



## **2017 Boards and Commissions Training**

Facilitator: Rod Gould

Managing Coordinating Staff:

City Manager Daniel E. Keen

Assistant City Manager Teri Killgore

City Attorney Claudia Quintana

# **Training Presentation**

# City of Vallejo

## Boards and Commissions Training

Rod Gould | Management Partners

June 6, 2017

Management  
Partners



# Welcome by Mayor



# Training Objectives

Create a shared understanding of City's expectations for its commissions

Discuss commissioner responsibilities

# Training Agenda

1.

- Welcome

2.

- Review agenda, objectives and ground rules

3.

- Overview of responsibilities of board and commission members

4.

- Legal obligations of board and commission members

5.

- Summary and wrap-up



# Ground Rules



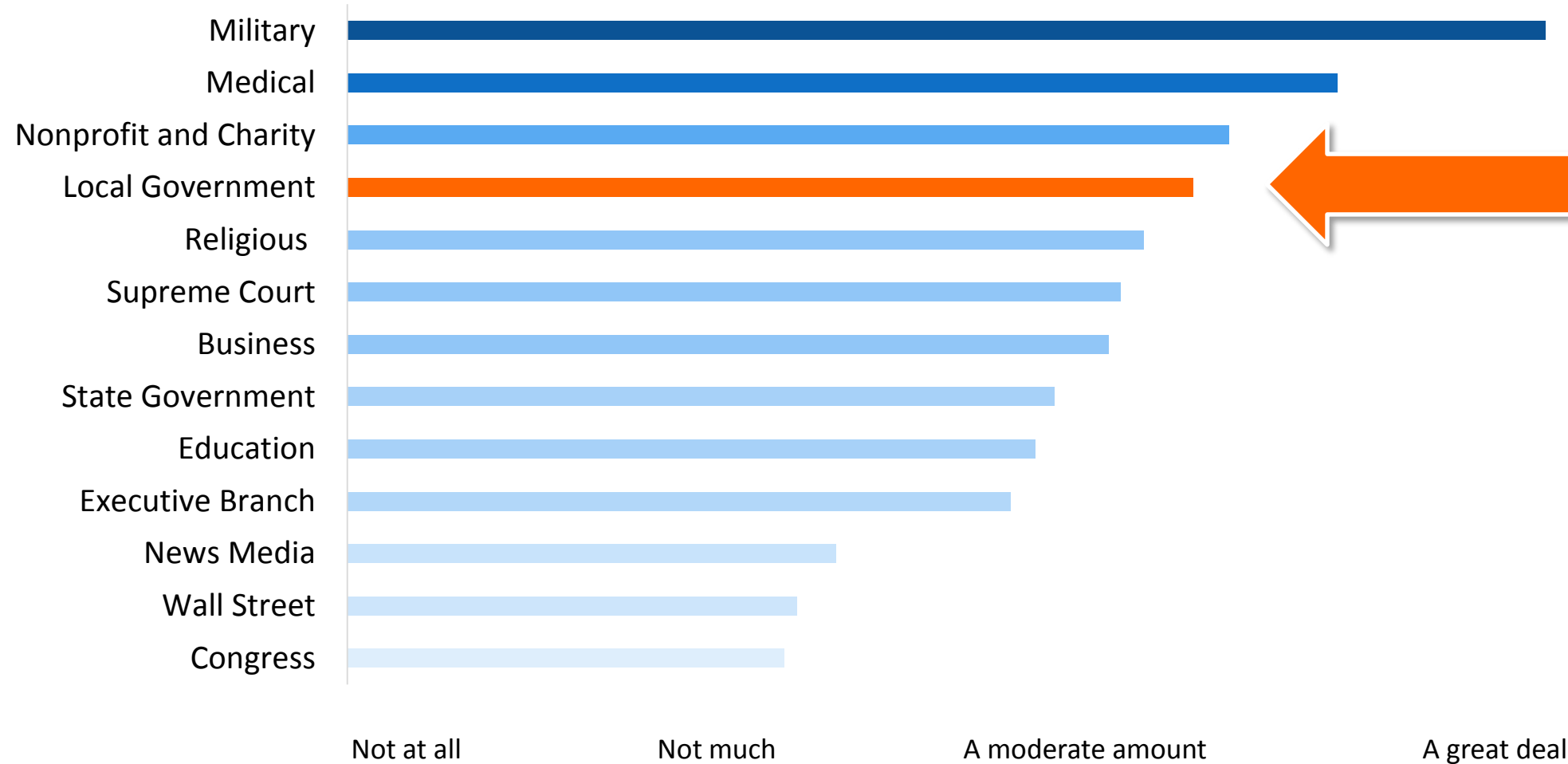
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Engage fully

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Put cell phones away

# Trust in Local Government





# Model Positive Civic Behavior

Be respectful in what you say (verbal)



Be respectful in what you show (visual)



Be respectful in what you do (actions)



# Boards and Commissions are Valuable

The City cares about and appreciates members of boards, commissions and committees.



# Council/Manager form of Government

Public elects Council



```
graph TD; A[Public elects Council] --> B[Council sets policy and appoints City Manager]; B --> C[City Manager runs the organization and provides direction to staff]; B --> D[Council determines 'what' the City will do]; C --> E[City Manager determines 'how' the City will implement Council direction]; C --> F[Boards and commissions do not provide direction]; C --> G[Staff work on many priorities and capacity is limited];
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Council sets policy and appoints City Manager

Council determines “what” the City will do

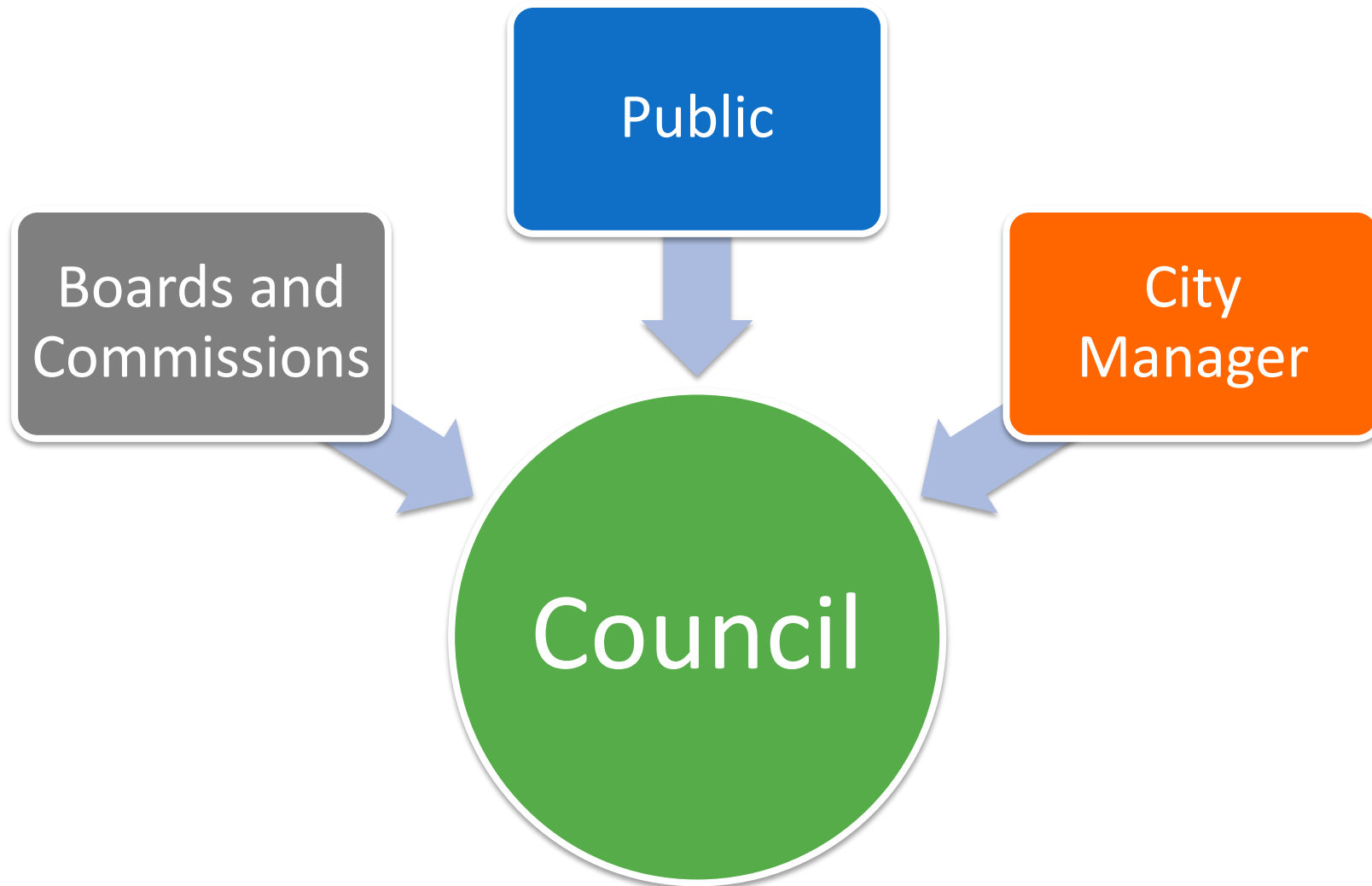
City Manager runs the organization and provides direction to staff

City Manager determines “how” the City will implement Council direction

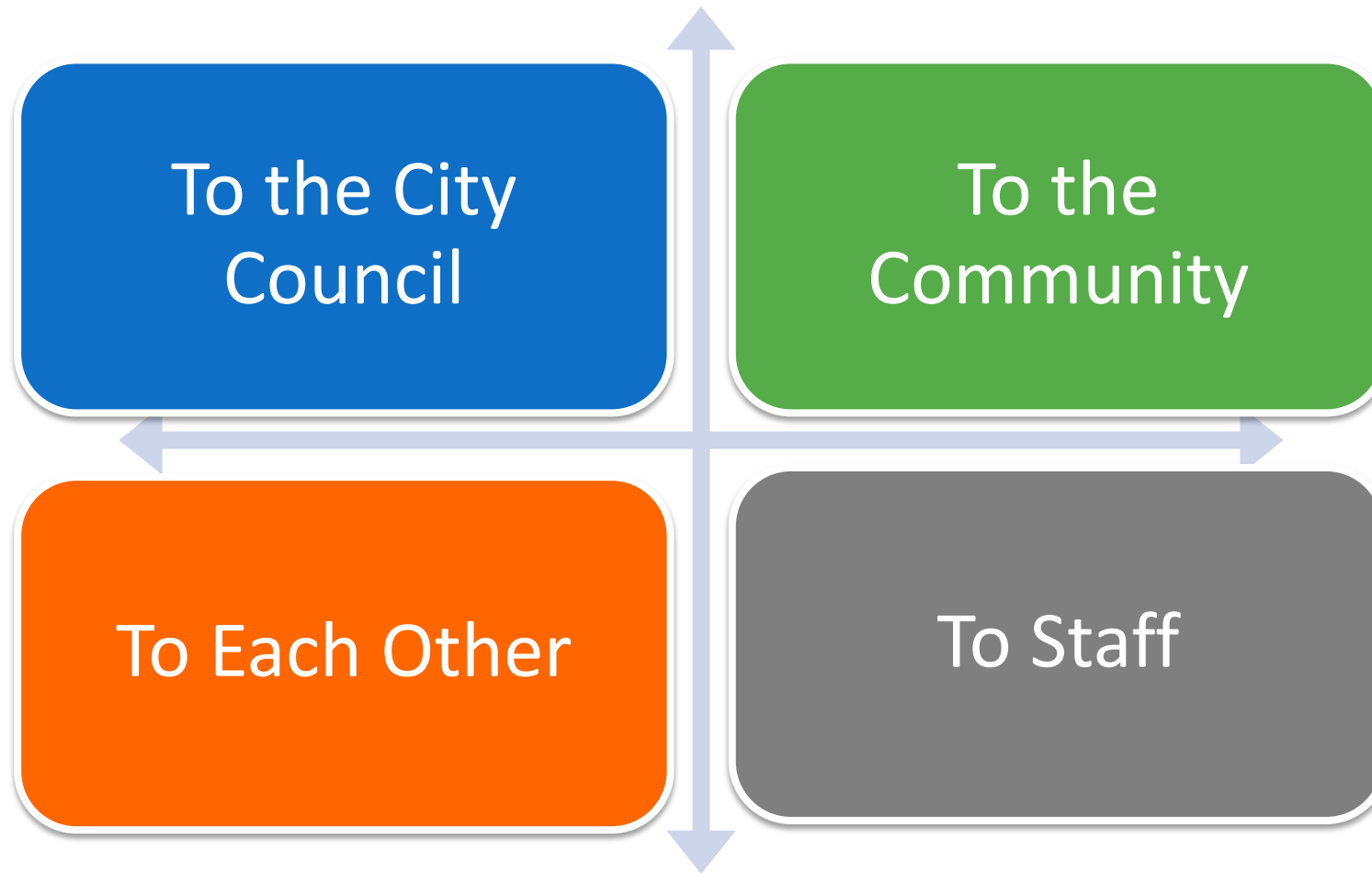
Boards and commissions do not provide direction

Staff work on many priorities and capacity is limited

# Input to Council



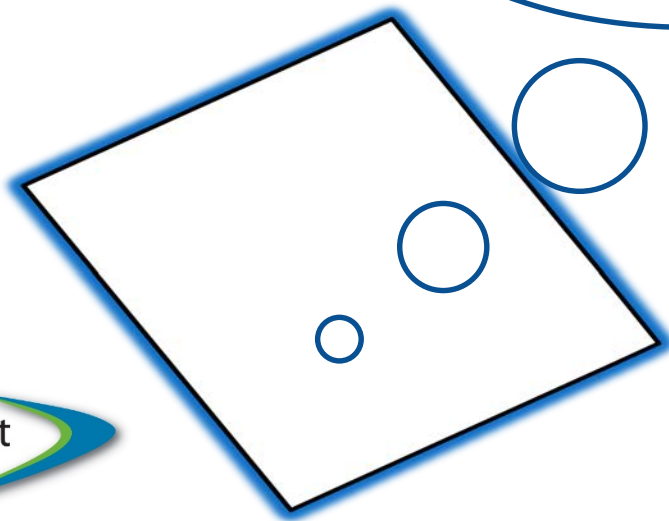
# Four Categories of Commissioner Responsibilities



# Brainstorm

Think about the *roles of commissioners*.  
Brainstorm the roles in relationship to the

- Council
- Community
- Each other
- Staff



# Responsibilities to the City Council



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Act consistent with Council direction

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Be familiar with Council priorities

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Clearly state whether you are speaking for the commission or for yourself

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Ask your City Council liaisons for feedback and insights

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Stay focused on the official role of your board or commission

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Refrain from fundraising and event coordination

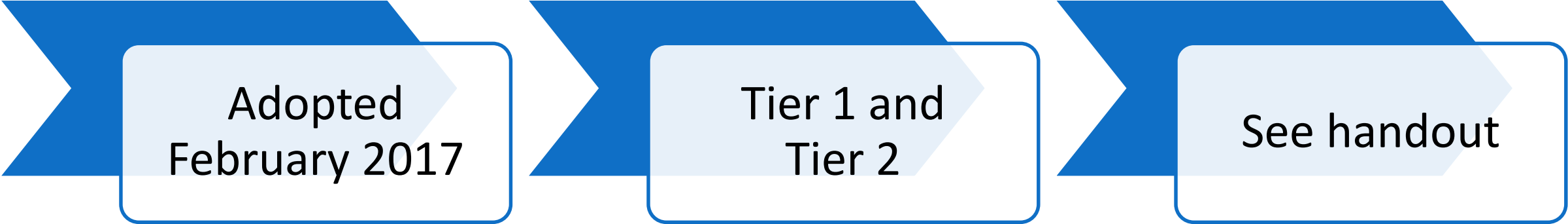
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Support and promote Council priorities

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# Council Priorities



Adopted  
February 2017

Tier 1 and  
Tier 2

See handout



# Responsibilities to the Community



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Listen to and understand diverse interests within the community

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Bring forward ideas – but within the scope of the board or commission's formal role and work plan

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Don't delay matters before your board or commission

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Be respectful of all who come before your board or commission

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# Responsibilities to Each Other

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Be prepared for meetings

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Stay focused on the work at hand

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Allow others to speak

---

Seek to understand other points of view

---

Respect decisions once made

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Well, here we go again...

Did anyone here not eat his or her homework  
on the way to school?

# Responsibilities to City Staff

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Chair coordinates with commission secretary

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Use staff as a resource – ask questions ahead of the meeting

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Be realistic about staff capacity

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Avoid giving staff direction

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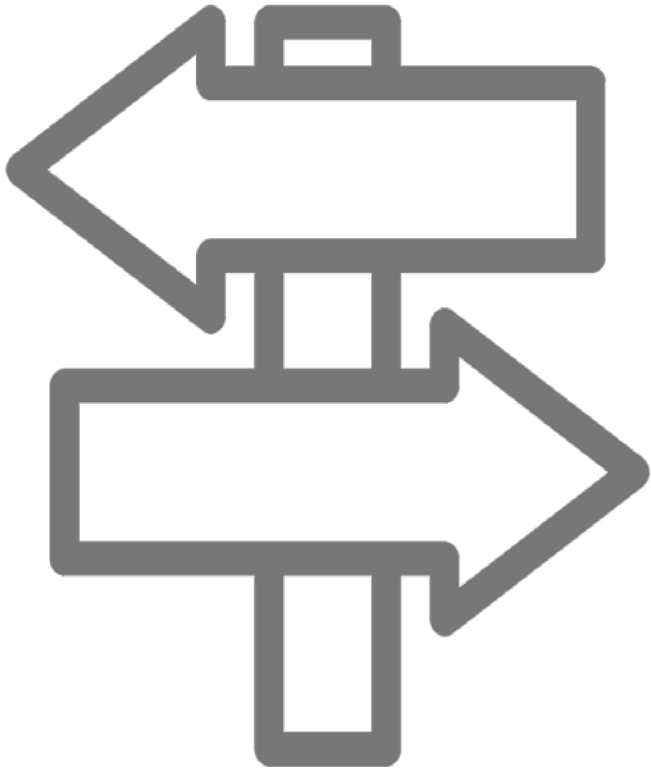
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Treat staff with respect and courtesy

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# Role of Commission or Board Secretary



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## **Manages the agenda**

- Confirms jurisdiction of the Board or Commission
  - Sequences flow
  - Reviews requests
- 

## **Makes recommendations to Council on Commission proposals**

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## **Provides input and technical advice**

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## **Calls out Brown Act or other issues**

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## **Meets with the Chair to coordinate**

# Carrying Out These Responsibilities

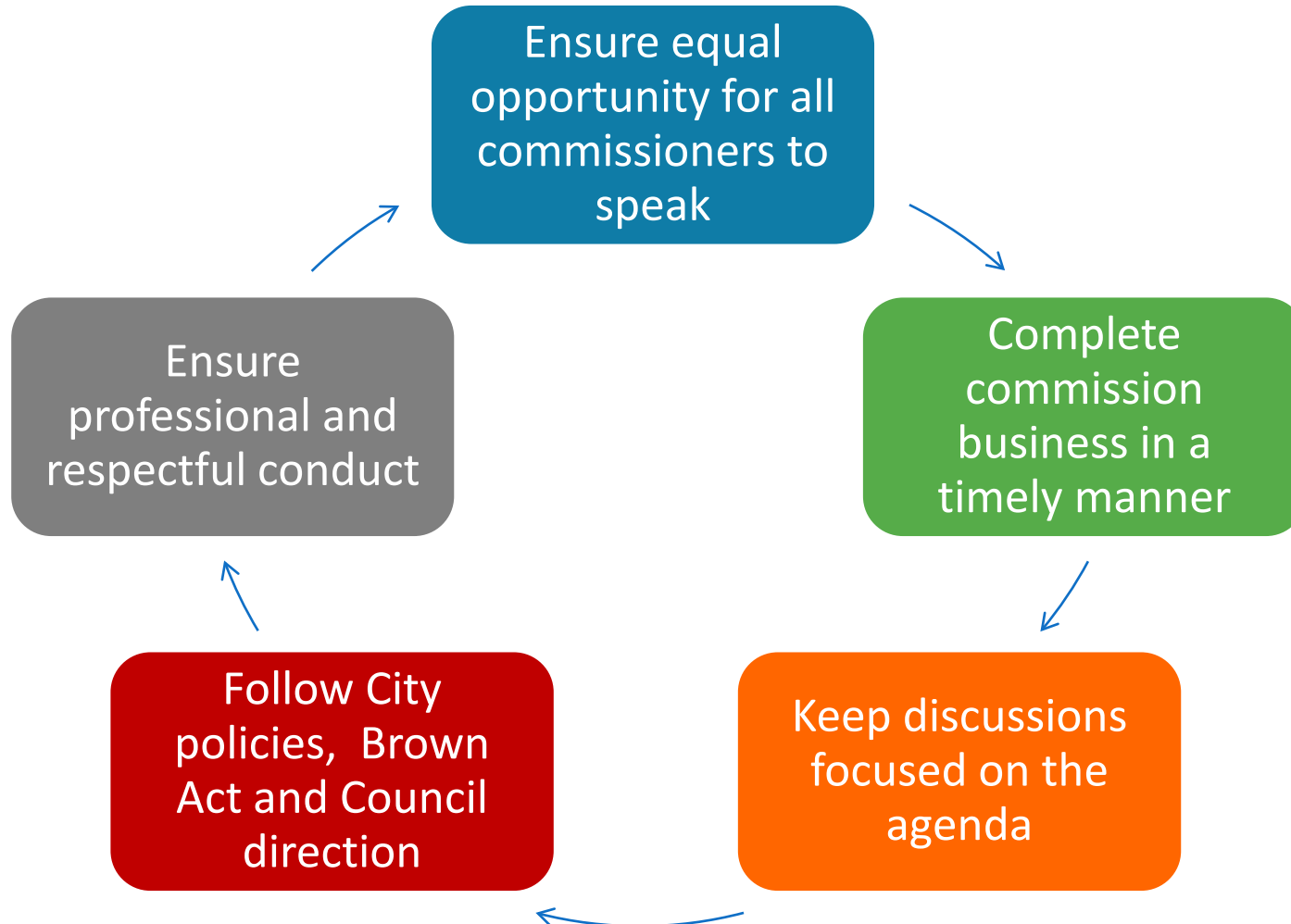
## **In practice, this means....**

- Following Council direction
- Being prepared for meetings
- Asking questions of staff prior to meetings
- Being respectful of everyone
- Understanding you are always being watched and that perceptions matter

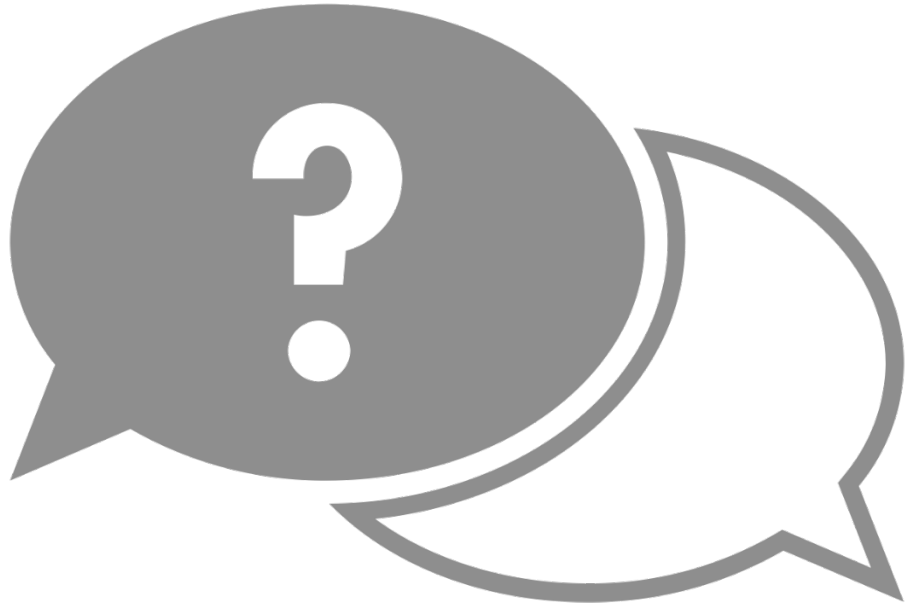
## **And avoiding.....**

- Delaying matters and negatively impacting applicants
- Words, gestures or tone perceived as disrespectful to each other, public or staff
- Attempting to assign work to staff that is outside your scope or authority

# Commissioner Responsibilities During Commission Meetings



# The Chair's Role For A Smooth Commission Meeting



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Formally open and close meetings

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Announce the process

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Manage communications

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Manage the motions

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Maintain respectful conduct

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Maintain control

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# Helping Your Chair Run a Smooth Meeting



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Add your opinion to the discussion

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Keep remarks brief and to the point

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Call a point of order (if appropriate)

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Request that time limits be observed

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If time exceeded, ask that the speaker summarize their perspective

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Use calm words and gestures

---

Reach out to your Secretary after the meeting for advice



# Dealing With Challenging Situations

1.

- Use microphone

2.

- Ask the commissioner or public to address the chair

3.

- Say, "Thank you for speaking. I am now moving on to another speaker."

4.

- Do not argue

5.

- Do not have other commissioners chime in

6.

- Consider turning off speaker's microphone

7.

- Call a recess

8.

- Call the police (if situation warrants)



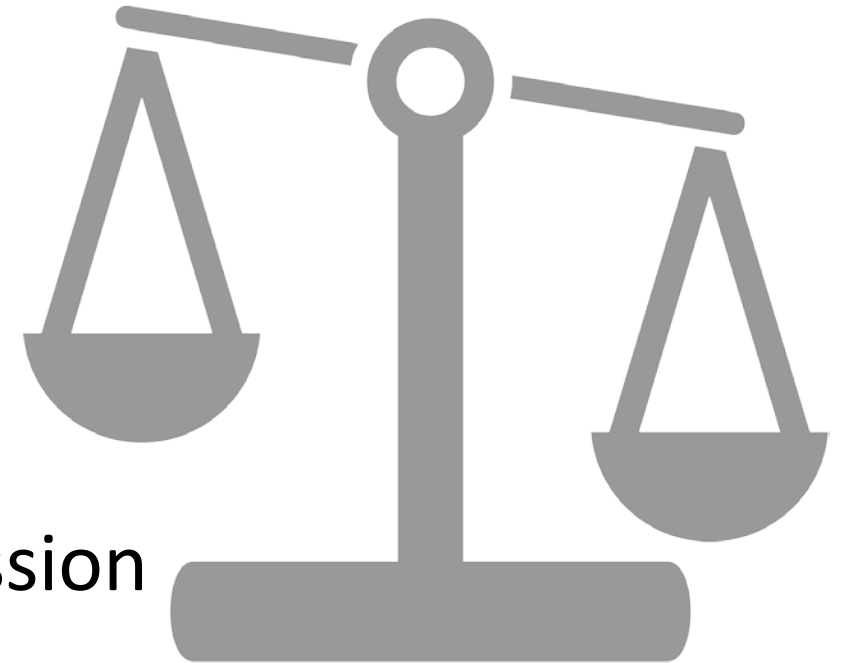
# Code of Ethics

1. Act in the public interest
2. Comply with both the spirit and letter of the Law and City Policy
3. Conduct of members
4. Respect for process
5. Conduct at public meetings
6. Decisions based on merit
7. Communications
8. Conflict of interest



# Code of Ethics (*Continued*)

- 9. Gifts and favors
- 10. Confidential information
- 11. Use of public resources
- 12. Representation of private interests
- 13. Advocacy
- 14. Policy role of members
- 15. Independence of Boards and Commission
- 16. Positive work place environment



# Conduct

1. Elected and appointed officials' conduct with one another
2. Elected and appointed officials' conduct with the public
3. Elected and appointed officials' conduct with City staff
4. Council conduct with Boards and Commissions
5. Conduct with the media and social media



# Conflicts of Interest

- Fair Political Practices Commission (FPPC)
- Applies to most Boards and Commissions (see handout)
- Form 700 must be filed
  - Within 30 days of taking office
  - Annually by April 1
  - Within 30 days of leaving office
- Potential fines for non-filing or failure to disclose

# Decision Making:

## Basics of the Brown Act & Due Process



# Goals for *Part 1* of this Presentation

## *Part 1: The Brown Act*

- ▶ Understand what the Brown Act is, its purpose, and to whom it applies.
- ▶ Understand what a “meeting” is.
- ▶ Be familiar with the notice requirement.
- ▶ Understand the exceptions to the Brown Act.
- ▶ Understand the consequences of a Brown Act Violation.

# Part 1:

## The Brown Act - Open and Public



Ralph M. Brown 1959

Photo courtesy The Modesto Bee

“ The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know.”

California Government Code §54950



# What is the Brown Act?

- ▶ The Brown Act is California law.
- ▶ It requires a *quorum* (a majority) of the legislative body, i.e. public commissions, boards and councils, to **conduct open public meetings**.

*Quorum:* The smallest number of people who must be present at a meeting in order for decisions to be made.

# To Whom Does the Brown Act Apply?

- Applies to *Legislative Bodies*
  - ▶ City Council
  - ▶ Boards and commissions
  - ▶ Standing committees
- NOT a Legislative Body
  - ▶ Ad hoc or advisory committees

# Objective of the Brown Act

- ▶ The Brown Act has the objective of facilitating public participation in local government decisions and curbing misuse of the democratic process by secret legislation.

# What is a Meeting?

The term “*meeting*” in the Brown Act has a very specific legal definition, and should not be confused with other meanings of the word.

- ▶ A *meeting* occurs when a majority of the members of a legislative body are together at the
  1. Same time,
  2. Same location,
  3. To hear, discuss, deliberate or take any action that is
  4. Within the subject matter jurisdiction of the legislative body.
    - ▶ Email, letters, and telecommunication can qualify as a meeting.
    - ▶ Facebook “likes” and other comments can qualify.

# Serial Meetings

- ▶ Serial meetings are *not allowed*.
- ▶ Serial meetings occur when a majority of the members have communicated about an issue and have developed a collective concurrence.
- ▶ Beware email and social media concurrences; staff beware of your role as communicator.

# Examples of Serial Meetings

## *“Chain”*

- ▶ Commissioner Bob calls Commissioner Bill to talk about a resolution. Then Bill calls Commissioner John to talk about it, and finally John calls Commissioner Fred, etc., until a majority of commissioners has been contacted.
- ▶ Why is this a serial meeting?
  - ▶ A majority of the commissioners have talked about the topic and a collective concurrence has been established.

# Examples of Serial Meetings

Andrea, I have concerns about this project.



"Hub and Spoke"



Well, sir, I spoke with Tom, Sandy, and Mikey, and they really don't like it ...

I'm not sure ...



NO!

That smokestack is so ugly.



# Closed Sessions

- ▶ Meetings of a legislative body are either fully open or fully closed.
- ▶ The Brown Act also allows for the legislative body (usually the city council) to meet in Closed Session for certain limited purposes including discussion of:
  - ▶ Personnel matters or labor negotiations, and pending, threatened, or contemplated litigation.

## *A couple of reasons why:*

1. To not prejudice or compromise its ability to bargain or negotiate on behalf of the public.
2. To protect an employee's confidential information.



# Notice of Meetings

## *Requirements*

- ▶ Notice that a meeting is taking place.
- ▶ Notice of the agenda.
  - ▶ If both are not provided, this could be a violation of the Brown Act.

**Notice 101: Notice at least 72-hours in-advance for a regular meeting, 24-hours for a Special Meeting, and 1-hour for an Emergency Meeting.**

# The Agenda

(Using a Regular Meeting as an example)

- ▶ Must be posted at least 72 hours before a regular meeting.
- ▶ The public must be able to access the agenda 24 hours per day for the full 72 hours.
- ▶ The agenda must contain a brief general description of each item of business to be transacted or discussed at the meeting (generally need not exceed 20 words.)
- ▶ Meeting discussions, outside of a brief answer, are limited to items listed on the agenda.
- ▶ The agenda must specify the time and location of the meeting.
- ▶ Must be posted in a location that is freely accessible to members of the public and on the local agency's Internet Web site.

# Public Participation at Meetings

- ▶ The Brown Act prohibits local government from banning public criticism of its policies, procedures, or officials.
- ▶ The Brown Act promotes a marketplace of ideas and involves the public in the governmental process.

# Not a Violation of the Brown Act

## Individuals

- ▶ An employee or official can meet individually with a member of the legislative body to answer questions, as long as that employee or official does not provide any comments or positions of the legislative member to other legislative members. In essence, this would essentially be a “hub and spoke” situation.

**The best practice is to have questions answered without providing positions or comments.**

# Not a Violation of the Brown Act Individuals

- ▶ Individual contacts or conversations between a member of the legislative body and any other person, subject to the same conditions as the previous slide.

The Brown Act recognizes that members of the legislative body need to meet with individuals, such as their constituents or advocates, so that they can consider different points of view.

# Not a Violation of the Brown Act

## Majority of Members

Attendance by a majority of members of the legislative body can take place at:

- ▶ An open and publicized meeting of another body of the local agency, or another local agency.

**BUT**

**Only if a majority of the members do not discuss among themselves, other than as part of the scheduled meeting, business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency.**

# Not a Violation of the Brown Act

## Majority of Members

Attendance by a majority of members of the legislative body can take place at:

- ▶ A purely social or ceremonial occasion.

**BUT**

**Only if members do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency.**

# Not a Violation of the Brown Act

## Majority of Members

Attendance by a majority of members of the legislative body can take place at:

- ▶ At an open and publicized meeting organized to address a topic of local community concern by a person or organization other than the local agency.

**BUT**

**Only** if a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency.



# Not a Violation of the Brown Act

## Majority of Members

Attendance by a majority of members of the legislative body can take place at:

- ▶ An open and publicized meeting of a standing committee of that legislative body.

***BUT***

Members of the legislative body that are not members to the standing committee will attend only as observers.

# Legal Consequences for Brown Act Violations

## ▶ Criminal

- ▶ Each member of a legislative body who attends a meeting in violation of the Brown Act, with the intent to deprive the public of information which the member knows or has reason to know the public is entitled to, is *guilty of a misdemeanor*.

# Legal Consequences for Brown Act Violations

## ▶ Civil

- ▶ A Brown Act Violation can lead to a *civil lawsuit*.
  - ▶ Lawsuits are expensive, and if a violation is found, the court can require the city to pay attorney fees and court cost to the other party.
- ▶ If a Brown Act violation is found, a court may also void the action taken by the legislative body, or require that any impacts caused by the violation be cured.

# Other Consequences

- ▶ *A breakdown in community relations* due to mistrust and the perception of secrecy.
- ▶ *Damage to the reputation* of the City.
- ▶ *Lack of confidence* in the democratic process.

# Test Your Knowledge

- ▶ At a Council meeting, Councilmember R. Sitty asked the staff for an explanation of the City's process for approving an update of the City's zoning map. The presentation, never mentioned on the Council's agenda for the meeting, led to a 26-minute-long discussion.

- ▶ ***Is this a Brown Act Violation?***

- ▶ Yes

**Review:** Notice that the meeting is taking place, and notice of what will be discussed at the meeting (located on the agenda) is required. If not given, this could be a violation of the Brown Act.

# Test Your Knowledge

- ▶ A majority of the City of Utopia's planning commission members discuss and debate amongst each other a specific item of public business through the use of emails and telephone calls.

- ▶ ***Is this a violation of the Brown Act?***

- ▶ Yes. This is a serial meeting (chain.)

**Review:** Email, letters, telecommunication, or using what amounts to a chain, to communicate is considered a meeting.

# Test Your Knowledge

- ▶ Prior to a full hearing on a matter, a city council member takes a public position on a specific project it will later be charged with deciding.
  - ▶ *Is this a violation of the Brown Act?*

- ▶ **STOP!** This may not lead to a violation of the Brown Act, but it could be a *violation of due process!*

Before moving on to *Part 2*, are there any questions on the Brown Act?



## Part 2: Due Process



# Goals for Part 2: Due Process

## *Part 2: Due Process*

- ▶ Understand the difference between legislative and quasi-judicial action.
- ▶ Understand what evidence can be considered when making a quasi-judicial decision.
- ▶ Be able to explain what “fair and impartial” decision making is.

# The Role of a Councilmember and Commissioner

- ▶ City councils and commissions, such as Planning, Design Review, and Architectural Review, engage in both
  1. Legislative and
  2. “Quasi-judicial” decision making.
- ▶ **Legislative** decisions establish policies for future application.
  - ▶ Examples: Adoption of plans, ordinances, and passing budgets.
- ▶ **Quasi-judicial** decisions are the application of legislative decisions.
  - ▶ Examples: Decisions on variances, conditional use permits, and site plan review.

Quasi-judicial actions require *due process*. A denial of *due process* is a violation of a *Constitutional Right*.

# Key Due Process Requirements

- ▶ Must provide notice and opportunity to be heard to interested parties, including the right to present and rebut evidence.
- ▶ A hearing must be open, fair, and impartial.
- ▶ The decision maker is *free of bias* for or against a party.
- ▶ The decision must be based on the *administrative record* (evidence presented at the hearing or through authorized public comment.)
- ▶ The decision must state its *factual and legal basis*. Evidence and information outside of this record CANNOT be considered.

# Bias: A Decision Maker must be “Neutral and Unbiased.”

A biased decision maker is constitutionally unacceptable.

- ▶ **Problem:** Prior to a hearing, one planning commissioner wrote an unsigned article in a local residents association's newsletter advocating “a position against the project” because he perceived it to be a threat to wildlife migration patterns. He also spoke against the project at a neighborhood association meeting.
  - ▶ *Does this indicate bias?*
    - ▶ Yes. (Nasha LLC v. City of Los Angeles, 2004.)
- ▶ **Problem:** A city council hears an appeal of a planning commissions’ decision to issue a conditional use permit. After hearing from interested parties, one city councilmember gives a well thought out speech explaining why the planning commission’s decision should be overturned. Turns out the speech was pre-written.
  - ▶ *Does this indicate bias?*
    - ▶ Yes. (Woody’s Group, Inc. v. City of Newport Beach, 2015.)

# Bias: A Decision Maker must be “Neutral and Unbiased.”

- ▶ A strong personal interest in a decision can disqualify a decision maker.
  - ▶ Example: A conditional use permit is being considered. Approval would allow a building to be constructed in front of a commissioner’s residence, blocking the commissioner’s view of the ocean.
- ▶ The material financial interests of an immediate family member (spouse or dependent children) are impacted.
  - ▶ Example: A councilmember’s wife owns a hat shop. It is the only hat shop currently in the city. The councilmember is considering an application for another hat shop.

# Violation of Due Process: Consequences

- ▶ ***Criminal:*** Depending on the type of violation, the decision maker could be subjected to criminal prosecution.
- ▶ ***Civil:*** Depending on the type of violation, the decision maker could be subject to fines.
- ▶ ***Lawsuits***
  - ▶ Lawsuits are expensive.
  - ▶ A loss could void the decision reached.
  - ▶ The matter would need to be re-heard, for example, without the biased decision maker.
    - ▶ This wastes time, money, and other valuable resources.

# Other Considerations

- ▶ Like a violation of the Brown Act, a due process violation could result in:
  - ▶ A breakdown in community relations.
  - ▶ Damage to the reputation of the City.
  - ▶ Lack of confidence in the democratic process.
- ▶ Just because something is legal, does not mean it is ethical.
- ▶ Perception is reality!
  - ▶ Even if a court would not find bias, if the public perceives bias, the credibility of the decision maker and opinion of the city government is damaged.



# What Would You Do?

- ▶ A member of the public want to know your opinion on a new widget factory, Widget World LLC. In fact, this person has even asked you to assure her that you will vote against any widget factories, because widgets are dangerous.

- ▶ *How do you respond? Take a minute to think about it.*

- ▶ One example:

I appreciate you sharing your concern with me. By law, I have to give Widget World a fair and impartial hearing, and can only consider information I obtain at those hearings. If I don't, I might not be allowed to vote on the matter at all.

Please come to the hearing and share your concerns so that all members of the planning commission can hear your concerns.



# Questions, Comments, or Concerns?




# Top 10 Tips for Commissioners

Keep these  
things in  
mind

1. • Stay focused on the primary mission of your commission
2. • Follow Council direction and expectations
3. • Ask questions of staff ahead of meetings
4. • Attend all scheduled meetings
5. • Do you work with an open mind
6. • Be mindful of how delays affect applicants
7. • Be ethical, professional and respectful
8. • Follow the Brown Act, City policy and all laws
9. • Understand the staff takes direction from the City Manager
10. • Be a good representative of the City of Vallejo

# Wrap-up

A scenic view of a coastal town with houses on a hill and a red boat in the water. The town is built on a hillside with many houses and trees. In the foreground, there is a body of water with a red boat and some buildings along the shore.

Closing  
comments

Evaluation

Thank you!



# **2017 Council Priorities**

# 2017 City of Vallejo ~ Council Priorities

## Tier 1:

<i>These are projects which will receive the greatest attention from staff and Council. They are not listed in priority order.</i>	
<b>A1.</b>	North Mare Island/Faraday Future
<b>A2.</b>	Parcelization of Mare Island properties
<b>A3.</b>	Economic Development Marketing
<b>A4.</b>	Empress Theater ownership transfer to City of Vallejo
<b>A5.</b>	Waterfront DDA implementation
<b>A6.</b>	Downtown Parking Garage Phase II design/Post Office demolition
<b>A7.</b>	Development Review Process Improvements
<b>A8.</b>	General Plan Update
<b>A9.</b>	Development Code Update
<b>A10.</b>	Solano 360 Implementation (with County)
<b>A11.</b>	Fiber Master Plan implementation (including utility coordination for fiber expansion)
<b>A12.</b>	Homeless Strategies (includes PB project)
<b>A13.</b>	Marijuana (medicinal, recreational)
<b>A14.</b>	Waterfront Art Walk Project
<b>A15.</b>	Police Department Temporary Relocation
<b>A16.</b>	Lakes Water System (County due diligence process)
<b>A17.</b>	Water Rate Increase (short term – maintain solvency)
<b>A18.</b>	Long-term Water Rate Strategy for Repair/Replacement of Infrastructure
<b>A19.</b>	Vallejo Marina (dredging and ongoing improvements and fiscal sustainability)
<b>A20.</b>	Blue Rock Springs Golf Course (long term fiscal sustainability)
<b>A21.</b>	Smoke-Free Bus Stop Ordinance
<b>A22.</b>	Address Unsafe Living Conditions (to include consideration of rental inspection program, owner housing and other strategies)
<b>A23.</b>	Wireless/Cellular Tower Ordinance
<b>A24.</b>	Geographic Information System (GIS) Implementation
<b>A25.</b>	Special Events Funding, Oversight and Coordination
<b>A26.</b>	Increased Training for City Boards, Commissions, Committees and Liaisons
<b>A27.</b>	Downtown Parking Enforcement and Rate Revisions

## Tier 2:

<i>These are projects that will be focused on as resources permit.</i>	
<b>B1.</b>	Replacement of Public Safety Facility
<b>B2.</b>	Vision Zero (including crosswalk safety)
<b>B3.</b>	First Responder Fee
<b>B4.</b>	Automation of Water Meters (research phase)
<b>B5.</b>	Council Code of Conduct/Procedures; Rosenberg's Rules of Order and Training
<b>B6.</b>	Legislative Priorities Agenda
<b>B7.</b>	Staff Morale – Labor Agreements
<b>B8.</b>	Moving Solano Forward – Solano EDC
<b>B9.</b>	Open House for Brokers, Developers, Contractors
<b>B10.</b>	Anti-Littering/Graffiti/Illegal Dumping Program Expansion
<b>B11.</b>	Downtown Revitalization

# **Form 700 List**



**CITY OF VALLEJO**  
**BOARDS & COMMISSIONS REQUIRED TO FILE FORM 700**  
**STATEMENT OF ECONOMIC INTERESTS**

✓ **REQUIRED TO FILE** - Boards & Commission Currently Covered in the City's Conflict of Interest Code

✓ ARCHITECTURAL HERITAGE & LANDMARKS COMMISSION (AHLC)

✓ BEAUTIFICATION COMMISSION

✓ CULTURE & THE ARTS COMMISSION

✓ CODE ENFORCEMENT APPEALS BOARD

✓ DESIGN REVIEW BOARD

✓ ECONOMIC VITALITY COMMISSION

✓ HOUSING & COMMUNITY DEVELOPMENT COMMISSION

✓ PLANNING COMMISSION –Government Code 87200 Filer

✓ PB STEERING COMMITTEE – Delegates & Alternates

**SOON TO BE REQUIRED TO FILE** – Once City Conflict of Interest Code is Updated & Adopted by the City Council

➤ MCCUNE COLLECTION COMMISSION

**City of Vallejo**  
**Council Code of Conduct & Ethics**

**RESOLUTION NO. 17-032 N.C.**

**ADOPTING THE CITY OF VALLEJO CODE OF ETHICS AND CONDUCT FOR ELECTED  
AND APPOINTED OFFICIALS**

**WHEREAS**, The City Council of the City of Vallejo has determined that a Code of Ethics and Conduct benefits the public by increasing public confidence in the integrity of local government and its effective and fair operations; and

**WHEREAS**, the Vallejo Code of Ethics and Conduct for Elected and Public Officials will ensure that Public Officials are independent, impartial, and fair in their judgment and execution of policy; and

**WHEREAS**, City Council wishes to create an atmosphere of respect and civility in the conduct of public business.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Vallejo hereby adopts the attached "City of Vallejo Code of Ethics and Conduct for Elected and Appointed Officials"

**BE IT FURTHER RESOLVED** that staff is directed to prepare an ordinance addressing the roles of the Council Liaison, Commissioners, and Staff acting as Secretary to the Commission(s) consistent with direction given by this Council.

Adopted by the City Council of the City of Vallejo at a regular meeting held on March 28, 2017 with the following vote:

AYES:	Mayor Sampayan, Vice Mayor McConnell, Councilmembers Dew-Costa, Malgapo, Miessner, Sunga, and Verder-Aliga
NOES:	None
ABSENT:	None
ABSTAIN:	None

  
BOB SAMPAYAN, MAYOR

ATTEST:

  
DAWN G. ABRAHAMSON, CITY CLERK



**City of Vallejo**

**Code of Ethics and Conduct**

**For**

**Elected and Appointed Officials**

Adopted March 28, 2017

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## **PURPOSE**

The Vallejo City Council has adopted this Code of Ethics and Conduct for members of the City Council and the City's boards and commissions to assure public confidence in the integrity of local government and its effective and fair operation.

## **ETHICS**

The citizens and businesses of Vallejo are entitled to have fair, ethical and accountable local government which has earned the public's full confidence in its integrity. In keeping with the City of Vallejo's commitment to excellence, the effective functioning of democratic government therefore requires that:

- public officials, both elected and appointed, comply with both the letter and spirit of the laws and policies affecting the operations of government;
- public officials be independent, impartial and fair in their judgment and actions;
- public office be used for the public good, not for personal gain; and
- public deliberations and processes be conducted openly, unless legally confidential, in an atmosphere of respect and civility.

To this end, the Vallejo City Council has adopted this Code of Ethics and Conduct for members of the City Council and the City's boards and commissions to assure public confidence in the integrity of local government and its effective and fair operation. The Ethics section of the City's Code of Ethics and Conduct provides guidance on ethical issues and questions of right and wrong.

Members of the City Council, City Manager, City Attorney, and of all Boards and Commissions shall conduct themselves in accordance with the following ethical standards:

1. **Act in the Public Interest.** Recognizing that stewardship of the public interest must be their primary concern, members will work for the common good of the people of Vallejo and not for any private or personal interest, and they will assure fair and equal treatment of all persons, claims and transactions coming before them.
2. **Comply with both the spirit and the letter of the Law and City Policy.** Members shall comply with the laws of the nation, the State of California and the City of Vallejo in the performance of their public duties.
3. **Conduct of Members.** The professional and personal conduct of members while exercising the powers and duties of their office must be above reproach and avoid even the appearance of impropriety. Members shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other members of the City Council, Boards and Commissions, the staff or public.
4. **Respect for Process.** Members shall perform their duties in accordance with the processes and rules of order established by the City Council.
5. **Conduct at Public Meetings.** Members shall prepare themselves for review and consideration of public issues; listen courteously and attentively to all public discussions before the body; and focus on the business at hand.

**6. Decisions Based on Merit.** Members shall base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations. When making adjudicative decisions (those decisions where the member is called upon to determine and apply facts particular to an individual case), members shall refrain from making public statements of support or opposition, including statements on social media (including “likes” on Facebook or other online venues), shall maintain an open mind until the conclusion of the hearing on the matter, and shall base their decisions on the facts presented at the hearing and the law.

**7. Communication.** For adjudicative matters pending before the body, members shall rely upon agenda materials and information received at the public meeting for information to support their decision,, and shall refrain from receiving information outside of an open public meeting, except on advice of the City Attorney. Members shall publicly disclose substantive information that is relevant to a matter under consideration by the body which they may have received from sources outside of the public decision-making process.

**8. Conflict of Interest.** In order to assure their independence and impartiality on behalf of the common good and compliance with conflict of interest laws, members shall not use their official positions to influence government decisions in which they have (a) a material financial interest, (b) an organizational responsibility or personal relationship which may give the appearance of a conflict of interest, or (c) a strong personal bias. Additionally, members will use their best efforts to refrain from creating an appearance of impropriety in their actions and decisions.

A member who has a potential conflict of interest regarding a particular decision shall disclose the matter to the City Attorney and reasonably cooperate with the City Attorney to analyze the potential conflict. If advised by the City Attorney to seek advice from the Fair Political Practices Commission (FPPC) or other appropriate state agency, a member shall not participate in a decision unless and until he or she has requested and received advice allowing the member to participate. A member shall diligently pursue obtaining such advice. The member shall provide the City Attorney a copy of any written request or advice, and conform his or her participation to the advice given. In providing assistance to members, the City Attorney represents the City and not individual members.

In accordance with the law, members shall disclose investments, interests in real property, sources of income, and gifts; and if they have a conflict of interest regarding a particular decision, shall not, once the conflict is ascertained, participate in the decision and shall not discuss or comment on the matter in any way to any person including other members unless otherwise permitted by law.

**9. Gifts and Favors.** Members shall not take any special advantage, by virtue of their public office, of services or opportunities for personal gain that is not available to the public in general. They shall refrain from accepting any gifts, favors or promises of future benefits which might compromise their independence of judgment or action or give the appearance of being compromised.

**10. Confidential Information.** Members must maintain the confidentiality of all written materials and verbal information provided to members which is confidential or privileged. Members shall neither disclose confidential information without proper legal authorization, nor use such information to advance their personal, financial or other private interests.

**11. Use of Public Resources.** Members shall not use public resources which are not available to the public in general (e.g., City staff time, equipment, supplies or facilities) for private gain or for personal purposes not otherwise authorized by law.

**12. Representation of Private Interests.** In keeping with their role as stewards of the public interest, members of the City Council shall not appear on behalf of the private interests of third parties before the City Council or any Board, Commission or proceeding of the City, nor shall members of Boards and Commissions appear before their own bodies or before the City Council on behalf of the private interests of third parties on matters related to the areas of service of their bodies.

**13. Advocacy.** Members shall represent the official policies or positions of the City Council, Board or Commission to the best of their ability when designated as delegates for this purpose. When presenting their individual opinions and positions, members shall explicitly state they do not represent their body or the City of Vallejo, nor will they allow the inference that they do. Councilmembers and Board and Commission members have the right to endorse candidates for all City Council seats or other elected offices. It is inappropriate to mention or display endorsements during City Council meetings, Board/Commission meetings, or other official City meetings. Members shall refrain from publicly supporting or opposing a project that will be considered in a quasi-judicial capacity by the City Council, or any Board or Commission unless that member has been given authorization to do so by the body to which the member has been appointed.

**14. Policy Role of Members.** Members shall respect and adhere to the council-manager structure of Vallejo City government as outlined in the Vallejo City Code. In this structure, the City Council determines the policies of the City with the advice, information and analysis provided by City staff, Boards and Commissions, and the public. Except as provided by the City Code, members shall not interfere with the administrative functions of the City or the professional duties of City staff; nor shall they impair the ability of staff to implement Council policy decisions.

**15. Independence of Boards and Commissions.** Because of the value of the independent advice of Boards and Commissions to the public decision-making process, members of the City Council shall refrain from using their position to unduly influence the deliberations or outcomes of Board and Commission proceedings.

**16. Positive Work Place Environment.** Members shall support the maintenance of a positive and constructive work place environment for City employees and for citizens and businesses dealing with the City. Members shall recognize their special role in dealings with City employees to in no way create the perception of inappropriate direction to staff.

## **CONDUCT**

The Conduct Guidelines are designed to describe the manner in which elected and appointed officials should treat one another, City staff, constituents, and others they come into contact with while representing the City of Vallejo.



## **1. Elected and Appointed Officials' Conduct with One Another**

Elected and appointed officials are composed of individuals with a wide variety of backgrounds, personalities, values, opinions, and goals. Despite this diversity, all have chosen to serve in public office in order to preserve and protect the present and the future of the community. In all cases, this common goal should be acknowledged even though individuals may disagree on contentious issues.

### **1(a). In Public Meetings**

#### *Use formal titles*

Elected and appointed officials should refer to one another formally during public meetings, such as Mayor, Vice Mayor, Chair, Commissioner or Councilmember followed by the individual's last name.

#### *Practice civility and decorum in discussions and debate*

Public officials shall not make belligerent, personal, impertinent, slanderous, threatening, abusive, or disparaging comments. Shouting or physical actions that could be construed as threatening will be not be tolerated.

#### *Honor the role of the chair in maintaining order*

It is the responsibility of the chair to keep the comments of members on track during public meetings. Members should honor efforts by the chair to focus discussion on current agenda items. If there is disagreement about the agenda or the chair's actions, those objections should be voiced politely and with stated reasons, following procedures outlined in parliamentary procedure.

#### *Avoid personal comments that could offend other members*

If a member is personally offended by the remarks of another member, the offended member should make notes of the actual words used and call for a "point of personal privilege" that challenges the other member to justify or apologize for the language used. The chair will maintain control of this discussion.

#### *Demonstrate effective problem-solving approaches*

Members have a public stage and have the responsibility to show how individuals with disparate points of view can find common ground and seek a compromise that benefits the community as a whole.

### **1(b). In Private Encounters**

#### *Continue respectful behavior in private*

The same level of respect and consideration of differing points of view that is deemed appropriate for public discussions should be maintained in private conversations.

## **2. Elected and Appointed Officials' Conduct with the Public**

### **2(a). In Public Meetings**

Making the public feel welcome is an important part of the democratic process. No signs of partiality, prejudice or disrespect should be evident on the part of individual members toward an individual participating in a public forum. Every effort should be made to be fair and impartial in listening to public testimony.

*(a) Be welcoming to speakers and treat them with care and gentleness.*

While questions of clarification may be asked, the official's primary role during public testimony is to listen, not to interrogate.

*(b) Be fair and equitable in allocating public hearing time to individual speakers.*

The chair will determine and announce limits on speakers at the start of the public hearing process.

*(c) Practice active listening*

It is disconcerting to speakers to have members not look at them when they are speaking. It is fine to look down at documents or to make notes, but reading for a long period of time or gazing around the room gives the appearance of disinterest. Members shall try to be conscious of facial expressions, and avoid those that could be interpreted as "smirking," disbelief, anger or boredom.

*(d) Maintain an open mind*

Members of the public deserve an opportunity to influence the thinking of elected and appointed officials.

*(e) Ask for clarification, but avoid debate and argument with the public*

Only the chair – not individual members – can interrupt a speaker during a presentation. However, a member can ask the chair for a point of order if the speaker is off the topic or exhibiting behavior or language the member finds disturbing.

### **2(b). In Unofficial Settings**

*Make no promises on behalf of the Council, board/commission or City*

Members will frequently be asked to explain a Council or board/commission action or to give their opinion about an issue as they meet and talk with constituents in the community. It is appropriate to give a brief overview of City policy and to refer to City staff for further information. It is inappropriate to overtly or implicitly promise Council or board/commission action, or to promise City staff will do something specific (fix a pothole, remove a library book, plant new flowers in the median, etc.).

*Make no personal comments about other members*

It is acceptable to publicly disagree about an issue, but it is unacceptable to make derogatory comments about other members, their opinions and actions.

### **3. Elected and Appointed Officials' Conduct with City Staff**

Governance of a City relies on the cooperative efforts of elected officials, who set policy, appointed officials who advise the elected, and City staff who implement and administer the Council's policies. Therefore, every effort should be made to be cooperative and show mutual respect for the contributions made by each individual for the good of the community.

#### ***(a) Treat all staff as professionals***

Clear, honest communication that respects the abilities, experience, and dignity of each individual is expected. Poor behavior towards staff is not acceptable.

#### ***(b) Do not disrupt City staff from their jobs***

Elected and appointed officials should not disrupt City staff while they are in meetings, on the phone, or engrossed in performing their job functions in order to have their individual needs met. Do not attend City staff meetings unless requested by staff – even if the elected or appointed official does not say anything, his or her presence implies support, shows partiality, may intimidate staff, and hampers staff's ability to do their job objectively.

#### ***(c) Never publicly criticize an individual employee***

Elected and appointed officials should never express concerns about the performance of a City employee in public, to the employee directly, or to the employee's manager. Comments about staff performance should only be made to the City Manager through private correspondence or conversation. Appointed officials should make their comments regarding staff to the City Manager.

#### ***(d) Do not get involved in administrative functions***

Elected and appointed officials acting in their individual capacity must not attempt to influence City staff on the making of appointments, awarding of contracts, selecting of consultants, processing of development applications, or granting of City licenses and permits.

#### ***(e) Do not solicit political support from staff***

Elected and appointed officials should not solicit any type of political support (financial contributions, display of posters or lawn signs, name on support list, etc.) from City staff. City staff may, as private citizens with constitutional rights, support political candidates but all such activities must be done away from the workplace.

#### ***(f) No Attorney-Client Relationship***

Members shall not seek to establish an attorney-client relationship with the City Attorney, including his or her staff and attorneys contracted to work on behalf of the City. The City Attorney represents the City and not individual members. Members who consult with the City Attorney cannot enjoy or establish an attorney-client relationship with the attorney.

#### **4. Council Conduct with Boards and Commissions**

The City has established several Boards and Commissions as a means of gathering more community input. Citizens who serve on Boards and Commissions become more involved in government and serve as advisors to the City Council. They are a valuable resource to the City's leadership and should be treated with appreciation and respect.

*(a) If attending a Board or Commission meeting, be careful to only express personal opinions*

Councilmembers may attend any Board or Commission meeting, which are always open to any member of the public. However, they should be sensitive to the way their participation could be viewed as unfairly affecting the process, especially if the councilmember endorses a position, or if attendance is on behalf of an individual, business or developer. Any public comments by a Councilmember at a Board or Commission meeting should be clearly made as individual opinion and not a representation of the feelings of the entire City Council.

*(b) Limit contact with Board and Commission members to questions of clarification*

It is inappropriate for a Councilmember to contact a Board or Commission member to lobby on behalf of an individual, business, or developer, and vice versa. It is acceptable for Councilmembers to contact Board or Commission members in order to clarify a position taken by the Board or Commission.

*(c) Respect that Boards and Commissions serve the community, not individual Councilmembers*

The City Council appoints individuals to serve on Boards and Commissions, and it is the responsibility of Boards and Commissions to follow policy established by the Council. But Board and Commission members do not report to individual Councilmembers, nor should Councilmembers feel they have the power or right to threaten Board and Commission members with removal if they disagree about an issue. Appointment and re-appointment to a Board or Commission should be based on such criteria as expertise, ability to work with staff and the public, and commitment to fulfilling official duties. A Board or Commission appointment should not be used as a political "reward."

*(d) Be respectful of diverse opinions*

A primary role of Boards and Commissions is to represent many points of view in the community and to provide the Council with advice based on a full spectrum of concerns and perspectives. Councilmembers may have a closer working relationship with some individuals serving on Boards and Commissions, but must be fair and respectful of all citizens serving on Boards and Commissions.

*(e) Keep political support away from public forums*

Board and Commission members may offer political support to a Councilmember, but not in a public forum while conducting official duties. Conversely, Councilmembers may support Board and Commission members who are running for office, but not in an official forum in their capacity as a Councilmember.

## **5. Conduct with the Media**

Board and commission members are not authorized to represent the City to media outlets (including broadcast, print, and social media sites) outside of official board/commission meetings unless specifically authorized to do so.

*The Mayor is the official spokesperson for the City Council on City positions.*

The Mayor is the designated representative of the City Council to present and speak on the official City position. If an individual Councilmember is contacted by the media, the Councilmember should be clear about whether their comments represent the official City position or a personal viewpoint.

*Choose words carefully and cautiously*

Comments taken out of context can cause problems. Be especially cautious about humor, sardonic asides, sarcasm, or word play. It is never appropriate to use personal slurs or swear words when talking with the media.

### **COMPLIANCE**

#### ***(a) Acknowledgement of Code of Ethics and Conduct***

Members shall sign an acknowledgement that they have read and understand the Code of Ethics and Conduct.

#### ***(b) Ethics Training for Local Officials***

The Mayor, Councilmembers, City Manager, City Attorney, Board and Commission Members who are out of compliance with State or City mandated requirements for ethics training shall not represent the City on intergovernmental assignments or Council subcommittees.

#### ***(c) Primary and Additional Responsibility***

The Vallejo Code of Ethics and Conduct expresses standards of ethical conduct expected for members of the Vallejo City Council, Boards and Commissions. Members themselves have the primary responsibility to assure that ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of government. The chairs of Boards and Commissions and the Mayor and City Council have the additional responsibility to intervene when actions of members that appear to be in violation of the Code of Ethics and Conduct are brought to their attention.

#### ***(d) Violations***

**City Council:**

Individual Councilmembers should first point out perceived violations of the Vallejo Code of Ethics and Conduct directly to the member believed to be in violation. If the violation(s) continue, then the matter should be referred to the Mayor in private. If the Mayor is the individual whose actions are being questioned, then the matter should be referred to the Vice Mayor. It is the responsibility of the Mayor (or Vice Mayor) to initiate action if a member is not in compliance with the Code of Ethics and Conduct.

If no action is taken by the Mayor (or Vice Mayor), then the alleged violation(s) can be brought up with the full City Council.

#### **Board and Commission Members:**

Whenever it is perceived that a Board and Commission Member may have violated the Vallejo Code of Ethics and Conduct, such perception may be referred to the Council Liaison for determination. In the event the Council Liaison determines that the conduct violates the Vallejo Code of Ethics and Conduct, the matter shall be either 1) discussed privately with the member or 2) discussed in a written warning issued by the Liaison to the Member alerting the member to the applicable section of the Code of Conduct. Egregious or repeated violations may lead to additional sanctions as set forth below. Copies of written warnings shall be distributed to all Council Members, the City Manager and the City Attorney.

Counseling, verbal reprimands and written warnings may be administered by the Mayor to Board and Commission members failing to comply with City policy. These lower levels of sanctions shall be kept private to the degree allowed by law. Copies of all written reprimands administered by the Mayor shall be distributed in memo format to the chair of the respective Board or Commission, the City Clerk, the City Attorney, the City Manager, and the City Council.

The City Council may impose sanctions on Board and Commission members whose conduct does not comply with the City's policies, up to and including removal from office. Any form of discipline imposed by Council shall be determined by a majority vote of at least a quorum of the Council at a noticed public meeting and such action shall be preceded by a Report to Council with supporting documentation.

When deemed warranted, the Mayor or majority of Council may call for an investigation of Board or Commission member conduct. Additionally, should the City Manager or City Attorney believe an investigation into a member's conduct is warranted, they may refer the matter to the Mayor or City Council. The Mayor or City Council shall ask the City Manager or the City Attorney to investigate the allegation and report the findings.

Nothing in this Code of Ethics and Conduct shall limit what might otherwise be available to remedy conduct that violates City, state, or federal law. These sanctions are alternatives to any other remedy that might otherwise be available to remedy conduct that violates this code or state or federal law. In order to protect and preserve good government, any individual, including the City Manager and the City Attorney (after complying with Rule 3-600(B) of the State Bar Rules of Professional Conduct), who knows or reasonably believes that a member has acted or intends or refuses to act in a manner that is or may be a violation of law reasonably imputable to the organization, or in a manner which is likely to result in substantial injury to the organization, may report the violation to the appropriate governmental authorities.

#### **IMPLEMENTATION**

The Code of Ethics and Conduct is intended to be self-enforcing and is an expression of the standards of conduct for members expected by the City. It therefore becomes most effective when members are thoroughly familiar with it and embrace its provisions.

For this reason, this document shall be included in the regular orientations for candidates for City Council, City Manager, City Attorney, applicants to Board and Commissions, and newly elected and appointed officials. Members entering office shall sign a statement (example below) acknowledging they have read and understand the Code of Ethics and Conduct. In addition, the Code of Ethics and Conduct shall be periodically reviewed by the City Council, and updated as necessary.

***I affirm that I have read and understand the City of Vallejo Code of Ethics and Conduct for Elected and Appointed Officials.***

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Name

Date