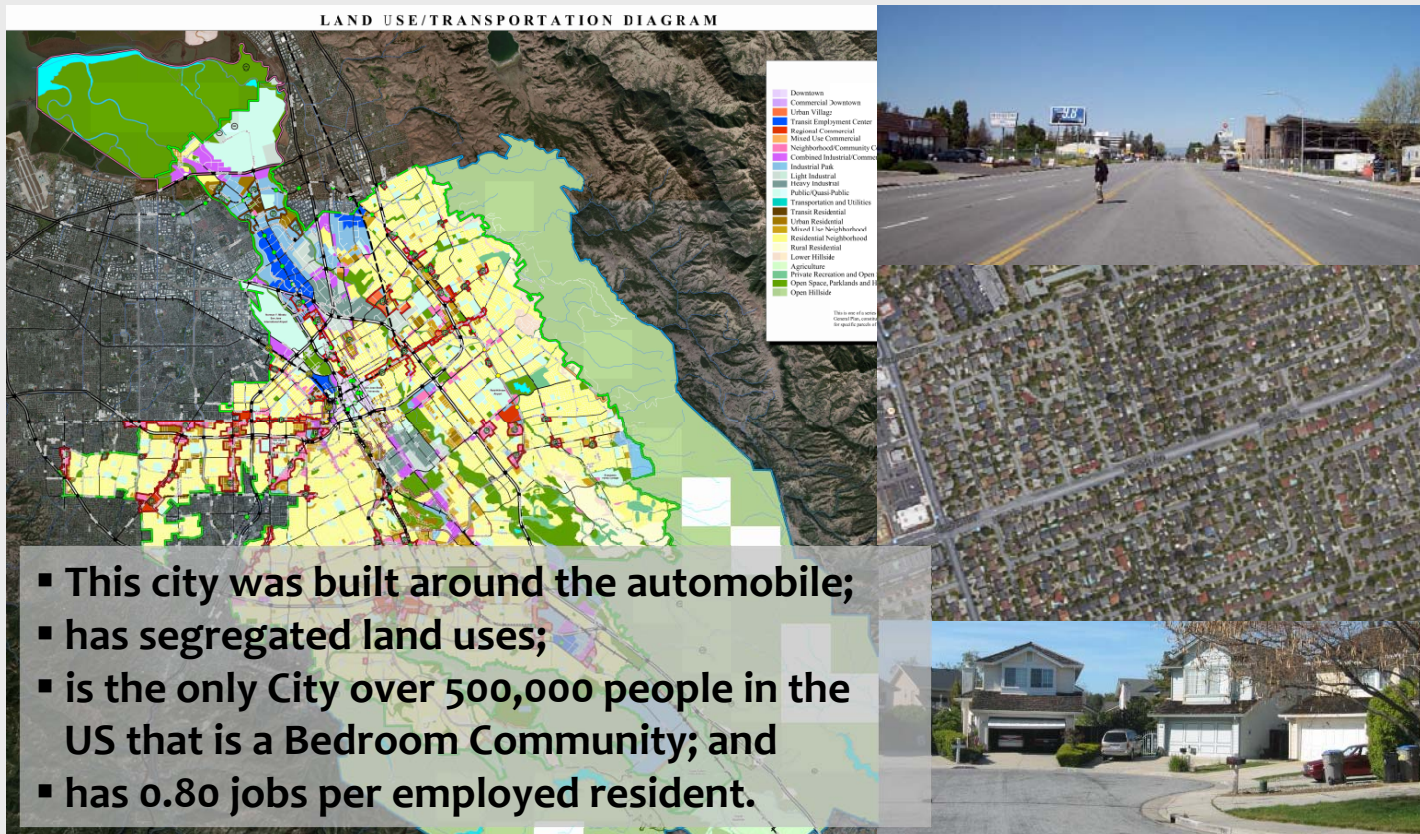




Population & Land Area Growth



Challenges of San Jose's Legacy





Envision San Jose

Envision San José 2040



GENERAL PLAN



Major Strategies

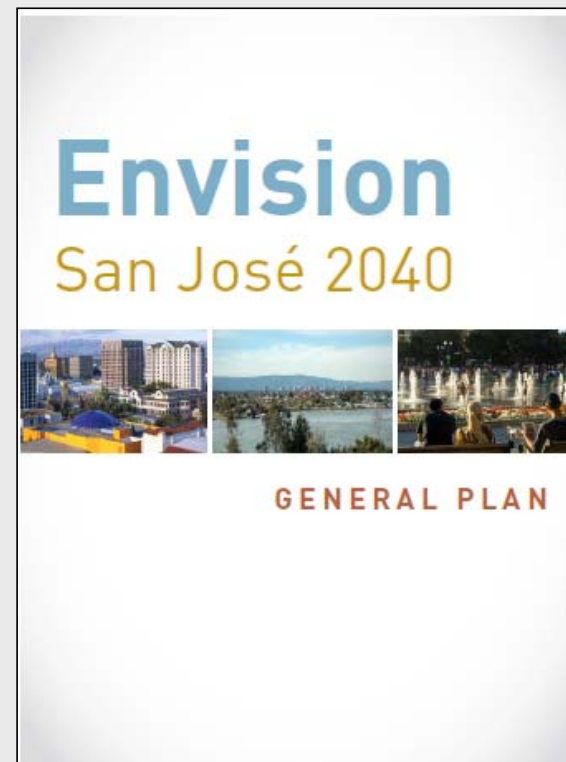
1. Community Based Planning
2. Form Based Plan
3. Focused Growth
4. Innovation / Regional Employment Center
5. Urban Villages
6. Streets for People
7. Measurable Sustainability / Environmental Stewardship
8. Fiscally Strong City
9. Destination Downtown
10. Life Amidst Abundant Natural Resources
11. Design for a Healthful Community
12. Plan Horizons and Periodic Major Review





A Plan for all Departments

- > 150 Goals
- > 1,000 Policies
- > 300 Actions



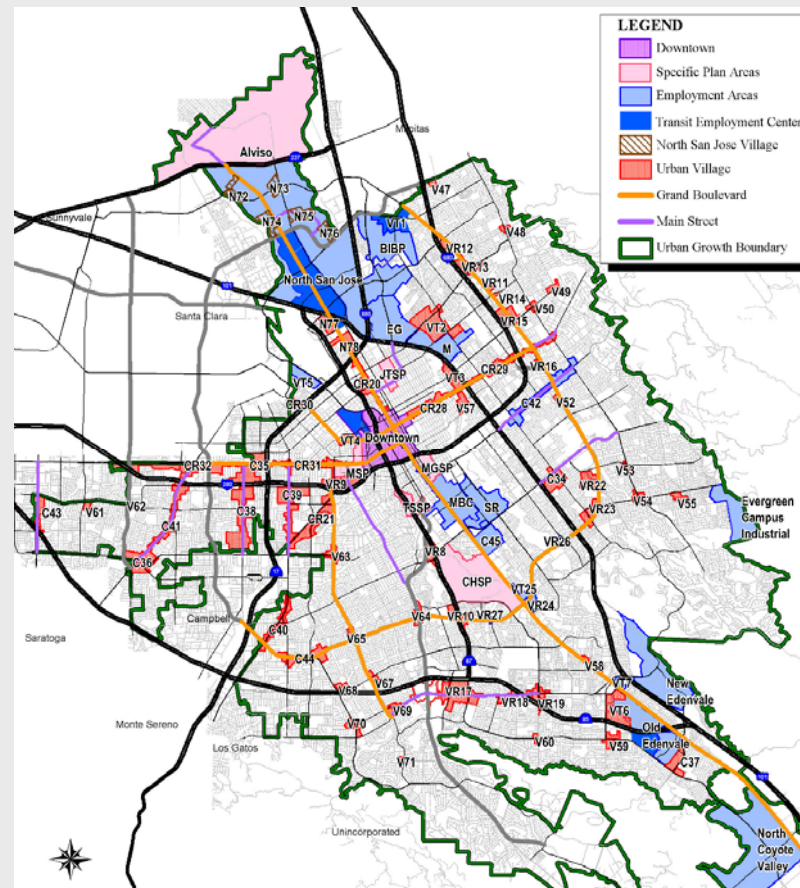


Focused Growth

#3 Focused Growth:

Strategically focus new growth.

- Focus significant growth in areas surrounding the City's regional Employment Center and around transit systems within the region.





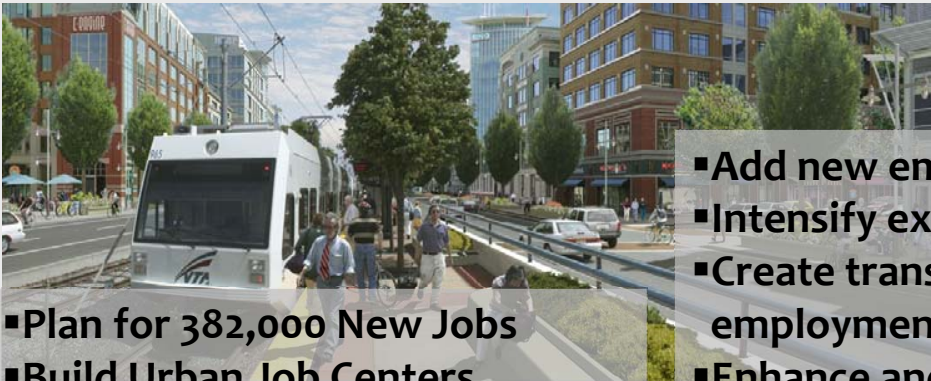
Urban Villages



- Plan for 120,000 New Residences
- Meet the Needs of Our Population
- Build Attractive, Walkable and Vibrant Places



Innovation/Regional Employment Center



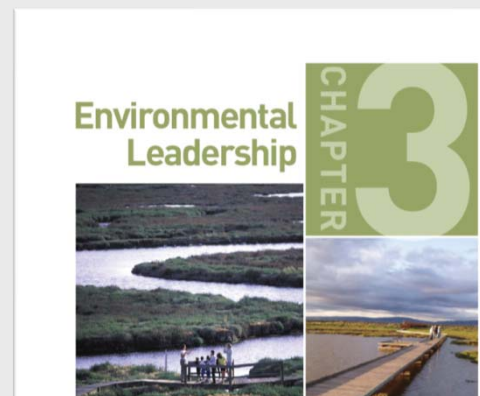
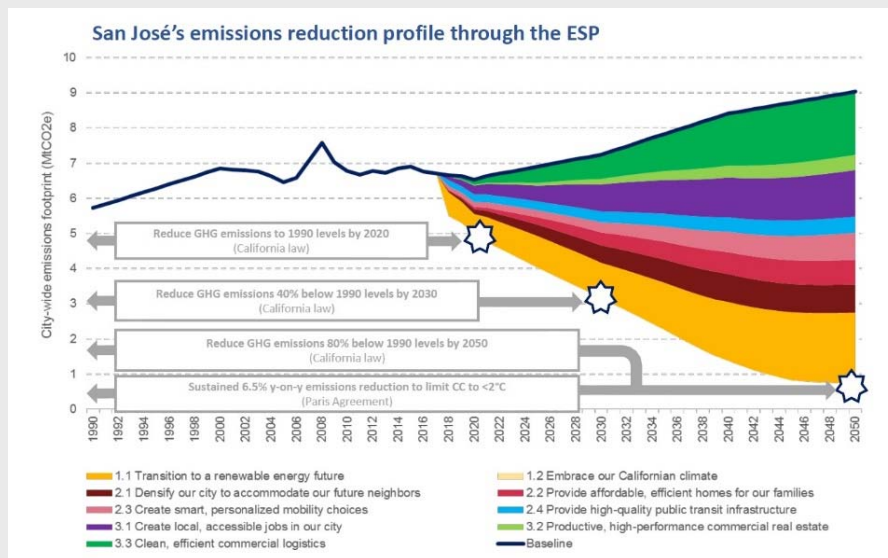
- Plan for 382,000 New Jobs
- Build Urban Job Centers
- Focus on Regional Transit

- Add new employment lands
- Intensify existing employment lands
- Create transit-oriented urban employment centers
- Enhance and expand commercial activity



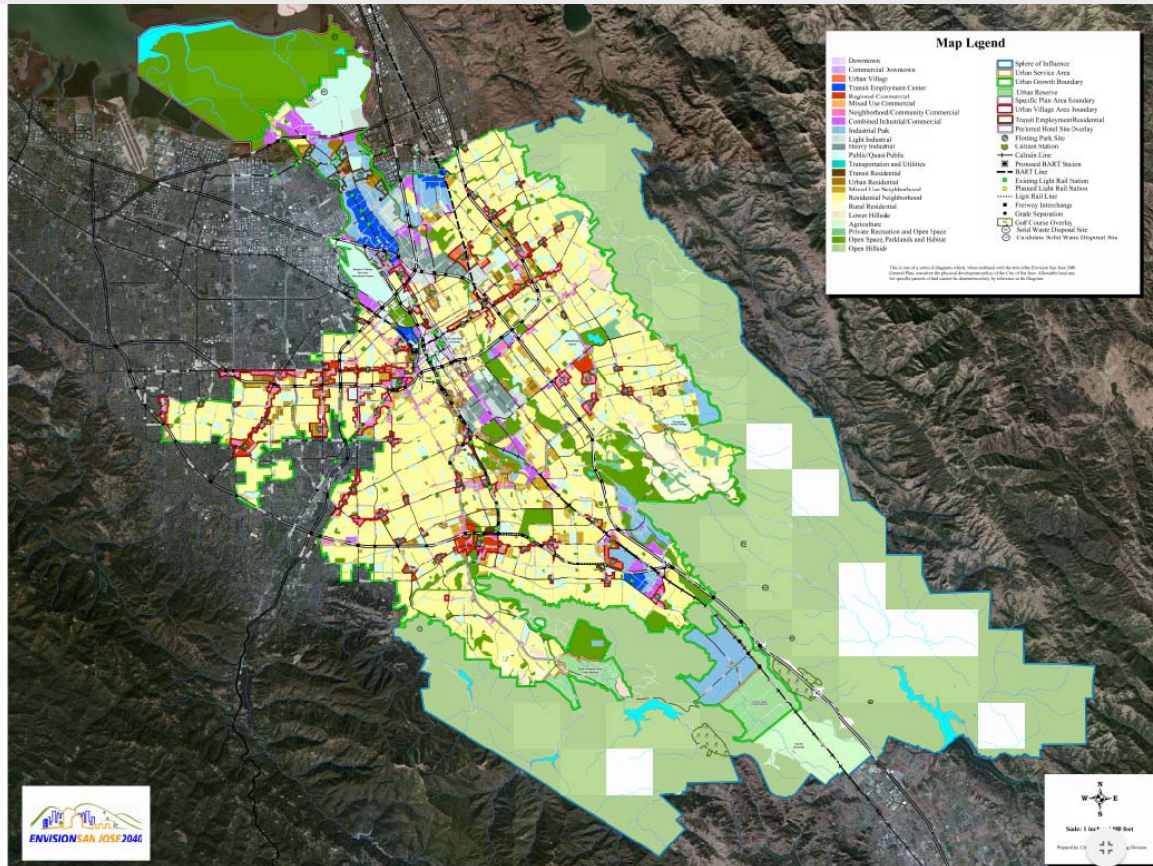
Measurable Sustainability

- Continue “Smart Growth” Strategy
- Measure and Report Plan Performance





Land Use / Transportation Diagram





General Plan Amendments

- **Up to 4 times a year for City-initiated amendments**
- **City Council considers privately-initiated amendments once per year in fall**
- **City Council is decision making body**



General Plan vs. Zoning

- The General Plan Designation defines **WHAT** land uses are appropriate and are allowed on a property.
- Provides:
 - Allowed Land Uses
 - Densities
 - Floor Area Ratios (FAR)
 - Policies and Guidelines
- The Zoning District defines **HOW** a project may develop on a property.
- Provides:
 - Setbacks
 - Height requirements
 - Parking Standards
 - Permit requirements

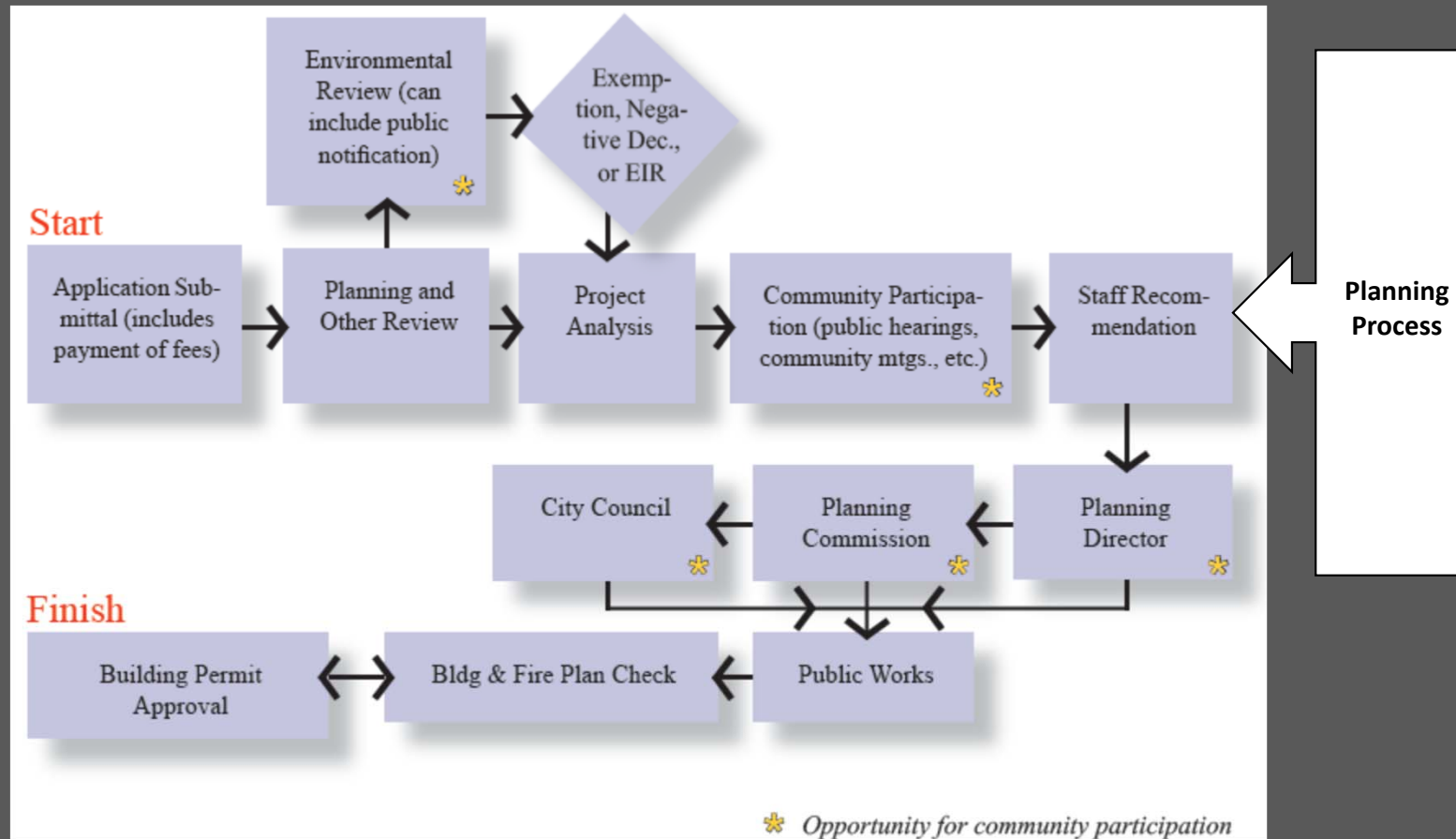


General Plan Amendments

Questions?

Zoning and Land Use Permits

Project Entitlement Process



Types of Planning Entitlements

Planning Entitlement	What it's for	File Name	Initial Decision Making Body	Appeal Decision Making Body
General Plan Amendment/Text Amendment	Change the land use designation for a site (example: Heavy Industrial to Light Industrial); or, amend the GP text (example, policy or land use description)	GP/GPT	City Council (with referral to Planning Commission)	No Appeal
Rezoning Conforming	Change the zoning for a site (example: Commercial to Industrial)	C	City Council (no referral to Planning Commission)	No Appeal
Conventional	Same as above, except needs PC referral		City Council (with referral to Planning Commission)	No Appeal
Planned Development Zoning/Rezoning	To approve tailored development standards for a specific site (height, setbacks, uses), if it will result in a better project than allowed with the standard zoning requirements (better implements the GP)	PDC	City Council (with referral to Planning Commission)	No Appeal
Planned Development Permit/Amendment	A permit to develop or use a property that has a Planned Development zoning (to review for conformance with the PD zoning uses/standards)	PD/PDA	Director of Planning	Planning Commission
Conditional Use Permit (CUP)/Amendment	A permit to allow a specific use for a property, that includes operating conditions to be compatible with surroundings (examples: bar, daycare, gas station)	CP/CPA	Planning Commission	City Council

Types of Planning Entitlements

Planning Entitlement	What it's for	File Name	Initial Decision Making Body	Appeal Decision Making Body
Single Family House Permit				
Type I	To allow a house with greater than .45 FAR	SF	Director of Planning (administrative, no hearing)	No Appeal
Type II	Same as above, except also to allow more than 30 feet in height		Director of Planning	Planning Commission
Site Development Permit/Amendment	A permit to develop a site (except for minor projects, like < 5,000 SF addition to a commercial building; a single-family house; walls/fences)	H/HA	Director of Planning	Planning Commission
Special Use Permit (SUP)/Amendment	Same as a CUP, except for uses more minor in scope that don't warrant a PC hearing	SP/SPA	Director of Planning	Planning Commission
Tentative Map	Allows subdivision of a property (example: one lot into five lots)	T	Director of Planning	City Council
Tree Removal Permit	Remove an "ordinance-size" tree (38" circumference measured at 4.5 feet above-ground)	TR	Director of Planning	Planning Commission
Variance	To allow deviations from development standards, such as property line setbacks, when a property is uniquely disadvantaged compared to other surrounding properties, due to size, shape, topography. Rarely granted.	V	Director of Planning	Planning Commission
Administrative Permit	A permit for specific minor uses such as backup generators, minor expansions of cell towers, etc.	AP	Director of Planning (administrative, no hearing)	No Appeal
Lot Line Adjustment	To re-draw the lot lines for a property, that doesn't result in more parcels than currently exist	AT	Director of Planning (administrative, no hearing)	No Appeal
Permit Adjustment	Allows minor changes to approved development or use permits, that don't warrant a new public hearing	AD	Director of Planning (administrative, no hearing)	No Appeal
Sign Permit Adjustment	To allow exterior signs, such as wall-mounted or monument signs	AD	Director of Planning (administrative, no hearing)	No Appeal

Conformance with the General Plan for Conventional Zonings

Zoning Ordinance Table 20-270

General Plan Designation	Conforming District
All designations	OS, A
Open hillside	OS
Lower hillside (1 du/5 ac)	R-1-RR
Rural residential (2 du/ac)	R-1-1, R-1-2
Residential neighborhood	R-1-8, R-1-5
Urban residential, transit residential	R-M
Neighborhood/community commercial, urban village	CP, CN, CG
Regional commercial	CG
Public/Quasi-Public	PQP
Industrial park	IP
Transit employment center	IP, TEC
Light industrial	LI
Heavy industrial	HI
Combined industrial/Commercial	CIC
Downtown	DC
Transportation and Utilities	PQP
Open Space, Parklands and Habitat	OS
Urban Village	CP, CN
Urban Village Commercial	CP, CN

Types of Conventional Zoning Districts

Zoning Ordinance Table 20-10

Zoning District	Zoning Map Symbol
OS Open Space	OS
A Agricultural	A
Rural Residential Residence District (1 DU/5 Acres)	R-1-RR
R-1-1 Residence District (1 DU/Acre)	R-1-1
R-1-2 Residence District (2 DU/Acre)	R-1-2
R-1-5 Residence District (5 DU/Acre)	R-1-5
R-1-8 Residence District (8 DU/Acre)	R-1-8
R-2 Residence District (2 DU/Lot)	R-2
R-M Residence District (Multiple Unit/Lot)	R-M
R-MH District (mobilehome parks, travel trailer parks)	R-MH
CO Commercial Office District	CO
PQP Public/Quasi-Public District	PQP
CP Commercial Pedestrian District	CP
CN Commercial Neighborhood District	CN
CG Commercial General District	CG
TEC Transit Employment District	TEC
IP Industrial Park District	IP
CIC Combined Industrial/Commercial	CIC
LI Light Industrial District	LI
HI Heavy Industrial District	HI

Concurrent Review of Applications

When applications for the same site have been filed for one or more permits required by the Zoning Ordinance, such permits or approvals may be reviewed and acted on in a unified process. Unified process shall use the procedures required for the highest level permit or approval (SJMC Section 20.100.140).

1. Land Use

- a. General Plan Amendments/Text Amendments
- b. Rezoning
- c. Conditional Use Permits

2. Design

- a. Development Permits (e.g. Site Development Permit, Planned Development Permit)
- b. Adopted Design Guidelines

3. Combined

- a. PD Zonings can include design requirements
- b. CUPs often include Development Permit requirements

California Environmental Quality Act (CEQA)

Purpose:

- **Disclose** to decision makers and public the potential significant environmental effects of proposed activities.
- **Identify** ways to avoid or reduce environmental damage/Prevent environmental damage by requiring implementation of feasible alternatives or mitigation measures
- **Foster** interagency coordination in review of projects
- **Enhance** public participation in planning process

Planning Commissioner's Role in CEQA

Almost every item before Planning Commission is considered a "project" under CEQA – requires discretionary action by City

- Exceptions: Status reports and study sessions

Planning Commission must review CEQA documents related to projects for accuracy, adequacy, and compliance with procedures required by CEQA

- Review Initial Studies, EIRs, and Exemptions included in PC packets
- If PC is final approving body, adopt the document
- If PC is not final approving body, make recommendation to City Council

Types of CEQA Documents

- **Exemptions**
 - Includes Statutory Exemptions and Categorical Exemptions
- **Negative Declarations (ND) and Mitigated Negative Declarations (MND)**
- **Environmental Impact Reports (EIRs)**
- **Use of prior ND/MND or EIR**
 - Determination of Consistency
 - Addendum

Exemptions

Statutory Exemptions

- State legislature exempted projects, includes emergency projects, certain transportation/infrastructure projects
- Not common for projects before Planning Commission

Categorical Exemptions

- Projects that generally do not have a significant effect on the environment. May require reports and findings to justify.
- Examples: Existing Facilities, New Construction of Small Structures, Infill Projects
- Most common type of exemption for projects before Planning Commission

Initial Study and Mitigated Negative Declarations/Negative Declarations

Initial Study is prepared to determine potential environmental impacts of 20 resource areas and determine appropriate CEQA clearance. Can support ND or MND.

Negative Declaration (ND): Statement that project will not have any significant environmental impacts

Mitigated Negative Declaration (MND): Statement project will have significant environmental impacts, but mitigation measures will reduce impacts to less than significant

ND and MND supported by analysis in the Initial Study, including technical reports (I.e. Transportation Analysis, Air Quality Report, Noise Reports)

- Public circulation for 20 – 30 days

Planning Commission notified during public circulation, and Initial Study ND or MND included in hearing packets

Environmental Impact Report (EIR)

Purpose: An informational document prepared by a lead agency that analyzes a project's potential significant effects and identifies mitigation measures and reasonable alternatives to avoid those significant effects

- Highest level of review under CEQA
- Requires Notice of Preparation at start of process (30 day scoping period)
- Public circulation period: 45 days
- City responds to comments in First Amendment
- If EIR identified significant and unavoidable impacts, need Statement of Overriding Considerations (in City Council Resolution)

Planning Commission notified during NOP process, during public circulation, and upon publishing of First Amendment (Response to Comments), EIR Resolution and Statement of Overriding Considerations included in PC packet

Use of Prior Environmental Document (Determination of Consistency & Addendum)

Some projects modify previously approved projects with a previously adopted EIR, ND, or MND

City determines if project is within scope of previous CEQA document, and may write a Determination of Consistency or an Addendum

- **Determination of Consistency:** Statement that project is within scope of previously adopted CEQA document
- **Addendum:** Statement that changes to a project are minor and do not result in new significant impacts or a substantial increase in severity of impacts identified in prior CEQA document
 - May require an Initial Study to support findings

6. Planning Division Overview



PBCE Divisions & Executive Team



Planning Division

FTE 60

BUDGET \$10.0M



*Michael Brilliot
Deputy Director
Planning – Citywide Planning*



*Robert Manford
Deputy Director
Planning – Development Review*



Design Guidelines
Downtown Vision

General Plan & Analytics
Urban Village Plans
Ordinances & Policies
Housing
Station Area Planning

Environmental &
CEQA
Compliance

Architectural
Standards
Historic Preservation

Planning Permits
CEQA
Zoning Compliance

7. Open Forum



City of San José, California

COUNCIL POLICY

TITLE Consolidated Policy Governing Boards and Commissions	PAGE 1 of 29	POLICY NUMBER 0-4
EFFECTIVE DATE: August 9, 2016	REVISED DATE: March 17, 2020	

APPROVED BY COUNCIL ACTION: August 28, 1984, Item 8(b)(2); August 28, 1990, Item 7d(4); November 20, 1990, Item No. 7d(1); February 19, 1991, Item No. 7(b)(6); August 1, 1991, Item No. 7(d)(4); August 9, 2016, Item 3.3(a) (Reso 77891); March 17, 2020, Item 2.20 (Reso 79440)

BACKGROUND

This policy consolidates Council Policy 0-4 (Consolidated Board and Commission Policies) and Council Policy 0-36 (City Council / Commission Code of Conduct), former Council Policy 0-20 (Appointment of City Employees and Council Assistants to Boards and Commissions), and former Council Policy 0-22 (Political Involvement of Boards, Commissions and Committees and their Members), and incorporates portions of Council Policies 0-15 (Code of Ethics for Officials and Employees of the City of San Jose). It is intended as a comprehensive selection of policies as they relate to Boards and Commissions and updated as part of the Board and Commission Consolidation approved by City Council on May 7, 2013.

City of San Jose Boards and Commissions are established in order to provide independent recommendations to Council or, in the context of quasi-judicial boards such as the Planning Commission, Civil Service Commission, Board of Fair Campaign and Political Practices, and Appeals Hearing Board, to make independent decisions and take administrative actions. The Boards and Commissions play an important role by being visible in the community and bringing a broad representation of ideas into the process.

The City Charter provides that, in addition to those Boards and Commissions established by the City Charter, the City Council may create such other Boards and Commissions as in its judgment are required, and grant them such functions, powers and duties as are consistent with the City Charter. This Policy intends to fully define the policies and customs as related to those Boards and Commissions.

This Policy only applies to Boards and Commissions whose members are appointed by the City Council pursuant to the City Charter and San José Municipal Code. Therefore, it does not apply to the San José Arena Authority Board of Directors, Deferred Compensation Advisory Committee, Mayor's Gang Prevention Task Force, Federated Retirement Board, Police and Fire Retirement Board, and work2future Board.

SECTIONS

- I. RECRUITMENT, SELECTION, APPOINTMENT, AND RESIGNATION
- II. REQUIREMENTS FOR BOARD MEMBERS AND COMMISSIONERS
- III. BOARD AND COMMISSION GOVERNANCE AND OPERATIONS
- IV. CODE OF CONDUCT
- V. AUTHORITY OF BOARDS AND COMMISSIONS
- VI. BOARD AND COMMISSION RECOGNITION
- VII. IMPLEMENTATION

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DEFINITIONS

For purposes of this Policy, the following definitions are in effect throughout:

Appointee – An individual who has been appointed by the City Council to a Board or Commission, but has not been sworn in as a Commissioner by the City Clerk.

Charter Commission – The following commissions established by and whose membership, powers and duties are defined in the City Charter, Article X, Boards and Commissions: Planning Commission, Civil Service Commission, and Salary Setting Commission.

Council Liaison – See Section IV.B of this Policy.

Council Nominated Commission – Commissions whose members without special eligibility requirements are nominated by each Council Member, including the Mayor, and appointed by City Council pursuant to San José Municipal Code Section 2.08.180. A listing of current Council Nominated Commissions is included in Appendix A of this Policy.

Council Appointment Advisory Commission Nominated Commission – Commissions whose members with special eligibility requirements are nominated by the Council Appointment Advisory Commission. See Appendix A of this Policy.

SECTION I: RECRUITMENT, SELECTION, APPOINTMENT, AND RESIGNATION

Purpose

This Policy establishes a systematic procedure for accepting and reviewing applications from persons interested in serving on Boards and Commissions and provides members of the City Council a process to make nominations to the various Boards and Commissions for appointment by the City Council.

A. PROCESS AND PROCEDURE

1. **Roster**: A current roster of Board and Commission members will be maintained by the City Clerk. The roster shall show the first appointment date of each Commissioner, the current term expiration date, and whether the Commissioner is eligible for reappointment.
2. **Applications**: The City Clerk will provide an application form to all persons wishing to serve on a Commission. Those persons wishing to serve on a Commission, including current Commissioners who wish to be reappointed, must file an application. Applicants who were not appointed to a Board or Commission will have their applications maintained on file in the City Clerk's Office for a period of one year from the date of application. During that year, the applicant may be eligible for appointment to an unanticipated vacancy on the Board or Commission for which they applied. If so eligible, the City Clerk will contact the applicant to confirm their interest and obtain any

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changes to their application. The City Clerk may continue to accept applications for Boards and Commissions while there are no vacant positions in order to have an applicant pool to fill unanticipated vacancies.

3. City Residency Requirement: Except as provided below, all applicants to Boards and Commissions must be San José residents. Except for Charter Commissions and the Neighborhoods Commission, in specific cases where a qualified San José resident has not applied to fill the vacancy, the Council may appoint a non-resident.
 - a. Residents of land annexed by the City of San José are considered San José residents. Residents of unincorporated County of Santa Clara land are not considered San José residents.
 - b. Except for Charter Commissions and the Neighborhoods Commission, if a Commissioner moves out of the City of San José with less than six months left on their term, they shall be allowed to finish their term; otherwise, Commissioners must retain residency in the City of San José during their term of office.
 - c. If a Commissioner moves out of the City of the San José with six or more months left on their term, the commissioner shall be deemed automatically resigned.
4. Vacancies: The City Clerk shall notify the City Council via memorandum of vacancies and recruitments occurring within the next sixty days. Copies of such notices shall be sent to the secretaries of Boards or Commissions listed therein. When a vacancy exists, the Clerk shall place a notice of said vacancy on the City Calendar and Website for viewing by the public.
5. Terms of Office: The following term limits apply to Boards and Commissions other than the Charter Commissions and Youth Commission. Under San José Municipal Code Section 2.08.150, members of Council Nominated Commissions and the Neighborhoods Commission, except for the Youth Commission, shall serve for a term of four years and are eligible for reappointment at the expiration of their first term for one additional four-year term. Members of the Youth Commission shall serve for a term of two years and are eligible for reappointment at the expiration of their first term for one additional two-year term. Should a Commissioner be off a commission for at least one full term (four years, or two years for the Youth Commission), the Commissioner shall be eligible for a new appointment to that Commission.
6. Limited to Single Legislative Body: No commissioner shall serve on more than one commission at a time. Should a commissioner seek appointment to another commission, upon his/her new appointment, the commissioner shall be deemed automatically resigned from his or her original commission. Other than Standing Committees of their respective commission, no commissioner shall serve on "Other Advisory Entities" as defined by the Consolidated Open Government and Ethics Resolution.
7. Review of Applications: Applications to all Commissions except Youth Commission will be reviewed by the Office of the City Attorney for potential conflict of interest and Department of Planning, Building, and Code Enforcement for any pending code violations.

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8. Appointment Process for Charter Commissions, Appeals Hearing Board and Board of Fair Campaign and Political Practices. The City Council holds public interviews of the applicants according to the following procedure:
- a. On or before the occurrence of a vacancy, the Commission Secretaries will prepare and send to the City Clerk's Office for distribution a background memo on the Commission which should include any special eligibility requirements, needs, or areas of expertise needed for more equitable representation on the Commission. The memo should include a statement setting forth attendance, residency information, and compliance with City requirements (e.g., commission training, state-mandated training, Form 700 filing) on any incumbents eligible for reappointment.
 - b. The City Clerk shall post a vacancy notice on the City Clerk's website, San José Public Libraries, and City community centers.
 - c. Upon close of the vacancy notice period, the City Clerk shall forward a copy of the applications and Commission Secretary's background memos, if any, to the City Attorney for a conflicts review and Department of Planning, Building, and Code Enforcement for review of code actions. The City Attorney and Department of Planning, Building, and Code Enforcement will prepare and provide the City Clerk with respective memos regarding the applicants within 14 days after receipt of the applications.
 - d. Upon close of the vacancy notice period, the City Clerk will provide full application packages to each member of the City Council. The full application packages will contain the following documents: Commission applications, City Attorney memo, Department of Planning, Building, and Code Enforcement Code memo, Commission Secretary's background memos, and any other information as necessary.
 - e. After receipt of the full application package, each Council Member, including the Mayor, shall notify the Clerk in writing of the applicants he/she wishes to interview. If four Council Members indicate they would like to interview the same applicant, the Clerk shall contact the applicant to notify him/her of the time, place and date of the interview, which shall occur during an open meeting of the City Council.
 - f. At the Council meeting at which the interviews are held, the Clerk shall supply the Council Members with a ballot, which may be electronic, containing the names of all the applicants to be interviewed. Upon completion of the interviews, each Council Member shall mark his/her selection of applicant on the ballot. The Clerk shall publicly read the votes of the Council Members, and the applicant(s) receiving the most Council votes (six or more) shall be appointed. If there are two or more vacancies, and more than two applicants receive six or more votes, then the applicants receiving the highest number of votes shall be appointed. In the case of a tie, a second balloting shall take place.
 - g. After the Council makes an appointment to a Board or Commission, the City Clerk's Office shall notify the appointee and the Commission Secretary of the appointment and make arrangements for an Oath of Office, Code of Ethics Agreement, and any additional requirements to be signed and completed. The Commission Secretary shall notify the appointee that he/she shall not act in their capacity as a Board Member or Commissioner until an Oath of Office and Code of Ethics Agreement have been signed.

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9. Appointment Process for Council Nominated Commissions (See Appendix A for a complete list)
- a. Regularly Scheduled Vacancies for Seats Nominated by Council Members: The following appointment process applies to all regularly scheduled vacancies for seats for Council Nominated Commissions specifically referencing 2.08.180.
- i. On or before the occurrence of a vacancy, the City Clerk shall notify the Council Member responsible for the nomination of that seat.
 - ii. The Commission Secretaries will prepare and send to the City Clerk's Office for distribution a background memo on the Commission which should include any special eligibility requirements, needs, or areas of expertise needed for more equitable representation on the Commission. The memo should include a statement setting forth attendance, residency information, and compliance with City requirements (e.g., commission training, state-mandated training, Form 700 filing) on any incumbents eligible for reappointment.
 - iii. The City Clerk shall post a vacancy notice on the City Clerk's website, San José Public Libraries, and City community centers.
 - iv. Upon close of the vacancy notice period, the City Clerk's Office shall forward a copy of the applications to the Department staff liaison to the Commission.
 - 1. Within 7 days of receipt, the Department staff liaison may submit a memo to the City Clerk with its evaluation of the applicants based on the powers and duties of the Commission, any special eligibility requirements, and experience, background and expertise of the applicants.
 - 2. Within 7 days of receipt, the Department staff liaison to the Housing and Community Development Commission shall complete a preliminary review of the applications, including but not limited to, completion of the Low- or Moderate-Income Representative Certification Statement and determining whether the applicant meets the required special eligibility requirements in Section 2.08.2820 of the Municipal Code. The Department staff liaison shall submit the results of its review in a memo to the City Clerk's Office.
 - v. The City Clerk shall then forward a copy of the applications, Department staff liaison memo, and Commission Secretary's background memos, if any, to the City Attorney for a conflicts review and Department of Planning, Building, and Code Enforcement for review of code actions. The City Attorney and Department of Planning, Building, and Code Enforcement will prepare and provide the City Clerk with respective memos regarding the applicants within 14 days after receipt of the applications and memo.
 - vi. After receipt of the conflicts of interest and code review memos, the City Clerk will provide full application packages to each member of the City Council making appointments. The full application packages will contain the following documents: Commission applications, City Attorney memo, Department of Planning, Building, and Code Enforcement memo,

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Commission Secretary's background memos, and any other information as necessary.

- vii. After receipt of the full application package, each Council Member, including the Mayor, shall submit their nominations for approval by the City Council. Each Council Member, including the Mayor, may interview applicants prior to submitting their nominations.
- viii. In the event that a Council Member or the Mayor does not provide a nominee within the specified deadline, chooses to delegate their nomination to the Council Advisory Appointment Commission, or request additional recruitment, the Council Advisory Appointment Commission shall be authorized to submit a nominee to the City Council.
- ix. After Council makes an appointment to a Board or Commission, the City Clerk's Office shall notify the appointee and the Commission Secretary of the appointment and make arrangements for an Oath of Office, Code of Ethics Agreement, and any additional requirements to be signed and completed. The Commission Secretary shall notify the appointee that he/she shall not act in their capacity as a Board Member or Commissioner until an Oath of Office and Code of Ethics Agreement have been signed.

b. Vacancies for Seats Nominated By Council Appointment Advisory Commission:
The following appointment process applies to seats on Council Nominated Commissions with special eligibility requirements that are nominated by the Council Appointment Advisory Commission:

- i. On or before the occurrence of a vacancy, the City Clerk shall notify the Commission Secretary. The Commission Secretary will prepare and send to the City Clerk's Office for distribution a background memo on the requirements for those seats needing to be filled which should include any special eligibility requirements, needs, or areas of expertise needed for more equitable representation on the Commission. The memo should include a statement setting forth attendance, residency information, and compliance with City requirements (e.g., commission training, state-mandated training, Form 700 filing) on any incumbents eligible for reappointment.
- ii. The City Clerk shall post a vacancy notice on the City Clerk's website, San José Public Libraries, and City community centers.
- iii. Upon close of the vacancy notice period, the City Clerk's Office shall forward a copy of the applications to the Department staff liaison to the Commission.
 - 1. Within 7 days of receipt, the Department staff liaison may submit a memo to the City Clerk with its evaluation of the applicants based on the powers and duties of the Commission, any special eligibility requirements, and experience, background and expertise of the applicants.
 - 2. Within 7 days of receipt, the Department staff liaison to the Housing and Community Development Commission shall complete a preliminary review of the applications, including but not limited to, completion of the Low- or Moderate-Income Representative Certification Statement and determining whether the applicant

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meets the required special eligibility requirements in Section 2.08.2820 of the Municipal Code. The Department staff liaison shall submit the results of its review in a memo to the City Clerk's Office.

- iv. The City Clerk shall then forward a copy of the applications, Department staff liaison memo, and Commission Secretary's background memos, if any, to the City Attorney for a conflicts review and Department of Planning, Building, and Code Enforcement for review of code actions. The City Attorney and Department of Planning, Building, and Code Enforcement will prepare and provide the City Clerk with respective memos regarding the applicants within 14 days after receipt of the applications and memo.
 - v. After receipt of the conflicts of interest and code review memos, the City Clerk will provide full application packages to the Council Advisory Appointment Commission for review. The full application packages will contain the following documents: Commission applications, City Attorney memo, Department of Planning, Building, and Code Enforcement memo, Commission Secretary's background memos, Department staff liaison memo, and any other information as necessary.
 - vi. After receipt of the full application package, the Council Advisory Appointment Commission will interview applicants, select their nominee and submit their nomination to the City Council for final approval.
 - vii. After Council makes an appointment to a Board or Commission, the City Clerk's Office shall notify the appointee and the Commission Secretary of the appointment and make arrangements for an Oath of Office, Code of Ethics Agreement, and any additional requirements to be signed and completed. The Commission Secretary shall notify the appointee that he/she shall not act in their capacity as a Board Member or Commissioner until an Oath of Office and Code of Ethics Agreement have been signed.
- c. Unanticipated Vacancies for Seats Nominated by Council Members. The following appointment process applies to all unanticipated vacancies for seats for Council Nominated Commissions specifically referencing Section 2.08.180 of the Municipal Code.
- i. Upon receipt of a Board or Commission member resignation, the City Clerk shall notify the Council Member for the represented district of the unanticipated vacancy, and post a vacancy notice on the City Clerk's website, San José Public Libraries, and City community centers.
 - ii. Upon close of the vacancy notice period, the City Clerk's Office shall forward a copy of the applications to the Department staff liaison to the Commission.
 - 1. Within 7 days of receipt, the Department staff liaison may submit a memo to the City Clerk with its evaluation of the applicants based on the powers and duties of the Commission, any special eligibility requirements, and experience, background and expertise of the applicants.
 - 2. Within 7 days of receipt, the Department staff liaison to the Housing and Community Development Commission shall complete a preliminary review of the applications, including but not limited to,

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completion of the Low- or Moderate-Income Representative Certification Statement and determining whether the applicant meets the required special eligibility requirements in Section 2.08.2820 of the Municipal Code. The Department staff liaison shall submit the results of its review in a memo to the City Clerk's Office.

- iii. The City Clerk shall then forward a copy of the applications and Department staff liaison memo to the City Attorney for a conflicts review and Department of Planning, Building, and Code Enforcement for review of code actions. The City Attorney and Department of Planning, Building, and Code Enforcement will prepare and provide the City Clerk with respective memos regarding the applicants within 14 days after receipt of the applications and memo.
- iv. After receipt of the conflicts of interest and code review memos, the City Clerk will provide full application packages to each member of the City Council making nominations to the vacant seat(s). The full application packages will contain the following documents: Commission applications, City Attorney memo, Department of Planning, Building, and Code Enforcement memo, Commission Secretary's background memos, Department staff liaison memo, and any other information as necessary. Each Council Member, including the Mayor, may interview applicants prior to submitting their nominations.
- v. After receipt of the full application package, if the Council Member chooses to nominate one of the applicants, the nomination will be submitted to the City Council for approval.
- vi. If the Council Member chooses not to nominate any of the applicants, they may conduct outreach for additional applicants or request the City Clerk to conduct additional recruitment.
- vii. In the event that a Council Member or the Mayor does not provide a nominee within the specified deadline, chooses to delegate their nomination to the Council Advisory Appointment Commission, or request additional recruitment, the Council Advisory Appointment Commission shall be authorized to submit a nominee to the City Council.
- viii. If no candidate is nominated, the vacancy will be filled during the next normal Board and Commission recruitment period.
- ix. After Council makes an appointment to a Board or Commission, the City Clerk's Office shall notify the appointee and the Commission Secretary of the appointment and make arrangements for an Oath of Office, Code of Ethics Agreement, and any additional requirements to be signed and completed. The Commission Secretary shall notify the appointee that he/she shall not act in their capacity as a Board Member or Commissioner until an Oath of Office and Code of Ethics Agreement have been signed.
- x. Less Than Six Month Term: If a Commissioner is nominated to fill an unexpired term with less than six months remaining, the City Council may choose to additionally appoint him/her to the following four year term.

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10. Appointment Process for Neighborhoods Commission

a. Regularly Scheduled Vacancies for Seats Nominated by Neighborhood Groups:

The following appointment process applies to all regularly scheduled vacancies for seats for Neighborhoods Commission.

- i. The Department staff liaison to the Commission shall obtain approval from the City Council of the rules developed by the Commission for the caucus process, in accordance with Section 2.08.3440.A of the Municipal Code.
- ii. The City Clerk shall post a vacancy notice on the City Clerk's website, San José Public Libraries, and City community centers.
- iii. Upon close of the vacancy notice period, the City Clerk shall forward a copy of the applications to the Department staff liaison to the Commission for a preliminary review of applicants, including, but not limited to, District residency verification and identification, and application completeness. Within 7 days of receipt, the Department staff liaison shall submit the results of its review as a Department staff liaison memo to the City Clerk's Office.
- iv. The City Clerk shall then forward a copy of the applications and Department staff liaison memo to the City Attorney for a conflicts review and Department of Planning, Building, and Code Enforcement for review of code actions. The City Attorney and Department of Planning, Building, and Code Enforcement will prepare and provide the City Clerk with respective memos regarding the applicants within 14 days after receipt of the applications and memo.
- v. After receipt of the conflicts of interest and code review memos, the City Clerk will provide full application packages to the Department staff liaison to the Commission, to provide to the neighborhood groups during their caucus process. The full application packages will contain the following documents: Commission applications, City Attorney memo, Department of Planning, Building, and Code Enforcement memo, Department staff liaison memo, and any other information as necessary.
- vi. After receipt of the full application package, and in accordance with the caucus process in Section 2.08.3440.A-C of the Municipal Code, the Department staff liaison shall submit the nominations of the neighborhood groups for approval by the City Council.
- vii. After Council makes an appointment to the Commission, the City Clerk's Office shall notify the appointee and the Commission Secretary of the appointment and make arrangements for an Oath of Office, Code of Ethics Agreement, and any additional requirements to be signed and completed. The Commission Secretary shall notify the appointee that he/she shall not act in their capacity as a Board Member or Commissioner until an Oath of Office and Code of Ethics Agreement have been signed.

- b. Unanticipated Vacancies Nominated By Council Appointment Advisory Commission: The following appointment process applies to unanticipated vacancies for seats on the Neighborhoods Commission:

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- i. Upon receipt of a resignation, the City Clerk shall post a vacancy notice on the City Clerk’s website, San José Public Libraries, and City community centers.
- ii. Upon close of the vacancy notice period, the City Clerk shall forward a copy of the applications to the Department staff liaison to the Commission for a preliminary review of applicants, including, but not limited to, District residency verification and identification, and application completeness. Within 7 days of receipt, the Department staff liaison shall submit the results of its review as a Department staff liaison memo to the City Clerk’s Office.
- iii. The City Clerk shall then forward a copy of the applications and Department staff liaison memo to the City Attorney for a conflicts review and Department of Planning, Building, and Code Enforcement for review of code actions. The City Attorney and Department of Planning, Building, and Code Enforcement will prepare and provide the City Clerk with respective memos regarding the applicants within 14 days after receipt of the applications and memo.
- iv. After receipt of the conflicts of interest and code review memos, and in accordance with the appointment process in Section 2.08.3440.D of the Municipal Code, the City Clerk will provide full application packages to the Council Advisory Appointment Commission for review. The full application packages will contain the following documents: Commission applications, City Attorney memo, Department of Planning, Building, and Code Enforcement memo, Department staff liaison memo, and any other information as necessary.
- v. After receipt of the full application package, the Council Advisory Appointment Commission will interview applicants, select their nominee and submit their nomination to the City Council for final approval.
- vi. After Council makes an appointment to the Commission, the City Clerk’s Office shall notify the appointee and the Commission Secretary of the appointment and make arrangements for an Oath of Office, Code of Ethics Agreement, and any additional requirements to be signed and completed. The Commission Secretary shall notify the appointee that he/she shall not act in their capacity as a Board Member or Commissioner until an Oath of Office and Code of Ethics Agreement have been signed.

11. Resignations:

- a. Voluntary Resignation: Voluntary resignations from Boards and Commissions shall be submitted in writing to the City Clerk and Commission Secretary. Resignations are effective on the date submitted to the City Clerk or Commission Secretary, unless a different date is noted on the resignation. Resignations cannot be rescinded or revoked.
- b. Automatic Resignation: Commission Secretaries will notify the City Clerk of vacancies occurring due to absences pursuant to the provision of the San José Municipal Code Section 2.08.060 that automatically deem a seat vacant.

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B. CITY EMPLOYEES

1. Because City Boards and Commissions are intended to provide the City Council with a perspective different and additional to that provided by staff and other persons retained to provide that advice, unless a particular Board or Commission is required by the San José Municipal Code or Resolution of the Council to have staff representatives appointed thereto, no City employee or City intern, paid or unpaid, shall be appointed to any City Board or Commission.
2. Notwithstanding the above, Youth Commissioners may also serve the City as a paid or unpaid intern.
3. Former or retired City employees shall not be appointed to the Civil Service Commission.

SECTION II: REQUIREMENTS FOR BOARD MEMBERS AND COMMISSIONERS UPON APPOINTMENT

Purpose

Based upon various local, state, and federal laws and requirements, Board Members and Commissioners are required to complete and have on file with the Office of the City Clerk certain paper work and complete certain trainings in order to serve on a Board or Commission. The City Clerk's Office will notify the Commission Secretary of commissioners who fail to complete any requirements.

Policy

1. Oath of Office: Upon appointment and reappointment, Commissioners and Board Members are required to file a current oath of office with the Office of the City Clerk (Article 20, Section 3 of the California Constitution). ***A new oath of office must be administered for each term of office.***
2. Code of Ethics: Commissioners and Board Members shall read and sign a Code of Ethics Statement. (San José City Council Policy 0-15).
3. Form 700 / Statement of Economic Interest: The following Board Members and Commissioners are required to file a Statement of Economic Interest, Form 700.
 - a. Any Commission designated in the City's conflict of interest code;
 - b. Pursuant to Government Code 87200, Planning Commissioners; and
 - c. Any Commissions added to Government Code 87200 following approval of this Policy.
4. AB 1234 Ethics Training: Commissioners who receive compensation, salary, stipend or reimbursement of expenses are required to complete state mandated ethics training. Said training must be for a minimum of two hours, and completion certificates must be filed with the Office of the City Clerk within 90 days of appointment. Such training must be completed every two years.
5. City Training: Within the first year of appointment, Commissioners will be required to complete a mandatory training session covering, but not limited to, the City Charter, the San José Municipal Code Section 2.08, City Council Policies related to Boards and Commissions, City Policies and Procedures, Brown Act and Consolidated Open Government and Ethics Resolution, Statement of Economic Interest Disclosure

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requirements, and Parliamentary Procedures. The training will be coordinated by the City Clerk's Office with the City Attorney's Office and Boards and Commission staff.

SECTION III: BOARD AND COMMISSION GOVERNANCE AND OPERATIONS

Purpose and Application

Standardized Rules and Regulations have been established to better serve the public in that any resident, business, or other interested party appearing before a City Commission may know what to expect regardless of the board or commission. This process standardization was ordered as part of the Boards and Commissions Consolidation approved by City Council on May 7, 2013.

Policy

A. BYLAWS

All City Commissions, except the Airport Commission, Appeals Hearing Board, Civil Service Commission, Salary Setting Commission, Board of Fair Campaign and Political Practices, and Planning Commission, will operate under a standardized set of Bylaws developed by the City Clerk. Any deviation from the standardized Bylaws must be approved by the Rules and Open Government Committee, or other designated Council Committee, of the City Council. See Appendix B for Commission Bylaws Template.

B. ANNUAL WORKPLAN, BUDGET AND REPORT

Each fiscal year, all City Commissions except for Charter Commissions and the Appeals Hearing Board, shall submit their annual workplan of activities to be undertaken, budget of personal and non-personal costs, and annual report of its accomplishments to the Rules and Open Government Committee or other designated Council Committee for approval, as delegated by the City Council pursuant to this Policy. Staff shall provide a cover memo indicating whether the workplan corresponds with the Department's workplan. The Commission's annual workplan, budget and annual report shall follow the standard template format provided by the City Clerk. Commissions shall not include items in the workplan that would extend their scope beyond the functions, powers, and duties granted to or bestowed upon them by San José Municipal Code Chapter 2.08.

C. SUBCOMMITTEES (STANDING, AD HOC AND TEMPORARY COMMITTEES)

1. Standing Committees: Unless approved by the Rules and Open Government Committee or other designated Council Committee, standing committees, which are subcommittees with a continuing subject matter jurisdiction or a meeting schedule fixed by formal action of the Commission are not allowed under the Commission Bylaws as they are Brown Act bodies that require additional staff support. The Board or Commission requesting the creation of a standing committee shall submit a formal request to the Rules and Open Government Committee that includes justification for the standing committee as well as a time and budget analysis by the Department staff in order to assist the Rules and Open Government Committee with their decision. The City Clerk shall provide a format for the standing committee request. Standing committees shall not meet more often than its Board or Commission. Standing committees must prepare and maintain Action Minutes.

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2. Ad Hoc or Temporary Committees: Limited term ad hoc or “temporary” committees, which are comprised of less than a quorum of members of the Commission, are allowed for specific short term tasks or projects with a narrow scope and shall not last longer than six months. Ad hoc committees are not subject to the notice and posting requirements of the Brown Act. The purpose for forming an ad hoc committee must be defined and the scope of the ad hoc committee must be within the functions, powers and duties of the commission as outlined in the San José Municipal Code and as approved by the Commission Secretary. Under no circumstances shall ad hoc committees be formed to bypass the rules and laws of this Council Policy, the Brown Act, or the City Council’s Consolidated Open Government and Ethics Resolution.
3. Subcommittees shall only be formed by and composed solely of members of its parent Board or Commission. Members of the public or former commissioners may not sit on subcommittees as voting or nonvoting members or officers of the subcommittee.
4. Commission members shall not be required to serve on subcommittees.

D. COMMISSION OPERATIONS

1. The California Ralph M. Brown Act (Gov’t Code § 54950 et seq.) applies to Boards and Commissions except where stricter standards are adopted by the City of San José pursuant to its Consolidated Open Government and Ethics Resolution . At no point will a policy be enacted that reduces the standards of the Brown Act.
2. The Commission shall not require commission members to perform additional duties outside what is required under San José Municipal Code section 2.08. The Commission may request its members to perform outside duties, but cannot penalize a Commission member who cannot perform these additional duties.
3. Members of the public or former commissioners may not sit on the Commission as voting or nonvoting members or officers of the Commission. Former Commission members shall be treated as members of the public. Emeritus members shall not be allowed.

E. MEETING SCHEDULE

1. Except for Charter Commissions, the frequency and schedule of meetings shall be determined by the Board or Commission’s workplan, as approved by the Rules and Open Government Committee, and align with the corresponding City Department, City Service Area, and Council Committee to allow flexibility in scheduling meetings.
2. Commission Meetings may not be cancelled or rescheduled due to personal conflicts in the Commissioners’ personal schedules.
3. Meetings will be conducted according to Robert’s Rules of Order.

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F. AGENDAS

1. A standardized agenda format will be provided to Commission Secretaries by the City Clerk and should be used for all agendas, for regular meetings and/or subcommittee meetings. Any proposed change to this format by a Commission must be approved by the Rules and Open Government Committee.
2. Agendas must include the following:
 - a. Commission Name
 - b. The Meeting Date and Time
 - c. Meeting Location
 - d. Description of each item of business to be transacted or discussed
 - e. Public Comments
 - f. Public Record
3. Agenda Distribution Policy:
 - a. Email: Agendas will be distributed via email to commissioners at the City-provided email address.
 - b. Hard Copy: If a Commissioner requires hard copies of the agenda and related materials, the Commissioner must put the request in writing to the Commission Secretary. Requests for hard copies of materials will be effective until the end of the calendar year in which the request was submitted. Requests must be renewed annually. The Commission Secretary will place hard copies in outgoing first-class mail on the same day the agenda is posted, unless the agenda is posted after 3:00 p.m., in which case the agenda will be mailed the following business day. There is no guarantee that the hard copy will arrive at the Commissioner's address prior to the meeting. Alternatively, the Commissioner may pick up a hard copy in person at the office of the Commission Secretary.
4. Agendas and related materials for regular meetings shall be posted seven (7) days in advance of the meeting per the City's Consolidated Open Government and Ethics Resolution. Agendas shall also be posted at City Hall and on the City's website. An amended agenda making administrative, non-substantive changes may be posted no later than three days before the meeting.
5. Agendas and related materials will be posted online and will contain a link to all of the documents referenced or distributed to members of the body. Quasi-judicial Commissions are not obligated to post online any documents presented at the time of an evidentiary hearing.

G. MEETINGS

1. Commission Meetings must be audio recorded and the recording must be maintained for two years. Planning Commission meetings must also be video recorded and the recording must be maintained for two years. The Commission Secretary is responsible for maintaining the recording(s) for the two year retention period.

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2. Members of Boards and Commissions must follow the attendance rules set forth in Section 2.08.060 of the San José Municipal Code. Attendance at a regular meeting for purposes of Section 2.08.060 of the Municipal Code means attending at least 50% of the duration of the entire meeting. Attending less than 50% of the duration of the entire meeting is considered an absence for purposes of Section 2.08.060 of the Municipal Code. In the case of an excused absence, Commissioners should notify the Commission Secretary of their excused absence as soon as possible.
3. All members of Boards and Commissions will adhere to the Declaration of Conflict of Interest Policy set forth in the Council's Consolidated Open Government and Ethics Resolution.
4. Public meetings of a Board or Commission held in any location will follow the Code of Conduct for Public Meetings in the Council Chambers and Committee Rooms set forth in Council Policy 0-37.
5. Commission Secretaries will be expected to:
 - a. Be a member of City staff
 - b. Attend all meetings, including subcommittee meetings
 - c. Prepare the meeting agendas in accordance with the approved Commission workplan, if any
 - d. Ensure meetings are effectively organized and recorded
 - e. Maintain effective records and administration, including the collection and retention of records submitted at meetings, and drafting meeting minutes
 - f. Manage communication and correspondence

H. MINUTES

Minutes are the official written record of what transpires during a meeting and serve as the permanent record of actions taken and staff direction.

1. Minutes will be taken in "Action Minute" format. Action Minutes include only a brief summary of the public comment and action taken by the Commission.
2. Minutes should include the following:
 - a. What type of meeting: Regular, Special, Adjourned, et al.
 - b. The name of the Commission
 - c. Date and Location of the meeting.
 - d. The word "Minutes"
 - e. Time the meeting convened
 - f. Names of commissioner and staff persons present
 - g. Public Comments
 - h. Approval of Minutes
 - i. Items on the agenda and actions taken for each item including, but not limited to, motions, direction to staff, brief summary of discussion, as well how each member voted, who made the motion and the second.
 - j. Time the meeting adjourned
 - k. Name of individual preparing the minutes.

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3. Commission Secretaries will be expected to follow the standardized “Action Minutes” format provided by the City Clerk.
4. Draft Action Minutes shall be posted within 10 days after the meeting.

SECTION IV: CODE OF CONDUCT

A. MEMBERS OF BOARDS AND COMMISSIONS

1. All Boards and Commissions

All Commissioners should conduct meetings in a dignified and courteous manner. No bias or prejudice against any individual or group of people should be manifested by any Commissioner or condoned by any Commission.

The following Code of Conduct applies to all Boards and Commissions.

- a. All Commissioners shall be professional, respectful and courteous to staff and the public.
- b. Title Use: A Commissioner cannot use his or her title except as provided below (and all such uses are subject to the other limitations in this policy):
 - a. Resumé: A Commissioner can list his or her title on a resumé or biography. An (non-City) email signature block, footer or similar type of identification does not count as a resumé or biography.
 - b. Use with Disclaimer: A Commissioner may use his or her title wWhen speaking or writing publicly on matters within the purview of his or her Commission, but only where the Commissioner makes it clear he or she is not speaking on behalf of the Commission
 - c. Use with Commission Authorization:
 - i. A Commissioner may use his or her title to speak or write on behalf of the Commission to City entities (e.g., Rules and Open Government Committee) when authorized by the Commission.
 - ii. A Commissioner may use his or her title for outreach purposes when authorized by the Commission to conduct community outreach on specific topics where such outreach is time limited and specifically listed in the workplan. This authorization is limited to seeking input and does not permit advocating or opining on any topic. Commissioners are free to conduct outreach at any time without the use of their Commission title.
- c. Commissions may not interview candidates for political office or make endorsements of such candidates. Individual Commissioners must not use their Commission title in making personal political endorsements, including using the title for identification purposes only.No Commissioner shall use his or her Commission title or speak or write as a Commissioner except when speaking on behalf of the Commission. Except when a Commissioner is speaking on behalf of the Commission, no Commissioner shall identify him or herself as a Commissioner without making clear that he or she is not speaking on behalf of the Commission.
- d. Only the City Council has the authority to designate the City's representatives with non-City entities. Commissions may not appoint or invite anyone to act as the City's representative or to advocate a particular cause or viewpoint on behalf of the Commission with any non-City entity, including members of the public.

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Commissions, however, are free to seek the advice or input of others in the course of making their recommendations to the Council.

- e. City business cards shall be provided to those Commissioners where requested by the Commission, as approved by the Commission Secretary based on Commission needs for community outreach. Information in the business cards must contain at a minimum: the name of the Commissioner, the title of the Commissioner, and the name of the Commission. Department staff will determine the additional information to be pre-printed on the business card. Such cards shall only be used when the Commissioner is on official Commission business.
- f. City email addresses shall be provided to all Commissioners. Such email addresses shall only be used for official City Commission business. Commissions shall not use private email addresses for City business.
- g. Use of City stationery must be limited to official Commission business. All correspondence concerning the Commission's business should be processed by the Commission Secretary.
- h. Commission recommendations to the City Council must be recommendations of the Commission as a whole, and not subject to undue influence by Council Liaison, Council Member, City staff, or any outside agency.
- i. Individual Commissioners are free to discuss any issues and concerns with the Council Liaisons, Council District representative or any Council office. However, Commissioners cannot assign themselves as "liaison" to the various Council members and must take care that contact with Council members does not result in a prohibited seriatim meeting of either the Council or the Commission under the Brown Act.
- j. Commissioners individually or Commissions as a whole are free to recommend candidates for appointment to any City Board or Commission, including their own, to the City Council, Council Appointment Advisory Commission, Council Liaison or individual Council members.
- k. Commissions may not independently support or oppose state or federal legislation, but instead shall be free to make recommendations on legislation to the City Council through the Rules and Open Government Committee.
- l. Commissioners are prohibited from using their position as a commissioner to promote themselves for personal gain.
- m. Commissioners who are members of an organization which is in litigation against the City on issues related to the work of the Commission should not participate in any Commission discussion or review of matters affecting the organization if they are an officer of the organization, a named litigant in the lawsuit or disqualified because of a conflict of interest. Litigation includes an administrative enforcement action, lawsuit in a court of law or a claim filed with the City or Successor to the Redevelopment Agency.
- n. All conflicts of interest and circumstances giving rise to a perceived conflict of interest should be avoided. Commissioners must avoid the appearance of favoritism towards people and organizations with whom a Commissioner is affiliated. For example, if a Commissioner serves as a volunteer board member for a service organization, the Commissioner must not vote on any matter which will directly affect that organization. The exception to abstention based on organizational affiliation applies where the Commissioner was appointed as a representative of the organization (e.g. (e.g., representatives of mobilehome park owners as on the Housing and Community Development Commission).
- o. Commissioners may not contact consultants or others under contract with the City directly, outside of a Commission meeting, unless so authorized by City

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Administration.

- p. Commissions should only take actions within their authority, duties and responsibilities as specifically set forth in the City's Municipal Code. Assigned legal staff will advise on legal issues related to jurisdiction and authority as required.
- q. Commissioners shall not act as mediators or facilitators between the parties on matters that come before them. Any facilitation must be part of the public process and as requested or required by the City Council.
- r. Commissions shall place items on the Council agenda in accordance with the Council Rules for the Conduct of its Meetings Resolution. Commissions should not request of Council Members to place items on a Rules and Open Government Committee or City Council Agenda.
- s. The Chair, as defined by San José Municipal Code Section 2.08.070(B), shall preside at the meetings. The responsibility of the Chair is to make sure that each meeting is conducted in accordance with the San José Municipal Code, the approved Bylaws, this Code of Conduct, and Rosenberg's Rules of Order, and that matters before the Commission are dealt with in an orderly, efficient manner.

2. Quasi-Judicial Commissions

Commissions which sit as hearing bodies and take administrative actions, including the Planning Commission, Civil Service Commission, Board of Fair Campaign and Political Practices and Appeals Hearing Board must be diligent to ensure that a hearing is fair and impartial.

- a. Commissioners should not have ex parte conversations with anyone on the subject, outside of the hearing. If a Commissioner has a communication with a party or a party's representative regarding the subject matter, facts or the issues of an administrative action pending before the Commission, the communication shall be disclosed on the record of the administrative action or proceeding before the action is heard.
- b. Any visit to the site or other information gained outside of the hearing must be stated on the record. Commissioners should disqualify themselves if there is any appearance of bias.
- c. Commissioners should not make any public comment on a matter pending before them until after the Commission has rendered a decision.

B. COUNCIL MEMBERS

1. Council Liaisons

The Council Liaison is the Council Member who is specifically assigned to be the liaison between the City Council and the Commission. The primary role of the Liaison is that of facilitator of communications between the Commission and the Council. A Council Member who is appointed to sit as a member of a Board or Commission is not a liaison for purposes of this Policy.

a. Definition of the Role

The Council Liaison shall facilitate communications between the Commission and the Council. The Liaison should not be an advocate for the Commission, give direction or influence a decision of the Commission. The Liaison may, however, assist and provide guidance to Commissions with their workplans or agendas.

b. Purpose

The Council Liaison acts as:

- 1) Spokesperson on behalf of the Council when so directed by the Council.
- 2) Contact person, if the Commission or an individual Commissioner wants such a

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- channel of communication.
 - 3) Monitor for the Commission to identify procedural and structural issues relating to the effective functioning of the Commission for Council.
 - c. Participation Expectation
 - 1) Attendance is discretionary with the Council Member - attendance at Commission meetings is not required but is encouraged. The Council Member may send a member of his/her staff in his/her place.
 - 2) The Council Liaison shall have no vote on the Commission and shall not act as an ex officio member of a Commission.
 - 3) The Council Liaison's attendance at Commission retreats is discouraged unless attendance is requested by the Commission.
 - d. Role of Council Liaison Staff
 - 1) Council Liaison staff do not serve as "alternates" to the Liaison but may attend to observe, provide information on behalf of the Liaison and answer questions in order to report back to their respective Council members.
 - 2) Council Liaison staff members should not participate in the discussion by the Commission. However, staff can communicate messages on behalf of the Council Liaison and answer Commission questions.
 - 3) Council Liaison staff members who attend meetings may sit at the table with the Commission at the discretion of the Commission or the chair.
2. Council Members
The following guidelines apply to all Council Members.
- a. Council Members should not speak to any Commissioner on any matter that may come before the Council in a manner designed to influence the Commission. Nor should any Council Member privately lobby any Commissioner outside of the meetings in an attempt to influence his or her individual vote.
 - b. Any Council Member who has testified on his or her own behalf or as a witness before a Commission on any administrative action which then comes to Council is disqualified from participating as a Council Member on the matter only if there is a legal conflict of interest.
 - c. A Council Member must clearly state when he or she is speaking on behalf of the City Council.

SECTION V: AUTHORITY OF BOARDS AND COMMISSIONS

A. LEGISLATION

Boards and Commissions cannot independently take positions on legislation at the state and federal level. They can, however, recommend positions to the City Council on legislation in areas of their expertise. In addition, Boards and Commissions must act in a timely way to comply with the state and federal legislative schedule, using the following process:

- 1. Boards and Commissions will send a letter to the Mayor and City Council through the Commission Secretary requesting that they take a position on state or federal legislation.
- 2. The Mayor and City Council will refer the request to the City Clerk's Office in order to schedule the item on the next available Rules and Open Government Committee agenda.
- 3. If appropriate, the Rules and Open Government Committee will refer the legislation to the appropriate Council Committee for analysis and recommendation to the City Council. The Commission Secretary will be responsible for notifying the Chair of the Board or Commission when the legislation forwarded by the Board or Commission will be heard by

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the designated Council Committee.

B. POLITICAL INVOLVEMENT

1. City of San José Boards and Commissions are strictly prohibited from endorsing any candidate or from taking an independent position on any legislation or ballot measure. Further, Boards and Commissions may not be involved in gathering or disseminating information on any candidates or ballot measures (e.g., surveys, public debates, mailings, etc.)
2. Individual members of Boards and Commissions are free to exercise their individual right of political participation such as endorsing or contributing to a particular campaign. Members of certain Commissions (e.g., Planning Commission) must also be aware that State law imposes certain legal restrictions on soliciting or accepting political contributions and participating in quasi-judicial or entitlement actions.
3. No Board or Commission or individual member of a Board or Commission may take or allow any action which gives the appearance of official City involvement in any political campaign. For example, individual members may not use the titles of "Chair," "Vice- Chair," "Commissioner," "Board member," the title of their Board or Commission, or their commissioner title for identification purposes on any endorsement listing. Actual or facsimiles of City stationery or City business cards may not be used for any political mailing or distribution.

C. BOARD AND COMMISSION REFERRAL SYSTEM

From time to time, a Board or Commission may have a request for information that is outside the Board or Commission's Work Plan.

1. A "Major Study" means a request for information and/or research which meets one or more of the following criteria:
 - a. It requires 20 staff-hours or more to complete. Exception: In the event of a hiring freeze, department-by-department basis dependent upon the impact of the freeze on a particular department.
 - b. It is not a planned budgeted activity.
 - c. Response action will seriously affect the respondent's annual planned performance or output.
 - d. It will require a formal report.
 - e. Possible change in current policy which was the culmination of extensive public input and/or as a result of committee/task force deliberations (i.e., C & C Tax Task Force or any policy task force, etc.).
 - f. New policy research on which there has been no Council discussion or direction or because of its sensitivity and would involve more than 5 hours of Staff time.
2. All requests for information and/or research outside the Work Plan requested by a Board or Commission must adhere to the following provisions:
 - a. A request for a Major Study requires approval of the Rules and Open Government Committee, and amendment to the Board or Commission's Work Plan.
 - b. A request for a Major Study by a Board or Commission must be submitted in writing from the Board or Commission Chair to the City Clerk to be placed on the next available Rules and Open Government Committee Agenda.
 - c. When a request for information and/or research is made to the Rules and Open Government Committee, it is the responsibility of the appropriate Council Appointee

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and his or her respective staff to determine the scope of the request and to advise the Council through the Rules and Open Government Committee if a Major Study will be required, if the request can be met by reports or material already on file, or a brief research effort will be required.

- d. If approved by a majority of the Rules and Open Government Committee, the guidelines for the Major Study must be stated. Evaluation of the request will take place at the Rules and Open Government Committee meeting using the following criteria:
 - i. If the Major Study is within the parameters of the Board or Commission making the request.
 - ii. The informational value of the study.
 - iii. The parameters of the study.
 - iv. The Staff time to be involved in completing the study.
 - v. The estimated cost of the study.
 - vi. The general feasibility of the study.
- 3. Boards and Commissions may receive written information that may require minor staff time or is already consistent with the Board or Commission's Work Plan, i.e., requests for information which is part of the Board or Commission's Work Plan should be accommodated.
- 4. A request for brief verbal information or for copies of reports already prepared and ready for distribution may be made directly to the Board or Commission Secretary.

D. LETTERS REGARDING COUNCIL OR COUNCIL COMMITTEE ITEMS

From time to time, a Board or Commission may submit letters or communications to the City Council or Council Committee regarding items within their subject matter jurisdiction. The City Clerk will provide guidelines for such letters and communications. Such letters or communications shall be submitted through the Commission Secretary. Direct email to the entire Council Committee or City Council from the Commission Chair shall not be allowed.

E. LETTERS REGARDING BOARD OR COMMISSION ITEMS TO NON-CITY ENTITIES

From time to time, a Board or Commission may desire to submit letters or communications to non-City entities regarding items within their subject matter jurisdiction. The City Clerk will provide guidelines for such letters and communications. Such letters or communications shall be submitted through the Commission Secretary, and be authorized by the Rules and Open Government Committee, or other designated Council Committee, of the City Council. Upon approval by the Committee, the Commission Secretary shall send the letter or communication to the non-City entities on the City's behalf.

SECTION VI. BOARD AND COMMISSION RECOGNITION

A member of a Board or commission may be recognized for his or her service as follows:

- 1. The City Clerk will prepare and present a commendation for each outgoing member of a Board or Commission who have served for at least one year and who have not been reappointed to that Board or Commission. Commendations shall be prepared and presented to all Board and Commission Members that the City Council appoints.
- 2. No commendation shall be prepared if a person ceases to be a member of a Board or Commission for any reason set forth in San José Municipal Code Section 2.08.050 or

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2.08.130, except resignation or ineligibility, nor shall a commendation be prepared if the vacancy occurs because of insufficient attendance.

SECTION VI. IMPLEMENTATION

The City Clerk will provide this Policy to all current Board and Commission members, all Commission Secretaries, all City Council Members and appropriate City employees and will post this Policy on the City Clerk's Boards and Commissions page on the City's website.

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APPENDIX A

LIST OF COUNCIL NOMINATED COMMISSIONS

Each Council Member and the Mayor nominates one commissioner to the following commissions. Council Members are not required to nominate commissioners from the district they represent.

- Airport Commission, 11 members
- Arts Commission, 11 members
- Council Appointment Advisory Commission, 11 members
- Housing and Community Development Commission, 15 members:
 - 11 members nominated by Mayor and City Council
 - 1 member recommended by an organization of owners of San Jose mobilehome parks (nominated by the Council Appointment Advisory Commission if more than one)
 - 1 member recommended by an organization of residents of San Jose mobilehome parks (nominated by the Council Appointment Advisory Commission if more than one)
 - 1 member who is an owner/manager of a residential rent stabilized rental property nominated by the Council Appointment Advisory Commission
 - 1 member who is a tenant of a residential rent stabilized rental unit nominated by the Council Appointment Advisory Commission
- Human Services Commission, 13 members:
 - 11 nominated by Mayor and City Council
 - 1 disability service provider or disabled community representative nominated by the Council Appointment Advisory Commission
 - 1 domestic violence service provider or domestic violence survivor nominated by the Council Appointment Advisory Commission
- Library and Early Education Commission, 15 members
 - 11 nominated by Mayor and City Council
 - 4 representatives with an early childcare background nominated by the Council Appointment Advisory Commission
- Parks and Recreations Commission, 11 members
- Senior Citizens Commission, 11 members
- Youth Commission, 11 members

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APPENDIX B
Commission Bylaws Template

**A RESOLUTION OF THE _____ COMMISSION
ADOPTING AND ESTABLISHING RULES FOR THE CONDUCT OF ITS MEETINGS
PROCEEDINGS AND BUSINESS, AND REPEALING THE PREVIOUS
RESOLUTION**

WHEREAS, the _____ Commission has found it necessary and desirable to adopt Rules of Order for the conduct of its business, now therefore,

BE IT RESOLVED BY THE _____ Commission of the City of San Jose that the Commission does hereby adopt Rules of Order for the conduct of its business, as follows:

RULES OF ORDER

ARTICLE I
GENERAL PROVISIONS

Section 100. DEFINITIONS. As used in these rules, unless the context clearly indicates otherwise:

- (a) "Commission" means the _____ Commission;
- (b) "Brown Act" means the Ralph M. Brown Act, California Government Code Sections 54950 et seq., as amended.

Section 101. GENERAL. The name of the Commission, the number of its members, the members' qualifications, and their appointment, removal and terms of office shall be prescribed by San José Municipal Code Chapter 2.08.

Section 102. OFFICE. San Jose City Hall, 200 E. Santa Clara Street, San Jose, California, is designated as the office of the Commission.

Section 103. REGULAR MEETING PLACE. Except as the Commission may from time to time provide an alternate location, the regular meeting place of the Commission shall be in San Jose City Hall, 200 E. Santa Clara Street, San Jose, California in a room to be designated on the meeting agenda. If a meeting cannot be held at the regular meeting place of the Commission or other City property, meetings may be held at any place designated by the Chairperson.

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Section 104. RECORDS. All books, records, papers, tapes and minutes of the Commission meetings shall be maintained in _____, San Jose City Hall, 200 E. Santa Clara Street.

Section 105. FORMER COMMISSION MEMBERS. Former Commission members shall be treated as members of the public. Emeritus members shall not be allowed.

ARTICLE II
OFFICERS
CHAIR AND VICE CHAIR

Section 200. ELECTION. The Chair and Vice-Chair of the Commission shall be elected by the Commission from its membership by signed ballot vote or by oral vote at a Commission meeting.

Section 201. TERMS OF OFFICE. The Chair and Vice-Chair shall be elected for terms of one (1) year commencing at noon on the first meeting day of [Month], and continuing to the first meeting day of [Month] of the succeeding year. Elections of the Chair and Vice-Chair shall be conducted at [the Commission's annual retreat OR the first meeting of the Commission immediately following the expiration of the terms of office]. The Chair and Vice-Chair shall serve at the pleasure of the Commission during the term of office and may be removed from office by the Commission at any time for any reason. [select appropriate month and language based on the Commissions terms].

Section 202. VACANCIES IN OFFICE. The office of the Chair or Vice-Chair shall become vacant before the expiration of his or her term of office upon the happening of any of the events set forth in sub-sections (A) and (B) of Section 2.08.050 of the City of San José Municipal Code, or upon such officer's absence pursuant to Section 2.08.060, unless excused by the Rules and Open Government Committee. If the Chair or Vice-Chair should cease to be a member of the Commission, or if for any other reason the office of the Chair or Vice-Chair should become vacant prior to the expiration of the term of office, the Commission shall elect a successor to the office of Chair or Vice-Chair for the unexpired portion of the term.

Section 203. CHAIR, POWERS AND DUTIES. The Chair shall have the following powers and duties:

- (a) The Chair shall preside at all meetings of the Commission.
- (b) The Chair shall conduct meetings in accordance with the San José Municipal Code, the approved Bylaws, Council Policy 0-4 (Consolidated Policy Governing Boards and Commissions), Council Policy 0-37 (Code of Conduct for Public Meetings in the Council Chambers and Committee Rooms), and Robert Rules of Order. It is the

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responsibility of the Chair to make sure that matters before the Commission are dealt with in an orderly, efficient manner.

- (c) The Chair shall sign all written resolutions of the Commission and all minutes of all meetings of the Commission which are approved by the Commission.
- (d) The Chair shall perform all other duties which may be required by the City of San José Municipal Code, by ordinance of the City of San Jose, or by resolution or order of the Commission consistent with the Municipal Code and the ordinances of the City of San Jose.

Section 204. VICE CHAIR, POWERS AND DUTIES. The Vice-Chair shall have the following powers and duties:

- (a) In the event of and during the absence of the Chair, he or she shall preside as Chair at all meetings of the Commission and shall have and perform all other powers and duties of the Chair; and
- (b) He or she shall perform all duties which may be required of the Vice-Chair by the City Charter, by ordinance or Council Policy of the City of San Jose, or by resolution or order of the Commission consistent with the Charter, ordinances and policies of the City of San Jose.

ARTICLE III
OFFICERS
CHAIR PRO TEMPORE

Section 300. In the event of vacancies in offices of the Chair and Vice-Chair, or in the event of the absence of the Chair and Vice-Chair, at the time of any meeting, the Commission may elect one of its members Chair Pro Tempore to preside over such meeting during such vacancies or absences. The Chair Pro Tempore shall have all the powers and duties of the Chair during such meeting.

ARTICLE IV
SECRETARY

Section 400. APPOINTMENT. The Secretary shall be the City staff person designated to serve as such by the City Administration.

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Section 401. POWERS AND DUTIES. The Secretary shall have the following powers and duties:

- (a) The Secretary shall attend all meetings of the Commission and shall record or keep minutes of all that transpires;
- (b) The Secretary shall attest all minutes of the meetings of the Commission;
- (c) The Secretary shall preserve, and be custodian of, all books, records, papers and tapes of the Commission. Whenever necessary he or she shall certify true copies of Commission documents; and
- (d) The Secretary shall provide to the Commission agendas and agenda packets, and submit Commission letters, communications and recommendations to the Council.
- (e) The Secretary shall perform all duties required of him or her by these rules and regulations, Council Policy 0-4 (Consolidated Policy Governing Boards and Commissions), and/or required of him or her by resolution or order of the Commission consistent with the City of San José Municipal Code and ordinances of the City of San Jose.

ARTICLE V
MEETINGS

Section 500. GENERAL. Except as otherwise provided by this article, meetings of the Commission shall be open and public and shall comply with the requirements of the Brown Act and the City Council’s Consolidated Open Government and Ethics Resolution.

Section 501. REGULAR MEETINGS. Regular meetings of the Commission shall be at the time and place designated by the Commission in coordination with the City Administration. If the time scheduled for a regular meeting falls on a City Holiday, the regular meeting shall be held on the next succeeding business day.

Section 502. SPECIAL MEETINGS. A special meeting may be called at any time by the Chair of the Commission, or by a majority of its membership, in accordance with the Brown Act and the additional rules of procedure as described in the City Council’s Consolidated Open Government and Ethics Resolution. The agenda shall specify the time and place of the special meeting and the business to be transacted; no other business shall be considered by the Commission at the special meeting.

Section 503. ADJOURNMENT – ADJOURNED MEETINGS. The Commission may adjourn any regular, adjourned regular, special or adjourned meeting to a time and place specified in the order of adjournment; a majority of members present, even though less than a quorum

City of San José, California

TITLE Consolidated Policy Governing Boards and Commissions	PAGE 28 of 29	POLICY NUMBER 0-4
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may so adjourn. If all members are absent from a regular or adjourned regular meeting, the Secretary of the Commission may declare the meeting adjourned to a stated time and place; and he shall cause a written notice of the adjournment to be given in the manner provided in Section 502 for special meetings. A copy of the order or notice of adjournment shall be posted conspicuously on or near the door of the place where the regular, adjourned regular, special or adjourned special meeting was held within twenty-four (24) hours after the time of adjournment.

When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings.

Section 504. CONTINUANCE. A convened meeting, or any meeting ordered or noticed to be held, may by order or notice of continuance, be continued or recontinued to any subsequent meeting of the Commission in the same manner and to the same extent set forth in Section 503 for the adjournment of meetings; provided, if a hearing is continued to a time less than twenty-four (24) hours after the time specified in the notice or order of hearing, a copy of the order or notice of continuance shall be posted immediately following the meeting which orders or declares the continuance.

ARTICLE VI
MEETING AGENDA AND PROCEDURE

Section 600. AGENDA. The Commission shall provide for an agenda. No discussion may be held of any item that is not on the agenda. The Secretary shall prepare and distribute the agenda for the Commission.

Section 601. QUORUM. Six (6) members, being a majority of the total number of seats of the Commission, whether filled or vacant, shall constitute a quorum to transact business. Less than a quorum may adjourn the meeting or adjourn the meeting to a stated time. [quorum is 50% of seats, plus 1. Change the quorum as appropriate for your commission]

Section 602. VOTING. No action shall be taken by the Commission except by affirmative vote of a simple majority of those voting, as long as there is a quorum present.

Section 603. MANNER AND RECORDATION OF VOTES. Voting by members of the Commission shall be by "ayes" and "noes," and the result of each vote shall be entered by the Secretary in the record of the Commission proceedings. Upon the request of any Commission member, a roll call vote shall be taken on any matter upon which a vote is called, and each vote shall be recorded by the Secretary to the record of the Commission proceedings.

Section 604. ORDER OF BUSINESS. At regular meetings of the Commission the order of business shall be conducted in accordance with the requirements of the Brown Act and the

City of San José, California

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City Council's Consolidated Open Government and Ethics Resolution. The order of business may be changed at any meeting by the Commission.

ADOPTED this _____ day of _____, _____, by the following

vote: AYES: Commissioners –
NOES: Commissioners
– ABSENT: Commissioners –

Chair

_____ Commission

Attest:

_____ Commission

_____ - Secretary

City of San José, California

COUNCIL POLICY

TITLE	TITLE CODE OF ETHICS FOR OFFICIALS AND EMPLOYEES OF THE CITY OF SAN JOSE	PAGE	1 of 3	POLICY NUMBER	0-15
EFFECTIVE DATE	August 19, 1980	REVISED DATE	April 24, 2018		
APPROVED BY COUNCIL ACTION 8/19/1980, Res. No. 53699; 10/14/1980, Res. No. 53971; 3/23/1982, Res. No. 55371; 6/25/1991, Item 9(j), Res. No. 63171; 6/28/2005, Item 10.1(a1), Res. No. 72837; 4/24/2018, Item 3.3, Res. No. 78560.					

PURPOSE AND SCOPE

In order to best serve the citizens and customers of the City of San José, the elected and appointed officials, and employees of the City must act individually and collectively to create a City government that is responsible, fair, honest and open. City employees and officials are expected to demonstrate the highest standards of personal integrity, honesty and conduct in all activities in order to inspire public confidence and trust in City employees.

As stated in the City Charter, "The citizens of San José expect and must receive the highest standard of ethics from all those in the public service. City officers and employees must be independent, impartial and responsible in the performance of their duties and accountable to the members of the public."

The purpose of this Code of Ethics is to establish policy and guidelines, reflecting expected values and behaviors for use by and applicable to elected and appointed City officials, City officers, including Board and Commission members, and employees. Individuals employed by the City under contractual agreement must also observe the provisions of this policy for the term of their contract or as the contract may stipulate.

For additional regulations regarding ethics please refer to Title 12 of the San José Municipal Code.

POLICY

Elected and appointed officials and employees of the City of San José at all levels are guardians of the public trust. City officials and employees are required to be impartial and responsible in the fulfillment of their duties. The citizens and customers of San José expect and must receive the highest standard of ethics from all those in public service, regardless of personal consideration.

1. Responsibilities of Public Service

City officials and employees are obligated to uphold the Constitution of the United States and the Constitution of the State of California and to comply with Federal, State, and local laws and City policies. Recognizing the special responsibilities of serving the City and its citizens and customers, City officials and employees are required to maintain the highest standards of integrity and honesty, and they are expected to treat all members of the public and fellow City employees with respect, courtesy, concern and responsiveness. The conduct of City officials and employees in both their official and private affairs should be above reproach to assure that their City position is not used for personal gain.

2. General Rule with Respect to Conflicts of Interest

City employees and officials are expected to avoid any conflicts of interest. Further, employees should avoid the appearance of conflicts of interest in order to ensure that City decisions are made in an independent and impartial manner.

All City officials, officers and employees are prohibited from making, participation in making, or attempting in any way to use his or her official position to influence a City decision in which the

TITLE	TITLE CODE OF ETHICS FOR OFFICIALS AND EMPLOYEES OF THE CITY OF SAN JOSE	PAGE	POLICY NUMBER
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employee knows or has reason to know he or she has a financial interest as defined by law. For example, City employees and officials shall not make personal investments nor maintain any direct or indirect interest in enterprises, activities, or entities which they have or have reason to believe may be involved in decisions or recommendations to be made by them or persons under their supervision, or which may create a conflict between their private interests or may impair their independence of judgment in the accomplishment of their official duties. If, however, persons in the public service have financial interests in matters coming before them, or before the department in which they are employed, they shall remove themselves from making, participating in the making, or seeking to influence any decision regarding such matter. Employees who are designated in the City's Conflict of Interest Code, shall file the appropriate disclosure statements required under State Law.

A conflict of interest may arise when dealing with a current or prospective vendor, supplier, or other business. Please refer to Section 3 below and seek guidance from a supervisor or from the Employee Helpline at 535-8150.

3. Acceptance of Favors, Gratuities and Gifts

City employees and officials shall not accept money or other consideration or favors from anyone other than the City for the performance of an act which they would be required or expected to perform in the regular course of their duties; nor shall such persons accept any gifts as defined in the City's Gift Ordinance, gratuities or favors of any kind which be perceived or interpreted as an attempt to influence their actions with respect to City business.

This is just a summary of your obligations, for additional information regarding specific regulations on the acceptance of gifts; please refer to policy 2.02, titled Gift Policy in the City Policy Manual. Additionally, if there are any discrepancies between this Gift Policy and Title 12 of the San José Municipal Code, Title 12 of the San José Municipal Code supersedes.

4. Use of Confidential Information

City employees and officials shall not use confidential information acquired by or available to them in the course of their employment with the City for personal gain or for personal, non-City business related reasons. City employees and officials shall uphold the public's right to know, and in accordance with the Brown Act, uphold the public's right to know not only the decisions taken, but also the deliberations which shape public policies. Any employee or official, who is aware of a breach of confidentiality, is expected to bring forth that information to the appropriate officials in a timely manner.

5. Use of City Employment and Facilities for Personal Gain

City employees and officials shall not use City time, City funds or City facilities, equipment or supplies for personal use or personal gain or for campaign related political activities, nor shall they use or attempt to use their position to secure unwarranted privileges or exemptions for themselves or others.

This is just a summary of your obligations, for additional information please refer to policy 1.6.2, titled Personal Use of City Equipment, and 1.7.1, titled Use of E-Mail, Internet Services and Other Electronic Media, in the City Policy Manual.

6. Outside Employment

No employee shall engage in any work, employment or occupation outside City employment, which is detrimental to City service, which prevents or impedes the efficient performance of their duties in City employment, or which is in any way in conflict with their employment with the City. No employee shall engage in any work, employment or occupation outside City employment unless they have notified their department via an Outside Work Permit, and the permit has been approved by the Department Director.

This is just a summary of your obligations, for additional information please refer to policy 1.2.3, titled Outside Employment Policy, in the City Policy Manual.

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7. Discussion of Future Employment

All offers or discussions of offers to City employees of future employment outside City service must be reported immediately to the employee's supervisor whenever such discussions occur with, or when such offer is made by, any person, firm or organization presently dealing with the City concerning matters directly within the employee's current areas of decision-making responsibilities. It shall be within the supervisor's discretionary powers to relieve said employee from further decision-making responsibilities in relationship to said person, firm or organization if he or she determines that the offer of employment or discussions of an offer of employment would impair the employee's independence or judgment or could be construed by others as a bid for favorable treatment.

8. Reporting of Improper Activities

The City of San José has a responsibility to conduct its affairs ethically and in compliance with the law. City employees and persons in City service are expected and encouraged to promptly raise questions and concerns regarding possible violations of City policy or local, State or Federal law with his/her immediate supervisor or another management employee within the employee's department. Employees may also call the Employee Helpline at 535-8150 or the Fraud and Audit Hotline at 535-8200.

It is the policy of the City to prohibit the taking of any adverse employment action against those who in good faith report or participate in investigations into complaints of alleged violations of City policy or local, State or Federal law in retaliation for that reporting or participation. No officer or employee of the City shall directly or indirectly use or attempt to use the authority or influence of such officer or employee for the purpose of intimidating, threatening, coercing, directing or influencing any person with the intent of interfering with that person's duty to disclose alleged violations of City policy or local, State or Federal law.

This is just a summary of your obligations, for additional information please refer to Policy 1.1.4, titled Non-Retaliation, in the City Policy Manual.

9. Discrimination and Harassment

City employees and officials shall not, in the performance of their duties, discriminate against any person on the basis of race, color, religion, national origin, ancestry, age, sex, gender, pregnancy, childbirth or related medical condition, sexual orientation, marital status, disability, medical condition and actual or perceived gender identity and they will reinforce the City of San José's commitment to equal employment opportunity and a work environment free of discrimination and harassment, including sexual harassment.

This is just a summary of your obligations, for additional information please refer to policy 1.1.1, titled Discrimination and Harassment Policy, in the City Policy Manual.

VIOLATIONS OF THE CODE OF ETHICS

In addition to any other penalty as provided by law, employees who violate the Code of Ethics will be subject to disciplinary action, up to and including termination. The violation of this Code of Ethics by a City official, elected or appointed, constitutes official misconduct. For additional information, please refer to Title 12 of the San José Municipal Code and the City Council Censure Policy.

City of San José, California

COUNCIL POLICY

TITLE CITY COUNCIL/COMMISSION CODE OF CONDUCT	PAGE 1 of 4	POLICY NUMBER 0-36
EFFECTIVE DATE June 19, 2007	REVISED DATE September 27, 2011	
APPROVED BY COUNCIL ACTION June 19, 2007, Item 2.5, Resolution No. 73839; September 27, 2011, Item 3.7(b), Resolution No. 76037		

PURPOSE

City Boards and Commissions are formed in order to provide independent recommendations to Council or, in the context of quasi-judicial boards such as the Planning Commission, Civil Service Commission, Elections Commission and Appeals Hearing Board, to make independent decisions and take administrative actions (also called “quasi-judicial actions”). The Commissions play an important role by being visible in the community and bringing a broad representation of ideas into the process.

This Policy is adopted with the intent of formalizing the need for independent advice and decision making by the Commissions as well as to ensure a clear understanding of the role of the Commissioners by all who participate in the governmental process. References to “Commissions” in this Policy includes City Commissions, and Boards which are subject to the Brown Act (Gov. Code Sections 54950 - 54962.) This Policy does not apply to task forces or ad hoc committees.

POLICY

A. Council Liaisons

The Council Liaison is the Councilmember who is specifically assigned to be the liaison between the City Council and the Commission. The primary role of the Liaison is that of facilitator of communications between the Commission and the Council. A Councilmember who is appointed to sit as a member of a Board or Commission is not a liaison for purposes of this Policy.

1. Definition of the Role

The Council Liaison shall facilitate communications between the Commission and the Council. The Liaison should not be an advocate for the Commission, give direction or influence a decision of the Commission. The Liaison may, however, assist and provide guidance to Commissions with their workplans or agendas.

2. Purpose

The Liaison acts as:

- a. Spokesperson on behalf of the Council when so directed by the Council.
- b. Contact person, if the Commission or an individual Commissioner wants such a channel of communication.
- c. Monitor the Commission to identify procedural and structural issues relating to the effective functioning of the Commission for Council.

3. Participation Expectation

- a. Attendance is discretionary with the Councilmember - attendance at Commission meetings is not required but is encouraged.

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- b. Liaison shall have no vote on the Commission and shall not act as an ex officio member of a Commission.
- c. Liaison attendance at Commission retreats is discouraged unless attendance is requested by the Commission

B. Councilmember/Commission Interactions

City Boards and Commissions are formed in order to provide independent recommendations to Council and, in the case of some commissions, to conduct hearings in order to make determinations, which may or may not be subject to appeal to the Council. These hearings are referred to as being quasi-judicial. Council members may, from time to time, be witnesses at such hearings.

The following guidelines apply to all Council members.

- 1. Council members should not speak to any Commissioner on any matter that may come before the Council in a manner designed to influence the Commission. Nor should any Councilmember privately lobby any Commissioner outside of the meetings in an attempt to influence his or her individual vote.
- 2. Any Councilmember who has testified on his or her own behalf or as a witness before a Commission on any administrative action which then comes to Council is disqualified from participating as a Councilmember on the matter only if there is a legal conflict of interest.
- 3. A Councilmember must clearly state when he or she is speaking on behalf of the City Council.

C. Role of Liaison Staff

- 1. Council staff do not serve as “alternates” to the Liaison but may attend to observe, provide information on behalf of the Liaison and answer questions in order to report back to their respective Council members.
- 2. Council staff members should not participate in the discussion by the Commission. However, staff can communicate messages on behalf of the Liaison and answer Commission questions.
- 3. Council staff members who attend meetings may sit at the table with the Commission at the discretion of the Commission or the chair.

D. Code of Conduct For Commission Members - General Standard

All Commissioners should conduct meetings in a dignified and courteous manner. No bias or prejudice against any individual or group of people should be manifested by any Commissioner or condoned by any Commission.

The following Code of Conduct applies to all Boards and Commissions, except the City Retirement Boards, whose members are subject to a fiduciary duty.

- 1. When speaking or writing publicly on matters within the purview of his or her Commission, unless a Commissioner has been authorized to speak on behalf of the Commission or the Commissioner is speaking on behalf of a position that the Commission has taken by formal action, the Commissioner should make very clear that he/she is speaking on his/her own behalf and not on behalf of the Commission.
- 2. No Commissioner shall use his or her Commission title or speak or write as a Commissioner except when speaking on behalf of the Commission. Except when a Commissioner is speaking on behalf of the Commission, no Commissioner shall identify

TITLE CITY COUNCIL/COMMISSION CODE OF CONDUCT	PAGE 3 of 4	POLICY NUMBER 0-36
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him or herself as a Commissioner without making clear that he or she is not speaking on behalf of the Commission.

3. Business cards shall be provided to those Commissioners where requested by the Commission. Such cards shall only be used when the Commissioner is on official business.
4. Use of City stationery must be limited to official Commission business. All correspondence concerning the Commission's business should be processed by staff.
5. Commission recommendations to the City Council must be recommendations of the Commission as a whole, and not subject to undue influence by Council Liaison, Councilmember, City staff, or any outside agency.
6. Individual Commissioners are free to discuss any issues and concerns with their Council Liaisons, Council District representative or any Council office. However, Commissioners cannot assign themselves as "liaison" to the various Council members and must take care that contact with Council members does not result in a prohibited seriatim meeting of either the Council or the Commission under the Brown Act.
7. Commissions may not interview candidates for political office or make endorsements of such candidates. Individual Commissioners must not use their Commission title in making personal political endorsements, including using the title for identification purposes only.
8. Commissioners individually or Commissions as a whole are free to recommend candidates for appointment to any City Board or Commission including their own to the Rules Committee, Project Diversity or individual Council members.
9. Commissions may not independently support or oppose state or federal legislation, but instead shall be free to make recommendations on such legislation to the City Council through the Rules Committee.
10. Commissions may not appoint or invite anyone to act as the City's representative or to advocate a particular cause or viewpoint on behalf of the Commission. Only the City Council has the authority to designate the City's representatives. Commissions, however, are free to seek the advice or input of others in the course of making their recommendations to the Council.
11. Commissioners who are members of an organization which is in litigation against the City on issues related to the work of the Commission should not participate in any Commission discussion or review of matters affecting the organization if they are an officer of the organization a named litigant in the lawsuit or disqualified because of a conflict of interest. Litigation includes an administrative enforcement action, lawsuit in a court of law or a claim filed with the City or Redevelopment Agency.
12. All conflict of interest and circumstances giving rise to a perceived conflict of interest should be avoided. Commissioners must avoid the appearance of favoritism towards people and organizations with whom a Commissioner is affiliated. For example, if a Commissioner serves as a volunteer board member for a service organization, the Commissioner must not vote on any matter which will directly affect that organization. The exception to abstention based on organizational affiliation applies where the Commissioner was appointed as a representative of the organization such as the Rent Control Boards or the. Deferred Compensation Committee.

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13. Commissioners may not contact consultants or others under contract with the City directly, outside of a Commission meeting, unless so authorized by the Department head charged with contract administration.
14. Commissions should only take actions within their authority, duties and responsibilities as specifically set forth in the City's Municipal Code. Assigned legal staff will advise on legal issues related to jurisdiction and authority as required
15. Commissioners shall not act as mediators or facilitators between the parties on matters that come before them. Any facilitation shall be part of the public process and as requested or required by the City Council.
16. Commissions shall place items on the Council agenda in accordance with the Rules Resolution. Commissions should not request of Council members to place items on a Rules Committee or City Council Agenda.

E. Quasi-Judicial Commissions

Commissions which sit as hearing bodies and take administrative actions, including the Planning Commission, Civil Service Commission, Elections Commission, and Appeals Hearing Board must be diligent to ensure that a hearing is fair and impartial.

1. Commissioners should not have ex parte conversations with anyone on the subject, outside of the hearing. If a Commissioner has a communication with a party or a party's representative regarding the subject matter, facts or the issues of an administrative action pending before the Commission, the communication shall be disclosed on the record of the administrative action or proceeding before the action is heard.
2. Any visit to the site or other information gained outside of the hearing must be stated on the record. Commissioners should disqualify themselves if there is any appearance of bias.
3. Commissioners should not make any public comment on a matter pending before them until after the Commission has rendered a decision.

F. Councilmembers Sitting as Members of Boards or Commissions

Councilmembers may also be appointed by the City Council to sit as voting or non-voting members of a Board or Commission. In those instances, Councilmembers are expected to regularly attend meetings and actively participate in the deliberations and training of the Board or Commission. If the Councilmember is a non-voting member, the Councilmember cannot participate in quasi-adjudicatory matters or closed sessions. Councilmembers shall not have any greater authority than other Board members. Information requests or other requests of City staff may be made as part of the proceedings of the Board in the same manner as may be made by other Board members.

RD:NXN
6/4/2015

STATEMENT AND DECLARATION OF CONFLICT OF INTEREST FORM

City Council’s Consolidated Open Government and Ethics Resolution, Section 6, requires the Mayor and Councilmembers and members of City Boards and Commissions to review agenda items for conflicts of interest in order to publicly disclose on this form the nature of any conflict of interest concerning a matter on a City Council, Agency, Board or Commission agenda. This form must be filed at least 24 hours in advance of the meeting at which the agenda item will be discussed or as soon as the conflict of interest is known but no later than the end of the meeting at which the agenda item is heard. You should consult with the City Attorney’s Office about any potential conflict of interest and before you complete and submit this form.

You should file the original form with the City Clerk and submit a copy to the City Attorney.

Name: (Last)	(First)	(Middle)	Daytime Telephone Number:
Title/Legislative Body:			
Meeting Date:		Agenda Item No.:	
Description of Agenda Item:			

Please check the economic interest which is affected and which creates a conflict of interest for you in the Agenda Item described above:

Investment – name of business entity: _____

Business position – general description of the business activity and name of the business entity: _____

Real Property – Address or location of the property (If principal or personal residence, then indicate only that the property is a residence): _____

Income or gifts – Identification of the source: _____

Personal financial effect – Identification of the expense, liability, asset or income affected: _____

Financial interest in an agreement or contract (as described in Gov. Code Section 1090) - description of the agreement or contract and the interest in the agreement or contract. (Include agreements or contracts with nonprofits if serving on the board of directors): _____

Other (i.e. non-economic interest): _____

Verification

I have used all reasonable diligence in preparing this statement and have disclosed the conflict of interest described above as soon as the conflict of interest became known to me. I have reviewed this statement and to the best of my knowledge the information contained in this statement is true and complete. I declare under penalty under the laws of the State of California that the foregoing is true and correct.

Signature: _____

Date Signed: _____

PLANNING COMMISSION OF THE CITY OF SAN JOSE

RESOLUTION NO. 64-1

**A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF SAN JOSE ADOPTING RULES FOR
THE CONDUCT OF BUSINESS OF SAID COMMISSION**

AMENDMENT DATES:

February 16, 1967
August 8, 1967
January 9, 1968
December 3, 1968
February 17, 1971
March 7, 1972
March 22, 1972
October 13, 1972
March 6, 1973
November 14, 1973
January 1, 1974
November 14, 1974
May 7, 1975
December 3, 2008
June 23, 2010
September 26, 2012
March 27, 2013
June 22, 2016
March 13, 2019

LAST AMENDED: MARCH 13, 2019

BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SAN JOSE:

The Planning Commission of the City of San Jose, hereinafter referred to as
"Commission," does hereby adopt the following as the rules of said Commission:

ARTICLE I

OFFICERS

Section 1. Officers, Enumeration of

The officers of the Commission shall be a Chairperson and a Vice Chairperson.

Section 2. Officers, Election of

A Chairperson and a Vice Chairperson of the Commission shall be elected by the Commission.

Section 3. Chairperson and Vice Chairperson, Term of Office of

- (a) The Chairperson and Vice Chairperson, shall be elected for terms of one (1) calendar year commencing on July 1st and continuing to June 30th of the following year.
- (b) Election of the Officer(s) for each calendar year shall be held no earlier than May 1st nor later than June 30th preceding that term.
- (c) If any Officer(s) should cease to be member(s) of the Commission prior to the expiration of their term of office, a vacancy shall be deemed to have occurred in the specific office. The Commission shall elect a successor from the existing Commissioners to fill the unexpired portion of that Officer's term. This election shall occur at the next scheduled Commission meeting, or as is reasonable given the amount of public notice required.

Section 4. Chairperson, Qualifications of

The Chairperson shall be one of the members of the Commission.

Section 5. Chairperson, Powers and Duties

The Chairperson shall have the following powers and duties:

- (a) The Chairperson shall preside at all meetings of the Commission and at all hearings conducted by the Commission.

- (b) The Chairperson shall sign all written resolutions of the Commission, and all minutes of all meetings or hearings of the Commission which shall have been approved by the Commission.
- (c) The Chairperson shall perform such other duties as may be necessary and / or required of the Chairperson either by ordinance of the City of San Jose or by resolution or order of the Commission not inconsistent with the Charter or ordinance of the City of San Jose.

Section 6. Vice Chairperson, Qualifications of

The Vice Chairperson shall be one of the members of the Commission.

Section 7. Vice Chairperson, Election of

The Vice Chairperson shall be elected by the members of the Commission.

Section 8. Vice Chairperson, Powers and Duties

The Vice Chairperson shall have the following powers and duties:

- (a) The Vice Chairperson shall have and perform all powers and duties of the Chairperson in the event of and during the absence or disability of the Chairperson.
- (b) The Vice Chairperson shall preside as Chairperson at all meetings and hearings of the Commission in the event of and during the absence or disability of the Chairperson.
- (c) The Vice Chairperson shall perform such other duties as may be required of the Vice Chairperson either by ordinance of the City of San Jose or by resolution or order of the Commission not inconsistent with the Charter or ordinances of the City of San Jose and such other duties as may be necessary to perform the required duties of the Vice Chairperson.

Section 9. Chairperson Pro Tempore, Appointment

In the event of the absence, legally required abstention, or disability of the Chairperson and Vice Chairperson at any meeting or hearing of the Commission, the Commission shall appoint, by majority vote one of its members as Chairperson pro tempore to preside over such meeting or hearing.

Section 10. Chairperson Pro Tempore, Powers and Duties

The Chairperson Pro Tempore shall have and perform all powers and duties of the Chairperson in the event of, and only during the absence, legally required abstention, or disability of the Chairperson or Vice Chairperson.

ARTICLE II

SECRETARY

Section 1. Secretary, Appointment of

The Director of Planning, Building and Code Enforcement of the City of San Jose, hereinafter referred to as "Director," is hereby designated and appointed as the Secretary of the Commission. So long as said Director is Secretary, the powers and duties of the Secretary may be performed by any duly appointed deputy of the Director.

Section 2. Secretary, Powers and Duties of

The Secretary shall have the following powers and duties:

- (a) The Secretary shall attend all meetings and hearings of the Commission, and keep a record of minutes of all that transpires at such meetings or hearings.
- (b) The Secretary shall attest all written resolutions of the Commission and all minutes of all meetings or hearings of the Commission which shall have been approved by the Commission, and the Secretary shall have custody of the same.
- (c) The Secretary shall keep and have custody of all books, records and papers of the Commission, and certify true copies thereof whenever necessary.
- (d) The Secretary shall perform such other duties as may be required of the Secretary either by ordinance of the City of San Jose or resolution or order of the Commission not inconsistent with the Charter or ordinance of the City of San Jose and such duties as may be necessary to perform the required duties of the Secretary.

ARTICLE III

MEETINGS

Section 1. Regular Meeting Place

The regular meeting place of the Commission shall be the City Council Chambers in the City Hall of the City of San Jose.

Section 2. Regular Meetings

The regular meetings of the Commission shall be those meetings set forth by resolution adopted by the Commission.

Section 3. Adjourned Meetings: Special Meetings

Adjourned meetings and special meetings may be held by the Commission pursuant to and in accordance with the provisions of the Ralph M. Brown Act and any applicable law, resolution or policy of the City Council or the Commission.

Section 4. Study Sessions, Workshops and Retreats

The Commission may meet in a study session, informational workshop, or retreat at such time(s) and place(s) as the Commission may deem appropriate or advisable and in accordance with the provisions of the Ralph M. Brown Act and any other applicable law, resolution, or policy of the City or Commission. These meetings are to allow the Commission to engage in informational or educational discussions on topic areas to be determined by the Commission. No decisions, actions or votes may be taken by the Commission at such meetings of the Commission. These study sessions, workshops and retreats may be conducted with less than a quorum of the Commission present and do not constitute doing business under the provisions of Article III, Section 6 hereinbelow.

Section 5. Agenda: Closing Date of: Provision of

Any and all matters which are to be placed upon the agenda for consideration by the Commission at a regular meeting shall be filed with the Secretary not later than 5:00 o'clock p.m. on the 13th calendar day immediately preceding the regular meeting at which the matters on such agenda shall be considered by the Commission, provided that with respect to matters which the City Council, City boards or commissions, the Director of Planning, or other officers or departments of the City may wish to present for consideration by the Commission it shall be sufficient if notice of such matters are filed with the Secretary within such time; and the Secretary shall on the day following said final filing date make up such agenda and shall on the same day cause a copy of such agenda to be mailed to each member of the Commission.

The Commission shall not consider any matter which does not appear on the agenda except that matters referred by the City Council may be considered upon consent of a majority of the Commissioners present and other matters may be considered upon the unanimous consent of the Commissioners present.

Section 6. Quorum

Four (4) or more members of the Commission shall constitute a quorum to do business; but a lesser number may conduct a study session, informational workshop or retreat pursuant to Article III, Section 4 above, adjourn a meeting, or adjourn a meeting to a stated time and place, or continue a hearing to a stated time and place.

Section 7. Vote Required

No action shall be taken by the Commission unless the action receives the affirmative vote of at least a majority of those voting, as long as there is a quorum present,¹ except as follows:

¹ See San Jose Municipal Code section 2.08.095.

- (a) No action shall be taken by the Commission recommending the adoption or amendment of the General Plan unless the action receives the affirmative vote of not less than a majority of the total membership of the Commission;² or
- (b) When less than a quorum is present, a majority of those present may adjourn the meeting, or adjourn the meeting to a specified time and place; or
- (c) When less than a quorum is present for the hearing of an item before the Commission, a majority of those present may continue the hearing to a specified time and place; or
- (d) When a quorum is present for the hearing of an appeal of a Director's decision before the Commission and the last Commission action on the appeal results in a tie vote, the Commission shall continue the item when a member or members of the Commission are absent at the hearing and may participate at a continued hearing of the Commission on the item in order to break the tie vote. In the event that the Commission is unable to take action on an appeal to the Commission as the result of a tie vote or votes, the permit shall be deemed denied.

Section 8. Discussion through Chairperson Only; Limitation of Discussion; Disqualification of Commissioners

- (a) Discourse shall not be had directly among members of the Commission nor between persons in attendance and members of the Commission. Persons in attendance may address the Commission or members thereof only through the Chairperson.
- (b) Except as otherwise provided in the procedures governing the conduct of public hearings set forth in Article IV hereof, discussion on any particular matter either by Commissioners or by any person in attendance may be limited, in the discretion of the Chairperson, to such time as the Chairperson may find to be reasonable under the circumstances, provided that any decision of the Chairperson to limit discussion may be overruled by the Commission.

² See Government Code section 65354.

- (c) Any Commissioner who has received more than Fifty Dollars (\$50) in campaign contributions within the last twelve (12) months from any applicant or appellant on a matter before the Commission shall disclose that information as soon as that matter is reached on the Commission agenda.
- (d) Any Commissioner who is recused or otherwise legally disqualified from participating in Commission action on any particular matter shall take no part in the discussion, debate, or vote on such matter; and as soon as such matter is reached on the agenda such member shall disclose the member's recusal and the reason therefor, or if recusal is not known to the member at the time such matter is reached on the agenda the member shall make such disclosure as soon as the disqualification is known to that member. Recused Commissioners shall remove themselves from the hearing chambers for the duration of the discussion and vote on the item in question.

Section 9. Motions, Debate Thereof, Debate Limited to Members of Commission

No debate of a motion shall be permitted prior to a second of the motion. When a motion is made and seconded, it shall be stated by the Chairperson before being debated; and such debate shall be limited to members of the Commission only. Members of the Commission may speak in debate of a motion only upon addressing the Chairperson and being recognized by the Chairperson. After the Chairperson has started to take the vote on the motion there shall be no further debate except that members of the Commission may be allowed to explain their vote, or present appropriate motions as governed by Roberts Rules of Order.

Section 10. Voting; Ayes and Noes

- (a) Every member of the Commission who is present at a meeting when a motion comes up for vote shall vote for or against the motion unless the Commissioner has been recused from voting for any legal reason and abstains from voting because of such declared recusal.
- (b) All voting by Commission members shall be by roll call vote, or electronic vote, and the vote or abstention on that action of each member present for the action shall be entered by the Secretary in the public record of the Commission proceedings.³

Section 11. Petitions and Communications; Filing, Report, and Inspection Thereof

³ See Government Code section 54953(c)(2).

All written petitions and communications on the agenda of a meeting shall be filed with the Commission at such meeting and shall be so marked by the Secretary. The substance of such petitions and communications shall be orally reported to the Commission by the Secretary; provided that upon the request of any member of the Commission present at the meeting, any such petition or communication shall be read aloud in its entirety by the Secretary. Such petitions and communications may be inspected at any time by any member of the Commission.

Section 12. Documents and Objects Presented to Commission; Filing and Inspection Thereof

All documents and all physical objects presented to the Commission at any meeting by any person (including, but not limited to, those presented by the City Council or by boards, commissions, officers, or departments of the City) shall be filed with the Commission at such meeting and shall be so marked by the Secretary. Any such document or object filed with the Commission may be inspected at any time by any member of the Commission. At the discretion of the Chairperson, true copies or photographs of such documents and objects may be filed in lieu of the originals thereof.

Section 13. Order of Business

The order of business of the Commission shall be set by the Secretary. The Commission may at any time alter the above order of business at any meeting; and said order of business shall be altered to the extent necessary to comply with the provisions of Article IV hereof relating to public hearings.

Section 14. Application of Robert's Rules of Order

Except as otherwise expressly set forth in this Resolution, and where they are not in conflict with these Bylaws or other rules governing the Planning Commission, the general procedures to be followed by the Commission at its meetings shall be those described in Roberts Rules of Order, as those rules may be amended, updated or replaced from time to time; provided, however, that a failure to follow Robert's Rules of Order by itself shall not invalidate any proceeding or action of the Commission.

ARTICLE IV

PUBLIC HEARINGS

Section 1. Procedure for Conduct of Hearings

- (a) Except as may be otherwise required by law for the conduct of a hearing on any particular matter, and provided also that the Commission may at any time during any hearing deviate from or change the procedures hereinafter set forth in this Article whenever the Commission deems it necessary or appropriate to do so for the purpose of providing a fair and orderly hearing, the procedures hereinafter set forth in the following sections of this article shall govern the conduct of all hearings before the Commission on matters which the Commission is required by law to conduct a public hearing, provided further that such procedures are for the convenience of the Commission and are merely directory and not binding on the Commission and no action of the Commission shall be affected or vitiated by any failure of the Commission, the Chairperson, or other members of the Commission to follow such procedures.
- (b) Except as may be otherwise required by law for the conduct of a hearing on any particular matter, the technical rules of evidence shall not apply; and as used hereinafter in this Article, the word "evidence" is not used in the limited sense of legally admissible evidence. Any relevant evidence shall be admissible to the Commission.

Section 2. Time of Public Hearings, Continuances

Unless otherwise specifically required by law or order of the Commission, hearings before the Commission on matters which the Commission is required by law to conduct a public hearing include without limitation hearings on:

- (a) Variances and Exceptions under Part 11 of Chapter 20.100 of Title 20 of the San Jose Municipal Code;
- (b) Conditional Use Permits under Part 6 of said Chapter 20.100; and
- (c) Appeal Hearings for site development permits, certain single-family house permits, planned development permits, special use permits, and tree removal permits. All such hearings shall be conducted in the manner described in and pursuant to the provisions of said Chapter 20.100, in which the Commission exercises original or

appellate jurisdiction, as provided for under said Chapter 20.100. These hearing matters shall be set for hearing before the Commission the regular meeting place and time of the Commission.

Starting at the respective times set for hearing, the matters on each of said hearing calendars will be called and heard in the order in which they appear on such calendars until proper disposition has been made of such matters in accordance with law. Subject to the requirements of law, any hearing before the Commission may be continued by the Commission from time to time. In continuing any such hearing, the Commission shall specify the time and place at which the hearing will be continued.

Hearings shall not be interrupted for any other item on the agenda, and all other items on the agenda shall be delayed until proper disposition has been made in accordance with law of all matters on said hearing calendars.

Section 3. Documents and Objects Not to be Submitted Prior to Time of Hearing

Except as otherwise specifically required by law (e.g. petitions for rezoning) no documents or physical objects shall be submitted prior to the time of hearing and any documents or physical objects so submitted shall not be accepted for filing nor considered by the Commission.

Section 4. Allowable Time for Presentation

All persons desiring to speak or make a presentation will be given a reasonable time to do so. As a guideline, applicants and appellants generally may be afforded five (5) minutes to make a presentation and an additional five (5) minutes to present a rebuttal and all other public speakers may be afforded two (2) minutes to present relevant testimony; provided, however, the Chairperson may at any time impose such other reasonable time limits with respect to any presentation, testimony or hearing if the Chairperson finds such action necessary to prevent abuse or to provide all interested persons a fair and reasonable opportunity to be heard. It is urged that all presentations be as brief and concise as reasonably possible, without unnecessary delay or repetition.

Section 5. Evidence, Testimony, Statements and Arguments Submitted, Presented or Made at Hearing

- (a) Subject to subsection (b) below, any person (including, but not limited to officers or employees of the City), may submit, present, or make at said hearing, any evidence, testimony, statements, or arguments in favor of or against the matter which is being heard. Each person who submits, presents, or makes any such evidence, testimony, or statement may be requested, but shall not be required, to answer questions respecting such evidence, testimony or statements. Responses to questions from a Commissioner will not reduce the time allowed for a speaker's presentation pursuant to Section 4 above.
- (b) In connection with administrative or quasi-judicial hearings conducted by the Planning Commission, the decision of the Planning Commission is to be based upon testimony, evidence and other information received from any person at or in connection with a public hearing or contained in the public record for a public hearing before the Commission. A site visit by an individual Planning Commissioner to generally familiarize that Commissioner with the real property that is the subject of the matter to be considered by the Planning Commission is allowed. If a Planning Commissioner becomes aware of information relevant to a matter coming before the Commission that was not made a part of the public record for that matter before the Commission, the Commissioner shall have a duty to and shall disclose that information to the Planning Commission in the manner described in City Council Policy 0-32: Disclosure of Material Facts and Communications Received During Council Meetings, as the same may be amended from time to time.

Section 6. Exhibits: Marking and Filing Thereof: Examination Thereof by Members

- (a) All documentary or real evidence which is presented to the Commission at a hearing shall be identified by the person presenting the same and shall be filed by that person with the Commission as an exhibit by submitting the same at such hearing to the Secretary. The Secretary shall mark all such documentary and real evidence submitted to the Secretary as having been filed with the Commission at such hearing and shall designate the same by an appropriate exhibit number or letter. Documentary or real evidence shall not be considered by the Commission unless it is filed with the Commission as above provided.

- (b) All documentary or real evidence filed with the Commission at a hearing may be examined by any member of the Commission at any time; provided that members shall not comment on or ask questions about the same except during the hearing, nor discuss the same except during the discussion thereof among the members after the hearing has been closed and the matter stands submitted.

Section 7. Questioning Through Chairperson: By Whom Such Questioning May be Done

- (a) Questioning of persons who appear and make a presentation may, with the consent of such persons, but not otherwise, be permitted at the discretion of the Chairperson. Such questioning as may be permitted by the Chairperson, whether by members of the Commission or persons in attendance (including, but not limited to, officers or employees of the City), shall be done only through the Chairperson.
- (b) After being requested to complete a speaker card, gaining recognition from the Chairperson and stating one's name, any person in attendance at the hearing may request permission from the Chairperson to ask questions of any person who has appeared and made a presentation and who has consented to such questioning, and if the Chairperson, at his or her sole discretion, grants that request such person may then ask questions in accordance with and subject to the procedures set forth in this Article.
- (c) The Chairperson's decision on: (a) whether a person may be questioned at all, (b) who may ask questions of that person, (c) the number of questions which may be asked of that person, and (d) whether a particular question may be asked of that person, shall be final; provided that the person being questioned may refuse to answer all or any of the questions asked of him or her.

Section 8. Discussion and Deliberation by Members on Submitted Matters

After the public hearing has been closed and the matter is submitted for decision, the members of the Commission may discuss the matter among themselves. Unless directed by the Commission, no other persons may speak and no further exhibits may be filed. Members of the Commission shall address one another only through the Chairperson. Subject to the requirements of law, the Commission may take under submission for a reasonable period of time any matter which has been heard before it and may for this purpose, vote to continue its deliberation on such matter from

time to time. In continuing such deliberations the Commission shall specify the time and place at which such deliberations will be continued.

Section 9. Order of Proceedings

Hearings shall proceed in the following order:

- (a) Presentation and recommendation by the Director of Planning or staff of the City, with questioning, if any, of each person who makes an appearance upon conclusion of that person's presentation, pursuant to Sections 5 and 7 above.
- (b) Presentation by all persons of evidence, testimony, statements, and arguments related to the matter which is being heard, with questioning, if any, of each person who makes an appearance upon conclusion of the presentation, pursuant to Sections 5 and 7; provided that if the matter which is being heard by the Commission is before the Commission on the petition of any person, such as an applicant or an appellant, then in such event, such petitioner shall have the right at their option to either begin or conclude the presentation, or both, in favor of his or her petition.
- (c) If the matter which is being heard by the Commission is before the Commission on the petition of any person, then in such event such petitioner may, at the discretion of the Chairperson, be permitted to present rebuttal evidence, testimony and statements in response to testimony presented to the Commission at a hearing.
- (d) Close of public hearing and submission of matter for decision.

ARTICLE V

OFFICE OF THE COMMISSION

Section 1. Office of the Commission and Commission Secretary

The Office of the Secretary, which shall be the Director's Office located in the Planning, Building and Code Enforcement Department of the City of San Jose at the City Hall of the City of San Jose, shall be the office of the Commission.

ARTICLE VI

MAILING ADDRESS OF MEMBERS

Section 1. Mailing Address of Members

Members of the Commission shall file with the Secretary the address to which all notices and other papers which may be mailed to them shall be sent. In addition, members of the Commission shall file with the Secretary the electronic address (i.e., an e-mail address) to which notices and other communications which may be sent to them shall be sent.

ARTICLE VII

COMMITTEE OF THE WHOLE

Section 1. Procedure for Committee of the Whole

The Commission may meet as a committee of the whole at such times and at such places as may from time to time be ordered by the Commission. The committee of the whole shall study and consider only such matters as are referred to it by the Commission. All actions of the committee of the whole shall be reported to the Commission. Four (4) or more members of the Commission shall constitute a quorum to do business, but a lesser number may adjourn. The Chairperson shall preside at all meetings of the committee of the whole, and in the Chairperson's absence the Vice Chairperson shall preside. The provisions of Article III relating to meetings of the Commission shall, insofar as they are applicable, and except as otherwise provided in this Article, govern the conduct of meetings of the committee of the whole.

Section 2. Persons in Attendance. When May Speak

Persons in attendance shall not speak unless and until expressly invited to do so by the Chairperson.

Section 3. Agenda: Provision Thereof

Only those items referred to the committee of the whole by the Commission shall appear on the agenda of the committee. The Secretary shall provide a copy of the agenda to each member of the committee

within twenty-four (24) hours after the Commission meeting at which the Commission orders a meeting of the committee of the whole.

ARTICLE VIII

AMENDING COMMISSION BYLAWS

Section 1. Provision for Amending Bylaws

- (a) These Bylaws may be amended by a two-thirds (2/3) affirmative vote of the Commission, at a regularly scheduled Planning Commission meeting.
- (b) At least two (2) weeks prior notice of the intent to amend these Bylaws shall be provided to the Commission.
- (c) Notice of the intended changes to these Bylaws shall be provided to all active members of the Commission, and to the public as required by law and/or City policy, but such notices shall be provided no later than the notice of intent to amend these Bylaws.

ADOPTED and made effective by the Planning Commission of the City of San José this 13th day of March, 2019 by the following vote:

Ayes: ALLEN, BALLARD, GRISWOLD, LEYBA, VORA, YESNEY
Noes: NONE
Absent: NONE
Disqualified: NONE



PETER ALLEN
Chairperson



ROSALYNN HUGHEY
Secretary



Rosenberg's Rules of Order

REVISED 2011

Simple Rules of Parliamentary Procedure for the 21st Century

By Judge Dave Rosenberg



MISSION AND CORE BELIEFS

To expand 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's 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 education conferences and research, and publishes Western City magazine.

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ABOUT THE AUTHOR

Dave Rosenberg is a Superior Court Judge in Yolo County. He has served as presiding judge of his court, and as presiding judge of the Superior Court Appellate Division. He also has served as chair of the Trial Court Presiding Judges Advisory Committee (the committee composed of all 58 California presiding judges) and as an advisory member of the California Judicial Council. Prior to his appointment to the bench, Rosenberg was member of the Yolo County Board of Supervisors, where he served two terms as chair. Rosenberg also served on the Davis City Council, including two terms as mayor. He has served on the senior staff of two governors, and worked for 19 years in private law practice. Rosenberg has served as a member and chair of numerous state, regional and local boards. Rosenberg chaired the California State Lottery Commission, the California Victim Compensation and Government Claims Board, the Yolo-Solano Air Quality Management District, the Yolo County Economic Development Commission, and the Yolo County Criminal Justice Cabinet. For many years, he has taught classes on parliamentary procedure and has served as parliamentarian for large and small bodies.

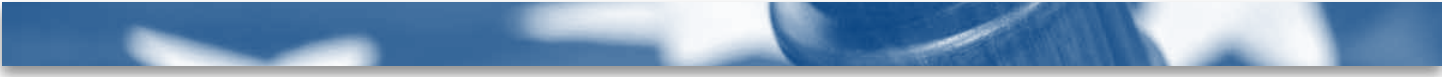


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INTRODUCTION

The rules of procedure at meetings should be simple enough for most people to understand. Unfortunately, that has not 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 for another purpose. If one is chairing or running a parliament, then *Robert's Rules of Order* is a dandy and quite useful handbook for procedure in that complex setting. On the other hand, if one is running a meeting of say, 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*.

What follows is my version of the rules of parliamentary procedure, based on my decades of experience chairing meetings in state and local government. These rules have been simplified for the smaller bodies we chair or in which we participate, slimmed down for the 21st Century, yet retaining the basic tenets of order to which we have grown accustomed. Interestingly enough, *Rosenberg's Rules* has found a welcoming audience. Hundreds of cities, counties, special districts, committees, boards, commissions, neighborhood associations and private corporations and companies have adopted *Rosenberg's Rules* in lieu of *Robert's Rules* because they have found them practical, logical, simple, easy to learn and user friendly.

This treatise on modern parliamentary procedure is built on a foundation supported by the following four pillars:

1. **Rules should establish order.** The first purpose of 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 the public is invited into the body and feels that it has participated in the process.
4. **Rules should enforce the will of the majority while protecting the rights of the minority.** The ultimate purpose of rules of procedure is to encourage discussion and to facilitate decision making by the body. In a democracy, 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, while fully participating in the process.

Establishing a Quorum

The starting point for a meeting is the establishment of a quorum. A quorum is defined as the minimum number of members of the body who must be present at a meeting for business to be legally transacted. The default rule is that a quorum is one more than half the body. For example, in a five-member body a quorum is three. When the body has three members present, it can legally transact business. If the body has less than a quorum of members present, it cannot legally transact business. And even if the body has a quorum to begin the meeting, the body can lose the quorum during the meeting when a member departs (or even when a member leaves the dais). When that occurs the body loses its ability to transact business until and unless a quorum is reestablished.

The default rule, identified above, however, gives way to a specific rule of the body that establishes a quorum. For example, the rules of a particular five-member body may indicate that a quorum is four members for that particular body. The body must follow the rules it has established for its quorum. In the absence of such a specific rule, the quorum is one more than half the members of the body.

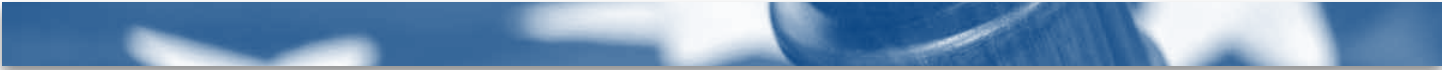
The Role of the Chair

While all members of the body should know and understand the rules of parliamentary procedure, it is the chair of the body who is charged with applying the rules of conduct of the meeting. The chair should be well versed in those rules. For all intents and purposes, the chair makes the final ruling on the rules every time the chair states an action. In fact, all decisions by the chair are final unless overruled by the body itself.

Since the chair runs the conduct of the meeting, it is usual courtesy for the chair to play a less active role in the debate and discussion than other members of the body. This does not mean that the chair should not participate in the debate or discussion. To the contrary, as a member of the body, the chair has the full right to participate in the debate, discussion and decision-making of the body. What the chair should do, however, is strive to be the last to speak at the discussion and debate stage. The chair should not make or second a motion unless the chair is convinced that no other member of the body will do so at that point in time.

The Basic Format for an Agenda Item Discussion

Formal meetings normally have a written, often 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 roadmap for the meeting. 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 agenda item subject is. The chair should then announce the format (which follows) that will be followed in considering the agenda item.

Second, following that agenda format, the chair should invite the appropriate person or persons to report on the item, including any recommendation that they might have. The appropriate person or persons may be the chair, a member of the body, a staff person, or a committee chair charged with providing input on the agenda item.

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

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

Fifth, the chair should invite a motion. The chair should announce the name of the member of the body 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 of the body who seconds the motion. It is normally good practice for a motion to require a second before proceeding 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 vote on a 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 body. If there is no desired discussion, or after the discussion has ended, the chair should announce that the body will vote on the motion. If there has been no discussion or very brief discussion, then the vote on the motion should proceed immediately and there is no need to repeat the motion. If there has been substantial discussion, then it is normally best to make sure everyone understands the motion by repeating it.

Ninth, the chair takes a vote. Simply asking for the “ayes” and then asking for the “nays” normally does this. 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), then a simple majority (as defined in law or the rules of the body as delineated later in these rules) determines whether the motion passes or is defeated.

Tenth, the chair should announce the result of the vote and what action (if any) the body has taken. In announcing the result, the chair should indicate the names of the members of the body, 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 a 10-day notice for all future meetings of this body.”

Motions in General

Motions are the vehicles for decision making by a body. It is usually best to have a motion before the body prior to commencing discussion of an agenda item. This helps the body focus.

Motions are made in a simple two-step process. First, the chair should recognize the member of the body. Second, the member of the body 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 a 10-day notice in the future for all our meetings.”

The chair usually initiates the motion in one of three ways:

1. **Inviting the members of the body to make a motion**, for example, “A motion at this time would be in order.”
2. **Suggesting a motion to the members of the body**, “A motion would be in order that we give a 10-day 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 should normally do so only if the chair wishes to make a motion on an item but is convinced that no other member of the body is willing to step forward to do so at a particular time.

The Three Basic Motions

There are three motions that are the most common and recur often at meetings:

The basic motion. The basic motion is the one that puts forward a decision for the body’s consideration. A basic motion might be: “I move that we create a five-member committee to plan and put on our annual fundraiser.”

The motion to amend. If a member wants to change a basic motion that is before the body, they 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.

The substitute motion. If a member wants to completely do away with the basic motion that is before the body, and put a new motion before the body, they 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 their effect (if passed) is quite different. A motion to amend seeks to retain the basic motion on the floor, but 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 if a member makes what that member calls a “motion to amend,” but the chair determines that it is really a “substitute motion,” then the chair’s designation governs.

A “friendly amendment” is a practical parliamentary tool that is simple, informal, saves time and avoids bogging a meeting down with numerous formal motions. It works in the following way: In the discussion on a pending motion, it may appear that a change to the motion is desirable or may win support for the motion from some members. When that happens, a member who has the floor may simply say, “I want to suggest a friendly amendment to the motion.” The member suggests the friendly amendment, and if the maker and the person who seconded the motion pending on the floor accepts the friendly amendment, that now becomes the pending motion on the floor. If either the maker or the person who seconded rejects the proposed friendly amendment, then the proposer can formally move to amend.

Multiple Motions Before the Body

There can be up to three motions on the floor at the same time. The chair can reject a fourth motion until the chair has dealt with the three that are on the floor and has resolved them. This rule has practical value. More than three motions on the floor at any given time is confusing and unwieldy for almost everyone, including the chair.

When there are two or three motions on the floor (after motions and seconds) at the same time, the vote should proceed *first* on the *last* motion that is made. 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 *passed*, 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 completed on the passage by the body of the third motion (the substitute motion). No vote would be taken on the first or second motions.

Second, 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 then move to consider the main motion (the first motion) as *amended*. If the motion to amend *failed*, the chair would then move to consider the main motion (the first motion) in its original format, not amended.

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). 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):

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

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 be a few minutes or an hour. It requires a simple majority vote.

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.

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 can 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 can 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.

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 the question” or sometimes someone simply shouts out “question.” As a practical matter, when a member calls out one of these phrases, the chair can expedite matters by treating it as a “request” rather than as a formal motion. The chair can simply inquire of the body, “any further discussion?” If no one wishes to have further discussion, then the chair can go right to the pending motion that is on the floor. However, if even one person wishes to discuss the pending motion further, then at that point, the chair should treat the call for the “question” as a formal motion, and proceed to it.

When a member of the body makes such a motion (“I move the previous question”), 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, stop debate, and vote on the motion to limit debate. The motion to limit debate requires a two-thirds vote of the body.

NOTE: 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 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, a simple majority vote determines a question. 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 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 come up when the body is taking an action which 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,” or “I move the question,” or “I call 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.

Motion to object to the consideration of a question. Normally, such a motion is unnecessary since 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 suspend 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.

Counting Votes

The matter of counting votes starts simple, but can become complicated.

Usually, it’s pretty easy to determine whether a particular motion passed or whether it was defeated. If a simple majority vote is needed to pass a motion, then one vote more than 50 percent of the body is required. For example, in a five-member body, if the vote is three in favor and two opposed, the motion passes. If it is two in favor and three opposed, the motion is defeated.

If a two-thirds majority vote is needed to pass a motion, then how many affirmative votes are required? The simple rule of thumb is to count the “no” votes and double that count to determine how many “yes” votes are needed to pass a particular motion. For example, in a seven-member body, if two members vote “no” then the “yes” vote of at least four members is required to achieve a two-thirds majority vote to pass the motion.

What about tie votes? In the event of a tie, the motion always fails since an affirmative vote is required to pass any motion. For example, in a five-member body, if the vote is two in favor and two opposed, with one member absent, the motion is defeated.

Vote counting starts to become complicated when members vote “abstain” or in the case of a written ballot, cast a blank (or unreadable) ballot. Do these votes count, and if so, how does one count them? The starting point is always to check the statutes.

In California, for example, for an action of a board of supervisors to be valid and binding, the action must be approved by a majority of the board. (California Government Code Section 25005.) Typically, this means three of the five members of the board must vote affirmatively in favor of the action. A vote of 2-1 would not be sufficient. A vote of 3-0 with two abstentions would be sufficient. In general law cities in

California, as another example, resolutions or orders for the payment of money and all ordinances require a recorded vote of the total members of the city council. (California Government Code Section 36936.) Cities with charters may prescribe their own vote requirements. Local elected officials are always well-advised to consult with their local agency counsel on how state law may affect the vote count.

After consulting state statutes, step number two is to check the rules of the body. If the rules of the body say that you count votes of “those present” then you treat abstentions one way. However, if the rules of the body say that you count the votes of those “present and voting,” then you treat abstentions a different way. And if the rules of the body are silent on the subject, then the general rule of thumb (and default rule) is that you count all votes that are “present and voting.”

Accordingly, under the “present and voting” system, you would **NOT** count abstention votes on the motion. Members who abstain are counted for purposes of determining quorum (they are “present”), but you treat the abstention votes on the motion as if they did not exist (they are not “voting”). On the other hand, if the rules of the body specifically say that you count votes of those “present” then you **DO** count abstention votes both in establishing the quorum and on the motion. In this event, the abstention votes act just like “no” votes.

How does this work in practice?

Here are a few examples.

Assume that a five-member city council is voting on a motion that requires a simple majority vote to pass, and assume further that the body has no specific rule on counting votes. Accordingly, the default rule kicks in and we count all votes of members that are “present and voting.” If the vote on the motion is 3-2, the motion passes. If the motion is 2-2 with one abstention, the motion fails.

Assume a five-member city council voting on a motion that requires a two-thirds majority vote to pass, and further assume that the body has no specific rule on counting votes. Again, the default rule applies. If the vote is 3-2, the motion fails for lack of a two-thirds majority. If the vote is 4-1, the motion passes with a clear two-thirds majority. A vote of three “yes,” one “no” and one “abstain” also results in passage of the motion. Once again, the abstention is counted only for the purpose of determining quorum, but on the actual vote on the motion, it is as if the abstention vote never existed — so an effective 3-1 vote is clearly a two-thirds majority vote.

Now, change the scenario slightly. Assume the same five-member city council voting on a motion that requires a two-thirds majority vote to pass, but now assume that the body **DOES** have a specific rule requiring a two-thirds vote of members “present.” Under this specific rule, we must count the members present not only for quorum but also for the motion. In this scenario, any abstention has the same force and effect as if it were a “no” vote. Accordingly, if the votes were three “yes,” one “no” and one “abstain,” then the motion fails. The abstention in this case is treated like a “no” vote and effective vote of 3-2 is not enough to pass two-thirds majority muster.

Now, exactly how does a member cast an “abstention” vote?

Any time a member votes “abstain” or says, “I abstain,” that is an abstention. However, if a member votes “present” that is also treated as an abstention (the member is essentially saying, “Count me for purposes of a quorum, but my vote on the issue is abstain.”) In fact, any manifestation of intention not to vote either “yes” or “no” on the pending motion may be treated by the chair as an abstention. If written ballots are cast, a blank or unreadable ballot is counted as an abstention as well.

Can a member vote “absent” or “count me as absent?” Interesting question. The ruling on this is up to the chair. The better approach is for the chair to count this as if the member had left his/her chair and is actually “absent.” That, of course, affects the quorum. However, the chair may also treat this as a vote to abstain, particularly if the person does not actually leave the dais.

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 consider is made and passed.

A motion to reconsider requires a majority vote to pass like other garden-variety motions, 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. 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 — including a member who voted in the minority on the original motion — 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 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 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. 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 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 focuses on the item and the policy in question, not 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, is too loud, or is 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 privilege 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 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, “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.

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.

Special Notes About Public Input

The rules outlined above will 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.




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Memorandum

TO: PLANNING COMMISSION

FROM: Richard Doyle
City Attorney

SUBJECT: BROWN ACT UPDATES

DATE: January 30, 2017

This memorandum is written to advise you of recent legislative changes to the Brown Act, effective January 1, 2017, relating to the conduct of Planning Commission meetings, as discussed below:

AB 1787 - This legislation adds Government Code section 54954.3(b)(2) which provides that whenever a legislative body limits the time for public comment, it must provide at least twice the allotted time to a member of the public who uses a translator to ensure that non-English speakers receive the same opportunity to directly address the body. Therefore, if the time limit is two minutes, speakers using a translator will have four minutes total to address the Commission. The Commission usually does this already for public speakers with a translator and as an accommodation for disabled persons, but this new law makes this practice mandatory. The only exception to this double-time requirement is when the legislative body uses simultaneous translation equipment (Government Code section 45954.3(b)(3), which San Jose does not use.

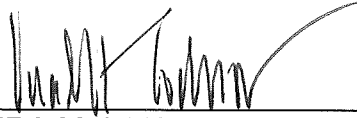
SB 751 – This legislation is codified as Government Code section 54953(c)(2) and states: “A legislative body must publicly report any action taken and the vote or abstention on that action of each member present for the action.” The visual displays for Planning Commission meetings in the Council Chamber and on Civic Center television, and the Planning Commission synopses, satisfy this requirement. If the visual display system is down, the Commission Chair or Secretary would need to report the vote aloud, such as “The vote was unanimous,” or “Commissioners X and Y voted “no,”” or “the vote was unanimous, with Commissioner Y absent.”

Also, to ensure there is a clear record of how each member voted at the meeting and to ensure compliance with the intent of SB 751, Commissioners who are absent for the vote *cannot* return and verbally vote or otherwise signal their vote. A full re-vote would need to occur. For example, if Commissioner X is in the back room for the vote, and returns after the vote has been posted on the screen, Commissioner X would be recorded as absent for the vote. Commissioner X would need to request a re-vote. Although this has not been an issue with Planning Commission voting, it

has with other boards so we clarify the voting requirements under the new law for you here as well.

Please do not hesitate to contact me if you have any questions.

RICHARD DOYLE
City Attorney

A handwritten signature in black ink, appearing to read 'VERA M. I. TODOROV', written over a horizontal line.

VERA M. I. TODOROV
Senior Deputy City Attorney

TO: Planning Commission

FROM: Richard Doyle
City Attorney

**SUBJECT: New FPPC Regulation Clarifying
the Duty to Publicly Identify
Financial Conflicts at Meetings**

DATE: June 29, 2020

This memorandum is written to advise you of a recent change to the Fair Political Practices Commission (FPPC) regulations¹ clarifying the duty and procedure for public officials, including Planning Commissioners, to publicly identify financial conflicts of interest. The amendments, adopted June 19, 2020, apply when a Commissioner is attending any part of a meeting where he or she is required to declare a conflict and abstain from participating in an agenda item because of a conflict of interest under the Political Reform Act (the PRA).

The PRA prohibits public officials from making, participating in making, or in any way using their official position to influence a government decision in which they know, or should have reason to know, they have a financial interest. Government Code section 87100. In order to avoid violating this prohibition, officials announce the reason for having a conflict and abstain from the matter's consideration by leaving the dais and the meeting room. Government Code section 87105.

According to Section 87105, public officials have a duty to publicly identify the financial interest that gives rise to the conflict and must describe the financial interest in detail sufficient for the public to understand. Disclosure provisions for the various financial interest are specified in Government Code sections 87200-87210.

Regulation 18707 requires officials to publicly identify financial interests "immediately prior" to the conflicting item being considered. However, the FPPC received a report of a county public official leaving a public meeting before an agenda item was announced and returning after its consideration without publicly identifying his conflicting financial interest in that matter. Due to this "partial absence," the official circumvented the public identification duty by not being present immediately prior to the agenda item's announcement and consideration. The FPPC concluded that the "absence exception" previously contained in Regulation 18707(a)(3)(B) was not intended to apply to officials actually present at any part of a meeting.

¹ All references to the FPPC regulations are to 2 Cal. Code of Regs. Sections 18109-18997.

Amended Regulation 18707 addresses the “partial absence” issue in three ways. First, the “absence exception” is eliminated. Second, the language clarifies the FPPC’s intent by explicitly saying that a partial absence does not excuse an official from the public identification duty. Third, the language provides additional procedures for when and how an official must disclose a conflicting financial interest if he or she leaves early or arrives late to a meeting.

As previously required, an official must still publicly identify a conflicting financial interest immediately prior to an agenda item being considered. In addition, if an official with a financial conflict leaves in advance of the agenda item’s consideration, he or she must publicly identify the agenda item and financial interest prior to leaving the meeting. If an official joins a meeting after the consideration of an agenda item for which he or she is disqualified, the official must publicly identify the agenda item and the financial interest immediately upon joining the meeting.

However, if an official is absent from an entire meeting, there is no announcement requirement under the regulation as amended.

Please do not hesitate to contact me if you have any questions.

RICHARD DOYLE
City Attorney

/s/
VERA M. I. TODOROV
Senior Deputy City Attorney

cc: Rosalynn Hughey
Robert Manford
Michael Brilliot
Jennifer Provedor