

# COMMISSIONER'S HANDBOOK



**CUPERTINO**

**2019**

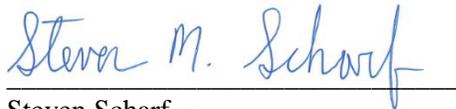
## WELCOME AND ORIENTATION

Welcome and thank you for your willingness to serve as a member of a City of Cupertino Commission. Advisory bodies play an important role in city governance by assisting the City Council in addressing specific issues in detail, lending professional expertise, and facilitating community decision-making.

The City of Cupertino has a number of advisory bodies, each with distinct responsibilities. As a new advisory body member, you should familiarize yourself with the documents governing your particular body including City ordinances, City Council resolutions, relevant element(s) of the General Plan, and other documents, all available from your staff liaison. Reviewing these documents will help you get a sense of your responsibilities.

This Handbook is designed to serve as a reference for the basic protocols that apply generally to all City advisory bodies. Orientation is necessarily an active process. As a new member you may want to meet with the Chair of your advisory body to get a better sense of your role and the business of the body, as well as with the staff liaison assigned to the body. Along with familiarizing yourself with your advisory body's foundational documents, you may want to review agendas and minutes from recent meetings to see what current issues have been under consideration, as well as the advisory body's work program to familiarize yourself with current goals.

Learning your role and developing an effective voice takes time and familiarity. We hope this Handbook will assist you towards a satisfying and productive experience. Your participation is deeply appreciated by the City Council, by city staff, and by your community. The vitality and strength of our community results from the willingness of people like you to serve.



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Steven Scharf  
Mayor

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# THE STRUCTURE OF GOVERNMENT

## THE STRUCTURE OF GOVERNMENT

### A. FORM OF GOVERNMENT

Generally, there are two sources of authority by which California cities govern themselves. Charter cities use the election process to adopt a charter or constitution, which sets forth the basis and authority for all future actions not in contradiction with pre-emptive state law. General law cities adhere to the provisions and requirements established as general law by the state for cities. Cupertino is a general law city, as are about 80 percent of the cities in California.

### B. CITY COUNCIL

The City Council consists of five members elected in odd numbered years to staggered four-year terms. These councilmember then elect the mayor and vice mayor to one-year terms.

The City Council is the governing body of the City, vested with the regulatory and corporate power of the municipal corporation. The Council serves as the city's board of directors and legislative body. It sets goals and priorities and establishes policies. The Mayor is the presiding officer of the Council, and the official spokesperson and representative of the City.

It is not possible for each councilmember to know all pertinent facts of every given situation, or to devote sufficient time to gather them. For counsel and advice on the practical application of established policy, reliance is placed on the service of interested citizens appointed to the various commissions. For technical and administrative assistance both the Council and the commissions refer to the City Manager and the City Manager's staff.

### C. COMMISSIONS, BOARDS, AND COMMITTEES

There are two types of advisory bodies. One is permanent, and the duties, responsibilities, and scope of authority are set forth in an enabling ordinance. The other is created by a resolution or minute order of the Council to serve a particular function during a specified time.

In both instances, the primary purpose of these entities is to gather information, weigh public input, and examine issues in depth to render a recommendation to the Council.

A brief description of the various commissions and their primary functions is available from the City Clerk's office.

## D. CITY OFFICERS, DEPARTMENTS, AND STAFF

The City Council appoints the City Manager, City Attorney and City Treasurer.

### 1. City Manager

The City Manager has complete responsibility and authority for the administration of the City's government. This individual is appointed by and serves at the pleasure of the Council and is the appointing authority for the City, selecting the department heads and other employees.

### 2. City Attorney

The City Attorney is retained to advise the Council and planning commission on questions of law in those matters coming before them, and to represent the City in other actions to which it is a party, or as otherwise may be requested.

### 3. City Treasurer

The position of the City Treasurer is established by state law and is responsible for maintaining an adequate cash balance in the various funds, and for investing available funds. The position also serves as the City's chief financial officer under the direction of the City Manager.

### 4. City Clerk

The position of the City Clerk is also established by state law, and has responsibility for conducting all municipal elections, acting as secretary to the City Council and maintaining all official city records. Appointment has been delegated to the City Manager in Cupertino.

### 5. Departments

The administration of Cupertino's government is provided by the City Manager and the following departments: Administrative Services, Community Development, Innovation Technology, Recreation and Community Services, and Public Works. The heads of departments are appointed by the City Manager and serve at his/her pleasure. By virtue of their technical training and experience, they are assigned by the City Manager to provide staff assistance as needed to the commissions. However, the commissions have no authority to supervise or direct the work of city staff. This is done only through the City Manager.

# COMMISSION MEMBERSHIPS

## COMMISSION MEMBERSHIPS

### A. APPOINTMENTS

After application, interview and selection, commission appointments are made by majority vote of the Council for specified terms, which for most appointments are four years. Each member must be administered the oath of office by the City Clerk prior to being seated. In some instances, declarations of property and interests may be required by the Fair Political Practices Commission.

### B. RESIGNATIONS AND REMOVALS

If a member is unable to continue serving because of health, business requirements or personal reasons, a letter of resignation should be submitted to the City Council.

The position of any member is automatically vacated when the member ceases to meet the qualifications for office, when Council accepts the member's resignation, or when the Council so declares.

### C. ATTENDANCE

A member shall be considered removed from an advisory body under the following conditions:

1. A member misses more than three consecutive meetings
2. A member misses more than 25% of the advisory body's meetings in a calendar year (Resolution 10-048)

### D. VACANCIES

Vacancies are filled by appointment by the Council. Appointments made in the middle of a term are for the unexpired portion of that term. Council-appointed Alternates will automatically fill a vacancy.

### E. ANNUAL RECOGNITION

Commissioners are honored annually at commissioners' appreciation event.

# COMMISSION OFFICERS AND STAFF

## COMMISSION OFFICERS AND STAFF

### A. OFFICERS

Each year, every commission will elect from its membership a chairperson and a vice chairperson who serve at the pleasure of the commission. The term is for one year. It is the chairperson's duty to preside over meetings and to present such reports as are required or requested by the Council, and to act as the formal commission representative in communications with the Council. The vice chairperson acts in this capacity when the chairperson is not available. The chair and the vice chair serve at the pleasure of the commission.

### B. STAFF

The services of the city staff are coordinated by the City Manager.

### C. SECRETARIAL SERVICE AND RECORDS

A secretary may be assigned by the City Manager to provide staff assistance if appropriations for this are made by the City Council. In addition, a mechanical or personal recorder may be provided when budgeted funds are available and the services are required either by law or by the nature of the matters before the commission. The minutes and other official records of a commission are public records and must be filed with the City Clerk, the City Council and other interested parties as required. Agendas and notices of adjournment or special meetings must be posted as required by the Ralph M. Brown Act.

### D. EXPENSES

Necessary meeting space and equipment will be made available to the commission, and additional work areas may be arranged by the City Manager when needed. If a budget is provided, the commission is required to operate within budgetary limitations, with all expenditures requiring prior approval. Mileage and personal expenditures associated with attendance at approved conferences, hearings and other meetings will be reimbursed according to city policy. In all instances, the purchasing procedures of the City apply.

# PREPARATION FOR MEETINGS

## PREPARATION FOR MEETINGS

### A. PREPARATION

Be prepared. Thoroughly review the agenda packet, including agenda reports, and any other materials *before* the meeting. The issues that come before commissions are important to the community as a whole and demand your consistent attention. In agreeing to serve on an advisory body, you make a commitment to put in the time required to prepare fully for each meeting.

### B. ACTION

Understand what action you are being called upon to take for each particular agenda item.

### C. AGENDA QUESTIONS

If you have questions about the agenda or agenda report, contact the Chair or your staff liaison before the meeting to clarify questions or request further information.

### D. LIMITS OF AUTHORITY

Know the responsibilities of your commission, as well as the limitations of your individual authority. As a member of an advisory body you will be asked to provide recommendations to the City Council about specific issues. Keep in mind that your appointment does not empower you to supervise City staff.

### E. OBJECTIVITY

Keep an open mind. An objective, balanced, and receptive approach will help you assess the facets of a given issue, and evaluate new ideas. When receiving written and oral public testimony it will be necessary to discern between fact and opinion, as well as between those concerns which are relevant and those which are secondary to the issue at hand. Keeping an open mind will make it easier for you to understand all sides of an issue before you make a judgment or take a position.

### F. OPENNESS

Strive to appreciate differences in approach and point of view. Diversity of ideas sustains a thoughtful dialogue and a vibrant community. Likewise, take care to articulate your own ideas: remember that your individual voice is a critical part of the whole dialogue. Again, furthering common goals takes cooperation, flexibility, and a broad-based view of the public interest. If in doubt, return to the foundational documents to guide your understanding of the complexities of an issue.

### G. CLARIFICATIONS

If you are unsure about something *during* the meeting, ask for clarification. On behalf of the public, your understanding of issues is important. Each advisory body has a City staff liaison to provide information to assist the members throughout the decision-making process.

#### H. CONFLICTS OF INTERESTS

Review each agenda item ahead of the meeting to determine if you may have a conflict due to property or monetary interests.

# MEETINGS

## MEETINGS

### A. REGULAR MEETINGS

Commissions are required to hold regular meetings open to the public as provided by the enabling ordinance. All such meetings generally are held in City Hall, but may be adjourned from time to time to meet elsewhere for specific purposes. The agenda for this meeting must be posted at least 72 hours prior to the meeting.

### B. ADJOURNED MEETINGS

If the business to be considered at a regular meeting cannot be completed, the commission then may designate a time and date for an adjourned meeting. This must be announced to the members of the public who are present at the time of adjournment, and so recorded in the minutes. A Notice of Adjournment must be posted within 24 hours of the adjournment.

### C. SPECIAL MEETINGS

A special meeting may be called by the chairperson or a majority of the members. A Special Meeting Notice must be delivered to all commissioners, the City Clerk, and any interested parties, including news media, which have made a request for such notification. The notice must contain the time and place for such a meeting and the subject matter to be considered, and be delivered at least 24 hours prior to the meeting. Introduction of other items at a special meeting is prohibited.

### D. SUBCOMMITTEES

The chairperson may appoint special subcommittees of less than a quorum of the commission who then may meet at their convenience to carry out the purpose of the subcommittee. If the subcommittee has a continuing subject matter or a regularly scheduled meeting time, it may qualify as a Brown Act committee and public notice provisions will apply.

### E. QUORUM

A quorum consists of a majority of the members of the commission. A quorum is required to conduct business at any meeting whether it is a regular, adjourned, or special meeting. While it is expected that members be present at all meetings, the chair should be notified if a member knows in advance that he/she will be absent.

## F. AGENDAS

Each commission has a staff coordinator responsible for preparing an agenda in consultation with the Chair and distributing the agenda and supporting documents prior to each meeting. Items to be heard before a commission should be submitted to the administrative coordinator well enough in advance to assure placement on the desired agenda.

The *Title* of each item on the agenda shall be descriptive and understandable to the public. The posted agenda also shall indicate when opportunity is provided for members of the public to address the commission. If an advisory body member or staff intends to bring up an item for discussion or action, the item must be included on the agenda. Members of advisory bodies may request that the Chair or staff place any item within the purview of the commission on a future agenda. Information items placed on an agenda may not be acted upon at the meeting. Any member may, however, request that the informational item be placed on a future agenda for action. The agenda shall be posted at least 72 hours prior to any meeting in a place visible to the public. A notice of adjournment shall be posted at the door of the meeting, within 24 hours of adjournment. Staff shall maintain a record of the agenda and notice of adjournment posting.

Only those items appearing on an agenda may be considered at each meeting. However, in cases of extreme emergency unanimous consent of all members present may allow other matters to be introduced and action taken, if urgency exists and delay would be harmful to the public interest.

## G. MINUTES

The approved minutes of a commission are the vehicle through which the commission as a whole or its individual members express their interest. The minutes are submitted to the City Council and placed on file by the City Clerk for public access. While other avenues exist for communication of interest or opinion, the minutes of the commission remain the official document of record.

## H. PROCEDURE

Each commission may adopt such rules and procedures as it feels necessary to accomplish its duties. Such rules are subject to Council approval before becoming effective. In the absence of such rules, the guidelines on parliamentary procedure contained in Roberts' Rules of Order may be followed.

## I. WORK PROGRAM

A work program is the commission's plan and statement of goals for the year, prepared in cooperation with staff. It should reflect the goals and policies of the City Council. It identifies important problems, challenges, and opportunities, offers a jointly developed plan to address these over the course of the year, and furthers a sense of shared

purpose and responsibility among advisory body members. An adopted and published work program will:

- Establish viable short-range objectives that further the long-range goals of the advisory body
- Provide group direction, and keep the advisory body on course
- Provide a basis for measuring accomplishment
- Assist in the allocation of time, energy, and resources
- Promote continuity of action, and help keep the big picture focused

For example, a work program may include community outreach activity, a plan for addressing critical community issues, an education component, or any other tasks the advisory body identifies as key work challenges for the upcoming year.

# MEETING MANAGEMENT

## MEETING MANAGEMENT

The City of Cupertino is committed to operating efficient, effective and accessible government operations. The following material outlines techniques you can use to ensure that your commission meetings are efficiently run and give all residents an equal opportunity to address the issues.

### A. PROCEEDINGS

1. Start meetings on time. Keep the agenda in mind in order to give each item the appropriate time.
2. Announce at the start of a meeting if the order of agenda items is to be rearranged for convenience, for response to those attending only for certain items, or for better pacing of the agenda.
3. Let the Chair run the meeting.
4. Be fair, impartial, and respectful of the public, staff, and each other. Give your full attention when others speak.
5. Learn to trust your own good judgment on decisions.
6. Remember that people may be attending a meeting for the first time, and may be unfamiliar with your procedures. In your discussion, either avoid or explain technical terms or verbal shorthand.
7. Listen to audience concerns. Don't engage in side conversations or otherwise be distracted during public testimony. The opportunity for public testimony is central to the strength of democracy, and is therefore encouraged. Active listening, however, does not mean engaging the public in debate. Your response is appropriately saved for after the public testimony is closed.
8. Close the public testimony before you begin serious deliberation on an issue.
9. Sometimes questions can most effectively focus discussion and direct decision-making. For example,

*For staff:*

- What is the history behind this item?
- What are the benefits and drawbacks?
- What other alternatives did you consider?

*For other advisory body members:*

- What do you think about this item?
- What have you heard from the residents?
- What would it take for you to support this?

*For the public (at a hearing):*

- What are your concerns?
- How will this proposal affect you?
- What specific, constructive, alternatives can you recommend?

*For yourself:*

- What are we trying to accomplish?
- What are the long-range interests of the community?
- What guidance can be found in our foundational documents?
  - Cupertino Municipal Code
  - Budget
  - Capital Improvement Program
  - General Plan
  - Specific Plans
  - Park Master Plans
  - Council Goals
  - Council and Commissions
  - Brown Act

10. Often you must balance multiple views, neither favoring nor ignoring one individual or group over another. Your obligation is to represent a broad-based view of the community's long-range interests.
11. Remember that your commission exists to make recommendations. It is not simply a discussion group or debating society.
12. Endeavor to end meetings by 10:00 p.m. Short breaks may be helpful during long meetings. Meeting beyond 10:00 p.m. reduces the quality of the commission's work.
13. Meeting Types  
Commissions may meet in different types of meeting formats including the conventional public meeting, and study sessions. Please contact your staff representative for a detailed explanation of these formats and when they are appropriate.

## B. DECORUM AT MEETINGS

1. Limit Speakers to ten minutes for a group or for an applicant and three minutes for other members of the public.
2. Discourage outward signs of agreement or disagreement from the audience such as applause or statements from the floor. Such demonstrations can intimidate those with an opposing view and unintentionally discourage open public discussion of all the issues and points of view.
3. Limit your own comments to the issues before commission. Avoid the appearance of straying from the subject or "grandstanding".

## C. EFFECTIVE CONFLICT MANAGEMENT

Public Hearings or citizen input meetings can be difficult to manage. Participants are sometimes highly motivated and often nervous. When there is a group of potential adversaries in one room, the possibility of conflict is high. As a commission member, your role is to guide opposing views to positive results, not to eliminate them.

The following suggestions may help you manage conflict and confrontation effectively:

- Anticipate differences by learning about the topic beforehand so you can concentrate on the meeting's purposes
- Set meeting rules early and make sure everyone abides by them without exception.
- Explain carefully the purpose of the Public Hearing and what action is expected at the conclusion of the hearing. Insistence on playing by the rules is your best tool for conflict management in Public Hearings.
- All persons speaking should be encouraged to clearly identify themselves, not only for the record, but also so that you may address them by name.
- Set an acceptable time limit for testimony (generally three minutes) and stick to it.
- Make decisions as promptly as possible. Many bodies get so bogged down in procedural distractions, petty details and endless searches for more information that the issue never seems to get resolved.
- Don't overreact to inflammatory comments. Most are expressions of frustration and do not require answers. Turn frustration to constructive avenues. Ask questions. Be as specific as you can. Refer to the speaker by name. Reinforce areas where you agree. Do not return insult for insult. Very often, the primary audience for your response is not the person who raised the issue.
- Avoid speaker-to-audience conversation. The purpose of a hearing is to help your commission arrive at a decision, not to engage in audience debate.

- If other members have questions of the speaker, permit these questions only during the speaker's time at the podium.
- Be careful not to prejudge the action of the commission. Use the hearing to gather necessary information about the project and individual desires concerning the proposal. Members should not express their views on the proposal until after testimony has ended. Their comments and questions should not suggest a position one-way or the other.
- Once testimony has ended, each member should be invited to discuss individual views on the proposal.
- View the Public Hearing as an example of participatory government in action at the local level. Make it your personal goal to make the Public Hearing work and ensure that everyone is fairly heard.

#### D. BASIS FOR YOUR DECISION

1. Commission decisions should be based principally on the information presented to you in the open public meeting process. If you collect pertinent information outside of the public process through a meeting with stake holders or site visits, you should share that information with your fellow commissioners in the public meeting. This sharing of information will ensure that other commissioners and members of the public have a better understanding of the rationale for your decision.
2. Commissioners are free to meet or refuse to meet with residents, resident groups, developers or prospective contractors or any persons outside of the public meeting process concerning issues before the commission. If you meet with any individuals outside of the public meeting you should disclose the content of that meeting in the public meeting to again ensure that everybody is aware of the facts and have similar information up on which to base their decision.

#### E. MOTIONS

When a member wishes to propose an idea for the body to consider, the member must make a motion. This is the only way an idea or proposal from a member may be presented to the body for discussion and possible action. A motion goes through the following steps:

1. The member asks to be recognized by the chair.
2. After being recognized, the member makes the motion (I move...).
3. Another member seconds the motion. No discussion should occur until the chair determines whether there is a second to the motion on the floor.
4. The chair states the motion and asks for discussion.
5. When the chair feels there has been sufficient discussion, the debate is closed (i.e., "Are you ready for the question? or "Is there any further discussion?").

6. If no one asks for permission to speak, the chair puts the question to vote through consensus or roll call vote.
7. After the vote, the chair announces the decision (“The motion is carried” or “The motion fails”, as the case may be).

Phrasing a motion is often difficult and corrections may be necessary before it is acted upon. Until the Chair states the motion (step 4), the member making the motion may rephrase or withdraw it. After an amendment, the motion as amended still must be seconded and then voted upon. It is particularly important when a motion is amended that the Chair restate the motion in order that members are clear as to what they are voting on.

In making a motion, members should try to avoid including more than one proposal in the same motion. This is especially important when members are likely to disagree. If a member would prefer to see proposals divided and voted upon separately, the member should ask the chair to divide the motion. If other members do not object, the chair may proceed to treat each proposal as a distinct motion to be acted upon separately. The request to divide may also be made by motion.

#### F. ROLE OF CHAIR

The Chair shall preserve order and decorum at all meetings of the advisory body, announce the advisory body decisions, and decide questions of order. The Chair is responsible for ensuring the effectiveness of the group process. A good Chair balances moving the discussion forward with involving all commissioners and allowing for adequate public participation. In the absence of the Chair the Vice chair shall act as presiding officer.

#### G. RESPONSIBILITIES OF CHAIR

- Ensure that the public understands the nature of the issue being discussed (for example, reason for discussion, process to be followed, opportunities for public input, timeline for decision).
- Keep discussion focused on the issue at hand.
- Solicit opinions from commissioners. Encourage evaluation of new, tentative, or incomplete ideas. Discourage overly dominant advisory body members from having disproportionate control over the discussion.
- Protect advisory body members, staff, and the public from personal attacks.
- Provide structure for addressing complicated issues.
- For major items, delay analysis and action until the full range of alternatives is on the table.
- Attempt to reach decisions expeditiously on action items. At those times when action would be premature, guide discussion toward a timeline or framework for responsible action.
- Maintain order and ensure respect for all opinions.

# ROLES AND RELATIONSHIPS

## COMMISSION ROLES AND RELATIONSHIPS

### A. COUNCIL-COMMISSION RELATIONSHIP

The primary purpose of all advisory bodies is to provide judicious advice to the City Council, the elected policy-making body of the City. The advisory body's role can include hearing public testimony on the Council's behalf, building community consensus for proposals or projects, reviewing written material, facilitating study of critical issues, guiding the implementation of new or regulating established programs, assessing the alternatives regarding issues of community concern, and ultimately forwarding recommendations to the Council for consideration. There are times when the advisory body's recommendation will not be sustained or will be modified by the City Council. It is important to recognize this not as a rejection of the integrity of the recommendation, but as an inevitable part of the process of community decision-making.

Throughout this process, the form and formality of the relationship between advisory body members and councilmembers will vary. Some advisory body members will have regular contact with individual councilmembers, while others may serve solely in the group context. This relationship will depend on your advisory body as much as on you and the Council. For example, there are times when the Chair may address the Council formally on behalf of the advisory body, and other times when an advisory body member may meet with a councilmember individually. At all times it is important to aim for clarity and mutual respect for the different responsibilities and roles.

Members should avoid discussing the recommendations of the commission with individual councilmember once the vote is taken if it is for the purpose of exerting influence. Written communications from the commission to the City Council in sufficient time to be placed on the agenda is the acceptable method of making recommendations to the Council. It is sometimes appropriate for the chair or duly assigned member to be prepared to address the Council, to answer questions from councilmember pertaining to the recommendations, and to clarify ambiguities. It must be remembered that final authority and responsibility for public policy decision rests with the City Council. The Council has appointed commissioners and board members as advisors to them. This underlying philosophy makes it improper for an individual commission member to try to persuade the Council into the acceptance of a recommendation other than that voted by the majority. The role of a commission is to assist the City Council in the formation of policy, having been created for the purpose of advising, being a guide to public opinion, and promoting specific projects in the community at large.

### B. STAFF-COMMISSION RELATIONSHIP

Staff is assigned by the City Manager to assist and act in a technical advisory capacity to the commissions. It is not expected that every staff recommendation will be followed; however, because of the staff's technical knowledge, full consideration should be given to their recommendation. Just as the commission is held accountable to the City

Council, so is the staff to the City Manager. After the staff makes a report or recommendation to a commission (which recommendation may or may not be followed), they are at liberty to make the same recommendation to the City Council through the City Manager, even though the commission may have taken a different position. The staff has been employed by the manager to provide technical guidance. Staff members make objective recommendations without consideration of personal or political consequences. Failure of a staff member to provide expected or promised service to the commission is basis for complaint to be brought to the attention of the City Manager. Since staff personnel are directly responsible to the City Manager, it is his responsibility alone to allocate their time and resources in the interest of the total city government.

The relationship of the advisory body and staff is an active and continuous one. Both advisory body and staff are motivated by the shared goal of furthering the City's best interests. Yet while the goal is shared, there are times when the approach and responsibility toward implementing the goal can be different. Because the distinctions in responsibility are not always explicit, cultivating a balanced understanding of your role is essential. The interaction need never be adversarial, but rather can promote respect for different perspectives, and appreciation for each other's strengths.

Since the city staff works for and is accountable to the City Manager, commission members should not attempt to direct or decide the priority of work for departments or individual staff persons. Commissions should, however, set priorities for their own agendas in order that staff may best use the time available for the advisory body. Commissions' goals and work programs must be consistent with Council goals. If a commission wants to work on other than Council goals, the commission should seek Council concurrence first.

In contacting staff on official business, the proper channel is through the commission Chair to the staff member assigned to the commission.

### C. STAFF RESPONSIBILITIES

Important staff responsibilities include:

- Being informed about the latest developments in their field.
- Providing background and expressing views to the advisory body on important issues.
- Providing administrative support, including agenda preparation and taking of minutes at meetings.
- Maintaining a professional position on all topics.
- Helping the commission to stay on track and focused.
- Interpreting City Council, City department, and relevant state, federal, and international actions and policies.
- Alerting advisory body members of possible detrimental actions.
- Presenting commission recommendations to the City Council.
- Describing precedents or operating procedures which affect the decision.

#### D. RELATIONS WITH OTHER BOARDS, COMMISSIONS AND COMMITTEES

In areas where there is overlap of jurisdiction between various commissions, it is important that liaison be developed to insure proper consideration of the different viewpoints that may occur, and to minimize duplications or conflicts. Further, joint meetings with the City Council and other commissions and committees may be mutually beneficial whenever two bodies are simultaneously addressing the same topic.

#### E. CITY CLERK

The City Clerk plays an important role for advisory bodies. The City Clerk accepts and maintains applications, processes appointments, updates membership rosters bylaws, informational booklets, and yearly attendance records. The City Clerk is also a resource with respect to the Brown Act, agenda processing, and meeting procedural questions. The City Clerk is the filing officer for Statements of Economic Interests, and any other required filing as identified by the City Council and the State.

#### F. CITY ATTORNEY

The City Attorney is a resource for understanding compliance with the Brown Act, for agenda legality issues, meeting process questions, and conflict of interest determinations.

# IMPOSED RESTRAINTS

## IMPOSED RESTRAINTS

Certain limitations have been placed upon the powers of both the City Council and its appointed commissions by both statutory and case law. In certain instances, application of these restraints may be crucial in the governmental process. In instances of doubt, the City Attorney's opinion should be sought.

### A. CONFLICT OF INTEREST

As specified in state law, it is illegal for a commission member to have an interest in any contract, sale, purchase, finding or transaction in which the member is involved in an official capacity. Conflict of interest may disqualify the commission member and invalidate any commission action where such conflict exists. Any interest, whether personal, private, general or sentimental that would tempt a commissioner to act in any manner other than the best public interest should be examined and official action accordingly restricted. An interest that is common to all similarly situated persons is not disqualifying to an action.

### B. PUBLIC RECORDS LAWS

The Government Code of the State of California provides that all official records of the city are open to inspection to any interested citizen at reasonable times. Exceptions to this law are only those records specified in the act, records relative to legal action in which the city is a party, and records the disclosure of which would not be in the public interest. All commission minutes and supporting documents are public records and must be disclosed.

### C. SECRECY - THE BROWN ACT

The Ralph M. Brown Act is law which provides that no city commission shall hold any meeting at which action is taken other than at a duly called and regularly held meeting, notice of which is provided by either resolution or ordinance or by adjournment of a prior meeting. A "Meeting" takes place whenever a quorum is present and official business is considered. An agenda for each meeting must be posted at least 72 hours in advance. Commissioners are permitted to socialize in a non-meeting setting but must refrain from discussing any commission business.

Care should be taken to make sure that if a quorum of a commission is gathered at a public or private place, no public business is discussed and that the gathering will not be interpreted as a meeting. Care should also be taken with regard to emails. Never select "Reply All" to an email to all Commissioners or forward an email sent to you by one commissioner to another commissioner since that would constitute a quorum.

#### D. DISCRIMINATION AND EQUAL PROTECTION

All rules, regulations, laws, services and facilities must apply equally to all persons, and not give favor to any segment of the community. Similarly, all laws and ordinances of the city must afford equal protection to all facets of the community, unless the purpose of a city action requires special classification of the community.

#### E. DUE PROCESS

All governmental procedures and process must allow an affected party a right to be heard, and to present controverting fact or testimony on the question of right in the matter involved. Unfair determinations, such as bias, predetermination, refusal to hear, etc., may invalidate actions.

#### F. REASONABLENESS

Every action of municipal government must be reasonable, or otherwise stated, not capricious, extreme, arbitrary, or abusive.

#### G. USE OF PUBLIC PROPERTY

Public property, equipment and facilities may not be used for private or personal purposes. Facilities, equipment and supplies are provided by the city but are limited to use in official functions only.

#### H. CONFLICT OF INTEREST CODE: DISCLOSURE REQUIREMENTS

Individuals serving on the Audit Committee, Bicycle Pedestrian Commission, Fine Arts Commission, Housing Commission, Library Commission, Parks and Recreation Commission, Planning Commission, Public Safety Commission, Sustainability Commission and Technology, Information, and Communications Commission must file a Statement of Economic Interest with the City Clerk to disclose personal interests in investments, real property and income. This is done within 30 days of appointment date and annually thereafter. The Conflict of Interest Code has been established and adopted by the City Council pursuant to the California Fair Political Practices Act (Government Code Section 87300 et seq.). Copies of the code are available from the City Clerk.

#### I. USE OF CITY EMAIL

All newly appointed City commissioners will be assigned a mandatory City email address after reviewing and signing the Electronic Communications Policy. Commissioners must also review the Internet Access and Use Policy, and Password Policy.

As noted under the Brown Act section of this handbook, care should be taken with regard to emails. Never select “Reply All” to an email to all commissioners or forward an

email sent to you by one commissioner to another commissioner since that would constitute a quorum. All questions and concerns should be directed to the Chair and staff liaison.

All City emails are subject to the Public Records Act and you should use your City email to only conduct City business as a commissioner. Please do not forward or reply to a City email from your personal email address. Once your term on the commission is over, your City email will be terminated.