

**Attachment B: SAMPLES OF COUNCIL ROLES/
RESPONSIBILITIES**

CITY OF MANHATTAN BEACH

Title 2

ADMINISTRATION

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Chapter 2.01

CITY COUNCIL

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2.01.010 Place of meetings.

All regular meetings of the City Council shall be held in the Council Chamber in the City Hall Building located at 1400 Highland Avenue, within the corporate limits of the City, unless adjourned to another location, provided such location has adequate audio amplification and recording capability. (Amended by § 1, Ord. 1429, eff. September 18, 1975, and § 1, Ord. 2149, eff. October 6, 2011)

2.01.020 Regular and adjourned meetings.

Regular meetings of the Council shall be held in the Council Chamber on the first and third Tuesdays of each calendar month. The Council may, however, by minute action, at its discretion, reschedule any specific regularly scheduled meeting to an alternate date or cancel any regular meeting. Any regular meeting may be adjourned to a date which shall be specified in the order of adjournment. When so adjourned, such adjourned meeting shall be a regular meeting for all purposes. An adjourned meeting may likewise be adjourned and, when so adjourned, shall be a regular meeting for all purposes. No notice of any adjournment of any regular meeting or adjourned regular meeting, when such adjournment is made by the Council or by a member thereof, need be given as all members of the Council are charged with the duty and responsibility of ascertaining the time and place of each adjourned meeting. (§ 4, Ord. 509, as amended by § 1, Ord. 599; § 2, Ord. 1006, eff. September 7, 1965; § 1, Ord. 1931, eff. July 20, 1995; § 2, Ord. 2047, eff. August 15, 2003, and § 2, Ord. 2104, eff. August 3, 2007)

2.01.030 Special meetings.

Special meetings of the Council may be called at any time by the Mayor of the Council, or by a majority of the members of the Council by written notice delivered personally to each member at least twenty-four (24) hours before the time specified for the proposed meeting. Such written notice may be dispensed with as to any member who has on file with the Office of the City Clerk a "Waiver of Notice for Special Meetings" stating that they waive the requirement for written notice during their term of office provided they are notified via telephone or facsimile transmission at least twenty-four (24) hours prior to the time of the special meeting. A telegraphic communication from a Councilmember consenting to the

holding of the meeting shall be deemed to be a consent in writing, within the meaning of the terms as expressed in this section. The power of the Council to transact business at any special meeting shall be limited to matters referred to in the written notice or written consent.

(§ 5, Ord. 509, as amended by § 2, Ord. 1931, eff. July 20, 1995)

2.01.040 Attendance at meetings.

A. **Quorum.** At any meeting of the Council a majority of the Council shall constitute a quorum for the transaction of business, but a less number may adjourn from time to time.

B. **Compelled Attendance.** Absent members may be compelled to attend Council meetings when the Mayor, or any two (2) members of the Council, sign a written order requiring the attendance of any Councilman or Councilmen, as the case may be, who may be absent from any meeting and shall have the power to send a member of the Police Department with such written order to bring the absent Councilman or Councilmen forthwith before the Council. It shall be unlawful for any member of the Council to fail or refuse to accompany such Police Officer to the Council Chamber immediately upon being served with such written order, unless such member of the Council is injured, ill or incapacitated to such an extent as to reasonably preclude such attendance on his part or unless he is so precluded by the serious illness or injury of any member of his immediate family.

(§ 7, Ord. 509)

2.01.050 Adjournment of meetings by City Clerk.

In the absence of all of the members of the Council from any regular meeting or adjourned regular meeting, the City Clerk may declare the same postponed and adjourned to a stated day and hour, and must thereupon deliver, or cause to be delivered, personally to each member of the Council a written notice of such adjournment at least three (3) hours before the time to which such regular or adjourned regular meeting has been adjourned.

(§ 8, Ord. 509)

2.01.060 Time of adjourned meetings.

In the event any order of adjournment of a regular meeting fails to state the hour at which any adjourned meeting is to be held, such adjourned meeting may be validly held on the day specified in the order of adjournment if held at the hour prescribed for regular meetings.

(§ 9, Ord. 509)

2.01.070 Orderly conduct at meetings.

It shall be unlawful for any person to disturb any meeting of the Council by loud or unusual noise, by tumultuous or offensive conduct, or by threatening, traducing, quarreling, challenging to fight, or fighting.

It shall be unlawful for any person, other than a member of the Council, present at any Council meeting and while the Council is in session to fail or refuse to be seated or remain quiet when ordered or commanded so to do by the Mayor or Mayor pro tempore.

(§§ 10, 11, Ord. 509)

2.01.080 Parliamentary procedure.

Except as may be otherwise provided by law, the proceedings of the Council shall be governed by Robert's Rules of Order. It shall be the duty of the Mayor or Mayor tempore to reasonably adhere to and

enforce such rules, provided, however, that an inadvertent failure to observe or enforce such rules shall in no manner affect the regularity, validity or legality of any action or proceeding taken by the Council. However, should the Council desire to intentionally or knowingly violate the provisions of Robert's Rules of Order, a four-fifths majority vote shall be required.

(§ 12, Ord. 509, as amended by § 2 (part), Ord. 2118, eff. November 21, 2008)

2.01.090 Delegation of authority to City Manager to sign contracts.

The City Manager shall have power to sign all written contracts and conveyances made or entered into by the City, either personally or by his authorized deputy, in accordance with Section 40602 of the Government Code of the State of California.

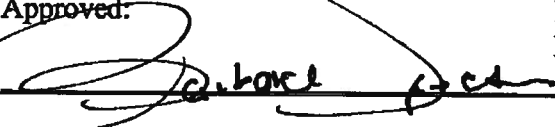
(§ 1, Ord. 1543, eff. September 14, 1978)

2.01.100 Elected official salaries.

Each member of the City Council and the City Treasurer shall be entitled to receive a salary (not including benefits) of five hundred dollars (\$500.00) per month.

(§ 2, Ord. 2094, eff. March 17, 2009)

**COUNCIL POLICY
TOWN OF LOS GATOS**

Subject: Town Council Code of Conduct Policy	Page 1 of 16	Enabling Actions: Resolution 2004-59 Resolution 2006-111
Approved: 	Effective Date: 5/3/04	Revised Date: 12/17/2012

I. Preamble

Public trust and mutual respect are essential for effective political leadership and efficient governance. Democratic governance requires that decision makers be fair, independent, impartial, and accountable. Based on these values, the Los Gatos Town Council has adopted a Code of Conduct Policy that establishes guiding principles for appropriate conduct and behavior and sets forth the expectations of Council Members. The provisions of this policy reflect a commitment by Council Members to the people they serve and to each other, and more importantly, a desire to seek what is good for the community.

II. Form of Government

The Town of Los Gatos operates under a Council-Manager form of government as prescribed by Town Code. Accordingly, members of the Council are elected at-large, provide legislative direction, set Town policy, and ultimately answer to the public. The Town Manager serves as the Town's chief administrative officer and is responsible for directing the day-to-day operations of the Town and implementing policy direction. This is referenced in Section 2.30.305 of the Town Code:

"Neither the Town Council, nor any member thereof, shall direct or request the appointment of any person to or removal of any person from office by the Town Manager or by any other appointing officer, or in any manner take part in the appointment or removal of an officer or employee in the administrative service of the Town. Except for the purpose of inquiry, the Town Council and its members shall deal with the administrative services solely through the Town Manager, and neither the Town Council nor any member thereof shall give orders to any Town Officers, other than the Town Attorney, either publicly or privately."

III. Town Council Roles, Responsibilities, and Relationships

A council is a collection of diverse individuals who come together to constitute and act as an entity, and only when operating as an entity can they exercise authority and perform the fulfillment of their purpose. Working together as a council involves acknowledging and balancing the unique interests, expertise, and abilities of individual council members, and

accepting final decisions of the Council as the official Town position on such matters. To achieve success, a council must clearly define and understand its roles, responsibilities, and relationships. The following outlines the key roles, responsibilities, and relationships of the Los Gatos Town Council:

Town Council Roles and Responsibilities

The role of the Town Council is to act as a legislative and quasi-judicial body. Through its legislative and policy authority, the Council is responsible for assessing and achieving the community's desire for its present and future and for establishing policy direction to achieve its desired outcomes. All members of the Town Council, including those who serve as Mayor and Vice Mayor have equal votes.

Town Council Relationship to its Work, Each Other and the Public

Members of the Town Council fulfill their role and responsibilities through shared values that are reflected in the relationships they have with each other and the public. Town Council Members are committed to approaching their work, each other, and the public in a manner that reflects:

- Ethical behavior and integrity
- Honesty
- Trust and respect for one another

The commitment of Town Council Members to their work, each other, and the public is also characterized by:

- Innovation and creative problem solving
- Future orientation and proactive efforts
- Open and constructive communication
- Shared purpose

IV. Mayoral and Vice Mayoral Selection Process

The selection of the Mayor and Vice Mayor usually occurs annually at the second meeting in November by majority vote of the Town Council. Section 2.20.035 of the Town Code establishes this provision.

Serving as Mayor and Vice Mayor is considered to be a privilege, not a right. The Mayor and Vice Mayor serve at the pleasure of the Town Council and may be replaced at any time by a majority vote of the Council. At the time of selection, any member of the Town Council may be nominated to serve as Mayor or Vice Mayor. Individuals who are elected to serve as Mayor and Vice Mayor are chosen because their ability to fulfill the roles and responsibilities of these positions, establish a collegial working relationship with the Council, and ultimately, serve the community.

V. Mayoral and Vice Mayoral Roles, Responsibilities, and Relationships

The following outlines some of the key roles, responsibilities, and relationships as they relate to the position of Mayor and Vice Mayor:

Mayor

- The Mayor is the presiding officer of the Town Council. In this capacity, the Mayor is responsible for developing Council agendas in cooperation with the Town Manager and leading Council meetings.
- The Mayor recommends various standing committee appointments to the Council for approval.¹ When making committee recommendations, the Mayor should attempt to balance shared responsibilities and opportunities among Council Members.
- As the presiding officer of the Town Council, the Mayor is responsible for establishing a professional and respectful working relationship with the Council and public through cooperation and collaboration. This includes an obligation to listen and consider issues, questions, and concerns of the public and Council Members as they relate to Council meetings and the agenda setting process.
- The title of Mayor carries with it the responsibility of communicating with the Town Council, Town Manager, and members of the public. In this capacity, the Mayor serves as the Town “spokesperson” representing the Council in official and ceremonial occasions.
- As the official Town spokesperson, the Mayor performs special duties consistent with the Mayoral office, including, but not limited to: signing of documents on behalf of the Town, issuing proclamations, serving as the official voting delegate for various municipal advocacy groups, such as the League of California Cities, and delivering the State of the Town Address.² The Town Council will determine any additional authority or duties that the Mayor shall perform.
- Special duties consistent of the Mayoral office may be delegated to the Vice Mayor or any other member of the Town Council.
- The Mayor may establish a series of achievable community goals during his/her year in office in collaboration with the Town Council and in consultation with the Town Manager. These proposed goals are subject to evaluation using criteria such as, but not limited to, their relationship to other Town priorities, the capacity of the Town budget, availability of staff, and other necessary resources required for implementation. Implementation of such goals, however, would require formal Council approval.

1 Council Agenda Format and Rules Policy

2 Council Commendation and Proclamation Policy

- In the event that a Council Member acts contrary to approved Council policies, the Mayor shall counsel the Council Member about the rules set forth in the Council Code of Conduct policy or other applicable Council policies.
- In the event that one or more members of a Town Board, Commission, or Committee acts in a manner contrary to approved Board/Commission policies and procedures, the Mayor may counsel those members about the rules set forth in the Town Commissioner Handbook.³

Vice Mayor

- In the Mayor's absence, the Vice Mayor shall perform the formal duties of the Mayor as noted elsewhere in this document.⁴
- When the Vice Mayor performs the duties of the Mayor in his/her absence, the Vice Mayor also carries the responsibility of communicating with the Town Manager, Town Council, and members of the public. This responsibility includes establishing a professional and respectful working relationship with the Council, Town Manager and public through cooperation and collaboration.
- In the event that the Mayor acts contrary to approved Council policies, the Vice Mayor shall counsel the Mayor about the rules set forth in the Council Code of Conduct policy or other applicable Council policies.

VI. Legal and Ethical Standards

Understanding that the Council's primary concern is the public interest, Council Members should work for the common good, rather than for private or personal interests. Council Members must serve as a model of leadership and civility to the community and treat all members of the public, each other, and the issues before them with respect to ensure open and effective government.

Council Conduct in Public Meetings

To ensure the highest standards of respect and integrity during public meetings, Council Members should:

- *Use formal titles.* The Council should refer to one another formally during Council meetings such as Mayor, Vice Mayor or Council Member or Mr., Mrs., or Ms., followed by the individual's last name.
- *Practice civility and decorum in discussions and debate.* Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are

³ Resolution 1999-167

⁴ Council Agenda Format and Rules Policy

legitimate elements of free democracy in action. During public discussions, Council Members should be respectful of others and diverse opinions, practice objectivity, and allow for the debate of issues. This does not allow, however, Council Members to make abusive, slanderous, and personal comments, and/or physical actions that could be construed as threatening.

- *Honor the role of the presiding officer in maintaining order and equity.* Respect the Mayor/Chair's efforts to focus discussion on current agenda items. Objections to the Mayor/Chair's actions should be voiced politely and with reason, following the procedures outlined in the Town Council Agenda Format and Rules Policy.
- *Demonstrate effective problem-solving approaches.* Council Members have a public stage to show how individuals with disparate points of view can find common ground and seek compromise that benefits the community as a whole. Council Members are role models for residents, business people, and other stakeholders involved in public debate.
- *Base decisions on the best available information.* Decisions should be made objectively and based upon the merits and substance of the matter at hand, not through established coalitions or well-defined voting blocks. Judgment of decisions should be reserved until all applicable information has been presented.
- *Be prepared and knowledgeable.* To effectively lead and inform the public, Council Members should be prepared and informed about issues on the agenda.
- *Be respectful of other people's time.* Council Members should stay focused, listen attentively, and act efficiently during public meetings. During public testimony, Council Members should refrain from engaging the speaker in dialogue. However, for purposes of clarification, Council may ask the speaker questions. Council comment and discussion should commence upon the conclusion of all public testimony.
- *Treat others as you would like to be treated.* To maintain effective interpersonal relationships, Council Members should treat others the way they would expect to be treated. Council Members should be professional in all situations and circumstances, conducting themselves in a consistent, confident, competent, and productive manner.

Implementation of Legal and Ethical Standards

Legal and ethical standards will be included in the regular orientations for Town Council Candidates and newly elected Council Members. Newly elected Council Members should sign a statement affirming they have read and understand the Town of Los Gatos Council Code of Conduct Policy. The Council will endeavor to annually affirm its understanding and commitment to the Code of Conduct policy.

VII. Legal Requirements

The Town Council operates under a series of laws that regulate its operations as well as the conduct of its members. The Town Attorney serves as the Town's legal officer and is available to advise the Council on these matters. Members of the Town Council recognize the importance of following the law so as not to compromise the effort to achieve the goals of the community.

Open Meeting Rules

The Ralph M. Brown Act.

- Requires that meetings of the Town Council be open and public. "Meetings" occur whenever three or more members of the Council hear, discuss, or deliberate on any matter that is relevant to the Town. This includes discussions that occur face to face, serially, through third parties, or through written, telephonic, or e-mail communications.
- Requires that the agenda for meetings be posted in advance and that discussions and actions be limited to items appearing on the posted agenda.
- Allows closed session discussions and actions in limited circumstances, including pending or anticipated litigation, property acquisition, labor negotiations or the appointment or evaluation of certain personnel.
- Requires that information provided for closed sessions and the discussions that occur therein remain confidential and can be revealed only with the approval of the Town Council.

Conflicts of Interest

Existing Town Conflict of Interest Policy.

- Members of the Council are prohibited from being appointed to the board of directors of nonprofit organizations receiving funds or in-kind contributions from the Town.⁵ This applies to all "legislative bodies," which are defined to include a private corporation or entity, including a nonprofit organization that was either created by the Town, or is governed by a board of directors to which Council has appointed one of its members.

The Political Reform Act. The Act controls conflicts of interests through disclosure of financial interests and prohibition in participating in decision making.

- Members of the Town Council are prohibited from making, participating in or in any way attempting to use their official position to influence a governmental decision in which they know or have reason to know they have a financial interest. Financial interests can arise out of property ownership, business investment, leadership in a business entity, and receipt

⁵ Council Public Access to Council Decision Making Policy and Council Appointments and Memberships Policy

of income and gifts. Nevertheless, under certain circumstances, Council Members with conflicts may be allowed to participate in decision making if their economic interest is affected in a substantially similar manner as a significant segment of the public or if their participation is legally required in order for an action or decision to be completed.

- Members of the Town Council are prohibited from accepting gifts from a single source in any calendar year in excess of the limit set forth biennially by the Fair Political Practices Commission (FPPC) to reflect changes in the Consumer Price Index. The Town Attorney notifies the Council of that amount at the beginning of each calendar year and upon request. Council Members can also obtain this information directly from the FPPC. There are several exceptions, including gifts from a spouse, or from a child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin or the spouse of any such person, information material, gifts that are returned or donated to a charity within 30 days without being claimed for a tax deduction, campaign contributions, inheritances and hospitality at a private residence.
- Members of the Town Council are prohibited from receiving loans from public officials, employees, vendors and consultants.
- Mass mailings of over two hundred or more identical pieces of mail sent at public expense may not contain the name or pictures of elected officials except as part of a standard letterhead.

Government Code Section 1090. Section 1090 prohibits “self dealing,” which can occur if members of the Town Council have a financial interest in contracts made by them or by the Council. While existing contracts are not prohibited, members of the Town Council cannot in any way participate in making contracts in which they have either a direct or indirect financial interest. Serious criminal penalties can result from violations of section 1090. The maximum penalty for a willful violation is a felony with a maximum fine of \$1,000 or imprisonment in state prison and a permanent disqualification from holding any public office in the state.

Incompatible Offices. A public officer who is appointed or elected to another public office and enters the duties of the second office automatically vacates the first office if the two are incompatible. Offices are incompatible if any significant clash of duties exists between the two offices, if public policy suggests it would be improper to hold the dual offices, or if either office exercises power over the other.

Bias. Due process requires that decision makers in certain situations, such as public hearings in land use matters, be fair and impartial. A personal interest or involvement in the outcome of a matter or with any participants which is unrelated to the factors upon which an application may be judged requires disqualification. This rule does not preclude holding opinions, philosophies or strong feelings about issues or specific projects so long as the decision maker retains an open mind in considering the evidence.

Successor to the Redevelopment Agency Conflicts. The Council, as officers of the Successor Agency to the Redevelopment Agency, is generally prohibited from acquiring any interest in property included with the redevelopment project area. Property can, however, be acquired for personal residential use so long as the Successor Agency to the Redevelopment Agency certifies that it will not make or otherwise arrange for improvements to the property.

VIII. Council Conduct and Communication with, and Participation in, all Boards, Commissions, and Committees

There are several committees that Town Council Members have been appointed to or have an interest in, including but not limited to: Town Council standing and ad hoc committees, Town boards and commissions, regional boards and commissions, and community-generated committees.

Included in these committees assignment are Council liaisons. A Council liaison is an assignment by the Council of one or more Council Members to an ad-hoc effort initiated by the Town or in which the Town is participating as a community partner. This assignment is distinguished from routine Los Gatos elected official appointments to regional boards and committees and is accomplished through Council consensus.

To avoid confusion and/or duplication of efforts, Council conduct and communication with and participation in these types of committees are governed by the following guidelines and rules:

Conduct

- *Town boards, commissions, and committees are advisory to the Council as a whole, not individual Council Members. The Town Council appoints individuals to serve on boards, commissions, and committees. It is the responsibility of Council Members to follow policy established by the Council. Council Members should not feel they have the power or right to influence a board, commission, or committee member in any way. These appointments should not be used as a political "reward."*
- *Council Members should be respectful of diverse opinions. A primary role of boards, commissions, and committees is to represent many points of view and to provide advice based on a full spectrum of concerns and perspectives. Council Members may have a closer working relationship with some individuals serving on boards, commissions, and committees, but must be fair and respectful of all board, commission, and committee members and their opinions.*
- *Keep political campaign support away from public forums. Board, commission, and committee members may provide verbal, financial or in-kind assistance to a Council Member, but not in a public forum while conducting official Town duties. Conversely, Council Members may provide verbal, financial or in-kind assistance to board, commission, and committee members who are running for office, but not in an official forum in their capacity as a Council Member.*

Communication

- *Council Members should advise Chair and/or applicable Town Council representative if attending a board, commission, or committee meeting. Council Members may attend any board, commission, or committee meeting, which are always open to any member of the public. However, if a Council Member wishes to attend the meeting of a committee to which he/she has not been appointed to serve on by the Council, the Council Member, as a courtesy, should advise the Town representative, if any, as well as the respective committee chair, and should be mindful of the influence of his/her presence. Unless otherwise directed by the Council, comments made by the Council Member should be made as an individual, not on behalf of the Town Council.*
- *Council Members should not deliberate on any Council action if they have specifically addressed a Town board or commission about that particular issue. If a Council Member attends a Town board or commission meeting and wishes to address the board or commission on matters of interest to that individual Council Member, he/she should recuse himself/herself from deliberating on any Council action related to the issue discussed.*
- *Statements made by Council representatives about the Town's official position should be based on current or past Council action. When serving as a primary or alternate Council representative on a board, commission, or committee, statements made by Council Members regarding Town policy should reflect the majority opinion of the Council, which is defined by current or past official Council action via Council vote or consensus.*
- *Primary Council representatives should update the Council about board, commission, and committee activities. When serving as the primary Council representative on any board, commission, or committee, Council Members should periodically provide update reports to the Council during the "Council Matters" opportunity on the Council meeting agenda.*
- *Recommended actions of a Council Committee should be reported to the Council. When serving on Council committee, whether standing or ad hoc, all work undertaken by the committee must be directed by the Council and all recommended actions of a Council Committee shall be reported to the Council.*
- *The Mayor may counsel members of a Town Board and Commission about appropriate public meeting conduct related to the business of the Town. In the event that one or more members of a Town Board, Commission, or Committee acts in a manner contrary to approved Board/Commission policies and procedures, the Mayor may counsel those members about the rules set forth in the Town Commissioner Handbook.*

Participation

- *Appointed primary Council representatives are responsible for attending and participating in applicable board, commission, and committee meetings. If a Council Member has been appointed as the primary Council representative for a board, commission, or committee,*

that Council Member is responsible for attending the regularly scheduled meetings. In the event that he or she is unable to attend, the primary representative should notify the chair, and the appointed alternate Council representative should attend in the place of the primary.

- *Appointed alternate Council representatives should familiarize themselves with the practices and procedures of the respective board, commission, or committee.* If a Council Member is appointed as an alternate Council representative to a board, commission, or committee, the alternate should initially attend one meeting to orient himself/herself to the board/commission/committee's practices and procedures and to avoid confusion or duplication of efforts. Alternates are discouraged from regular attendance at board/commission/committee meetings when the primary Council representative is available to attend.

IX. Council Relationship with Town Staff

The Town Council respects the Council-Manager form of government. The Town Manager implements the Council's vision, policies, and goals through the Town staff and is responsible for directing the day-to-day operations of the Town as outlined in Section 2.30.305 of the Town Code. The Council values partnering and collaborating with the Town Manager and the Town organization to achieve the community's vision. The Council-Manager relationship is affected by the expectations, styles, and personalities of the Council and Manager who are in place at the time. Despite the value of partnership and collaboration, these policies are intended to establish boundaries and expectations based upon the role of the Town Manager as set forth by the Town Code and the Council-Manager form of government structure. As such, they transcend individual personalities and agreed upon styles that might affect their implementation.

Council Conduct and Communications with Town Staff

To enhance its working relationship with staff, Council should be mindful of the support and resources needed to accomplish Council goals. When communicating and working with staff, Council should follow these guidelines:

- *Council Members should treat staff as professionals. Clear, honest communication that respects the abilities, experience, and dignity of each individual is expected. As with Council colleagues, practice civility and decorum in all interactions with Town staff.*
- *Council Members should respect the Council-Manager form of government.* Routine questions of Town staff should be directed to the Town Manager, Town Attorney, or the Manager's designee. Council Members should not set up meetings with department staff directly, but work through the Town Manager. When in doubt about appropriate staff contact, Council Members should ask the Town Manager.
- *The Town Manager and staff are responsible for implementing Town policy and/or Council action.* The processing of Council policy and decisions takes place with the Town

Manager and staff. Council should not direct policy/program administrative functions and implementation; rather it should provide policy guidance to the Town Manager.

- *Council Members should attempt to communicate questions, corrections, and/or clarifications about reports requiring official action to staff prior to Council meetings. Early feedback will enable staff to address Council questions and incorporate minor corrections or changes to a Council report, resulting in a more efficient Council meeting discussion.*
- *Council Members should not direct the Town Manager to initiate any action, change a course of action, or prepare any report without the approval of Council. The Town Manager's responsibility is to advise on resources available and required for a particular course of action as it relates to the direction of the majority of the Council.*
- *Council Members should not attend department staff meetings unless requested by the Town Manager.*
- *All Council Members should have the same information with which to make decisions. Information requested by one Council Member will be shared with all members of the Council.*
- *Concerns related to the behavior or work of a Town employee should be directed to the Town Manager. Council Members should not reprimand employees directly nor should they communicate their concerns publicly.*
- *Council Members should not solicit political campaign support from Town staff. Although Town staff may, as private citizens with constitutional rights, support political candidates, such activities must take place away from the workplace.*

X. Council Conduct and Communication with the General Public

A fundamental principle of democracy is citizen access to elected officials. When meeting with constituents, Council Members should follow the following conduct and communication guidelines when addressing the general public and specific interest groups:

General Public

- *Council Members should respect the collaborative process of council decision making and the Council-Manager form of government. Council Members routinely meet with constituents to hear community concerns, explain Council actions, provide opinions about a particular issue, and/or address service requests or inquiries. When meeting with members of the community, Council Members should avoid making commitments that are inconsistent with prior Town Council action or existing policy or foreclose on decisions prior to hearing public testimony. If Council Members desire the assistance of staff while meeting with constituents, they should request that assistance from the Town Manager.*

- *Council Members should be mindful of their influence when attending community meetings that are not organized by the Town.* The presence of Council Members can sometimes create a perception of support for a particular issue or an expectation that a specific action will be taken.
- *While Council Members may take broad philosophical positions on issues of concern to the Town, they should not commit to a particular position prior to a public meeting.* Council Members should not make public or private promises or commit to a specific position on current, pending, or future matters to be heard by the Council. In general, Council Members should not reach a decision on any agenda item prior to a scheduled public meeting.
- *Council Members should keep political campaign support away from public forums.* Council Members may provide verbal, financial, or in-kind assistance to persons running for office, but not in an official forum in their capacity as Council Member. Council Members, however, are free to exercise their rights as individuals to express opinions regarding political issues, including candidate endorsements.

Land Use Applications

- Information obtained outside of the public hearing process related to a matter pending before the Town Council must be revealed on the official public record. When evaluating the merits of a land use application, Council Members must do so objectively and impartially. If a Council Member meets with a land use applicant or visits a proposed development site related to a matter pending before the Council and obtains information outside of the public hearing process, he or she must disclose that information on the official public record, as well as any facts obtained in the meeting that could influence a Council Member's decision. The merits of an application can only be evaluated based on information included in the public record.

Procurement

- *Unless authorized by Council, Council Members should not become involved in administrative processes for acquiring goods and services. The procurement of goods and services is governed by competitive selection processes. To preserve the integrity of this administrative process, Council Members should refrain from any involvement, unless otherwise directed by Council. Specific Council interests, however, can be referred to the Town Manager as appropriate.*

XI. Representing an Official Town Position

In the event that individual Council Members are asked to represent or express an official Town position, they should follow these guidelines:

- *Using the title of Council Member when conducting official Town business. Council Members may use their title when conducting official Town business, for informational purposes, or as an indication of background and expertise, carefully considering whether they are exceeding or appearing to exceed their authority.*
- *Representing an official Town position before a governmental agency. If a member of the Town Council appears before another governmental agency organization to give a statement on an issue affecting the Town, the Council Member should indicate the majority opinion of the Council, which is defined by current or past official Council action via Council vote or consensus.*
- *Sharing personal perspectives and opinions. Personal opinions and comments may be expressed only if the Council Member clarifies that these statements do not reflect the official position of the Town Council.*

XII. Council Conduct with the Media

Council Members are frequently contacted by the media for background information and quotes related to Town business and/or community issues. When addressing the media, Council Members should follow these guidelines:

- *Council Members should be professional in all situations and circumstances, conducting themselves in a respectful manner. When speaking with the media or writing letters to the media, Council Members should choose their words carefully to ensure that comments and statements are not taken out of context.*
- *Council Members should advise the entire Council in advance if they plan to submit a letter to the media. Early communication could help to alleviate potential misinterpretation and prepare members of the Council for questions from the media.*
- *Council Members should clarify whether they are speaking as an individual Council Member or representing the position of the Town Council. If a Council Member is contacted by the media or initiates contact with the media, he/she should be clear about whether his/her comments represent an official Town position/policy or a personal viewpoint.*
- *Council Members should coordinate with the Town Manager when addressing questions related to administrative functions or processes. To provide accurate information, Council Members should work with the Town Manager when making statements about administrative procedures and processes.*

- *Council Members should conform to the information policy governed by the Town Emergency/Disaster Preparedness Plan in the event of a disaster or emergency.* To avoid confusion and ensure the dissemination of factual information during an emergency or disaster, requests for information should be routed through the appropriately trained public information personnel as prescribed by the Town Emergency/Disaster Preparedness Plan. The Town Manager serves as the Emergency Services Director during a disaster and is responsible for the response plan and the assignment of duties under that plan.

XIII. Enforcement

Purpose

The Council Code of Conduct Policy establishes guiding principles for appropriate conduct and behavior and sets forth the expectations of Council Members. The purpose of the policy language is to establish a process and procedure that:

- Allows the public, Town Council, and Town employees to report Code of Conduct policy violations or other misconduct.
- Provides guidelines to evaluate Code of Conduct policy violations or other misconduct and implement appropriate disciplinary action when necessary.

Procedures

Reporting of Complaints

The following section outlines the process of reporting Council Member Code of Conduct policy violations or other misconduct:

- Complaints made by members of the public, the Town Manager, and Town Attorney should be reported to the Mayor. If a complaint involves the Mayor, it should be reported to the Vice Mayor.
- Complaints made by Council Members should be reported to the Town Manager or Town Attorney to adhere to Brown Act requirements.
- Complaints made by Town employees should be reported to the Town Manager, who will direct them to the Mayor or Vice Mayor.

Evaluation of Complaints Alleging Violations

Upon report of the complaint, Town Manager and Town Attorney will join the Mayor or Vice Mayor as an evaluation committee to determine the validity of the complaint and, if appropriate, an initial course of action as discussed below. Within seventy-two (72) hours of receipt by the Mayor or Vice Mayor, the Council Member in question shall be notified of the reported complaint by the Mayor or his/her designee. The notification shall include a copy of the written complaint and supporting documentation, if any, the identity of the person making the complaint, and nature of the complaint.

Unsubstantiated or Minor Violations

If the majority of the Committee agrees that the reported violation is without substance, no further action will be taken. If the reported violation is deemed valid but minor in nature, the Mayor or Vice Mayor shall counsel and, if appropriate, admonish the Council Member privately to resolve the matter. Admonishment is considered to be a reproof or warning directed to a Council Member about a particular type of behavior that violates Town policy.

Allegations of Major Violations

If the reported violation is considered to be serious in nature, the matter shall be referred to outside legal counsel selected by the Committee for the purpose of conducting an initial interview with the subject Council Member. The outside counsel shall report his/her initial findings back to the Committee.

If the Committee then determines that an investigation is warranted, the Committee shall direct the outside legal counsel to conduct an investigation. The investigation process would include, but is not limited to, the ascertainment of facts relevant to the complaint through interviews and the examination of any documented materials.

Report of Findings

At the conclusion of the investigation, outside legal counsel shall report back to the Committee in writing. The report shall either (1) recommend that the Council Member be exonerated based on a finding that the investigation did not reveal evidence of a serious violation of the Code of Conduct, or (2) recommend disciplinary proceedings based on findings that one or more provisions of the Code of Conduct or other Town policies have been violated. In the latter event, the report shall specify the provisions violated along with the facts and evidence supporting each finding.

The Committee shall review the report and its recommendations. If the consensus of the Committee is to accept the report and recommendations, the Committee shall implement the recommendations. Where the recommendation is exoneration, no further action shall be taken. Where the recommendation is to initiate disciplinary proceedings, the matter shall be referred to the Council. Where there is no consensus of the Committee regarding the recommendations, the matter shall be referred to the Council.

The subject Council Member shall be notified in writing of the Committee's decision within 72 hours. Where the decision is to refer the matter to the Council, a copy of the full report, including documents relied on by the investigator shall be provided with the notification, and a copy of both shall be provided to the whole Council.

Proceedings

Investigative findings and recommended proceedings and disciplinary action that are brought forward to Council as a result of a significant policy violation shall be considered at a public hearing. The public hearing should be set far enough in advance to allow the Council Member in question reasonably sufficient time to prepare a response.

Investigative findings shall be presented to the Town Council at a public hearing. The rules of evidence do not apply to the public hearing. It shall not be conducted as an adversarial proceeding.

Disciplinary Action

Considerations in Determining Disciplinary Action

Disciplinary action may be imposed by Council upon Council Members who have violated the Code of Conduct. Disciplinary action or sanctions are considered when a serious violation of Town policy has occurred by a Council Member. In determining the type of sanction imposed, the following factors may be considered:


- Nature of the violation
- Prior violations by the same individual
- Other factors which bear upon the seriousness of the violation

Type of Sanctions

At the discretion of the Council, sanctions may be imposed for violating the Code of Conduct or engaging in other misconduct. These actions may be applied individually or in combination. They include, but are not limited to:

- *Public Admonishment* – A reproof or warning directed to a Council Member about a particular type of behavior that violates Town policy.
- *Revocation of Special Privileges* – A revocation of a Council Member's Council Committee assignments, including standing and ad hoc committees, regional boards and commissions, and community-generated board/committee appointments. Other revocations may include temporary suspension of official travel, conference participation, and ceremonial titles.
- *Censure* – A formal statement or resolution by the Council officially reprimanding a Council Member.

APPROVED AS TO FORM:



Judith Propp, Town Attorney

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CITY OF PALO ALTO COUNCIL PROTOCOLS

All Council Members

All members of the City Council, including those serving as Mayor and Vice Mayor, have equal votes. No Council Member has more power than any other Council Member, and all should be treated with equal respect.

All Council Members should:

- Demonstrate honesty and integrity in every action and statement
- Comply with both the letter and spirit of the laws and policies affecting the operation operations of government.
- Serve as a model of leadership and civility to the community
- Inspire public confidence in Palo Alto government
- Work for the common good, not personal interest
- Prepare in advance of Council meetings and be familiar with issues on the agenda
- Fully participate in City Council meetings and other public forums while demonstrating respect, kindness, consideration, and courtesy to others
- Participate in scheduled activities to increase Council effectiveness
- Review Council procedures, such as these Council Protocols, at least annually
- Represent the City at ceremonial functions at the request of the Mayor
- Be responsible for the highest standards of respect, civility and honesty in ensuring the effective maintenance of intergovernmental relations
- Respect the proper roles of elected officials and City staff in ensuring open and effective government
- Provide contact information to the City Clerk in case an emergency or urgent situation arises while the Council Member is out of town

Council Conduct with One Another

Councils 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 improve the quality of life in the community. In all cases, this common

goal should be acknowledged even as Council may "agree to disagree" on contentious issues.

In Public Meetings

- Use formal titles.

The Council should refer to one another formally during Council meetings as Mayor, Vice Mayor or Council Member followed by the individual's last name.

- Practice civility and decorum in discussions and debate.

Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of a free democracy in action. Be respectful of diverse opinions.

- Honor the role of the presiding officer in maintaining order and equity.

Respect the Chair's efforts to focus discussion on current agenda items. Objections to the Chair's actions should be voiced politely and with reason, following the parliamentary procedures outlined in the City Council Procedural Rules.

- Demonstrate effective problem-solving approaches.

Council Members have a public stage to show how individuals with disparate points of view can find common ground and seek a compromise that benefits the community as a whole. Council Members are role models for residents, business people and other stakeholders involved in public debate.

- Be respectful of other people's time.

Stay focused and act efficiently during public meetings.

In Private Encounters

- Treat others as you would like to be treated.

Ask yourself how you would like to be treated in similar circumstances, and then treat the other person that way.

Council Conduct with City Staff

The key provisions on Council-staff relations found in section 2.04.170 of the Palo Alto Municipal Code:

"Neither the council nor any of its committees or members shall direct, request or attempt to influence, either directly or indirectly, the appointment of any person to office or employment by the city manager or in any manner interfere with the city manager or prevent the city manager from exercising individual judgment in the appointment of officers and employees in the administrative service. Except for the purpose of inquiry, the council and its members shall deal with the administrative service solely through the city manager, and neither the council nor any member thereof shall give orders to any of the subordinates of the city manager, either publicly or privately."

Governance of a City relies on the cooperative efforts of elected officials, who set policy, and City staff, which analyze problems and issues, make recommendations, and 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.

- Treat all staff as professionals.

Clear, honest communication that respects the abilities, experience, and dignity of each individual is expected. As with your Council colleagues, practice civility and decorum in all interactions with City staff.

- Channel communications through the appropriate senior City staff.

Questions of City staff should be directed only to the City Manager, Assistant City Manager, City Attorney, City Clerk, Assistant City Clerk, City Auditor, Senior Assistant City Attorneys, or Department Heads. The Office of the City Manager should be copied on any request to Department Heads. Council Members should not set up meetings with department staff directly, but work through Department Heads, who will attend any meetings with Council Members. When in doubt about what staff contact is appropriate, Council Members should ask the City Manager for direction. However, nothing in these protocols is intended to hinder the access Council-appointed liaisons (e.g. to the San Francisquito JPA or NCPA) may require in order to fulfill their unique responsibilities.

- In order to facilitate open government, all Council Members should make decisions with the same information from staff on agendaed or soon-to-be agendaed items (i.e. items on the tentative agenda or in a Council Committee).
- Never publicly criticize an individual employee, including Council-Appointed Officers. Criticism is differentiated from questioning facts or the opinion of staff.

All critical comments about staff performance should only be made to the City Manager through private correspondence or conversation. Comments about staff in the office of the City Attorney, City Auditor or City Clerk should be made directly to these CAOs through private correspondence or conversation-

- Do not get involved in administrative functions.

Avoid any staff interactions that may be construed as trying to shape staff recommendations. Council Members shall refrain from coercing staff in making recommendations to the Council as a whole.

- Be cautious in representing City positions on issues.

Before sending correspondence related to a legislative position, check with City staff to see if a position has already been determined. When corresponding with representatives of other governments or constituents, remember to indicate if appropriate that the views you state are your own and may not represent those of the full Council.

- Do not attend staff meetings unless requested by staff.

Even if the Council Member does not say anything, the Council Member's presence may imply support, show partiality, intimidate staff, or hampers staff's ability to do its job objectively.

- Respect the “one hour” rule for staff work.

Requests for staff support should be made to the appropriate senior staff member, according to the protocol for channeling communications. Any request, which would require more than one hour of staff time to research a problem or prepare a response, will need to be approved by the full council to ensure that staff resources are allocated in accordance with overall council priorities. Once notified that a request for information or staff support would require more than one hour, the Council Member may request that the City Manager place the request on an upcoming Council agenda.

- Depend upon the staff to respond to citizen concerns and complaints.

It is the role of Council Members to pass on concerns and complaints on behalf of their constituents. It is not, however, appropriate to pressure staff to solve a problem in a particular way. Refer citizen complaints to the appropriate senior staff member, according to the protocol on channeling communications. The senior staff member should respond according to the Policy and Procedure for Responding to Customer Complaints. Senior staff is responsible for making sure the Council Member knows how the complaint was resolved.

- Do not solicit political support from staff.

The City Charter states that “Neither the city manager or any other person in the employ of the city shall take part in securing or shall contribute any money toward the nomination or election of any candidate for a municipal office.” In addition, some professionals (e.g., City Manager and the Assistant City Manager) have professional codes of ethics, which preclude politically partisan activities or activities that give the appearance of political partisanship.

Council Conduct With Palo Alto 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. Council Members serve as liaisons to Boards and Commissions, according to appointments made by the Mayor, and in this role are expected to represent the full Council in providing guidance on Council processes or actions to the Board or Commission. Refrain from speaking for the full Council on matters for which the full council has not yet taken a policy position. In other instances, Council Members may attend Board or Commission meetings as individuals, and should follow these protocols:

- If attending a Board or Commission meeting, identify your comments as personal views or opinions.

Council Members may attend any Board or Commission meeting, which are always open to any member of the public. Any public comments by a Council Member at a Board or Commission meeting, when that Council Member is not the liaison to the Board or Commission, should be clearly made as individual opinion and not a representation of the feelings of the entire City Council.

- Limit contact with Board and Commission members to questions of clarification.

It is inappropriate for a Council Member to contact a Board or Commission member to lobby on behalf of an individual, business, or developer, or to advocate a particular policy perspective. It is acceptable for Council Members to contact Board or Commission members in order to clarify a position taken by the Board or Commission.

- Remember that Boards and Commissions are advisory to the Council as a whole, not individual Council Members.

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. Council Members should not feel they have the power or right to unduly influence Board and Commission members. A Board or Commission appointment should not be used as a political "reward."

- Concerns about an individual Board or Commission member should be pursued with tact.

If a Council Member has a concern with the effectiveness of a particular Board or Commission member and is comfortable in talking with that individual privately, the Council Member should do so. Alternatively, or if the problem is not resolved, the Council Member should consult with the Mayor, who can bring the issue to the Council as appropriate.

- 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. Council Members may have a closer working relationship with some individuals serving on Boards and Commissions, but must be fair to and respectful of all citizens serving on Boards and Commissions.

- Keep political support away from public forums.

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

- Maintain an active liaison relationship.

Appointed Council liaisons are encouraged to attend all regularly scheduled meetings of their assigned Board or Commission, or to arrange for an alternate.

Staff Conduct with City Council

- Respond to Council questions as fully and as expeditiously as is practical.

The protocol for staff time devoted to research and response is in application here. If a Council Member forwards a complaint or service request to a department head or a Council Appointed Officer, there will be follow-through with the Council Member as to the outcome.

- Respect the role of Council Members as policy makers for the City

Staff is expected to provide its best professional recommendations on issues. Staff should not try to determine Council support for particular positions or recommendations in order to craft recommendations. The Council must be able to depend upon the staff to make independent recommendations. Staff should provide information about alternatives to staff recommendations as appropriate, as well as pros and cons for staff recommendations and alternatives

- Demonstrate professionalism and non-partisanship in all interactions with the community and in public meetings
 - It is important for the staff to demonstrate respect for the Council at all times. All Council Members should be treated equally.
-

ELECTRONIC MAIL COMMUNICATIONS

As society evolves in an increasingly electronic world, we need to have a reliable system to record and make public all e mail communications and responses to and from Council Members. Staff commits to working to create and implement such a system.

OTHER PROCEDURAL ISSUES

- Commit to annual review of important procedural issues.

At the beginning of each legislative year, the Council will hold a special meeting to review the Council protocols, adopted procedures for meetings, the Brown Act, conflict of interest, and other important procedural issues.

- Don't politicize procedural issues (e.g. minutes approval or agenda order) for strategic purposes.
- Submit questions on Council agenda items ahead of the meeting.

In order to focus the Council meetings on consideration of policy issues and to maintain an open forum for public discussion, questions which focus on the policy aspects of agenda items should be discussed at the Council meeting rather than in one-on-one communications with staff prior to the meetings. Any clarifications or technical questions that can be readily answered can be handled before the meeting. Council Members are encouraged to submit their questions on agenda items to the appropriate Council Appointed Officer or Assistant City Manager as far in advance of the meeting as possible so that staff can be prepared to respond at the Council meeting.

- Respect the work of the Council standing committees.

The purpose of the Council standing committees is to provide focused, in-depth discussion of issues. Council should respect the work of the committees and re-commit to its policy of keeping unanimous votes of the committees on the consent calendar.

- The Mayor and Vice Mayor should work with staff to plan the Council meetings.

There are three purposes to the pre-Council planning meeting: 1) to plan how the meeting will be conducted; 2) to identify any issues or questions that may need greater staff preparation for the meeting; and 3) to discuss future meetings. The purpose of the meeting is not to work on policy issues. Normally, only the Mayor and Vice Mayor are expected to attend the pre-Council meetings with the City Manager and other CAOs.

ENFORCEMENT

Council Members have the primary responsibility to assure that these protocols are understood and followed, so that the public can continue to have full confidence in the integrity of government. As an expression of the standards of conduct expected by the City for Council Members, the protocols are intended to be self-enforcing. They therefore become most effective when members are thoroughly familiar with them and embrace their provisions. For this reason, Council Members entering office shall sign a statement affirming they have read and understood the Council protocols. In addition, the protocols shall be annually reviewed by the Policy and Services Committee and updated as necessary.

The citizens, businesses and organizations of the City are entitled to have fair, ethical and accountable local government, which has earned the public's full confidence for integrity.

To this end, the City Council has adopted Council Protocols and this Code of Ethics for members of the City Council to assure public confidence in the integrity of local government and its effective and fair operation.

Comply with Law

Members shall comply with the laws of the nation, the State of California and the City in the performance of their public duties. These laws include but are not limited to: the United States and California constitutions, the city Charter, laws pertaining to conflicts of interest, election campaigns, financial disclosures, employer responsibilities and open processes of governments and City ordinances and policies.

Conduct of Members

The professional and personal conduct of members 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 Council, boards and commissions, the staff or the public.

Respect for Process

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

Decisions Based on Merit

Members shall base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations.

Conflict of Interest

In order to assure their independence and impartiality on behalf of the common good, members shall not use their official positions to influence decisions in which they have a material financial interest or where they have an organizational responsibility or personal relationship, which may give the appearance of a conflict of interest.

Gifts and Favors

Members commit to follow the laws that apply to accepting any gifts or favors as a public official.

Confidential Information

Members shall respect the confidentiality of information concerning the property, personnel or affairs of the City. They shall neither disclose confidential information without proper legal authorization, nor use such information to advance their personal, financial or other private interests.

Use of Public Resources

Members shall not use public resources, such as City staff time, equipment, supplies or facilities, for private gain or personal purposes.

Representation of Private Interests

In keeping with their role as stewards of the public interest, members of Council shall not appear on behalf of the private interests of third parties before the Council or any other board, commission or proceeding of the City, nor shall members of boards and commissions appear before their own bodies or before the Council on behalf of the private interests of third parties on matters related to the areas of service of their bodies.

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, nor will they allow the inference that they do.

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.

City of Mountain View

CHAPTER 2—COUNCIL POWERS AND RESPONSIBILITIES

2.1 City Council Generally

- 2.1.1 The City Council has the power, in the name of the City, to do and perform all acts and things appropriate to a municipal corporation and the general welfare of its inhabitants, which are not specifically prohibited by the constitution, the City Charter, or State or Federal laws.
- 2.1.2 The Council acts as a body. Policy is established by majority vote. A decision of the majority binds the Council to a course of action. The Council majority may be a majority of the quorum of the Council.
- 2.1.3 No Councilmember has extraordinary powers beyond those of other members (except as may otherwise be provided in State law). All members, including the Mayor, have equal powers.
- 2.1.4 No member of the Council is permitted to hold any other City office or City employment (except as may otherwise be provided in the City Charter).
- 2.1.5 Councilmembers also serve as members of the Mountain View Capital Improvements Financing Authority, Successor Agency of the Mountain View Revitalization Authority, City of Mountain View Downtown Parking, Maintenance and Operations Assessment District, and Mountain View Shoreline Regional Park Community.

2.2 Mayor and Vice Mayor - Appointment, Power, and Duties

- 2.2.1 The selection of the Mayor and Vice Mayor occurs annually at the first Council meeting in January by majority vote of the City Council. City Council Policy A-6, Election of Mayor and Vice Mayor, sets forth nonbinding guidelines for the selection of the Mayor and Vice Mayor.
- 2.2.2 The Mayor is the presiding officer of the City Council. In the Mayor's absence, the Vice Mayor shall perform the duties of the Mayor.
- 2.2.3 The Mayor is the official head of the City for all ceremonial purposes.
- 2.2.4 The Mayor may perform such other duties consistent with the mayoral office as may be prescribed by the City Charter or as may be imposed by the Council.

- 2.2.5 The Mayor does not possess any power of veto.
- 2.2.6 The Mayor, or Council designee, coordinates with the City Manager in the development of agendas for meetings of the City Council. Once the agenda is published, the City Manager may withdraw an item; however, only the City Council may otherwise alter the agenda.
- 2.2.7 The Mayor and Vice Mayor serve at the pleasure of the Council and can be replaced at any time by a majority vote of the Council.

2.3 Council Actions

- 2.3.1 Legislative actions by the City Council can be taken by means of ordinance, resolution, or minute action duly made and passed by the majority (unless otherwise provided).
- 2.3.2 Public actions of the Council are recorded in the minutes of the City Council meeting. The City Clerk is required to make a record only of business actually passed upon by a vote of the Council and is not required to record any remarks of Councilmembers or of any other person, except at the special request of a Councilmember, with the consent of the Council.
- 2.3.3 Actions of the Council concerning confidential property, personnel, and/or legal matters of the City are to be reported consistent with State law.

2.4 Councilmember Committees (Refer to City Council Policy A-13, City Council Meetings, Section 16, and City Council Policy A-23, Work Item Referral Process for Council Advisory Bodies and Councilmember Committees)

- 2.4.1 The City Council may organize itself into standing and/or special/ad hoc committees of the Council to facilitate Council review and action regarding certain matters referred to them by the City Council or in accordance with City Council Policy A-23, Work Item Referral Process for Council Advisory Bodies and Councilmember Committees.
- 2.4.2 All work undertaken by a Councilmember committee must originate with the Council or as permitted under City Council Policy A-23, Work Item Referral Process for Council Advisory Bodies and Councilmember Committees, and all actions of committees shall be reported to the Council.
- 2.4.3 The Council may create or dissolve standing committees at any time by the affirmative vote of a majority of the Council.
- 2.4.4 The Mayor annually appoints members to standing committees.
- 2.4.5 The Council or the Mayor may create special or ad hoc

committees. The Mayor appoints members to special or ad hoc committees.

2.4.6 The Council may dissolve special or ad hoc committees.

2.4.7 If permitted by the Ralph M. Brown Act, other members of the Council not assigned to a committee may attend meetings of a committee, as an observer, however, they shall be seated with the audience and may not participate in any manner or address the committee.

2.4.8 If an absence is anticipated on a committee and that absence may impede the work of the committee, the committee chair or other member may request that the Mayor designate another member of the Council to attend for the absent member and serve as an alternate member of the committee, provided that the member's attendance, in the opinion of the City Attorney, will comply with the Brown Act. The term for service by the alternate member will be the term designated in the appointment, or for one meeting, if no term is specified.

2.5 Establishment and Appointment of Council Advisory Bodies

2.5.1 The Mountain View City Charter requires a Planning Commission, Recreation and Parks Commission, and Library Board (refer to Mountain View City Charter, Article IX).

2.5.2 The City Council may also establish by ordinance or resolution, boards, commissions, and committees to assist the Council in making its policy decisions.

2.5.3 The rules of procedure and code of conduct that govern the City Council apply with equal force to all Council Advisory Bodies.

NOTE: See [Chapter 5, Council Advisory Bodies](#), for additional information regarding boards, commissions, and committees.

DUTIES AND RESPONSIBILITIES OF COUNCILMEMBERS

Councilmembers have 2 main duties: (1) their legislative duties; and (2) their adjudicatory duties.

Legislative duties – Establishing rules and policy

One of the main duties of councilmembers is their legislative duty. A legislative act is the formulation of a rule to be applied in all future cases. Strumsky v. San Diego County Employees Retirement Association, 11 Cal.3d 28, 112 Cal. Rptr. 805 (1974); California Aviation Council v. City of Ceres, 9 Cal. App. 4th 1384, 12 Cal. Rptr. 2d 163 (1992).

Part and parcel of the legislative or rule-making duty is the policy-making duty.

Hence, the very first section of the chapter of the Hawthorne Municipal Code (“HMC”) pertaining to the City council states as follows:

2.06.010 Legislative body.

The legislative body of the city shall consist of five persons elected at large which body shall be known as the city council. (*emphasis added*)

Other sections of the HMC, in conjunction with section 2.06.010 above, prescribe the mode in which the legislative authority (i.e., rule-making or policy-making authority) is to be exercised:

2.06.070 Official action.

The council may take official action only by the passage or adoption of ordinances, resolutions or motions as may be prescribed by the Constitution of the State Legislature. (*emphasis added*)

2.06.060 Meetings – Public.

All regular meetings of the city council, and all meetings at which an ordinance, resolution or motion is acted upon by said council, shall be public. (*emphasis added*)

2.06.080 Quorum and compelling attendance of members.

A majority of the council constitutes a quorum for transaction of business.

Councilmembers thus act as a “body” when exercising their legislature duties,¹ and are known as the “city council.” They take “official action” “only” by the “passage or adoption of ordinances, resolutions or motions.” Ordinances, resolutions or motions can be acted upon by a “quorum” of the city councilmembers (again as a body) only in a “public” meeting.

The scope of the city council’s legislative, i.e., rule-making and policy-making, authority is as broad as police power² reserved by the California Constitution to cities.³

Some examples of the rule-making or policy-making of the city council exercised as legislative acts include ordinances, resolutions, and motions involving the following:

¹ When councilmembers act as a body and within the scope of their legislative – i.e., rule-making or policy-making – duties, the law provides such councilmembers with immunity from litigation called legislative immunity. However, as the attached article notes, the legislative immunity can be lost when the councilmember takes action outside “the sphere of legitimate legislative activity.” This may occur, for example, when a councilmember acts unilaterally regarding an individual employee.

² The word “police” is derived from the Greek word “polis” meaning “city.” E. McQuillin, Municipal Corporations (3d rev. ed.) § 24.02 (1988). The term “police power” in its original and most comprehensive meaning, denotes the power of government in every sovereignty, the power to govern persons and things. Munn v. Illinois, 94 U.S. 113, 125, 24 L. Ed. 77, 84 (1877). The police power of a state is its right to adopt regulations designed to promote the public convenience or the general prosperity, as well as regulations designed to promote the public health, the public morals, or the public safety. Chicago, B. & O. Railway Company v. Illinois, 200 U.S. 561, 592, 26 S. Ct. 341, 50 L. Ed. 596, 609 (1906).

The police power “is not a circumscribed prerogative, but is elastic and, in keeping with the growth of knowledge and the belief in the popular mind of the need for its application, capable of expansion to meet existing conditions of modern life and thereby keep pace with the social, economic, moral, and intellectual evolution of the human race. In brief, ‘there is nothing known to the law that keeps more in step with human progress than does the exercise of this power’... “Miller v. Board of Public Works, 195 Cal. 477, 485, 234 P. 381 (1925).

³ “A county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws.” (*emphasis added*) Cal. Const. Art. XI § 7. “A city’s police power under this provision can be applied only within its own territory and is subject to displacement by general state law but otherwise is as broad as the police power exercisable by the Legislature itself.” Birkenfeld v. City of Berkeley Cal. 3d 129, 140, 130 Cal. Rptr. 465 (1976).

The City, by and through its council ... shall have and may exercise all powers necessary and appropriate to a municipal corporation and the general welfare of its inhabitants, which are not prohibited by the Constitution of the State and the general laws of the State. (*emphasis added*) HMC Section 2.02.010.

- general plans
- specific plans
- zoning and buildings
- subdivisions
- dedications
- redevelopment and blight elimination
- business and occupations
- personal conduct (including but not limited to disorderly conduct, curfew, trespass, noise, graffiti, nuisance)
- animals
- sewer and storm water
- street and traffic
- housing
- fees
- fiscal matters, including approval of city budget
- awarding of contracts ⁴

City council as “legislative body v. City Manager as “administrative head.”

The Hawthorne Municipal Code carefully delineates the lines of authority over legislative (i.e., rule or policy-making) duties of the city council versus administrative duties of the City Manager in the provisions of the HMC pertaining to the City Manager:

2.04.050 Administrative agent.

The city manager shall act as the agent for the city council in the discharge of its administrative functions but shall not exercise any policymaking or legislative functions whatsoever nor attempt to commit or bind the city council or any member thereof to any action, plan or program requiring official councilmanic action. (*emphasis added*).

⁴ Award of a public contract, and all of the acts leading up to the award, are legislative in character. Mike Moore’s 24-Hour Towing v. City of San Diego, 45 Cal. App. 4th 1294, 53 Cal. Rptr. 2d 355 (1996).

2.04.040 Powers and duties.

The city manager shall be the administrative head of the city government under the direction and control of the city council. He shall be responsible for the efficient administration of all the affairs of the city which are under his control. In addition to his general powers as administrative head, and not as a limitation thereon, it shall be his duty and he shall have the power:

- A. To see that all laws and ordinance of the city are duly enforced and that all franchises, permits and privileges granted by the city are faithfully observed;
- B. To exercise control over all departments of the city government and over all appointive officers and employees thereof, except the city clerk, city treasurer and city attorney; to appoint, promote, demote, remove and transfer any officers and employees of the city except the city clerk, city treasurer and city attorney; to consolidate and combine offices, positions, departments or units under his direction; providing, however, that said powers are subordinate to and nothing herein shall be construed to supercede the provisions of Chapters 2.18, 2.30 through 2.48, 2.52 and 2.54 of this code establishing a civil service system;
- C. To attend meetings of the city council with the duty of reporting on or discussing any matter concerning the affairs of the departments, services or activities under his supervision, upon which in his judgment the city council should be informed;
- D. To cause to be prepared and submitted to him by each department, division or service of the city government, itemized annual estimates of expenditures required by any of them for capital outlay, salaries, wages and miscellaneous operating costs; to tabulate the same into a preliminary consolidated municipal budget and submit the same to the city council before the fifteenth of June of each year with his recommendations as to such changes which he deems advisable;
- E. To be responsible for the administration of the budget after its final adoption and to keep the city council informed with respect thereto;
- F. As agent for the city council to supervise the expenditure of all departments, divisions or services of the city

government and to act as purchasing agent for the purchase of all supplied, goods, wares, merchandise, equipment and material which may be required for any of such departments, divisions or services. To execute any purchase orders or specialized or professional services agreements that comply with the city's adopted purchasing policy;

- G. To develop and organize necessary public improvement projects and programs and to aid and assist the city council and the various departments in carrying the same through to successful conclusion;
- H. To serve as public relations officer of the city government and to follow through and endeavor to adjust all just complaints filed against any employee, department, division or service thereof;
- I. To cooperate with all community organizations whose aim and purpose it is to advance the spiritual and material interests of the city and its people and to provide them with assistance through the city government;
- J. To make and keep up to date an inventory of all property, real and personal, owned by the city, and to recommend to the city council the purchase of new machinery, equipment and supplies whenever in his judgment the same can be obtained at the best advantage, taking into consideration trade-in value of machinery, equipment, etc., in use;
- K. To receive and open all mail addressed to the city council and give immediate attention thereto to the end that all administrative business referred to in said communications and not necessarily requiring councilmanic action, may be disposed of between council meetings, providing that all actions taken pursuant to such communications shall be reported to the city council at its next meeting thereafter;
- L. To exercise general supervision over all public buildings, public parks and other public property which is under the control and jurisdiction of the city council and not specifically delegated to a particular board or officer;
- M. To execute any contract, agreement, license or lease when expressly authorized by the city council;

- N. To perform such other duties and exercise such other powers as may be delegated to him or her from time to time by ordinance or resolution of the city council.
(*emphasis added*)

Accordingly, while councilmembers acting as the city council are assigned the legislative (i.e., rule-making or policy-making) duty and authority, the city Manager is deemed the “administrative head” of the City government and is assigned the administrative oversight duty over city government.

This bifurcation of duties is typical of general law cities. Because general law cities are governed by part-time council members, such cities are administered by a full-time professional administrator, the City Manager.

Adjudicatory Duties of City Councilmembers

The other main duty of councilmembers acting as a body (as the city council) is their adjudicatory or quasi-judicial duties.

“An adjudicatory act is the application of legislative rule to a specific set of existing facts. Strumsky v. San Diego County Employees Retirement Association, 11 Cal. 3d 28, 112 Cal. Rptr. 805 (1974); California Aviation Council v. City of Ceres, 9 Cal. App. 4th 1384, 12 Cal. Rptr. 2d 163 (1992).”

Pursuant to their adjudicatory duties, councilmembers apply various rules or standards set forth in the HMC to facts and testimony that are submitted as part of an evidentiary hearing, and make findings of fact – much as a judge does in a judicial proceeding.

Councilmembers undertake this adjudicatory or quasi-judicial duty in the context of various appeal hearings or land use permit proceedings under the HMC, including but not limited to the following:

- Appeals relating to issuance or denial of variances under Chapter 17.40.
- Appeals relating to issuance or denial of conditional use permits under Chapter 17.40.
- Appeals relating to the revocation or suspension of business license permits under Chapter 5.16.
- Making of findings in the first instance relating to unclassified permits under Chapter 17.62.