Community Participation Commission of Monterey Park Agenda

Regular Meeting
Monterey Park City Hall Community Room 102
320 West Newmark Avenue, Monterey Park, CA 91754

Tuesday, July 15, 2025
6:00 PM

Mission Statement
The mission of the City of Monterey Park is to provide excellent service, foster growth and opportunity, and create a joyous and collaborative environment.

Land Acknowledgment
We would like to acknowledge that the land we inhabit today was once known as Tovangaar, the home of the Gabrieleño-Tongva people. We show our respect to the Gabrieleño-Tongva people, as well as all Indigenous people, past, present, and future, and honor their labor as original caretakers of this land. We commit to uplifting the Gabrieleño-Tongva people, invite you to acknowledge the history, and join us in caring for this land.

General Information
Documents related to an Agenda item are available to the public in the City Clerk's Office located at 320 West Newmark Avenue, Monterey Park, CA 91754, during normal business hours and at www.montereypark.ca.gov/agendas.

Per the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please call City Hall at (626) 307-1359 for reasonable accommodation at least 24 hours before a meeting. City Hall Community Room 102 is wheelchair accessible.

Public Participation
You may speak up to 5 minutes on an Agenda item. You may combine up to 2 minutes of time with another person's speaking. No person may speak for more than a total of 10 minutes. The Chairperson, as confirmed by the Commission, may change the amount of time allowed for speakers. Written Communication will be accepted up to 24 hours before the meeting by completing an online form at www.montereypark.ca.gov/CBC_comm.

While all comments are welcome, the Brown Act does not allow the Commission to take action on any item not on the agenda. The Commission may briefly respond to comments after Public Communications is closed. Persons may, in addition to any other matter within the Commission's subject-matter jurisdiction, comment on Agenda Items during Public Communications. If you provide public comment on a specific Agenda item during Public Communications, however, you cannot later provide comments at the time the Agenda Item is considered.

1. **Call to Order**
   Chairperson

2. **Flag Salute**
   Chairperson

3. **Roll Call**
   Oriana Chan, Caroucel Chuateco, Rosalyn Escobar, Sandy Hidalgo, Shirley Hwong, Fabian Raygosa, Carol Sullivan, Isabel Wu, William Yen, Kaila Garfield, Kayla Flores, Isabella Lee

4. **Agenda Additions, Deletions, Changes and Adoptions**

5. **Public Communications**

6. **Presentation**

7. **Consent Calendar**
   All items under the Consent Calendar are considered by the Commission to be routine and will be enacted by one motion. Specific items may be removed from the Consent Calendar at the request of any member of the Commission for separate consideration.

8. **Old Business**

   8.A. HOLLYWOOD BOWL TRIP

   It is recommended that the Commission consider:

   1. Determine the amount of funds to be used to purchase snacks for the reception hosted by the Commissioners, and;
   2. Taking such additional, related, action that may be desirable.

   8.B. SELECTION OF CHAIR AND VICE CHAIR

   It is recommended that the Commission consider:

   1. Selecting a Chair and Vice Chair; and
   2. Taking such additional, related, action that may be desirable.

   8.C. SUMMER MOVIE NIGHT SERIES PLANNING

   It is recommended that the Commission consider:

   1. Plan a themed activity for the August 14, "Moana 2" movie night; and
   2. Taking such additional, related, action that may be desirable.

9. **New Business**

   9.A. COMMUNITY PARTICIPATION COMMISSION MINUTES MAY 20, 2025

It is recommended that the Commission consider:

1. Approving the MInutes for the Meeting of May 20, 2025; and
2. Taking such additional, related, action that may be desirable.

9.B. OATH OF OFFICE AND DISTRIBUTION OF MATERIALS

Received and filed.

10. Commission Communications

11. Future Agenda Items

12. Adjourn

Community Participation Commission Staff Report

Date: July 15, 2025
Agenda Item Number: 8.A.

To: Community Participation Commission

From: Orlando Muro, Recreation Supervisor

Subject: HOLLYWOOD BOWL TRIP

Recommendation:
It is recommended that the Commission consider:

1. Determine the amount of funds to be used to purchase snacks for the reception hosted by the Commissioners, and;
2. Taking such additional, related, action that may be desirable.

Executive Summary:
None

Background:
None

Fiscal Impact:
None

Attachments:
None

Community Participation Commission Staff Report

Date: July 15, 2025
Agenda Item Number: 8.B.

To: Community Participation Commission

From: Orlando Muro, Recreation Supervisor

Subject: SELECTION OF CHAIR AND VICE CHAIR

Recommendation:
It is recommended that the Commission consider:

1. Selecting a Chair and Vice Chair; and
2. Taking such additional, related, action that may be desirable.

Executive Summary:
None

Background:
None

Fiscal Impact:
None

Attachments:
None

Community Participation Commission Staff Report

Date: July 15, 2025
Agenda Item Number: 8.C.

To: Community Participation Commission

From: Orlando Muro, Recreation Supervisor

Subject: SUMMER MOVIE NIGHT SERIES PLANNING

Recommendation:
It is recommended that the Commission consider:

1. Plan a themed activity for the August 14, "Moana 2" movie night; and
2. Taking such additional, related, action that may be desirable.

Executive Summary:
None

Background:
None

Fiscal Impact:
None

Attachments:
None

Community Participation Commission Staff Report

Date: July 15, 2025
Agenda Item Number: 9.A.

To: Community Participation Commission

From: Orlando Muro, Recreation Supervisor

Subject: COMMUNITY PARTICIPATION COMMISSION MINUTES MAY 20, 2025

Recommendation:
It is recommended that the Commission consider:

1. Approving the MInutes for the Meeting of May 20, 2025; and
2. Taking such additional, related, action that may be desirable.

Executive Summary:
None

Background:
None

Fiscal Impact:
None

Attachments:
1. Community Participation Commission Minutes May 20 2025

MINUTES
CITY OF MONTEREY PARK
COMMUNITY PARTICIPATION COMMISSION
REGULAR MEETING
Tuesday, May 20, 2025

The Community Participation Commission of the City of Monterey Park held a Regular Meeting on Tuesday, May 20, 2025, at 6:00 p.m.

1.CALL TO ORDER:

Orlando Muro, Recreation & Community Services Supervisor, called the meeting to order at 6:06 p.m.

2.FLAG SALUTE:

Commissioner Shirley Hwong led the flag salute.

3.ROLL CALL:

Recreation Supervisor called the roll:

Commissioners' Present: Rosalyn Escobar, Shirley Hwong, Carol Sullivan, Isabel Wu,
Commissioners Absent: Caroucel Chuateco, Oriana Chan Sandra Hidalgo, Fabian Raygosa, William Yen
Youth Members Present:
Youth Members Absent:
Staff Present: Orlando Muro, Recreation & Community Services Supervisor

4.AGENDA ADDITIONS, DELETIONS, CHANGES AND ADOPTION

5.PUBLIC COMMUNICATIONS

None.

6.PRESENTATIONS

STAFF UPDATES ON UPCOMING CITY SPECIAL EVENTS AND PROGRAMS – DISCUSSION ONLY

Orlando Muro, Recreation & Community Services Supervisor, updated the Commission on upcoming events:

- Greetings Mural Ribbon Cutting: Scheduled for Tuesday, May 27 at 3 p.m. at 153 East Garvey Avenue.
- Pride Parade & Festival: Scheduled for June 7, 9 a.m.–12 p.m., starting at Mark Keppel High School and ending at Barnes Park.
- Independence Day Celebration: Scheduled for Saturday, June 28 at Barnes Park. Festivities begin at 4 p.m. with live entertainment and conclude with fireworks at 9 p.m.
- Summer Movie Nights: Five nights planned from June 19 to August 14. August 14 will feature "Moana 2" and a potential hula dance performance. Commissioners are encouraged to assist with an arts and craft activity and help find local hula groups to perform.

7.CONSENT CALENDAR

None.

8.OLD BUSINESS

None

9.NEW BUSINESS

9-A COMMUNITY PARTICIPATION COMMISSION MINUTES

Approval of Minutes from the Regular Meeting of April 15, 2025, Community Participation Commission Meeting.

Action Taken: The Commissioners approved the minutes from April 15, 2025, Regular Meeting.

Motion: Moved by Commissioner Escobar and seconded by Commissioner Hwong, the motion was approved unanimously by the following vote:

Ayes:	Commissioners:	Rosalyn Escobar, Shirley Hwong, Carol Sullivan, Isabel Wu
Noes:	Commissioners:	None
Absent:	Commissioners:	Oriana Chan, Caroucel Chuateco, Sandra Hidalgo, Fabian Raygosa, William Yen
Abstain:	Commissioners:	

9-B HOLLYWOOD BOWL TRIP

The event is scheduled for Saturday August 30thTicket cost is $65 and includes a pre-event social at Langley Center. Only 23 tickets have sold so far. Commissioners were encouraged to promote the event. Tickets can be purchased online or at Langley Center, with receipts provided and tickets distributed at a later date. Group seating and local catering for the pre-social were discussed.

9-C SELECTION OF CHAIR AND VICE CHAIR

Tabled to the Commission's next regularly scheduled meeting to ensure full participation. Roles and responsibilities were discussed.

9-D SUMMER MOVIE NIGHT SERIES PLANNING

Tabled to the Commission's next regularly scheduled meeting.

10.COMMISSION COMMUNICATIONS

Commissioner Contact Information: Request made to share commissioners' names, emails, and phone numbers for easier communication, pending privacy policy review.

Agenda and Minutes Access: Transition to digital format discussed. Members may subscribe to notifications online. Hard copies will be limited to reduce waste, though some members requested printed versions for accessibility.

11.FUTURE AGENDA ITEMS

None

12.ADJOURNMENT

There being no further business for consideration, the meeting was adjourned at 6:32 p.m. The next regular meeting is scheduled for Tuesday, June 17, 2025,

_____

Orlando Muro, Recreation & Community Services Supervisor

Community Participation Commission Staff Report

Date: July 15, 2025
Agenda Item Number: 9.B.

To: Community Participation Commission

From: Orlando Muro, Recreation Supervisor

Subject: OATH OF OFFICE AND DISTRIBUTION OF MATERIALS

Recommendation:
Received and filed.

Executive Summary:
The OATH OF OFFICE and the distribution of the following: Commission Handbook, Social Media Policy, and the Code of Conduct will be administered to the newly elected Commissioner by the City Clerk, in accordance with Municipal Code 2.82.010.

Commissioner Seat No. 8: Tiffany Troung

Background:
None

Fiscal Impact:
None

Attachments:
1. 2025 Commission Handbook
2. Healthy Workplace Committment

City of Monterey Park
Commissions Committees and Boards Handbook

"Pride in the Past . . . Faith in the Future"

Mission Statement

The mission of the City of Monterey Park is to provide excellent service, foster growth and opportunity, and create a joyous and collaborative environment.

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APPENDIX 21
- Municipal Law Guidebook for Elected and Appointed City Officials
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Published by the City Clerk's Office, Adopted April 14, 1980
Revised: September 11, 1995; January 27, 1997; January 20, 2000; September 1, 2003; June 20, 2005; June 1, 2014; March 29, 2017; and May 1, 2020, March 29, 2022, October 17, 2022, November 15, 2022, July 19, 2023, October 23, 2024, February 2025

INTRODUCTION

The purpose of this handbook is to provide a general orientation and guide on the responsibilities and roles that the Council has envisioned in establishing Monterey Park's boards, committees and commissions.

To be selected as an active member of a commission is a high honor, providing a unique opportunity for genuine public service. The specific duties of Monterey Park's boards, committees and commissions vary widely with the purpose for which they are formed; however, there are certain responsibilities that are common to all members.

All commission, board, and committee members and prospective members should familiarize themselves with this handbook. By so doing, they will understand their role more fully and improve the quality of service they provide to the community.

In addition to reviewing this manual, prospective members are encouraged to attend at least one regular meeting and meet with the chairperson or staff liaison of the commission, board or committee for which they wish to apply.

Ordinance No. 2221, 2217, 2209, 2181, 2156 & 2098
Resolution No. 12226, 11589

THE HISTORY OF MONTEREY PARK

The original inhabitants of Monterey Park were Shoshone Indians—later renamed Gabrielino by the Spaniards. When Father Angel Somero and Pedro Cambon led the first party of soldiers into the San Gabriel Valley in 1771, there were more than 4,000 Gabrielino residents.

By the early 1800's the area now called Monterey Park was part of the Mission San Gabriel de Arcangel and, later, the Rancho San Antonio. The area first received a separate identity when Allessandro Repetto purchased 5,000 acres of the rancho and built his home, not far from where the Edison substation is located on Garfield Avenue.

Some years later, Richard Garvey, a mail rider for the U.S. Army, whose route took him through Monterey Pass, a trail which is now Garvey Avenue, settled down in the King's Hills, Garvey began developing the land by bringing in spring water from near the Hondo River and by constructing a 54-foot high dam to form Garvey Lake which was located where Garvey Ranch is now.

To pay for his development and past debts, Garvey began selling off portions of his property. In 1906, the first subdivision in the area, Ramona Acres, was developed north of Garvey and east of Garfield Avenues.

In 1916, the new residents of the area initiated action to become a city when the cities of Pasadena, South Pasadena and Alhambra proposed to put a large sewage treatment facility in the area.

The community voted itself into cityhood on May 29, 1916, by a vote of 455 to 33. The City's new board of directors immediately outlawed sewage plants within city boundaries and named the new city Monterey Park. The name was taken from an old government map showing the oak-covered hills of the area as Monterey Hills. In 1920, a large area on the south edge of the city broke away and the separate city of Montebello was established.

Shortly after the incorporation, H. M. Gordon was employed as City Marshal at a salary of $100 a month and was instructed to apprehend chicken thieves operating in the area. The three northern cities, Pasadena, South Pasadena and Alhambra continued to press for a sewage farm in Monterey Park. It took four years of stormy sessions in the courts and State legislature before Monterey Park became victorious.

By 1920, the white and Spanish-surname settlers were joined by Asian residents who began farming potatoes and flowers and developing nurseries in the Monterey Highlands area. They improved the Monterey Pass trail with a road to aid in shipping their produce to Los Angeles. The nameless pass, which had been a popular location for western movies, was called Coyote Pass by Pioneer Masami Abe.

Throughout the 1920's, as the population increased, the chance that a large pool of oil sat beneath Monterey Park's hills caused the drilling of several ultimately dry wells. Real estate also became a thriving industry during the 1920's, with investors attracted to the numerous subdivisions under development and the increasing commercial opportunities. One such development was the Midwick View Estates, a proposed garden community that was designed to rival Bel-Air and Beverly Hills. The seventy-foot waterfall built for that tract still stands at Atlantic Boulevard and El Portal. However, the Depression brought an abrupt end to the real estate boom and the Midwick proposal. The City had little new development for nearly two decades.

The end of World War II resulted in a revived growth trend and explosive population gains during the 1940's and 1950's. Until this time, the population was concentrated in the northern and southern portions of the city, with the Garvey and Monterey hills forming a natural barrier. With the renewed growth, many new subdivisions were developed, utilizing even the previously underdeveloped central area to allow for maximum growth potential. A series of annexations of surrounding acreage also occurred. At present, Monterey Park is a community of 61,096 residents with a land area of 7.73 square miles. Even as the San Gabriel Valley became more urbanized, Monterey Park retained much of the low density, small town feeling that prompted residents to form a city over a hundred years ago.

In the last decade, Monterey Park has emerged as one of the most diverse communities in the United States and has received much attention as the first city in the country with an Asian-American majority. But Monterey Park is home to many different racial and ethnic groups making it a truly multi-cultural city. According to the 2020 Census, Monterey Park diverse population is composed of 65.8% Asian Americans, 27.4% Hispanics, 14.5.% Caucasians, .7% American Indians, .7% African- Americans, and 3.1% multiracial

Monterey Park is an excellent example of the idea of the "melting pot" in this nation. Despite cultural differences, residents of Monterey Park share one thing in common: their love of freedom. Their appreciation and expression of this freedom has led to many awards for the City. One of them being the All American City presented in 1984 by the National Civic League. This award was presented in recognition of achievement through citizen action. In 1984, the City of Monterey Park was awarded a great honor by the Los Angeles Olympic committee. The Committee award East Los Angeles College the right to host the Los Angeles Olympic Field hockey games. In 2017, Money Magazine named Monterey Park one of America's Best Places to Live and Raise a Family. The magazine highlighted Monterey Park's outstanding high school graduation rate, library accessibility, kid-friendly activities, cultural diversity, public safety, affordability, and international cuisine as attractive qualities.

Striving to blend residence and commerce, Monterey Park maintains 78% of its space for residential/school facilities, 11% for industrial, 9% for commercial and retail use, and 2% for open space. The City has thirteen parks and recreational facilities, eight public elementary schools, two private elementary schools, one middle school, one community college and one public library.

MONTEREY PARK GOVERNMENT STRUCTURES

There are two types of cities in California: charter cities and general law cities. The city of Monterey Park is a general law city. Consequently, it must generally comply with all provisions of California law enacted by the California Legislature.

There are two types of powers that the City may exercise: police powers derived from the California Constitution and proprietary actions as a municipal corporation. The police power authorizes the City to adopt and enforce local laws; the second allows it to use corporate powers such as executing contracts, filing (and defending against) claims, and providing recreational services.

The City operates under the Council-Manager form of government. This means that the City Council adopts general policies and the City Manager implements such policies. Under this form of government, the City Council adopts general policies and the City Manager implements them on a day-to-day basis. If the City were a private corporation, the City Manager would be the same as the chief executive officer.

The City Council is comprised of five seats representing the City's five voting districts. Council Members are elected by districts for four-year, over-lapping terms of office. No person may serve more than two consecutive terms as a public official. The City Council rotates the mayor and mayor pro tem every 9.5 months in accordance with a City Council resolution. The Mayor presides over all the Council meetings and is the ceremonial head of the City for official functions.

The City Council is responsible to the electorate for keeping pace with changing community needs, for establishing the quality of municipal services through the open conduct of public affairs, and for encouraging constructive citizen participation. The Council determines service levels and revenue obligations through the adoption of an annual budget; authorizes City contracts and expenditures; establishes municipal service goals and operating policies; and adopts such regulatory measures as may be necessary for the mutual protection of the community.

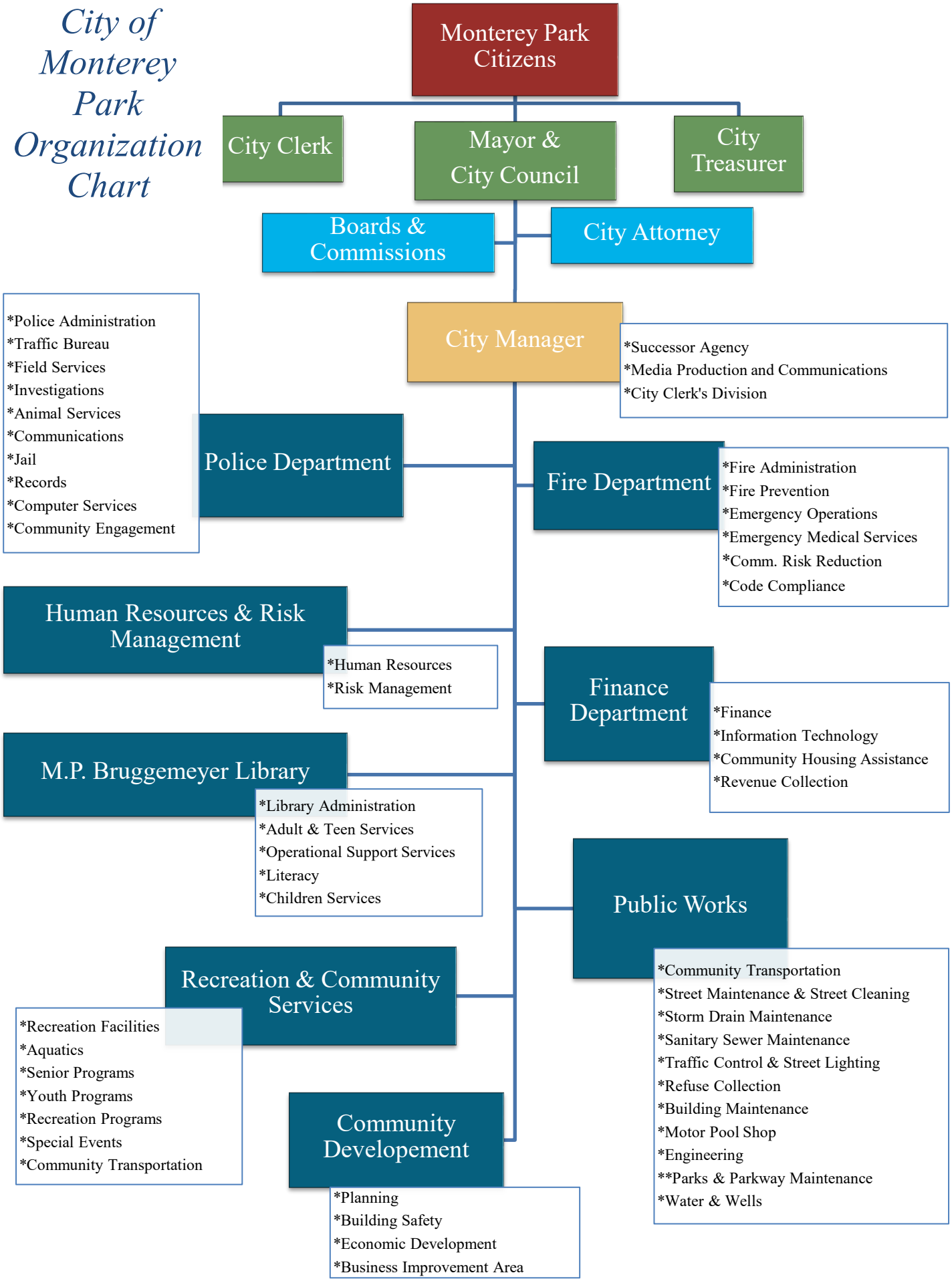
Council Members represent the City on various intergovernmental organizations to achieve governmental cooperation, legislation and programs that are consistent with the needs of Monterey Park citizens.

In addition, the Council appoints two public officials: the City Manager and the City Attorney. As noted above, the City Manager acts as the City's chief executive officer; the City Attorney is the City's general counsel and also prosecutes violations of the Monterey Park Municipal Code.

The City Clerk and City Treasurer are also elected officials of the City. Both are elected to serve four-year terms of office. The City Clerk is the City's elections official and is responsible for maintaining official city records.

The City Treasurer is responsible to the electorate for reporting to the City Council regarding the status of the City's treasury. The City's governmental structure is provided on the next page.

City of Monterey Park Organization Chart



COMMISSION GENERAL REQUIREMENTS

To help in City governance, the City Council established a number of commissions, boards, and committees (collectively, a "commission") pursuant to the Monterey Park Municipal Code ("MPMC"). In doing so, the City Council either delegated authority to a commission to make legally binding decisions or authorized a commission to provide advice to the City Council or City staff in specific areas of interest. The regulations establishing a commission – whether in the MPMC or by City Council resolution – determine whether it is authorized to make decisions or provide advice.

Service on a commission is voluntary; the City will reimburse commissioners for certain expenses associated with service but does not provide compensation for service. Additionally, there are certain requirements for service on a City commission: a person may serve on only one commission; with some exceptions, a commissioner must be a City resident; and convicted felons may not serve.

Each Council Member may appoint a person to a commission; most such appointments do not require ratification by the entire City Council. Relatedly, the appointing Council Member may also remove a commissioner at any time and for any reason.

By default, commissioners may serve a total of two, four year, terms. But the term will continue until a successor is appointed.

All commissioners must comply with the City's Code of Conduct. The Core Principles of the Code of Conduct are:

- Commissioners should comply with both the letter and spirit of the laws and policies affecting the operations of government.
- Commissioners are expected by the public to be independent, impartial, and fair in their judgment and actions.
- Serving in public office is a privilege and should be exercised in trust for the public good, not for personal gain.
- Public deliberations and processes should be conducted openly, unless legally confidential, in an atmosphere of respect and civility.

Commissions are strongly encouraged to review the Monterey Park Municipal Code for a detailed analysis of their individual duties and limitations (copies of the Municipal Code are available at the City Clerk's office or online www.MontereyPark.ca.gov).

As to commission meetings, a brief overview is appropriate:

- Three commission members constitute a quorum, regardless of total membership;
- A staff member may be assigned to a commission;
- Annually, in May, the commission elects a chair and vice-chair for a one-year term;
- Regular meetings may be held on a day and time established by resolution;

- Commissions may establish a procedure for calling special meetings (and otherwise conducting meetings). Otherwise, the City Council's meeting procedures apply;
- All meetings must comply with California law including, without limitation, the Brown Act;
- Regular meetings are those occurring at the dates, times, and location set by formal action of the commission or (for advisory commissions) those held after 72 hours notice (Government Code § 54954);
- Special meetings are those called by the chairperson or majority of the legislative body (Government Code § 54956);
- Regular and special meetings may be "adjourned" in accordance with the Brown Act, e.g., when there is less than a quorum present. If nobody is present, the City Clerk or committee secretary may adjourn the meeting (Government Code § 54955).

Finally, note that commissions may only address matters determined by the MPMC or the City Council (by resolution) to be within their subject matter jurisdiction. Accordingly, City staff is not required to place on an agenda, provide resources for, or implement requests, directions, or actions outside that subject matter jurisdiction. Commissions must refrain from considering policy issues that are under active consideration by the City Council; the City Council as a whole (not individual Council Members) will provide direction and guidance to its commissions.

The City conducted a Municipal Academy and provided an overview ofCommissions, Boards and Committees. Take a moment to view the video.

**The Monterey Park Sister Cities Commission was dissolved November 20, 2024 via City Council Resolution No. 2024-R91. Functions of the Sister Cities Commission have been transfered to the Community Participation Commission.*

BOARDS, COMMISSIONS AND COMMITTEES IN 2025

What follows is an identification and brief description of City commissions in 2025.

Library Board of Trustees
(MPMC Chapter 2.80)

This is the only commission that is semi-autonomous from the City Council and City administration pursuant to California law. It consists of five members appointed with City Council approval. The term of office is three years; no person may serve more than two consecutive terms (Education Code § 18911). Regular meeting must be held at least once each month. The commission appoints a president with a one-year term.

Subject-matter jurisdiction is to make policies governing the library and make recommendations on various tasks that benefit library services.

The City Manager appointed the City Librarian as staff liaison.

Planning Commission
(MPMC Chapter 2.56)

Besides the Library Board, the Planning Commission is the only other City commission that California statute authorizes to render legally binding decisions. Regular meetings may be set by resolution.

Subject-matter jurisdiction is, except as provided in the MPMC, acting as the Monterey Park Planning Agency per Government Code § 6500, *et seq*.; acting upon assignments provided by the City Council; making recommendations to the City Council regarding land use regulations; and, except as otherwise provided in the MPMC, administering zoning regulations.

It also acts as the Construction Appeals Board for purposes of the California Building Code.

The City Manager appointed the Community Development Director as staff liaison.

Personnel Board
(MPMC Chapter 2.28)

Besides the Library Board and Planning Commission, the Personnel Board is the only commission that may render decisions that legally bind the City pursuant to the MPMC. This is a three-member board appointed by a majority of the City Council comprised of an at-large member; a member nominated by non-sworn City employees; and a member nominated by the City Manager.

Two members of the board constitute a quorum. Regular meeting must be held at least once per year.

Subject-matter jurisdiction is, if requested by the City Council or City Manager, advising regarding personnel matters and conduct hearings in accordance with any applicable memoranda of understanding.

The City Manager appointed the Human Resources Director as staff liaison.

Other Boards & Commissions are Advisory Only

Except for the Library Board, Planning Commission, and Personnel Board, all other commissions listed in the MPMC or otherwise established by City Council resolution are advisory only. Those boards and commissions do not have independent legal authority to make decisions on the City Council's behalf.

Design Review Board
(MPMC §§ 2.56.030 and 2.56.040)

Members of the Board may either be City residents or persons maintaining a business license in the City. Members should have a background as an architect, planner, landscape architect, civil engineer, building contractor, or practicing licensed electrician. Meetings are held on an as needed basis.

Subject-matter jurisdiction is, if requested by the City Council, Planning Commission, or City Planner, recommendations regarding design of new and existing structures, etc.; annually recommend methods for implementing the interdependence of land values and aesthetics to increase the value of surrounding properties; recommend reasonable controls over character and design of buildings, etc., to protect public benefits; and expeditiously acting on all assignments from the City Council or Planning Commission.

The City Manager appointed the Community Development Director as staff liaison.

Traffic Commission
(MPMC Chapter 2.90)

The commission may adopt rules and regulations for electing officers and holding regular meetings. It may also set a time and place for regular meetings which must be at least once per month.

There are two responsibilities (MPMC § 2.90.030):

1. "The duty of the commission will be to review request for changes in traffic control conditions as submitted by the city engineer. The city engineer who will maintain the files and records of the commission. The actions taken by the commission will be reflected in written recommendations to the city engineer, with copies to the city manager. Implementation may be accomplished by the city council in accordance with applicable law including, without limitation, this code."

2. “The commission may also make recommendations to the city council for amendments to this code to which may ease traffic congestion and help facilitate transportation throughout the city.”

The Commission’s responsibilities must be guided via objective standards: “The Traffic Planning Manual published by the State Division of Highways shall be the guide to professional engineering practices used by the commission; however, where extraordinary or peculiar circumstances exist, the commission may vary the standards set forth in the manual so as to produce the best possible solution to serve local conditions.

The City Manager appointed the City Engineer, currently the Public Works Director, as staff liaison.

Business Improvement District Advisory Committee
(Resolution No. 11589)

The Committee has two responsibilities:

1. “Make recommendations to the City Council regarding operations and marketing for the downtown business area.”

2. “Make recommendations to the City Council regarding the methods and ways in which the revenue is derived from the charges, assessments and contributions imposed or authorized by Chapter 5.82 of [the MPMC] and California Streets and Highways Code §§ 36500, et seq.”

The City Manager appointed the Economic Development Manager or designee as staff liaison.

Commission on Aging
(Resolution No. 11589)

This commission consists of 10 total members. Each Council Member appoints two members per the MPMC.

The Commission is generally authorized to:

- Coordinate among senior citizens and the City regarding aging matters;
- Encourage community interest to improve conditions for seniors;
- Seek resources, including grants, for senior projects;
- Improve the physical and social environment for seniors;
- Inform seniors regarding various resources such as legal aid, medical programs, housing, and transportation;
- Encourage organizations providing aid to seniors to meet the needs of the senior community;
- Provide advice to the City Council regarding matters pertaining to seniors.

The City Manager appointed the Recreation and Community Services Director or Designee as staff liaison.

Community Participation Commission
(Resolution No. 11589 & 2024-R91)

This commissions consists of 17 total members appointed as follows:

- 10 members appointed by the City Council per the MPMC; each Councilmember appoints two members.
- Seven non-voting youth members. Three of these are appointed by the Alhambra Unified School District; two are appointed by the Montebello Unified School District; and two appointed at large from the community to accommodate private schools. All youth members must be attending high school or attended within the past six months.

The Commission is generally responsible to promote community events; enhance knowledge regarding Monterey Park history and heritage; advise the City Council regarding matters involving community participation in events including youth programs; and serve as cultural ambassadors to Sister City visitors.

The City Manager appointed the Recreation and Community Services Director or designee as staff liaison.

Economic Development Advisory Commission
(Resolution No. 11589)

Members on this commission must either be a City resident or have business experience with a background in finance, economics, or development. The Commission is generally responsible for monitoring the City Council's economic development strategic plan including recommending any updates; providing the City Council with annual updates regarding the economic development strategic plan; advise the City Council regarding the needs of the local economy.

The City Manager appointed the Economic Development Manager or designee as staff liaison.

Environmental Commission
(Resolution No. 11589)

In addition to the five members appointed by the City Council, the Commission itself appoints two non-voting youth members to the Commission. Members may be a City resident, an individual operating or working in the City, or a professional or scholar in the environmental field.

The Commission is generally responsible for developing policies and procedures relevant to the environment and community sustainability; promote programs for environmental awareness; identify potential funding sources to implement environmental programs;

monitoring legislative activities affecting the City and providing recommendations to the City Council; undertake assignments provided by the City Council; and otherwise advise the City Council regarding environmental issues.

The City Manager appointed the Public Works Director or Designee as staff liaison.

Recreation and Parks Commission
(Resolution No. 11589)

In addition to the five members appointed by the City Council, the City Manager may approve non-voting members to the Commission.

The Commission is generally responsible for providing advice to the City Council and the Recreation and Community Services Director regarding parks and recreation; formulating recommended policies for City Council consideration; assisting with coordination of recreation services with other agencies and volunteer organizations; promoting recreational programs; and coordinating with neighboring school districts for recreational programs.

The City Manager appointed the Recreation and Community Services Director or Designee as staff liaison.

ADMINISTRATIVE PROCEDURES

Appointments

Commissioners, Committee and Board Members are appointed by individual City Council Members, with the exception of the Library Board of Trustees and the Personnel Board. Appointments may be announced at a City Council meeting by the appointing council member or by notifying the City Clerk's Office.

The number of seats on the Commission, Board or Committee determines the number of appointees per Council Member. They are as follows:

- Commission on Aging and Community Participation Commission: Each council member can appoint two members.

- Business Improvement District Advisory Committee, Design Review Board, Economic Development Advisory Commission, Environmental Commission, Planning Commission, Recreation & Parks Commission, and Traffic Commission: Each Council Member can appoint one member.

Members on the Library Board of Trustees are appointed by the Mayor with the approval of the City Council. They are limited to two, 3-year terms in office, but serve until their respective successors are appointed. A one-year waiting period is required following the expiration of the second consecutive term.

Members on the Personnel Board are appointed by the City Council in the following manner: One member from the community at large; one member from a list of three persons nominated by the non-sworn employees of the city; and one member proposed by the city manager. A majority vote of the city council is required to appoint an individual to the personnel board.

After selection, each commissioner will need to be fingerprinted to conducte a background check per the California Public Resources Code – PRC § 5164(b)(2). Once an individual’s background is cleared, they will be sworn in by the City Clerk and required to sign a loyalty oath at the first available commission meeting.

Every commissioner’s term begins January 1 and ends December 31 of the following year. No person may serve more than eight consecutive terms on the same commission. A person cannot serve on more than one commission at the same time.

Residency will be verified annually by the City Clerk's office. Should any members ceased to be a city resident that seat may (with certain exceptions) be deemed vacant and the term of such member terminated.

Attendance

Members are expected to attend all scheduled meetings. The City Council wants the benefit of the full commission's judgment. Whenever possible, commissioners should notify their staff representative, the chairperson, or a person designated by the commission within twenty-four hours of a scheduled meeting if they will be unable to attend.

Unless otherwise provided, if a commission member fails to attend three consecutive meetings, unless excused for cause by the chairperson, that member's office is deemed vacant and the member's term ended. The commission secretary must immediately notify the appointing Council Member and City Clerk of such termination.

Any member of a commission who is removed from the commission cannot be nominated for appointment to any commission for a period of twelve months after said termination became effective.

Terms of Office

Unless otherwise provided by law or resolution, each member may serve two, 4-year terms. If an individual separates from serving on a commission because the individual completed serving terms, such person cannot be reappointed to the same board or commission for at least twelve consecutive months unless authorized by the City Council to extend their terms.

Residency

Residency in Monterey Park is generally required for all members of commissions except for the following: Members on the Business Improvement District Advisory Commission, Design Review Board, Economic Development Advisory Commission, and Environmental Commission. For specific appointment requires refer to the Commission Structure section of this handbook.

Removal or Resignations

Members of city commissions, boards or committees serve at the pleasure of the city council and may be removed at the discretion of the city council member who appointed the Commissioner, except for the members of the Library Board of Trustees and the Personnel Board. Memberships are automatically terminated for absences as described in the prior section and is applicable for all commissions, boards and committees.

In the event an individual is unable to perform as a commissioner for health, business or personal reasons, the member should submit a formal letter of resignation to the City Clerk and appointing Council Member for appropriate action.

Meetings

Regular Meetings. The date and time of a regular meeting is established by each commission, board or committee by minute action and may be amended from time to time. Regular meeting agendas must be posted 72 hours in advance of the meeting to comply with the Brown Act.

Adjourned Meetings. A commission, board or committee may adjourn any special or regular meeting to a time and place specified in the order of adjournment. An adjourned regular meeting is considered a regular meeting for purposes of transacting business. A meeting cannot be adjourned past the next regular meeting date. A notice (notice of adjournment) must be given in the same manner as a notice of special meeting. Notice of adjournment must be posted on or near the door of the meeting room within 24 hours of the adjournment.

Special Meetings. A special meeting may be called by the Chairperson or a majority of the members of a board or commission by delivering personally or by mail written notice to each member and to each newspaper, which has requested such notice. The agenda must be delivered at least 24 hours before the time of such meeting, as specified in the notice. The agenda must specify the time and place of the special meeting and the business to be transacted. No business other than as set forth in the notice may be considered at such a meeting.

Meeting Place. Generally, meetings must be held in a public place within the City limits. The location should be consistent. However, meetings may be adjourned to other locations for limited purposes pursuant to the Brown Act.

Committees. All groups may designate one of its members, or a subcommittee composed of not more than two members to study, review, consider, or make recommendations concerning any matter within the committee's purview. However, members should discuss with their staff liaison before any action being taken.

Quorums

A quorum is essential for the conduct of business. Regardless of the number of commission, committee, or board members, in all instances three members constitutes a quorum. If a quorum is not present, the meeting may be adjourned by the members who are there. If no members are present, the meeting may be adjourned by the assigned staff member. No business may be undertaken without a quorum.

Conduct of Meetings

Each May, a committee will annually organize and elect a chairperson and vice-chairperson from its membership for a one-year term. In the chairperson's or vice-

chairperson's absence or disability, the committee may designate a chairperson or vice-chairperson pro tempore. The commission may establish such rules and regulations as it deems necessary for its government and for the stable performance of its duties. Rules and regulations beyond those found in the establishing resolutions or codes must be kept on file in the office of the City Clerk. In the absence of such rules of procedure, the commission must comply with the City Council's meeting procedures – which is included as an exhibit.

Preparation of Agenda

Agenda Preparation:
One or more administrative staff members may be assigned to each board or commission. Items should be submitted to the staff at least five working days before the meeting in order to ensure their placement on the agenda. Some items may require more than five days notice to satisfy specific noticing requirements. The agenda must specify the time and location of the meeting and a "brief general description" of each item of business to be transacted or discussed. Agenda items generally need not exceed 20 words in length. The agenda must designate and provide the address of a location where members of the public may inspect the agenda and any associated writings, such as staff reports. The agenda must also contain information on how a person may request a disability accommodation to participate in a meeting.

Actions Limited to Posted Agenda:
No discussion or action may occur with respect to any item not appearing on the posted agenda. Limited questions, requests, and responses on matters not appearing on the posted agenda are allowed such as questions for clarification, references to staff or other resources for factual information, requests to agendize a matter of business for a future meeting or brief announcements can be made.

Consent Calendar:
Items listed under the Consent Calendar are those items that the Staff Liaison believes will not require Commissioners, Board, or Committee member discussion and are routine in content. Items may be pulled for separate discussion or clarification at any Member's request, or upon receipt of a written request for public comment on the item.

Future Agenda Items:
Each Agenda will include an Agenda item entitled "Future Agenda Items." During this section of the Agenda any Member may make a motion only to place an item on a future Agenda. The motion is non-debatable. Placement of an item on a future Agenda requires a majority vote. The Staff Liaison has discretion as to when the item will be placed on the Agenda, unless otherwise directed by the Commission, Board, or Committee.

Minutes

Minutes are to be taken of each meeting in accordance with the following requirements and regulations:

1. Minutes must contain a record of all proceedings, motions and actions Findings, amendments and conditions shall also be recorded into the minutes.

2. Unless specifically provided by Council policy, minutes will not be a verbatim recording.

3. All motions, whether passed or denied, must be recorded with the name of proposer, second and vote.

4. Minutes of hearings must list all persons who speak for or against.

5. Minutes are merely a record of transactions. Personal opinion is not relevant to the commission’s proceedings.

6. Minutes must be approved by a majority vote of the members and constitutes an official City record.

7. Amendments and corrections of the minutes submitted to the secretary may be made only in public meetings with the approval of the body and not by the private request of individual members.

In some cases, a Minutes Secretary may be assigned by the staffing department. Otherwise, a Commissioner should be selected to take minutes. Approved minutes from the Planning Commission, Business Improvement District Advisory Committee, Library Board of Trustees, and the Personnel Board must be forwarded to the City Clerk's office for record keeping purposes.

Communications to the City Council

It is considered excellent practice for at least one member of a committee, board or commission to attend an occasional meeting of the City Council regardless of whether the commission has an item on the agenda. The Council encourages commissions to appoint a member to serve as council liaison to keep the other commissioners informed on city activities.

Disclosure of Economic Interests

Pursuant to the City's Conflict of Interest Code, members of the following committees and commissions are required to file an annual Statement of Economic Interests every: Business Improvement District Advisory Committee, Library Board of Trustees, Planning Commission, and Personnel Board. The filed statements become public record and are available for inspection, on demand, at the City Clerk's Office.

Under California law, the above designated board members or commissioners must file within thirty days of assuming office with the City Clerk's Office. All subsequent statements must be filed on or before April 1st of each year. Designated Commissioners must also file a statement within thirty days after leaving office. Forms and instructions are available in the City Clerk's office.

MAXIMIZING YOUR CONTRIBUTION

You and Your Commission

As a commissioner, you should remember that the success or failure of your efforts is largely dependent on the quality of cooperation among the individual members of your commission. To help build a consensus around common goals and objectives, you will often have to first reconcile contradictory viewpoints often results of differing degrees of understanding and shows a willingness to consider objectively the real issues.

Part of this cooperation can be produced by setting the time and place of meeting so that under normal conditions each member and interested citizen can attend. Remember that cooperation begins with mutual respect for each other's problems, as well as opinions. Another way of developing this cooperation is to do your part in ensuring that meetings proceed in an orderly and constructive manner. The chairperson is largely responsible for seeing that consideration of items on the agenda moves along without delay but with reasonable time allocated to each; he or she is to ensure that petitioners, proponents and opponents are heard but not permitted to disrupt the meetings, and that all actions are properly moved, seconded and voted upon. You can assist the chairperson greatly by becoming familiar with the basic rules of parliamentary procedure and devoting some preparation to the presentation you plan to make.

Application of the team concept is always essential to worthwhile and acceptable recommendations. This does not mean that all conflict will or should be eliminated, because controlled conflict, leading to a rational decision, is the heart of our democratic process.

Commissions should establish long and short-range goals to help them meet their objectives. Goals will help members maintain a focus on the purpose of their commission, board, or committee.

Know Your Objectives

One of the first duties as a new commissioner is to be informed about the law in which you will operate. Remember that a commission's responsibility is to advise, suggest, listen, evaluate, and recommend. The responsibility for allocating public resources properly rests with the City's duly elected representatives and cannot be delegated to an outside group.

One method of observing this distinction is for the commission to make its final recommendations in the form of possible alternative courses of action, and to provide the City Council with an evaluation of each of the alternatives proposed. In this matter, it is clear that the proper public official must make the final decision.

Be Thorough in Your Recommendations

In connection with your advisory role, you may often expect to spend many hours in research of a particular problem area and should endeavor to maintain an objective attitude in this fact-find phase.

If necessary, you should visit and inspect locations under consideration before commission meetings and be fully prepared to discuss, evaluate, and act on such matters when they come up. Study based on such practices will materially strengthen the value of your recommendations. Note, however, that you must disclose what research you may have conducted during any special or regular meeting in order to ensure transparency to the public.

Relations with the Administration

City employees work for and are responsible to the City Manager. The City Manager directed staff to comply to the greatest extent possible with commission requests and within the scope established by the MPMC or City Council. As used here, administrative staff means all City employees except the City Treasurer, City Clerk and City Attorney. The first two are elected officials and the City Attorney is appointed by and reports directly to the City Council.

Within the confines of a commission's subject-matter jurisdiction, staff liaisons and support can be used to provide background and views on important issues, to keep the commission on track and focused, to interpret elected officials and administrative actions and policies, and to coach and help commission members develop their skills. However, to avoid placing the staff in a difficult position and to facilitate effective communications, remember that all your actions as a commissioner must be done with the approval of the commission as a body. In contacting City personnel on commission business, the proper channel is through the commission chairperson to the staff liaison associated with the commission. If there is no staff liaison, a formal request should be submitted by the commission chairperson to the involved Director of the respective City department.

APPENDIX

- Municipal Law Guidebook for Elected and Appointed City Officials
- City Council Meeting Rules and Procedures
- City Council Code of Conduct

CITY OF MONTEREY PARK

MUNICIPAL LAW GUIDEBOOK FOR ELECTED AND APPOINTED CITY OFFICIALS

PRESENTED BY THE

OFFICE OF THE CITY ATTORNEY

OCTOBER 21, 2024

(DISCARD VERSIONS BEFORE ABOVE DATE)

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INTRODUCTION

The Monterey Park City Attorney's office prepared this Guidebook for elected and appointed City officials (collectively "Officials") to provide an overview of some basic laws and procedures that will affect you while in public service. This Guidebook is not meant to provide an in-depth discussion regarding all these laws; they are complex and the legal outcome in a particular circumstance often depends on the facts surrounding each case.

Since civil and criminal liability can arise in some situations, it is important for you to consult with the City Attorney's office before taking action that may be regulated by the laws and regulations cited in this Guidebook. We hope only to give you a basic understanding. Please note that the City Attorney's office is unable to provide assistance in some circumstances because the nature of an inquiry or concern is private or creates a conflict of interest. Should that occur, we will refer you to the appropriate agency or to your private attorney.

THE CITY ATTORNEY'S OFFICE

"Who is the City Attorney?" That may be the first question that leaps to mind as you enter elected office. The second question may be "What does the City Attorney do?"

We wanted to briefly address these two questions to make sure there is a common understanding from the outset of your public service.

- Who is the City Attorney?

The City Attorney is a public official appointed by the City Council. In Monterey Park (it can be different in other cities), the City contracts with a private law firm to act as the City Attorney's office. Attorneys who work for the firm serve as assistant or deputy city attorneys; these attorneys are not public employees.

Unlike every other person working for the City, neither the City Attorney nor any assistant or deputy city attorney work for the City Manager. While we work cooperatively with the City Manager, the City Attorney answers only to the City Council.

Conversely, the City Manager does not work for the City Attorney. The City Manager and the City Attorney are the only two public officials that are appointed by the City Council.

- What does the City Attorney do?

The answer to this question is a bit more complicated. Our client is the City of Monterey Park, i.e., we represent the corporate "person" known as the City of Monterey Park. Essentially, we are specialized corporate attorneys. Our client acts through its highest authorized officer (the City Manager), employee (e.g., Department Directors), and decision-making body (the City Council). Because of this representation, it may be helpful to understand the following:

- The City Attorney is **not** the *City Council's* attorney. We are also **not** an individual *Councilmember's* attorney. We can only implement *legal decisions* made by a City Council majority acting on the City's behalf during a public meeting; we do not take direction from individual Councilmembers.

- Understanding that we represent the City is particularly important when considering attorney-client privilege. The City itself holds the attorney-client privilege. That privilege extends to the City Council (as a body, but not individual Councilmembers); City commissions/boards/and committees (but not individual members holding those positions); appointed public officials (such as the City Manager); and City employees. Such communications must be under the "umbrella" of City business and within the scope of responsibilities (or employment) of the individuals who are acting on the City's behalf. Communications provided to individuals in their personal capacity are not protected by attorney-client privilege.

- We are not policymakers. Our responsibility is to provide legal advice. Consequently, we do not interfere with the City Manager's operation of the City. Nor do we "play politics"; we provide the same objective legal advice to all elected officials. That necessarily means that the answers to an individual Councilmember's questions may be provided to the entire City Council in order to ensure uniformity of advice. We do try to provide policy options based upon our legal advice along with the relative risk of exercising those options. Ultimately, choosing an option is a policy decision.

With these understandings, what we do usually falls into one of these categories:

- **Legality of the City's Conduct**. The City Attorney advises regarding the legality of the City's conduct and acts as a check on potential unlawful conduct. This responsibility is reflected in California law and the Monterey Park Municipal Code ("MPMC").

- **Ethical Duties**. We adhere to both the California Rules of Professional Conduct and the *Ethical Principles for City Attorneys* adopted October 6, 2005 by the City Attorney's Department for the League of California Cities. The work we perform on the City's behalf, therefore, is guided with our ethical obligations in mind.

- **General Counsel**. As the City's corporate attorneys, we provide oral and written legal advice; review and prepare ordinances and resolutions; review and prepare contracts; assist staff in the preparation of staff reports; review Environmental Impact Reports and other environmental documents; handle most types of civil litigation; and keep the City abreast of new legal developments. We routinely advise regarding the Ralph M. Brown Act; election issues; public works construction contracts; constitutional issues; NPDES compliance; development agreements; personnel matters; land use issues; and the myriad of other issues that the City encounters.

- **Criminal Prosecutorial Duties**. We serve both as the City's general counsel and its prosecutor. Most of the time, the City Council provides direction and it is our responsibility, within the bounds of law and ethics, to try to implement that direction. In the general counsel capacity, we are ethically bound to zealously represent and protect the City's interests. When acting as criminal prosecutors, however, we represent the People of the State of California. As the City's prosecutor, the law requires that we act impartially and without direction, involvement or political pressure from anyone, including Councilmembers. We have always defined our prosecutorial role as acting without passion or prejudice toward any particular individual whose conduct may rise to a criminal violation of the MPMC. Instead, it is our role to determine whether a violation exists, who is responsible for the violation, and the best means of resolving the violation in a fair and reasonable manner.

➢ What won't the City Attorney do?

This is probably the last question that arises.

- **No politics.** We do not play favorites among elected officials; you will all get the same legal advice. Relatedly, we do not contribute to any political campaigns.

- **No unethical or illegal behavior.** This is self-explanatory. We neither engage in such behavior nor implement such actions.

- **No legal work for individuals.** While we do assist individual Councilmembers with crafting policy proposals for the City Council's consideration, we require direction from the entire City Council before undertaking nonroutine legal work that is likely to result in substantial time and effort. Our rule of thumb is 30 minutes, i.e., if an individual Councilmember asks for legal work taking more than 30 minutes, we will seek City Council direction.

➢ How to effectively utilize the City Attorney's office.

The City Attorney's office is part of the City team and we are excited to help implement the City Council's vision. Toward that end, we offer the following thoughts:

- Recognize that the City is a large and complex corporation. The policy decisions made by the City Council must be implemented by the City Manager and City Attorney. This may take some time and effort.

- Read the staff reports and other materials provided to the City Council to help formulate informed decisions. If something is missing or ambiguous, please ask us for clarification before the City Council meeting.

- Remember that it is easier (and less expensive) to solve problems earlier rather than later. If an issue arises, alert the City Manager and City Attorney and seek input at an early stage.

THE RALPH M. BROWN ACT

In 1953, the California Legislature enacted the Ralph M. Brown Act (Government Code[1] §§ 54950-54962), commonly referred to as the "Brown Act" or "Open Meeting Law," to ensure that deliberations and actions of local public agencies are performed at meetings open to the public and free from any veil of secrecy.[2] To further this overall goal, the Brown Act requires that the City's meetings be properly noticed and generally open to the public.

- *Application of the Act*

Under the Brown Act, "legislative bodies" must hold meetings that are open to the public.[3] The City Council and most City commissions, *e.g.*, the Planning Commission, are legislative bodies.[4] Note that Officials who have not yet assumed the duties of office must still conform their conduct to Brown Act requirements and are subject to Brown Act penalties as if they had assumed office.[5]

- *What is a Meeting?*

A "meeting" is generally ***any gathering*** of a majority of the members of a legislative body to hear, discuss, or deliberate regarding any issue that is within its subject matter jurisdiction.[6] This includes using direct communication, personal intermediaries, or technological devices to develop a collective concurrence on any matter by members of the legislative body.[7]

Exceptions to this general rule are limited to

- Individual conversations between an Official and any other person;
- A majority of Officials attending a gathering open to the public involving issues of general interest to the public, *e.g.*, a conference, if the Officials do not discuss business;
- Attending an open and publicized meeting organized to address a topic of local community concern if the meeting is not sponsored by the City and Officials do not discuss business;
- Attending one of the City's standing committee if Officials in attendance do not discuss business; or
- Attending a purely social event if the Officials do not discuss business.[8]

[1] Further references to an unspecified code are to the Government Code.
[2] § 54950.
[3] *Ibid.*
[4] § 54952(b).
[5] § 54952.1.
[6] § 54952.2(a).
[7] § 54952.2(b); see also *Wolfe v. City of Fremont* (2006) 50 Cal.Rptr.3d 524.
[8] § 54952.2(c).

It is important to keep this rule in mind whenever a majority of Officials meet, *e.g.*, after a regularly scheduled meeting is adjourned. While such gatherings are not impermissible, Officials must be aware that conversation topics are generally limited to matters other than business.

Remember that a *minority* of Officials may attend any event; such a gathering is not defined as a meeting under the Brown Act. As explained more fully below, however, an Official may be required to disclose his or her attendance at a particular event under some circumstances.

Also remember, however, that serial meetings are prohibited. A serial meeting occurs where less than a quorum of public officials meets in a series of different meetings, but eventually the majority of a legislative body is involved. There are two classic examples of serial meetings.

The first is where Official 1 contacts Official 2 who contacts Official 3 regarding a particular issue that is within the subject-matter jurisdiction of the legislative body. This process creates a quorum and can lead to a collective consensus with regard to action that should be taken.[9]

As can be seen, the advances in technology can present a problem for Officials. In particular, the ease of using the "reply" or "forward" e-mail options can quickly lead to a serial meeting (example: Official 1 sends an e-mail to Official 2 who forwards it to Official 3 along with Official 2's comments, etc.). While a unilateral e-mail may be permissible (*i.e.*, where there is no expectation or solicitation for a response)[10] an electronic "conversation" is not.[11]

The other type of serial meeting is a "hub and spoke" meeting. This occurs where a staff member, for example the city manager, telephones individual Officials and reveals the respective views of the other members. As stated by the Attorney General,

> "problems arise when systematic communications begin to occur which involve [Officials] acquiring substantive information for an upcoming meeting or engaging in debate, discussion, lobbying or any other aspect of the deliberative process either among themselves or with staff."[12]

In both of these examples, the Brown Act is violated since the public is deprived of meaningful participation and the collective concurrence of a majority is reached without a public meeting. Accordingly, it is important to exercise caution when using the convenience of communication technology and social media; while advances in technology can facilitate communication, the very convenience provided by such technology can result in inadvertent violations of the Brown Act.

The mayor or chairperson or a majority of Officials on a particular legislative body may schedule special meetings at any time and location within the City's jurisdiction (with certain exceptions).[13] Note, however, that that a minimum of 24-hour notice must be given for special meetings.[14]

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[9] *See Sac. Newspaper Guild v. Sac. County Bd. of Suprs.* (1968) 263 Cal.App.2d 41, 48.
[10] *Roberts v. City of Palmdale* (1993) 5 Cal.4th 363, 376.
[11] *Ibid*.
[12] Civil Law Division, California Attorney General's Office, The Brown Act: Open Meetings for Local Legislative Bodies 12 (Ted Prim, et al., ed. 2003).
[13] § 54956.
[14] *Ibid.*

- *Action Taken*

A legislative body may generally only take action on matters that are included on a properly posted agenda.[15] There are exceptions to this general rule: Officials may briefly respond to statements or questions made during public comment; may ask for clarification on a topic; make brief announcements; report on activities; or direct staff to place a matter on a future agenda.[16]

Taking action[17] is defined as:

1. A collective decision by a majority of the members of a legislative body;

2. A collective commitment or promise by a majority of the members to make a positive or negative decision; or

3. An actual vote by a majority of the members of the legislative body sitting as a body or entity, upon a motion, proposal, resolution, order or ordinance.

Please note that Officials who attend a meeting where action is taken in violation of the Brown Act are subject to criminal penalties.[18]

- *Public Attendance and Comments*

With certain specific exceptions, all meetings must be open to the public and attendance cannot be conditioned upon submitting personal information.[19] Officials may adopt reasonable regulations for public comment.[20] Persons attending a meeting may record the proceedings using any reasonable method that does not interrupt the proceeding.[21] This right does not, however, include recording closed sessions.

The Act requires that every agenda provide an opportunity for public comment.[22] As already explained, Officials may respond to public remarks.

MEETING PROCEDURES

Meetings before public bodies are often opportunities for persons to express their displeasure or support for particular matters being considered. Some may regard such meetings the quintessential opportunity to exercise their First Amendment rights.

[15] § 54954.2(a).
[16] *Ibid.*
[17] § 54952.6.
[18] § 54959
[19] § 54953.3.
[20] § 54954.3(b).
[21] § 54953.5.
[22] § 54954.3(a).

It is important, however, to remember that meetings held by the City's council and commissions are also government proceedings that are necessary to conduct City business.[23] Accordingly, the City may impose limitations upon persons attending a meeting in order to help facilitate the orderly progression of such meetings.[24]

- *Regulation Permitted.*

The right to petition government and free speech are activities protected by the United States and California Constitutions.[25] These protections, however, are not unlimited. The United States Supreme Court recognizes that

> "[e]ven protected speech is not equally permissible in all places and at all times. Nothing in the Constitution requires the Government freely to grant access to all who wish to exercise their right to free speech on every type of Government property without regard to the nature of the property or to the disruption that might be caused by the speaker's activities."[26]

The City Council, and other legislative bodies in the City, may therefore regulate the activities of persons attending a City meeting to facilitate the orderly progression of the meeting.[27] Such regulations, however, must govern the actions of a person; they cannot generally constrain the content of that person's speech.[28] A commission may not, therefore, prohibit public criticism of the policies, procedures, programs, or services of the agency or the acts or omissions of the legislative body.[29]It may, however, prevent members of the public from commenting on matters that are not within the commission's subject matter jurisdiction.[30] It would be improper, therefore, for individuals to speak on matters other than such issues.

- *Willful disturbance of a meeting is unlawful*.

Penal Code § 403 states, in relevant part, that "[e]very person who . . . willfully disturbs or breaks up any . . . meeting that is not unlawful in character . . . is guilty of a misdemeanor." This provision is interpreted as applying to persons who intentionally commit acts that violate implicit customs or explicit rules for a meeting that were actually known, or should have been known.[31] Shouting, yelling, and clapping have all been held to be sufficiently disruptive to permit persons to be removed from and arrested at local government meetings.[32]

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[23] *White v. City of Norwalk* (9th Cir. 1990) 900 F.2d 1421, 1425.
[24] *Ibid*.; § 54954.3(b).
[25] U.S. Const. amends. I and XIV; Cal. Const. Art. I §§ 1, 2, and 4.
[26] *Cornelius v. NAACP Legal Defense and Education Fund* (1985) 473 U.S. 788, 799-800.
[27] §§ 36813, 54954.3(b).
[28] § 54954.3(c); *In re Kay et al.* (1970) 1 Cal.3d 930, 942; *Acosta v. City of Costa Mesa* (9th Cir. 2013) 718 F.3d 800.
[29] § 54954.3(c).
[30] § 54954.3(a); 78 Op. Cal. Att'y. Gen. 224 (1995).
[31] *In re Kay, supra*, 1 Cal.3d at 943.
[32] *See Kindt v. Santa Monica Rent Control Board* (9th Cir. 1995) 67 F.3d 266, 268-69; *Owolo v. City of Inglewood* (9th Cir. 1996) 103 F.3d 140, 1996 WL 681262, at **1.

The City Council, and other legislative bodies, may adopt rules and procedures for the orderly conduct of its meetings.[33] If a person disrupts a meeting, the legislative body may, in addition to having a person arrested, remove the person disturbing the meeting or clear the meeting room.[34]

The mayor or chairperson is generally in charge of keeping order. They, or a majority of officials on a commission, may impose rules of decorum to facilitate the orderly progression of a meeting.[35]

- *Remote Appearances of Board Members and Teleconference Meetings*

The Brown Act empowers a legislative body to use "use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law."[36] To that end, Officials may teleconference for a meeting so long as:

1. At least a quorum of the members of the legislative body participates from a location within the boundaries of the area for which the local agency exercises jurisdiction. All votes must be by rollcall.[37]

2. Each teleconference location is be identified in the notice and agenda of the meeting.[38]

3. The teleconference location posts an agenda and the location is be accessible to members of the public.[39]

Despite being allowed to have some members appear telephonically, the legislative body is still required to adhere to meeting notice and agenda requirements.[40]

AB 2449 also allows *some* Officials of the legislative body to appear remotely (e.g., in a remote location that is not accessible to the public). Now, an Official may appear remotely so long as: (a) they notify the legislative body that there is "just cause," to participate remotely; (b) the legislative body approves the request by majority; (c) at least a quorum of the legislative body is participating within the boundaries of the jurisdiction of the legislative body; and (d) the Official remote appearances do not exceed 20 percent of regular meetings for the local agency within a calendar year or no more than two times if the body has fewer than 10 meetings per year.[41] Officials will have "just cause" to appear remotely for childcare or caregiving to specific family members; are dealing with a contagious illness; have a need due to a disability; or while traveling while on official business.[42] Please note that that the Official is not required divulge their medical diagnosis or condition.

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[33] §§ 36813, 54954.3.
[34] §§ 36813, 54957.9.
[35] *See, e.g.,* § 36813; *Nevens v. City of Chino* (1965) 233 Cal.App.2d 775, 778; 75 Op. Cal. Att'y. Gen. 89 (1992).
[36] § 54953(b)(1).
[37] § 54953(b)(3).
[38] *Ibid.*
[39] *Ibid.*
[40] § 54953(b)(2)(d).
[41] § 54953(f)(1)(2).
[42] § 54953(j)(2)(A-D).

- *Closed Session Meetings on Cybersecurity Threats*

Starting January 1, 2025, the Brown Act permits Officials to meet in closed session to "matters posing a threat to the security of public buildings, a threat to the security of essential public services … or a threat to the public's right of access to public services or public facilities."[43] The Brown Act was revised so as to allow Officials to meet and discuss matters involving criminal activity over electronic data, the dissemination of which, would compromise the safety or security of personnel, property, equipment, and the electronic data itself.[44]

DECISION-MAKING

Ordinarily, a public decision-making body takes either legislative or adjudicative actions regarding a matter. Legislative actions are mainly political where the public body "declare[s] a public purpose and make[s] provisions for the ways and means of its accomplishment."[45] In essence, legislative action formulates rules that apply to all future cases.[46]

Adjudicative actions "apply law that already exists to determine specific rights based upon specific facts ascertained from evidence adduced at a hearing."[47] Examples of legislative actions include plan amendments and rezones; adjudicative actions include decisions regarding conditional use permits and approving tentative maps.[48]

- *Due Process*

A quasi-judicial action triggers the procedural due process rights of the United States and California Constitutions.[49] Under such circumstances, a party appearing before the legislative body is entitled to

1. Notice of the proposed action;
2. Reasons for the action;
3. A copy of the evidence on which the action is based; and
4. The right to respond "before a reasonably impartial, noninvolved reviewer."[50]

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[43] §§ 54957(a), 11126(b)(18).
[44] § 11126(b)(18).
[45] *Marblehead v. City of San Clemente* (1991) 226 Cal.App.3d 1504, 1509.
[46] *Dominey v. Dept. of Personnel Admin.* (1988) 205 Cal.App.3d 729, 737-38.
[47] *Sierra Club v. Gilroy City Council* (1990) 222 Cal.App.3d 30, 38 [overruled on other grounds].
[48] *Horn v. Ventura County* (1979) 24 Cal.3d 605, 619; see also *San Francisco Tomorrow v. City and County of San Francisco* (2014) 228 Cal.App.4th 1239, 1254; Taxpayers for Accountable School Bond Spending v. San Diego Unified School District (2013) 215 Cal.App.4th 1013, 1058-1059.
[49] U.S. Const. amend. V, XIV; Cal. Const. art. I, §§ 7, 15.
[50] *Burrell v. City of Los Angeles* (1989) 209 Cal.App.3d 568, 581.

The last requirement is one of fundamental fairness. It is a long-standing rule that quasi-judicial bodies can only make decisions based upon the evidence before them; they "cannot act on their own information."[51] A legislative body acting upon its own information, without a party's input, does not conduct a fair hearing.[52]

- *Independent Investigation*

There is nothing that prohibits an Official from conducting an independent investigation.[53] However, it is important that an Official disclose his or her investigation and *ex parte* contact if information obtained through that contact could influence the Official's decision. Disclosure of this information provides a party with the opportunity to challenge or explain that evidence. Without such disclosure, due process would be violated.

CONFLICT OF INTEREST ISSUES

Conflict of interest issues are one of the most complex areas of law that will affect you as a public Official. There are a myriad of laws and regulations that govern conflicts of interest. While the City Attorney's office is available to discuss conflict of interest issues, the duty is on you to present any information concerning potential conflicts of interest to the City Attorney's office.

While an Official's conflict may render City action in a particular matter ineffective, the Official may be personally liable for criminal and civil penalties. Additionally, under most circumstances, the City Attorney's advice on a particular situation will not safeguard the Official from personal liability; the City Attorney does not represent Officials in their personal capacity – our client is the City itself.

- *Common Law Doctrine*

In 1928, the courts enunciated the common law doctrine against conflicts of interest as follows: A public officer is impliedly bound to exercise the powers conferred on the officer with disinterested skill, zeal, and diligence and primarily for the benefit of the public.[54]

This common law doctrine was developed through court decisions and is generally secondary to the significant regulations adopted by the Legislature and the Fair Political Practices Commission[55] ("FPPC"). These laws and regulations are part of the Political Reform Act ("PRA").

[51] *English v. City of Long Beach* (1950) 35 Cal.2d 155.
[52] *Safeway Stores, Inc. v. City of Burlingame* (1959) 170 Cal.App.2d 637, 647-48; *La Prade v. Dept. of Water & Power* (1945) 27 Cal.2d 47, 51-52.
[53] *Todd v. City of Visalia* (1967) 254 Cal.App.2d 679, 691
[54] *Noble v. City of Palo Alto* (1928) 89 Cal. App. 47, 51.
[55] 2 Cal. Code of Regs. ("FPPC Regs.") §§ 18700, *et seq.*

- *Political Reform Act*

The PRA regulates conflicts of interest by requiring that Officials disclose *potential* conflicts and prohibiting their participation in decision-making where there are *actual* conflicts. The California Attorney General, the FPPC, and local district attorneys are empowered to enforce the PRA through criminal sanctions and civil penalties.[56] Generally, criminal violations of the Act are prosecuted as misdemeanors,[57] but may also be pursued as felonies.[58]

Although the penalties for violations of various provisions of the Act vary, civil penalties are generally based upon the amount of money or value of a gift or contribution not reported; penalties can be as high as ten thousand dollars ($10,000) or three times the amount not reported, whichever is greater.[59] Because good faith may sometimes be relevant in determining criminal and civil liability,[60] it is particularly important to seek further advice whenever a potential problem appears.

- *General Rule for Disqualification*

The PRA states that "[n]o public official at any level of state or local government shall make, participate in making or in any way attempt to use his [or her] official position to influence a governmental decision in which he [or she] knows or has reason to know he [or she] has a financial interest."[61]

Under the PRA, an Official participates in making a decision when the Official influences the decision-making process in any manner including, without limitation, proffering advice or making recommendations to a legislative body regarding a matter.[62] With certain exceptions,[63] Officials must refrain from participating in the decision-making process when it is reasonably foreseeable that the decision will have a material effect on the Official's financial interest distinguishable from that of the general public.[64]

The best advice that we can provide when a conflict issue arises is to contact the FPPC and seek its assistance (www.fppc.ca.gov and 1-866-275-3772). Only FPPC advice can protect an Official from potential enforcement actions concerning conflicts of interest. With that caution, below is a general outline of the current requirements regarding conflicts of interest.

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[56] §§ 91000 and 91001.
[57] § 91000.
[58] § 91002.
[59] § 91000.
[60] § 91001(c).
[61] § 87100.
[62] FPPC Regs. § 18704(a-c).
[63] FPPC Regs. § 18704(d).
[64] § 87103; FPPC Regs. § 18703.

- *Determining When a Material Financial Interest Exists*

There is a complex set of FPPC regulations that determine whether an Official has a material interest in a governmental decision that would have a nontrivial and reasonably foreseeable effect on (1) the Official's financial interest in a business entity; (2) the Official's financial interest in real property; (3) the Official's financial interest in a source of income; (4) the Official's financial interest in a source of gifts; (5) the Official's personal finances; or (6) the personal finances of a member to the Official's immediate family:[65]

1. The effect on an Official's business is material where the business (a) initiated the proceeding pertaining to the governmental decision; (b) offers to sell a service or a product to the Official's agency; (c) bids on or enters into a contract with the agency; (d) is either the manufacturer of any product purchased by the agency or the sales provider of products which amount to $1000 or more within a 12-month period; (e) applies for a permit or other entitlement that the agency is authorized to issue; (f) is subject to an action under the agency's regulatory authority; or (g) is subject to an action taken by the agency that is directed at the entity.[66] If the Official's only interest in the entity is an investment interest,[67] the decision's effect will be material if (i) the decision may result in an increase/decrease of the entities annual gross revenues or the value of the entities assets or liabilities[68]; (ii) the decision may cause the entity to incur/avoid additional expenses or to reduce/eliminate expenses[69]; or (iii) there is clear and convincing evidence the decision would have a substantial effect on the property.[70] Additionally, business costs related to travel, food, and lodging, made in the course of carrying out an agency function, are not material if it is authorized by the agency and the business provides the same services to the general public, unless these costs affect the value of the company or stock.[71]

2. Generally, the effect on an Official's real property is material where it involves land use policies, improvements, zoning, or taxes applicable to the property, where it relates to the transfer of an interest in the property, where it involves consideration of a permit pertaining to the property, where it would affect the value, use, income potential, development potential, or character of the property, or would affect the value of property located within 500 feet of the Official's non-commercial property.[72] However, decisions which exclusively concern repair and maintenance of streets, sewers, and similar systems, and certain decisions which solely involve the adoption or amendment of a general plan, are not held to have a material financial effect on the Official.[73]

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[65] FPPC Regs. §§ 18702, 18702.5.
[66] FPPC Regs. § 18702.1(a).
[67] See FPPC Regs. § 18702.1 (b) (where the investment interest has a value of $25,000 or less and is less than one percent of the entities shares)
[68] In an amount equal to or more than $1,000,000 or five percent of the entity's annual gross revenues and the increase or decrease is at least $10,000 (see FPPC Regs. § 18702.1(a)(2)).
[69] In an amount equal to or more than $250,000 or one percent of the entity's annual gross revenues and the change in expenses is at least $2,5000 (see FPPC Regs. § 18702.1(a)(3)).
[70] FPPC Regs. § 18702.1(b).
[71] FPPC Regs. § 18702.1(a), (b).
[72] FPPC Regs. § 18702.2 (a-b).
[73] FPPC Regs. § 18702.2(c).

3. An Official will be materially affected if either the Official or the Official's spouse will receive salary, other payment for goods and services, or a gift from the person or entity that is the subject of a proceeding, or from an individual, nonprofit, or business that will be affected, or which the Official has reason to believe will be affected by the decision.[74] The Official will also be affected if he or she receives income as a result of the sale of real property in which he or she has an ownership interest, where the purchaser is either the subject of the proceeding or has an interest in a business or property that will be affected by the decision.[75] Likewise, there is a material effect where the Official is promised, or receives income so that the source of the income may achieve a goal that is likely to be affected by the decision.[76] Note that certain exceptions may apply with regard to income from retail sales of a business entity including, without limitation, whether or not the retail business is open to the general public, whether the Official can distinguish customers by amount of sales, or whether the clientele of the business is comprised of a broad base of persons representative of the City.[77]

4, 5 & 6. The Official will be materially affected where the Official or his or her immediate family will receive a financial benefit or loss as a result of a decision,[78] though certain exceptions apply.[79] As of the writing of this version of the Guidebook, the general dollar limitation for determining materiality is $500.[80]

- *Definition of "Income"*

"Income" includes, without limitation, dividends; rents; capital gains; salary; wages; gifts; loans; and your community property interest in spousal income. Except for gifts, the only income relevant to a conflict situation is income received from a source within the City; from a source presently doing, or planning to do, business within the City; and a source having done business in the City during the last two years.[81]

- *Effect of Decision on Official Distinguishable From Effect on Public Generally*

You may participate in a decision, even when it would have a material financial effect, if you are affected in the same manner as the general public.[82] This occurs when a legislative body's decision (1) will affect a significant segment of the public, defined as at least 25% of the business or nonprofit entities, real property, or individuals within the jurisdiction; and (2) the financial effect on the Official is "not unique."[83]

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[74] FPPC Regs. §§ 18702.3(b), 18702.4.
[75] FPPC Regs. § 18702.3(a).
[76] FPPC Regs. § 18702.3(b).
[77] FPPC Regs. § 18702.3(c).
[78] FPPC Regs. §§ 18702.3, 18702.4, 18702.5.
[79] FPPC Regs. §§ 18702.3, 18702.5.
[80] FPPC Regs. § 18940.2.
[81] § 82030.
[82] FPPC Regs. § 18700(a).
[83] FPPC Regs. § 18703.

An Official does not have a conflict of interest when a legislative body's decision is indistinguishable from the effect on the public generally.[84] For example, changing the City's sales tax does not create a conflict because it affects all residents, even though it may significantly affect an Official's income. Likewise, where an Official's spouse owns a business located near a major street, and over half of the City's commercial properties are also located near that street, that official may participate in decisions relating to improvements made on the street, because the improvements would affect most businesses in the City and would not "uniquely" affect the Official's spouse.[85]

- *Prohibition on Participation or Influencing Decision Once an Official is Disqualified*

If you have a conflict of interest, you are disqualified from participating in the decision-making process for that matter. Accordingly, you may not have any influence over the decision before it comes before your legislative body; you must declare for the record the nature of your conflict; you must leave the room when it comes before the legislative body (unless the matter is on the consent calendar, in which case you need not leave the room[86]); and you may not discuss the matter with other Officials or with City staff members. An Official may, however, for certain defined personal interests make a public appearance before his or her legislative body as a member of the general public, but only in a personal capacity to comment on matters related solely to personal interests.[87]

As noted throughout this Guidebook, the PRA is extremely complex; this paper only provides a summary and is not meant to provide legal advice. Specific questions should be directed to the City Attorney's office for a determination well in advance of when a decision needs to be made.

- *Government Code § 1090*

Section 1090 prohibits Officials and City employees from having financial interests in contracts made by them or by any board or body of which they are members. This prohibition applies in two basic situations. First, if the financially interested Official or City employee is a member of a board or other body that actually executes the contract (*e.g*., the City Council), the potential conflict prohibits the City from entering into the proposed contract, regardless of whether or not the Official participates in or abstains from the actual decision, unless certain limited exceptions apply. Second, if a staff member has a financial interest in a contract with the City, there is a conflict only if that staff member actually participates in the making of the contract.[88] In either case, if such a contact is made, the City may void it.[89]

You should also understand that the term "contract" is used very broadly and applies to any agreement between the City and another party whether written or oral and whether formal or informal. Additionally, the prohibitions of Section 1090 apply equally to the councilmember who

[84] FPPC Regs. § 18707(a).
[85] FPPC Adv. A-15-126 (2015).
[86] FPPC Regs. § 18707.
[87] FPPC Regs. §§ 18702.4, 87105(d)(3), 18704(d)(2), 18707.
[88] *Fraser-Yamor Agency v. County of Del Norte* (1977) 68 Cal.App.3d 201.
[89] § 1092.

votes on a written contract, a member of an advisory board who makes a recommendation on a contract, and to an employee who advises the council on a particular contract.[90]

Note that a § 1090 violation may result in severe criminal penalties. While there are certain exceptions to the general prohibition, it is better to contact the City Attorney's office with any questions you may have.

- *No Free Passes*

A somewhat dated provision of the California Constitution prohibits any public officeholder from accepting a pass or discount from a transportation company. Specifically, Article XII, § 7, of the Constitution states that

> "[a] transportation company may not grant free passes or discounts to anyone holding an office of the State; and the acceptance of a pass or discount by a public officer, other than public utilities commissioner, shall work a forfeiture of that office …"

Actions by the Southern Pacific Railroad leading to political corruption caused this provision to be added to the Constitution in 1879, but it has rarely been used. The California Attorney General, however, has opined that an official may forfeit their office because of this prohibition even though (1) the official was completely unaware of the provision; (2) the official had no regulatory power or other official influence over the activities of the transportation company or any other transportation company; (3) the transportation company's activities were not restricted to intrastate business, but included interstate and international operations as well; (4) the official, upon learning of the prohibition, immediately reimbursed the carrier for the transportation received; and (5) the official's travel was personal travel rather that official business.[91]

It is unlikely that this provision would apply to special rates given to the public generally. Moreover, the Attorney General's Office has opined that it does not apply to the use of Frequent Flyer miles or to tickets obtained by a public official when the eligibility is based on the fact that the official's spouse is an airline employee.[92] Finally, this provision does not apply if the ticket is provided by a non-"transportation company," *i.e.*, provided by your employer, as a gift from a friend, or to enable you to make an out-of-town speech or attend an out-of-town event. Note, however, that such gifts would need to be disclosed under the PRA.

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[90] *Stigal v. City of Taft* (1962) 58 Cal. 2d 565; *City Council v. McKinley* (1978) 80 Cal.App.3d 204, 211-212; *Schaefer v. Berinstein* (1956) 140 Cal.App.2d 278, 291-292.

[91] 76 Op. Cal. Att'y. Gen. 1 (1993).

[92] 80 Op. Cal. Att'y. Gen. 146 (1997); 85 Ops. Cal. Atty. Gen. 40 (2002).

- *AB 1234 Ethics Training*

AB 1234[93] allows the City to reimburse elected and appointed officials for actual and necessary expenses incurred in the performance of official duties in accordance with a written policy adopted by the City Council. Such a policy[94] identifies the types of expenses for which the City can reimburse a public official relating to travel, meals, lodging, and other actual and necessary expenses. Among other things, AB 1234 requires the person attending activities and receiving reimbursements to give a brief report to the City Council at its next regular meeting regarding those official duties.

Public officials must also receive at least two hours of training in ethics every two years;[95] newly elected public officials must obtain such training within one year after being elected.[96] A local agency or an association of local agencies may offer one or more training courses, or sets of self-study materials with tests, to meet the requirements. The courses may be taken at home, in-person, or online.

- *Mass Mailings*

The PRA also regulates "mass mailings" (Government Code §§ 81000-91014). In relevant part, the PRA states: "No newsletter or mass mailing shall be sent at public expense."[97] The term "mass mailing" means "over two hundred substantially similar pieces of mail, but does not include a form letter or other mail which is sent in response to an unsolicited request, letter or other inquiry."[98]

The PRA prohibits *any* public money from being spent to *distribute* a mass mailing.[99] Moreover, the law prohibits more than $50 of public money from being spent to design, produce, or print an otherwise prohibited mass mailing.[100]

Mass mailings are prohibited when they "feature" an elected officer as follows:[101]

> "(A) Features an elected officer affiliated with the agency which produces or sends the mailing; or
>
> (B) Includes the name, office, photograph, or other reference to an elected officer affiliated with the agency which produces or sends the mailing, and is prepared or sent in cooperation, consultation, coordination, or concert with the elected officer."

[93] §§ 53232, *et seq*.
[94] *Id*.
[95] § 53235(b).
[96] § 53235.1(b).
[97] § 89001.
[98] § 82041.5.
[99] FPPC Regs. § 18901.1 (a)(3)(A).
[100] FPPC Regs. § 18901.1(a)(3)(B).
[101] § 89002(a)(2).

The phrase "features an elected officer" means that "the item mailed includes the elected officer's photograph or signature, or singles out the elected officer by the manner of display of his or her name or office in the layout of the document, such as by headlines, captions, type size, typeface or type color."[102] Note, however, that simply referencing an elected official's name may be impermissible if the mailing is prepared or sent in "cooperation, consultation, coordination, or concert with the elected officer."[103]

An item is "sent" if delivered to residences, businesses, or post office boxes by any means (not simply the mail).[104] Items that are publicly available for distribution at meetings, or can be actively obtained by the public from public facilities (*e.g*., City Hall) are not "sent" for purposes of the PRA. Moreover, the regulation of mass mailings does not apply to solicitations for information; only to unsolicited requests.[105]

The mass mailing regulations affect are written documents, records, videotapes and buttons.[106] However, these regulations do not affect webpages.[107] Further, the PRA's 200 item limitation applies on a calendar basis, *i.e*., up to 200 similar items may be sent each calendar month.[108] A mass mailing[109] may not be sent within the 60 days preceding an election by or on behalf of a candidate whose name will appear on the ballot at that election, subject to the exceptions identified in Government Code § 89002.

PUBLIC RECORDS

The Public Records Act ("Records Act") defines a public record as

> "any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any ...local agency regardless of physical form or characteristics."[110]

A "writing" includes

> "any handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and

[102] § 89002(c)(2).
[103] § 89002(a)(2)(B).
[104] § 89002(a)(1).
[105] §§ 82041.5, 89001 and 89002.
[106] § 89002(a)(1).
[107] *In re Peltzer*, FPPC Priv. Adv. Ltr. A-97-106 (Mar. 25, 1997); see also *In re Foote*, CA FPPC Adv. A-98-114 (1998) website links not restricted by the Act's prohibition on publicly funded mass mailings; *In re Ratto*, CA FPPC Adv. A-07-085 (2007) [candidate information may be placed on agency website].
[108] § 89002(a)(4).
[109] As defined by § 82041.5 and which meets the criteria of § 89002(a).
[110] § 7920.530(a).

> any record thereby created, regardless of the manner in which the record has been stored."[111]

Generally, all public records must be "open to inspection at all times during the office hours of the...local agency and every person has a right to inspect any public record...."[112] Based on these statutory definitions, virtually every piece of information created, received, or stored in the course of performing City business constitutes a public record and may be inspected by the public upon request.

- *Time for responding to a PRA request.*

As stated above, public records must generally be available for public inspection during the City's business hours. If public records are stored on medium other than paper, *e.g.*, CD-ROMs or microfiche, equipment for viewing these records must be made available for the public.[113]

Persons may also request that the City provided them with copies of public records. Ordinarily, public agencies must respond to requests for copies of public records within 10 days. In "unusual" circumstances, the City may extend the time for responding by an additional 14 days if the city manager, or designee, explains the reasons for the delay to the requestor within the initial 10-day time period.[114]

The definition of "unusual circumstances" includes (1) "[t]he need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request; (2) "[t]he need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request; (3) "[t]he need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein"; and (4) "[t]he need to compile data, to write programming language or a computer program, or to construct a computer report to extract data."[115] Starting January 1, 2025, "unusual circumstances" will also include a "state of emergency," proclaimed by the California Governor, where that emergency affects the agency's "ability to timely respond to requests due to staffing shortages or closure of facilities where the requested records are located."[116] This change was made in response to the COVID-19 pandemic, which materially impacted various local agencies to respond to PRA requests in a timely manner.

- *When may public records be withheld?*

As stated above, virtually everything drafted, received, or kept by the City constitutes a public record. However, although the PRA favors disclosure of public records, cities are generally not

[111] § 7920.545.
[112] § 7922.525.
[113] 64 Ops. Cal. Atty. Gen. 317 (1981); 57 Op. Cal. Att'y. Gen. 307, 311 (1974); see §§ 7922.530(b), 7922.570(a-c).
[114] § 7922.535(b).
[115] § 7922.535(c)(1-4).
[116] § 7922.535(c)(5).

required to *create* documents in response to a public record request.[117] Nor must the City comply with requests for documents that are unduly burdensome.[118]

Moreover, there are specific types of documents that may be withheld by public agencies for other reasons. A partial list of exempt City records includes:

- Preliminary drafts, notes, or interagency or intra-agency memoranda that are not retained by the City in the ordinary course of business, provided that the public interest in withholding those records clearly outweighs the public interest in disclosure.

- Records pertaining to pending litigation to which the City is a party until the pending litigation or claim is finally adjudicated or settled.

- Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.

- Geological and geophysical data, plant production data, and similar information relating to utility systems development, or market or crop reports, which are obtained in confidence from any person.

- Other than as specifically required by the Government Code, records of complaints, investigations, intelligence information, or security procedures of the police and fire departments (code enforcement).

- Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination.

- The contents of real estate appraisals or engineering or feasibility estimates and evaluations made for or by the City relative to the acquisition of property, or to prospective public supply and construction contracts, until all of the property has been acquired or all of the contract agreement obtained.

- Information required from any taxpayer in connection with the collection of local taxes that is received in confidence and the disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying the information.

- Records the disclosure of which is exempted or prohibited pursuant to federal or state law.

[117] *Rosenthal v. Hansen* (1973) 34 Cal.App.3d 754, 760.
[118] *State Bd. of Equalization v. Super. Ct.* (1992) 10 Cal.App.4th1177, 1188-1189.

- Information contained in applications for licenses to carry firearms that indicates when or where the applicant is vulnerable to attack or that concerns the applicant's medical or psychological history or that of members of his or her family.[119]

➢ *Assistance with identifying public records*.

The City is required to assist persons seeking public records by helping them "make a focused and effective request that reasonably describes an identifiable record…."[120] To fulfill this obligation (with certain exceptions[121]), the City must take the following steps "to the extent reasonable under the circumstances"[122]:

- Help the requestor identify those documents that meet the request "or to the purpose of the request";

- "Describe the information technology and physical location in which the records exist"; and

- "Provide suggestions for overcoming any practical basis for denying access to the records or information sought."[123]

The City cannot recoup its costs for such assistance from the requestor. Before June 4, 2014, the City could seek reimbursement for its costs. Article XIIIB, § 6, of the California Constitution generally provides that, when the state mandates a program or higher level of service on a local government, it *must* provide funds to the local government to reimbursed costs related to the state mandate.

On June 3, 2014, however, voters approved Proposition 42, the California Compliance of Local Agencies with Public Act, which amended Article XIIIB section 6(a) to provide that "the Legislature may, but need not, provide a subversion of funds for... (4) Legislative mandates contained in statutes within the scope of paragraph (7) of subdivision (b) of Section 3 of Article I." Proposition 42 also added Article I, section 3(b)(7), which provides that, "in order to ensure public access to the meetings of public bodies and the writings of public officials and agencies," local agencies must comply with the PRA and the Brown Act. Collectively, these amendments provided that the state legislature was not required to reimburse local agencies for funds expended in connection with the CPRA.

Where there has been a change in the law, the Department of Finance may file a request with the Commission to adopt a new test claim decision upon a showing that the state's liability under Article XIIIB section 6 has been modified.[124] On January 21, 2015, the Department of Finance filed a request for redetermination of prior test claims concerning the CPRA, and the Commission

[119] § 7923.800.
[120] § 7922.600(a).
[121] § 7922.605.
[122] § 7922.600(a).
[123] § 7922.600(a)(1-3).
[124] § 17570(c).

found that Proposition 42 eliminated the state's liability for reimbursement, beginning on June 4, 2014.[125] The decision was adopted July 24, 2015, and served August 4, 2015.

- *Records Provided to a Majority of the City Council*

The Government Code[126] provides that

> "[A]gendas of public meetings and any other writings, ***when distributed to all, or a majority of all, of the members of a legislative body of a local agency by any person in connection with a matter subject to discussion or consideration at an open meeting of the body, are disclosable public records . . . and shall be made available upon request without delay***."

As seen by the emphasized language, virtually *any writing*, that was distributed to a majority of the City Council (or other legislative body) is a public record and must be available for public inspection. As noted above, such writings include electronic mail correspondence with City Councilmembers. Consequently, if it is obvious (or reasonably certain) that a majority of Councilmembers received a writing, it is important that a copy be provided to the City Clerk for filing and inspection. This is true even if an appointed public official, such as the City Manager, did not receive a copy of the correspondence. Accordingly, please ensure that the City Clerk receives a copy of all writings you may receive where it is apparent that the same writing was provided to a majority of the City Council (or other legislative body).

- *Social Media Policy*

The California Supreme Court confirmed in 2017 that electronic communications pertaining to public business and that are conveyed using a personal, nongovernmental account or electronic device, constitute public records subject to disclosure by public agencies. This means communications in your personal email; texts; social media (e.g., Facebook, Instagram, Twitter); Nextdoor.com; Snapchat; Whatsapp; and any other electronic accounts are subject to disclosure under the Public Records Act.

In response to this decision, the City Council updated the City's Social Media Policy. Among other things, public officials are prohibited from using their title of public office when utilizing social media platforms. Moreover, all public officials should avoid using social media to discuss, deliberate or express opinions within the subject matter jurisdiction of their respective board or commission – even if they wish to do so in a personal capacity. This includes, without limitation, posting comments on social media whether through their own account or on a third-party's feed.

The reasons for these policies are not only for good government, but also to avoid legal complications for the City. Among other things, the policies were adopted to help reduce the likelihood that a public official's conduct violates the Brown Act or Conflict of Interest laws; that the City complies with the Public Records Act; that the City complies with its records retention schedule; that due process rights are protected; and to avoid potential City liability in civil lawsuits.

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[125] Cal. Com. State Mandates (2015) Decision No. 14-MR-02.
[126] § 54957.5(a) (emphasis added).

CONCLUSION

As noted earlier, this Guidebook is only a superficial overview of laws and regulations that will affect you while in public service. There may also be more specific memoranda or resolutions regarding subject-matter that is discussed in this Guidebook. Some of those are attached as appendices. Questions or concerns regarding specific facts should be directed to the City Attorney's office.

If you are interested in reviewing any of the legal sources cited in this Guidebook, or would like to contact one of the State Agencies, the following information may be helpful:
For case law - http://www.findlaw.com/cacases/; for California Regulations - http://ccr.oal.ca.gov; for the FPPC - http://www.fppc.ca.gov/ and 1-866-275-3772.

City Council Meeting Rules and Procedures

RESOLUTION NO. 12226

A RESOLUTION ESTABLISHING PROCEDURAL RULES FOR CONDUCTING CITY COUNCIL MEETINGS.

BE IT RESOLVED by the Monterey Park City Council as follows:

SECTION 1: The City Council adopts the following procedural rules for conducting City Council meetings:

"**RULES OF PROCEDURE**

Rule 1: Authority

The City Council establishes these by-laws, entitled "Rules of Procedure," for conducting its meetings. The following Rules become effect upon the City Council's adoption and remain effective unless amended or superseded. These Rules are intended to comply with, the Ralph M. Brown Act (Government Code §§ 54950-54962). The Brown Act will supersede any conflicting provision of the Rules.

Rule 2: General Rules

Rule 2.1: Public Meetings

All meetings (except closed sessions as provided by California law) of the Council are open to the public.

Rule 2.2: Rules of Order

A. City Council proceedings should be governed by common sense and good taste. Pursuant to applicable laws, including, without limitation, the Monterey Park Municipal Code, any issue of procedure relating to the conduct of a meeting or hearing not otherwise provided for in these Rules may be determined by the Mayor, subject to a vote of the entire Council. In addition, the City Council may, upon majority vote, alter or modify any provision of this Policy when appropriate or desirable.

B. City Council proceedings are generally governed by Rosenberg's Rules of Order on all matters pertaining to parliamentary law (attached as Exhibit "A," and incorporated by reference). Notwithstanding Rosenberg's Rules of Order, motions will be voted upon in the order in which they are made. Moreover, nothing prevents the City Council expressly adopting a rule or procedure that may be inconsistent with Rosenberg's Rules of Order. No City Council action can be invalidated, or the legality of otherwise affected, by the failure or omission to observe or follow Rosenberg's Rules of Order or any other City Council approved rule of procedure.

C. These Rules are adopted to expedite the City Council's business transactions in an orderly fashion and are procedural only. Failure to strictly observe these rules will not affect the Council's jurisdiction or invalidate any Council action conforming with applicable law.

D. The Council will abide by those Rules of Decorum that may be adopted by the City Council for use by its boards, Councils, and committees.

Rule 2.3: Quorum

Three members of the Council constitute a quorum. Should less than a quorum be in attendance, the City Clerk will list the attendees in the minutes, and they will adjourn the meeting to a later set time. In the event no members of the Council are present the City Clerk will adjourn the meeting to a later set time pursuant to Government Code § 54955.

Rule 2.4: Vote

A majority of a quorum is required to transact business except that three affirmative votes of the Council's members are required to approve the following substantive applications: General Plan Amendments and Amendments to the MPMC, Zone Changes, Variances, Conditional Use Permits, Prezoning for Annexations, Subdivision Maps, and Parcel Maps. If a motion to approve a substantive matter fails because it does not receive three affirmative votes, the matter will be automatically continued to the next regular City Council meeting. If the substantive matter is neither approved nor denied at the next regular meeting, the project is deemed denied unless the applicant requests an additional vote at the next regular meeting. No appeal fee will be charged for an appeal required as a result of a tie vote or due to the lack of four affirmative votes to approve a matter which is not subsequently denied.

Rule 2.5: Minutes of Proceedings

The City Clerk will record an account of all public proceedings of the City Council into the Council's official minutes. These minutes will become public record after Council approval.

Rule 2.6: Right of Floor

Councilmembers wishing to speak must first be recognized by the Mayor and, with the exception of City Communications, limit any remarks to the agenda matter being considered.

Rule 2.7: City Manager

The City Manager will attend all meetings of the Council unless excused. In his/her absence, the City Manager will designate an Acting City Manager to attend. The City Manager may make recommendations and has the right to take part in all City Council discussions of the Council but cannot vote.

Rule 2.8: City Attorney

The City Attorney or designee should attend all meetings of the Council. The City Attorney, or designee, upon request, may give opinions, either written or oral, on questions of law and act as the Council's parliamentarian.

Rule 2.9: City Clerk

The City Clerk will attend all meetings of the Council unless excused. The City Clerk will record, prepare, and maintain the Council's official record and perform other related duties as prescribed by the Council and/or City Manager.

Rule 3: Mayor – Duties

Rule 3.1: Presiding Officer

The Mayor, if present, will preside at all meetings. In the Mayor's absence, the Vice Mayor will preside. In the absence of both, the Councilmembers present will select a Temporary Presiding Officer by majority vote.

Rule 3.2: Call to Order

The Mayor or Vice Mayor will bring the meeting to order at the time noticed in accordance with applicable law. In the absence of both, the meeting will be called to order by the City Clerk.

Rule 3.3: Point of Order

The Mayor will determine all points of order, subject to the right of any Councilmember to appeal to a vote of a majority of the quorum.

Rule 3.4: Motion to Be Stated

The Mayor will state all motions submitted for a vote and announce the result. A roll call vote must be taken upon the request of any Councilmember.

Rule 4: Preparation of Agenda

Rule 4.1: Agenda Preparation

The Agenda will be prepared in accordance with the procedure directed by the City Manager. The Agenda should be delivered to the Mayor and Councilmembers by 5:00 p.m. on the Friday before the Council's regular Wednesday meeting. In the event of a Special Meeting, Agendas should be delivered as promptly as is practicable.

Rule 4.2: Minutes

Unless requested by a majority of the quorum, minutes may be approved without reading.

Rule 4.3: Consent Calendar

Items listed under the Consent Calendar are those items the City Manager believes will not require Council discussion and are routine in content. Also listed under the Consent Calendar are resolutions confirming action from a previous meeting which are brought back for approval of form rather than approval of action. Items may be pulled for separate discussion or clarification at any Councilmember's request, or upon receipt of a written request for public comment on the item.

Rule 4.4: City Communications

Items of interest that are not on the Agenda, such as conference or meeting reports, may be discussed under this item. No action, other than to "receive or refer to staff" may be taken.

Rule 4.5: Actions Limited to Posted Agenda

The City Council cannot take action on any item not appearing on the posted Agenda except under the conditions permitted by Government Code § 54954.2.

Rule 4.6: Future Agenda Items

Each Agenda will include an Agenda item entitled "Future Agenda Items." During this section of the Agenda any Councilmember may make a motion only to place an item on a future Agenda. The motion is non-debatable. Placement of an item on a future Agenda requires a majority vote. The City Manager has discretion as to when the item will be placed on the Agenda, unless otherwise directed by the City Council.

Rule 5: Citizens' Rights

Rule 5.1: Addressing the Council

A. Any person may address the Council under the following portions of the Agenda:

(1) Under the Public Comment portion of the Agenda.

(2) Public Hearings.

(3) With the consent of a majority of the quorum of the Council.

B. Persons seeking to address the Council must comply with the following:

(1) Members of the public may address the Council only on items within the subject-matter jurisdiction of the Council. A determination of whether an item is appropriate for discussion will be made by the Mayor with the Council's consent and upon advice by the City Attorney or designee.

(2) Each person addressing the Council must submit such written information as the City Clerk may require for the record, step to the podium and give their name and address for the record.

(3) Each speaker is limited to five minutes on Public Comment and a total of five minutes on all other items on the Agenda. Exception - See Public Hearing Procedures under Section 7 and following.

(4) All remarks must be directed to the Mayor and Council as a body and not to any particular Councilmember.

(5) No person, other than Councilmembers and the person having the floor, are permitted to participate in the discussion except as otherwise requested by the Mayor.

(6) No question may be asked of Councilmembers or City staff except through the Mayor.

C. When any identifiable group of persons, as distinguished from the general public, seeks to address the Council on the same agenda item, the Mayor has the discretion to ask that the group select a spokesperson to address the Council. If additional issues are to be presented at the hearing by any other member of such group, the Mayor may limit the number of persons to address the Council to avoid unnecessary repetition of information presented to the Council.

Rule 5.2: Disrupting legal meetings

Any member of the public making disruptive remarks or who becomes disruptive while addressing the Council or attending the Council meeting so as to disrupt, disturb or otherwise impede the orderly conduct of the Council meeting will be removed forthwith by the Presiding Officer and barred from further audience before the Council at that meeting unless permission to continue is granted by a majority vote of the Council.

Rule 6: Document Preparation

Unless otherwise directed by the Council or City Manager, all documents must, before being placed on the Agenda, be approved as to form and legality by the City Attorney or designee. Such approval must be indicated by a signature on the last page of the document.

Rule 7: Procedures Regarding Public Hearings

Rule 7.1: Introduction

Mayor announces subject of the Public Hearing, confirms with the City Clerk that the Public Hearing was correctly noticed, and declares the Public Hearing open. Conflicts, if any, are declared and ex parte contacts, if any, are disclosed.

Rule 7.2: Staff and Written Material Presentation

A. Staff summary report and other written material included in the Agenda packet is received and filed. Written comments (e.g. protest) are noted for the record.

B. Written material not in the Agenda packet, if any, is received and filed.

C. Oral staff report, if any, is presented by staff member.

D. Staff responds to Councilmember questions.

Rule 7.3: Public Testimony

A. Purpose is to provide opportunity to interested persons wishing to support or oppose the matter being considered.

B. Mayor instructs members of the audience:

(1) To fill out a form prepared by the City Clerk;

(2) To speak from the podium;

(3) To give their name and address before speaking;

(4) That the time limit for each speaker is generally five minutes; and

(5) That repetition should be avoided.

C. The applicant/representative will normally speak first. Applicant/ representative presentation is limited to ten minutes, any portion of which can be used for rebuttal.

D. Questions by speakers will be noted and, if possible, answered before Council deliberation.

E. Following public testimony, the applicant/representative will have an opportunity for rebuttal.

Rule 7.4: Council Deliberation

A. After the Mayor determines that no other member of the audience wishes to speak, the City Council may deliberate.

B. The Council may ask questions of speakers for clarification.

C. Staff and/or Council answers prior speakers' questions.

D. The Council makes a motion and debates.

Rule 7.5: Council Action

A. The Council may, at this time, continue the open Public Hearing.

(1) This should be done if any additional information is requested (e.g., a staff report).

(2) Continuing a Public Hearing to a specific date does not require additional notice.

B. Vote on the item.

C. Offer amendments or substitute motions allowing additional public comment.

D. Close the Public Hearing and continue the matter to a later date for a decision (note that no additional reports or testimony may be received if the Public Hearing has been closed).

Rule 8: Miscellaneous Rules

Rule 8.1: Silence

During a collective vote (Ayes and Nays), silence of any Councilmember denotes an affirmative vote.

Rule 8.2: Continuance of an Item

A. Continuance by a Councilmember.

Upon a Councilmember's request and by majority vote, an item (not subject to a deadline) may be continued to the next agreed upon meeting.

B. Continuances Requested by Someone Not a Councilmember.

Anyone may request a continuance of an item and the Council, by majority vote, may grant a continuance.

Rule 8.3: Failure to Vote

Every Councilmember should vote unless disqualified by reason of a Conflict of Interest. If a member abstains because of a legal conflict of interest, he/she is not counted as part of the quorum and is not deemed to be voting.

If a member abstains for reasons other than a legal conflict of interest, he/she will be counted in establishing a quorum. Such an abstention will counted with the majority vote of the quorum unless there is no majority in which case it will not be counted as a vote.

Rule 8.4: Lost Motions

A lost motion is one that fails to receive the necessary number of votes to carry. To revive a lost motion at the same meeting, the proper action is a motion to reconsider.

Rule 8.5: Motion to Reconsider

A motion to reconsider any action taken by the Council may be made in accordance with the following:

A. The motion must be made by a Councilmember the majority vote, or, in the case of a lost motion, by any Councilmember and may be seconded by any Councilmember.

B. The motion must be made before the adjournment of the meeting at which the original action was taken.

C. The motion is debatable and has precedence over a pending motion.

D. Except as otherwise provided, if the action to be reconsidered is a Public Hearing item, it must be re-noticed in the event the motion to reconsider passes. Where it is clearly established that all interested members of the public are still present, the item may be reconsidered without further notice.

Rule 8.6: Tie Votes

If a tie vote occurs when a Member of the Council is absent, the item will be automatically continued once to the next regular meeting of the Council. Except in the event of an appeal to the Council, if a tie vote

occurs as a result of the abstention of a Councilmember, the motion is lost. If a tie vote on an appeal occurs as a result of the abstention of a Councilmember, the appeal is deemed denied.

Rule 8.7: Changing the Vote

A Councilmember may change his/her vote only if the change is made immediately following the announcement of the vote by the Mayor and before the next agenda item is announced.

Rule 8.8: Abstention

A Councilmember who publicly announces that he/she is abstaining from voting on a particular matter will not subsequently be allowed to withdraw the abstention.

Rule 8.9: Presentation of Evidence

A. Oral Evidence

Oral evidence may be taken on oath or affirmation if requested by the Council.

B. Exhibits and Documents

Documentary evidence, exhibits, written communications, and documents used and relied upon by the Council during Council meetings must be made part of the record.

C. Communications and Petitions

All communications and petitions must be read aloud either in full or in summary. A reading in full must be made at the request of a majority of the Council. All such communications and petitions may be placed into evidence at the Council's discretion.

D. Staff Reports

A written staff report should be prepared and orally reviewed as part of the staff presentation. Such report is evidence and part of the record.

E. Large Maps and Displays

Large size maps and displays presented for use at the hearing should be displayed in full view of the Council. When practicable, such maps or displays, or their authentic reductions, will be placed into the record.

F. Admissible Evidence

A Public Hearing need not be conducted according to legal rules of evidence. Any relevant evidence may be accepted if it relevant and the type of evidence upon which reasonable persons rely upon in conducting serious affairs. Irrelevant and unduly repetitious evidence will be excluded.

Rule 8.10: Personal Privilege

The right of a Councilmember to address the Council on a question of personal privilege is limited to cases where the integrity, character, or motives of the Councilmember is in question or where the Council's welfare is concerned. The Councilmember may not interrupt the speaker, however, until recognized by the Mayor.

Rule 8.11: Protests

Any Councilmember has the right to enter into public record reasons for dissent or protests against any motion carried by the majority.

Rule 9: Rules of Debate

Rule 9.1: Mayor as Presiding Officer

The Mayor may move, second, and debate from the Chair, retains all rights and privileges of a Councilmember.

Rule 9.2: Appeals

Any ruling of the Mayor may be appealed at the request of any Councilmember. The Mayor must call for a roll call vote to determine if the ruling is upheld.

Rule 9.3: Motions

A motion may be debated by the Council after it is made. During debate, any Member of the Council may "Call for a second." If a second is not forthcoming, the motion dies for lack of a second. If the motion is seconded, the debate may continue.

Rule 10: Adjournment

At 11:00 p.m., if the business has not concluded, the Mayor will poll all Councilmembers and upon majority vote, the meeting will be extended for a maximum of one hour. If business has not been concluded after a

subsequent hour, the meeting may be further extended by one-hour increments upon a majority vote.

Rule 11: Amendment/Suspension

The Council may amend or suspend these rules at any time upon majority vote of the Council.

Rule 12: Certificates and Proclamations

Rule 12.1: Presentation of Certificates and Proclamations

Presentation of Certificates of Achievement, Appreciation, Recognition, and so forth, will be publicly presented on Tuesday evenings at a special meeting scheduled for 6:00 p.m. and conclude by 6:45 p.m. These meetings are not regular meetings; they are special meetings. Requests for such meetings must be made to the City Manager at least seven days before the requested date.

Rule 12.2: Time Allotment for Certificate Presentations

To provide an equitable time allotment for each Councilmember to present his/her certificates, each Councilmember has accorded nine minutes to conduct his/her presentation(s).

In the event a Councilmember does not wish to use his/her time to conduct a presentation(s), his/her time allotment will then be equally distributed to the remaining Councilmembers, with a maximum time allotment of 15 minutes per Councilmember.

Rule 12.3: Presentations Concerning City-Sponsored Events

The Mayor or Presiding Officer will conduct all presentations concerning events, groups, individuals, and organizations that are sponsored all, or in part, by the City of Monterey Park and/or affiliated with the City of Monterey Park.

Rule 12.4: Proclamation Presentations

The Mayor or Presiding Officer will conduct presentations concerning the announcements of an official position of the City Council at the regularly scheduled City Council meetings commencing at 6:30 p.m.

Rule 12.5: Certificate and Proclamation Signatures

Certificates and proclamations scheduled for City Council regular meeting presentations must include the signatures of all Council Members.

For specific events and galas in which a Councilmember(s) has been invited to attend:

1. One Councilmember is invited – the certificate requires only the attendee's signature.

2. If more than one Councilmember is invited and/or attending a specific event, the certificate requires the signature of all Councilmembers.

Rule 12.6: Specific Events – Requests for Certificates

To ensure timely and appropriate completion of certificates and to avoid duplication of certificate preparation, all requests for certificates should be provided to the City Manager's executive assistant."

SECTION 2: *Technology Protocols*. This Resolution adopts the "Technology Protocols" promulgated by the City Clerk's office on or about March 31, 2020 attached as Exhibit "B," and incorporated by reference. These Technology Protocols will continue in effect until the cessation of the COVID-19 Pandemic as determined either by the State of California or a subsequent City Council resolution. Upon termination of the Pandemic, the Technology Protocols will be of no further force or effect.

SECTION 3: *Supersession*. This Resolution supersedes all previous resolutions purporting to establish rules and procedures for conducting City Council meetings. Accordingly, those resolutions are rendered moot upon adoption of this Resolution and are repealed.

SECTION 4: *Severability*. If any part of this Resolution or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provision or application and, to this end, the provisions of this Resolution are severable.

SECTION 5: *Electronic Signatures*. This Resolution may be executed with electronic signatures in accordance with Government Code §16.5. Such electronic signatures will be treated in all respects as having the same effect as an original signature.

SECTION 6: *Recordation*. The Mayor, or presiding officer, is authorized to sign this Resolution signifying its adoption by the City Council of the City of Monterey Park and the City Clerk, or her duly appointed deputy, may attest thereto.

SECTION 7: *Effective Date.* This Resolution will become effective immediately upon adoption and will remain effective unless repealed or superseded.

PASSED AND ADOPTED this 17th of February, 2021.

Yvonne Yiu, Mayor

Attest:

Vincent D. Chang, City Clerk

Approved as to Form:

Karl H. Berger, City Attorney

State of California)
County of Los Angeles) ss.
City of Monterey Park)

I, Vincent D. Chang, City Clerk of the City of Monterey Park, California, do hereby certify that the foregoing Resolution No. 12226 was duly and regularly adopted by the City Council of the City of Monterey Park at a regular meeting held on the 17th day of February, 2021, by the following vote:

Ayes:	Council Members:	Chan, Liang, Sornoso, Lo, Yiu
Noes:	Council Members:	None
Absent:	Council Members:	None
Abstain:	Council Members:	None

Dated this 17th day of February, 2021.

Vincent D. Chang, City Clerk
Monterey Park, California

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

by Dave Rosenberg

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

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

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

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

1. **Rules should establish order.** The first purpose of the rules of parliamentary procedure is to establish a framework for the orderly conduct of meetings.
2. **Rules should be clear.** Simple rules lead to wider understanding and participation. Complex rules create two classes: those who understand and participate and those who do not fully understand and do not fully participate.
3. **Rules should be user-friendly.** That is, the rules must be simple enough that citizens feel they have been able to participate in the process.
4. **Rules should enforce the will of the majority while protecting the rights of the minority.** The ultimate purpose of the rules of procedure is to encourage discussion and to facilitate decision-making by the body. In a democracy, the majority rules. The rules must enable the majority to express itself and fashion a result, while permitting the minority to also express itself (but not dominate) and fully participate in the process.

The Chairperson Should Take a Back Seat During Discussions

While all members of the governing body should know and understand the rules of parliamentary procedure, it is the chairperson (chair) who is charged with applying the rules of conduct. The chair should be well versed in those rules, because the chair, for all intents and purposes, makes the final ruling on the rules. In fact, all decisions by the chair are final unless overruled by the governing body itself.

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

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

The Basic Format for an Agenda Item Discussion

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Motions in General

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

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

The chair usually initiates the motion by:

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

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

The Three Basic Motions

Three motions are the most common:

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

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

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

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

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

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

When Multiple Motions Are Before The Governing Body

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

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

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

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

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

To Debate or Not to Debate

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

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

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

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

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

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

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

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

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

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

Majority and Super-Majority Votes

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

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

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

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

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

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

The Motion to Reconsider

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

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

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

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

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

Courtesy and Decorum

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

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

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

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

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

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

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

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

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

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

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

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

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

EXHIBIT B

TECHNOLOGY PROTOCOLS
CITY OF MONTEREY PARK

City Clerk's Office

The City Clerk's office is implementing the following technology meeting protocols on a temporary basis. These protocols are utilized in accordance with Executive Order No. N-29-20 and Resolution No. 12142 in order to facilitate the City Council's virtual meetings.

- **General Notice Regarding Virtual Meetings:**

- All meetings of the City Council will be recorded including, without limitation, public comment.

- Such recordings will include the screen name of individuals who are part of the audience even if you choose not to provide public comment.

- Unless you are providing public comment, your audio will be muted and your video will be stopped.

- If you choose to provide public comment, the City Clerk will identify you, ask that you unmute your audio, and allow your video to be shared.

- Closed sessions of the City Council – if any – will not be recorded.

- **Public Communications:**

The following applies to persons wishing to provide public communications regarding agenda items for either a regular meeting or a special meeting:

- At least 24 hours before a meeting, provide the City Clerk's office with an email to mpclerk@montereypark.ca.gov to be read into the record not longer than 50 words; **OR**

- At least 24 hours before a meeting, provide the City Clerk's office with written correspondence -whether email or otherwise – that will be distributed to the City Council without being read into the record; **OR**

- At least 24 hours before a meeting, request to address the City Council electronically via audio/video; **OR**

- During the meeting, utilize the “raise hand” option to be recognized by the City Council at the public comment sections identified on the City Council agenda. You will be recognized in the order that your “raise hand” was received; **OR**

- Public comment may be submitted via telephone during the meeting, before the close of public comment, by calling (877) 853-5247 or (888) 788-0099 and entering the published Zoom Meeting ID provided on the respective agenda then press pound (#). When prompted to enter participation ID number press pound (#) again. If participants would like to make a public comment they will enter “*9” then the Clerk’s office will be notified and you will be in the rotation to make a public comment.

For Regular Meetings: Public Comment regarding any item of public interest within the City Council’s subject-matter jurisdiction will be accepted in the “Public Comment” section of the City Council Agenda.

For Special Meetings: Government Code § 54954.3(a) allows the City to limit public comment to only matters listed on the agenda. No other public comment will be accepted.

- **Meeting Decorum:**

- Persons wishing to be audience members to the meeting may do so anonymously. Anonymous participants, however, will not be recognized for public comment.

- Persons with names that violate community standards, e.g., fighting words, will not be admitted into the meeting. The City’s host will notify those persons in the waiting room that they must either change their participation meeting or will not be allowed into the meeting.

- Persons will not be allowed rename themselves upon being admitted to the meeting from the “waiting room.”

- Persons who seek to by-pass the City’s host controls will be dropped from, and blocked, from the meeting.

City Council Code of Conduct

RESOLUTION NO. 12184

A RESOLUTION ESTABLISHING A CODE OF CONDUCT AND RULES FOR CONDUCTING CITY COUNCIL MEETINGS IN ACCORDANCE WITH GOVERNMENT CODE § 36813.

The City Council does resolve as follows:

SECTION 1: **Code of Conduct; Core Principles**. The City Council finds and declares that its members, and all members of appointed boards and commissions (collectively, "Public Officials"), will abide by the following Core Principles:

A. **Principle 1:** Public Officials should comply with both the letter and spirit of the laws and policies affecting the operations of government;

B. **Principle 2:** Public Officials are expected by the public to be independent, impartial, and fair in their judgment and actions;

C. **Principle 3:** Serving in public office is a privilege and should be exercised in trust for the public good, not for personal gain; and

D. **Principle 4:** Public deliberations and processes should be conducted openly, unless legally confidential, in an atmosphere of respect and civility.

SECTION 2: **General Policies**. Implementing the Core Principles is one of the guiding objectives in adopting this Resolution. Accordingly, in addition to all requirements of applicable law, the Public Officials must adhere to the following policies:

A. Conduct of Public Officials

The professional and personal conduct of Public Officials must be above reproach and avoid even the appearance of impropriety. Public Officials will refrain from abusive conduct, personal charges, or verbal attacks upon the character or motives of other Public Officials, City employees, or the public.

B. Respect for Process

Public Officials will perform their duties in accordance with the processes and rules of order established by the City Council governing the deliberation of public policy issues, meaningful involvement of the public, and implementation of policy decisions.

C. Conduct of Public Meetings

Public Officials will fully prepare themselves for public issues; listen courteously and attentively to all public discussions before the body; and focus on the

business at hand. They will refrain from interrupting other speakers, making personal comments not germane to the business of the body, or otherwise interfering with the orderly conduct of meetings.

D. Communication

Members will publicly share substantive information that is relevant to a matter under consideration by the City Council or boards, commissions, and committees, which they may have received from sources outside the public decision-making process.

E. Confidential Information

Public Officials must respect the confidentiality of information concerning City property, personnel, or proceedings of the City. They will neither disclose confidential information without proper legal authorization nor use such information to advance their personal interests.

F. Advocacy

When presenting their individual opinions and positions, Public Officials will expressly state they do not represent their body or the City of Monterey Park, nor will they allow the inference that they do. All written correspondence expressing an individual opinion and position must be on personal stationery and not on City stationery.

G. Policy Role of Public Officials

Public Officials must respect and adhere to the council-manager structure of Monterey Park city government with respect to the City Manager's relationship with the City Council. In this structure, the City Council determines the policies of the City with the advice, information and analysis provided by the public, boards, commissions, and committees and City staff. The City Manager implements that policy.

SECTION 3: **Substance Abuse Policy**.

A. While acting in their official capacities, Public Officials will refrain from imbibing alcohol to the point that it impairs their judgment, physical coordination, speech, or mental process.

B. At all times, Public Officials will refrain from the use of a controlled substance, narcotic, amphetamine, barbiturate, prescribed or over-the-counter medication in excess of the prescribed dosage, or other non-prescribed hallucinogenic substance.

C. Public Officials who have substance abuse problems are encouraged to make every effort to overcome such problems and to utilize the services of the Employee Assistance Program (EAP). Using the EAP is confidential.

SECTION 4: **Anti-Harassment Policy**.

A. Harassment of an applicant or employee by a Public Official on the basis of race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, sexual orientation, gender identity, veteran or military status, sex, or age will not be tolerated.

B. Harassment on the basis of race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, sexual orientation, gender identity, veteran or military status, sex, or age includes, without limitation, the following examples:

1. Verbal Harassment - Epithets, derogatory comments, or slurs on the basis of race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, sexual orientation, gender identity, veteran or military status, sex, or age.

2. Physical Harassment - Assault, impeding or blocking movement, or any physical interference with normal work or movement when directed at an individual on the basis of race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, sexual orientation, gender identity, veteran or military status, sex, or age.

3. Visual Forms of Harassment - Derogatory posters, notices, bulletins, cartoons, or drawings on the basis of race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, sexual orientation, gender identity, veteran or military status, sex, or age.

4. Sexual Favors - Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature that is conditioned upon employment benefit, unreasonably interferes with an individual's work performance or creates an offensive work environment.

SECTION 5: **Expected Conduct**.

A. Public Officials will request administrative services only through the City Manager or designee.

1. Public Officials cannot direct, order, or make demands on any City employee, other than inquiries that can be answered routinely and without research.

2. Public Officials cannot attempt to reorganize an employee's priorities or influence the manner by which City staff performs their assigned functions or duties.

3. Public Officials cannot retaliate or threaten to retaliate against employees as a result of disagreements over policy recommendations.

4. Public Officials cannot threaten a City employee with disciplinary action.

B. Public Officials must act collectively in a properly noticed and constituted meeting; Public Officials do not have authority to make decisions or take actions on behalf of the body unless expressly authorized to do so.

1. Public Officials cannot make representations or promises to any third party regarding the future actions of the City or of the body of which they are a member, unless such representation or promise has been duly authorized by the appropriate body.

2. When making public utterances, Public Officials must make it clear whether they are authorized to speak on behalf of the body of which they are a member, or whether they are presenting their own views.

3. Public Officials cannot interfere with the manner by which the City Manager performs his or her duties.

C. Public Officials who are members of boards and commissions must limit their activities to matters within their subject matter jurisdiction.

1. Boards and commissions can address only those matters determined by the MPMC or by the City Council to be within their subject matter jurisdiction; staff need not place on an agenda, provide resources for or implement requests, directions or actions outside that jurisdiction. Unless directed otherwise by the City Council, Commissions and Boards must refrain from consideration of policy issues that are under active consideration by the City Council.

2. The City Council as a whole will provide direction and guidance to its subsidiary bodies.

D. City resources must be used solely for proper governmental purposes, and only with proper authorization.

1. City letterhead may only be used by Public Officials for official City business.

2. City employees cannot be asked or directed to spend time on non-City business.

3. Public Officials cannot use or disclose information obtained through City service for improper purposes.

SECTION 6: **Commitment to Healthy Workplace Environment**. While the Code of Conduct adopted by this Resolution is mandatory, elected and appointed public officials should help implement the Code of Conduct by committing to a Healthy Workplace Environment. To memorialize such commitment, the City Council believes that it is in the public interest for all Public Officials to enter into the acknowledgment attached as Exhibit "A" (the "Healthy Workplace Commitment"). The City Manager, or designee, is authorized to promulgate such administrative policies and procedures that will facilitate an alternative dispute resolution as contemplated in the Health Workplace Commitment. Such a program may be referenced as the "Monterey Park Healthy Workplace Environment Program."

SECTION 7: **Ex Parte Policy**. To implement Core Principles Nos. 2-4, the City Council adopts the "Ex Parte Communication Policy" attached as Exhibit "B," and incorporated by reference.

SECTION 8: **Enforcement**. To enforce the Core Principles, and the polices set forth in this Resolution to implement those Core Principles, the City Council adopts the following requirements for enforcement:

A. A complaint regarding a violation of the Code of Conduct may be filed with the Mayor, the City Manager, or the City Attorney (collectively, the "Investigator").

B. Upon receiving a complaint, the person receiving the complaint may take one of the following actions depending on the circumstances of the alleged violations of law or policy:

1. Take no action;

2. Conduct a preliminary investigation of the allegations before recommending any action. Following such a preliminary investigation into the complaint, the Investigator may then either take no action or place the matter on a future City Council agenda with a recommendation for consideration; or

3. Place the matter on a future City Council agenda for consideration.

C. If a complaint is placed on the City Council agenda, the City Council may take the following action:

1. Take no action;

2. Initiate an investigation of the allegations before considering any discipline identified in this Resolution; or

3. Based upon substantive evidence, take one of the disciplinary actions identified in this Resolution.

4. Nothing in this policy precludes individual City Council Members from making public statements regarding alleged conduct.

D. In addition to any other remedy provided by applicable law, the City Council may undertake one or more of the following actions after finding a violation of this Resolution occurred:

1. Admonition. This is the least severe form of action. An admonition may typically be directed to all members of the City Council, reminding them that a particular type of behavior is in violation of law or City policy. An admonition may be issued by the City Council before any findings of fact regarding allegations, and because it is a warning or reminder, would not necessarily require an investigation or separate hearings to determine whether the allegation is true.

2. Sanction. This is the next most severe form of action. Sanction may be directed to a particular member of the City Council based on a particular action (or set of actions) that is determined to be in violation of law or City policy. A sanction is distinguished from censure in that it is not a punishment. A sanction may be issued based upon City Council review and consideration of a written allegation of a policy violation. The member accused of a violation will have an opportunity to provide a written response to the allegation. A sanction may be issued by the City Council and because it is not punishment or discipline, would not necessarily require an investigation or separate hearings.

3. Censure. Censure is the most severe form of action. Censure is a formal statement of the City Council officially reprimanding one of its members. It is a punitive action, which serves as a penalty imposed for wrongdoing, but it carries no fine or suspension of the rights of the member as an elected official. Censure should be used for cases in which the City Council determines that the violation of law or policy is a serious offense. To protect the overriding right to freedom of speech, the City Council cannot impose censure on any of its members for the exercise of his or her First Amendment rights, no matter how distasteful the expression was to the City Council and the City. However, nothing can be construed to prohibit the City Council from collectively condemning and expressing their strong disapprobation of such remarks. A decision to censure requires the adoption of a Resolution making findings with regard to the specific charges, based on substantial evidence, and approved by a unanimous vote of the City Council.

SECTION 9: **Amendment/Suspension**. The City Council may amend or suspend these rules at any time upon majority vote of the City Council.

SECTION 10: **Amendments to Existing Policies**. Any existing policies – whether adopted by resolution or otherwise – governing the subject matter in this Resolution are amended to conform with this Resolution. Nothing in this Resolution is intended to, nor does it, supersede the City's most recently adopted Conflict of Interest Code.

SECTION 11: **Authority**. The City Manager, or designee, is authorized to reproduce all City Council policies and procedures including, without limitation, this Resolution and its exhibits, in an appropriate font, form, and presentation (e.g., booklet format) for ease of use.

SECTION 12: **Electronic Signatures**. This Resolution may be executed with electronic signatures in accordance with Government Code §16.5. Such electronic signatures will be treated in all respects as having the same effect as an original signature.

SECTION 13: **Effectiveness**. This Resolution will become effective immediately upon adoption.

PASSED, APPROVED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MONTEREY PARK THIS 5TH OF AUGUST, 2020.

Hans Liang, Mayor

ATTEST:

Vincent D. Chang, City Clerk

APPROVED AS TO FORM:

Karl H. Berger, Assistant City Attorney

Exhibits:

Exhibit A – Healthy Workplace Environment
Exhibit B – Ex parte Communication Policy

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) §
CITY OF MONTEREY PARK)

I, Vincent D. Chang, City Clerk of the City of Monterey Park, California, do hereby certify that the foregoing Resolution No. 12184 was duly adopted by the City Council of the City of Monterey Park at a regular meeting held on the 5th day of August, 2020, by the following vote:

Ayes	Council Members:	Yiu, Lo, Sornoso, Chan, Liang
Noes:	Council Members:	None
Abstain:	Council Members:	None
Absent:	Council Members:	None

Dated this 5th day of August, 2020.

Vincent D. Chang, City Clerk
City of Monterey Park, California

EXHIBIT A

City of Monterey Park

Pride in the Past • Faith in the Future

MY COMMITMENT TO A HEALTHY WORK ENVIRONMENT

As a Public Official of the City of Monterey Park, I am committed to the creation and support of a healthy work environment for all Public Officials and City Employees.

I understand that positive, professional communications are critical to a healthy work environment and positive morale.

I commit to hold myself accountable to adhere to the Code of Conduct as adopted by Resolution No.12184 on August 5, 2020 and demonstrate professional communications with all Public Officials, employees, residents, businesses and customers of the City of Monterey Park.

If at any time it is brought to my attention that my behavior is not professional, I agree to listen to the feedback and commit to work on improving the issue brought to my attention.

I understand that on-going negative communications are unacceptable.

I commit to bring issues of un-professional communication to the attention of fellow Public Officials in a constructive manner.

_____	_____
Print Name	Title
_____	_____
Signature	Date

EXHIBIT B

EX PARTE COMMUNICATION POLICY

Ex parte communication is evidence gathering that takes place outside of a properly noticed, quasi-judicial hearing. *Ex parte* communications include the transmission, receipt or exchange of oral, written or graphic information relevant to the merits of an adjudicatory or quasi-judicial proceeding. *Ex parte* communications also include any other type of sensory communication that can convey visual or auditory information. For example, the visual inspection of the site of a proposed project can reveal a great deal of information about the site that may not otherwise be evident from the materials otherwise available to the parties and the public in the administrative record.

1. Disclosure of *ex parte* communications is critical to ensure due process in quasi-judicial proceedings.

In the context of adjudicatory or quasi-judicial proceedings, the guarantee of procedural due process is of paramount concern. A fair hearing before an impartial decisionmaker is a fundamental component of due process. Due process requires the decisionmakers to act only upon evidence that has been introduced during the course of an adjudicatory hearing and prohibits decisionmakers from acting on their own information. Stated differently, the decisionmaking body must consider only the oral and documented evidence presented at the hearing by staff, the interested parties, and other interested individuals and groups. The body must then make its decision solely on the basis of evidence in the record of proceedings. When a decisionmaker uses (*i.e.*, relies upon or is influenced by) "evidence" outside of the record, there is a denial of a fair hearing "because, as to that 'evidence,' there has been no hearing at all, for the disadvantaged party has not been heard."

The right to a hearing before an administrative tribunal would be meaningless if the tribunal were permitted to base its determination upon information received without the knowledge of the parties. A fair hearing requires that the parties be apprised of all the evidence known to each of the decision makers so that the party may have the opportunity to refute, test, and explain it before deliberations begin and a decision is made. Consequently, the detailed disclosure of all *ex parte* communications is necessary to avoid a due process violation. Detailed disclosure also aids in preserving the due process requirement of an unbiased tribunal and the related public interest in avoiding the appearance of bias on the part of public decisionmakers.

2. The types of *ex parte* communications that must be disclosed.

Information that is evidentiary in nature and acquired through *ex parte* communications must be disclosed if that same information is not already set forth in the administrative record and available to the parties and the public. Information is evidentiary in nature if it is considered by the decisionmaker for its bearing on the issues and his or her ultimate

decision on matter. Casual, non-substantive communications that do not bear on the ultimate decision do not potentially violate due process and, accordingly, do not need to be disclosed. For example, a constituent approaching a councilmember and expressing support or opposition for a particular project does not raise due process concerns if the constituent's expression is not accompanied by factual information that may influence the councilmember's decision-making process.

3. Recordkeeping requirements.

Presently, there is no legal requirement that you maintain written records of *ex parte* communications. However, it is strongly recommended that, to the extent feasible, you keep contemporaneous notes of the substance of all relevant *ex parte* communications, including the content of the communication, the names of those involved, and the date, time and place of the communication. Creating and maintaining contemporaneous notes of *ex parte* communications helps guard against forgetfulness and the resulting inadvertent failure to disclose. Keeping notes also helps ensure that the disclosure is thorough, *i.e.*, that all relevant aspects of the communication are disclosed.

4. Timing, form and substance of disclosures.

Disclosure of *ex parte* communications should be detailed and complete. The substance of the information communicated, the name of the source, and the date, time and place of the communication should all be disclosed. If you wrote notes summarizing the details of *ex parte* communications and you choose to use those notes to refresh your recollection during a hearing, you will need to produce a photocopy of your notes and give them to the recording secretary for inclusion in the administrative record. Disclosure must occur before the public comment period is opened at the subject hearing. Ideally, *ex parte* disclosures are made by each decisionmaker immediately after the staff presentation on the item is complete. This way, the interested parties and the public are given all of the relevant information and evidence at the same time and, in the event of a subsequent legal challenge, it will be easily located in the administrative record of the proceedings.

5. Obligation to refrain from *ex parte* communications after close of the public hearing and before final action is taken.

There can be no *ex parte* communications during the period between the closing of a public hearing and the final decision. This situation usually arises when the decisionmaking body closes the public hearing and then directs its staff to prepare written findings to bring back for consideration at a subsequent meeting. During this interim period, each decisionmaker must take care to avoid *ex parte* communications and must reject attempts by others to make *ex parte* contact with them on the subject matter of the closed hearing. Any decisionmaker who engages in *ex parte* communications or who comes into possession of new information or evidence during this interim period should immediately inform the City Attorney so that proper steps can be taken to preserve the integrity of the process.

City of Monterey Park

Pride in the Past • Faith in the Future

MY COMMITMENT TO A HEALTHY WORK ENVIRONMENT

As a Public Official of the City of Monterey Park, I am committed to the creation and support of a healthy work environment for all Public Officials and City Employees.

I understand that positive, professional communications are critical to a healthy work environment and positive morale.

I commit to hold myself accountable to adhere to the Code of Conduct as adopted by Resolution No.12184 on August 5, 2020 and demonstrate professional communications with all Public Officials, employees, residents, businesses and customers of the City of Monterey Park.

If at any time it is brought to my attention that my behavior is not professional, I agree to listen to the feedback and commit to work on improving the issue brought to my attention.

I understand that on-going negative communications are unacceptable.

I commit to bring issues of un-professional communication to the attention of fellow Public Officials in a constructive manner.

Print Name	Title / Commission, Committee, or Board
Signature	Date