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STUDY SESSION AGENDA
234 N. Second Avenue, Covina, California
Covina Library Community Room
Tuesday, November 17, 2015

**CITY COUNCIL/SUCCESSOR AGENCY TO THE COVINA
REDEVELOPMENT AGENCY/COVINA PUBLIC FINANCING
AUTHORITY/COVINA HOUSING AUTHORITY
JOINT MEETING—STUDY SESSION
5:00 p.m.**

CALL TO ORDER

ROLL CALL

Council/Agency/Authority Members Walter Allen III, Peggy A. Delach, Jorge Marquez, Mayor Pro Tem/Vice-Chair Kevin Stapleton and Mayor/Chair John C. King

PUBLIC COMMENTS

To address the Council/Agency/Authority please complete a yellow speaker request card and give it to the City Clerk/Agency/Authority Secretary. Your name will be called when it is your turn to speak. Those wishing to speak on a LISTED AGENDA ITEM will be heard when that item is addressed. Those wishing to speak on an item NOT ON THE AGENDA will be heard at this time. State Law prohibits the Council/Agency/Authority Members from taking action on any item not on the agenda. Individual speakers are limited to five minutes each.

COUNCIL/AGENCY/AUTHORITY COMMENTS

Council/Agency/Authority Members wishing to make any announcements of public interest or to request that specific items be added to future Council/Agency/Authority agendas may do so at this time.

CITY MANAGER COMMENTS

NEW BUSINESS

NB 1. Discussion of City Council and City Manager Roles and Responsibilities, Code of Conduct, and Procedural Guidelines for the Conduct of Council Meetings.

Report: [Roles, Code of Conduct, and Guidelines](#)

NB 2. Covina Irrigating Company Update on October 15, 2015 Election of Board of Directors.

Report: [Covina Irrigating Company Update](#)

ADJOURNMENT

The Covina City Council/Successor Agency to the Covina Redevelopment Agency/Covina Public Finance Authority/Covina Housing Authority will adjourn to its next regular meeting of the Council/Agency/Authority scheduled for Tuesday, November 17, 2015, at 6:30 p.m. for closed session and 7:30 p.m. for open session inside the Council Chamber, 125 East College Street, Covina, California, 91723

Any member of the public may address the Council/Agency/Authority during both the public comment period and on any scheduled item on the agenda. Comments are limited to a maximum of five minutes per speaker unless, for good cause, the Mayor/Chairperson amends the time limit. Anyone wishing to speak is requested to submit a yellow Speaker Request Card to the City Clerk; cards are located near the agendas or at the City Clerk's desk.

MEETING ASSISTANCE INFORMATION: In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk's Office at (626) 384-5430. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

If you challenge in court any discussion or action taken concerning an item on this agenda, you may be limited to raising only those issues you or someone else raised during the meeting or in written correspondence delivered to the City at or prior to the City's consideration of the item at the meeting.

The Covina City Clerk's Office does hereby declare that, in accordance with California Government Code Section 54954.2(a), the agenda for the Tuesday, November 17, 2015 meeting was posted on November 12, 2015 on the City's website and near the front entrances of: 1) Covina City Hall, 125 East College Street, Covina; 2) the Covina Public Library, 234 N. Second Avenue, Covina; and 3) the Joslyn Center, 815 N. Barranca Avenue, Covina.

MATERIALS RELATED TO AN ITEM ON THIS AGENDA, AND SUBMITTED TO THE CITY COUNCIL AFTER PUBLICATION OF THE AGENDA, ARE AVAILABLE TO THE PUBLIC IN THE CITY CLERK'S OFFICE AT 125 E. COLLEGE STREET, COVINA.



STUDY SESSION REPORT

MEETING DATE: November 17, 2015

TITLE: City Council and City Manager Roles and Responsibilities, Code of Conduct, and Procedural Guidelines for the Conduct of Council Meetings

PRESENTED BY: Andrea M. Miller, City Manager

RECOMMENDATION: Review and discuss the City Council and City Manager Roles and Responsibilities, Code of Conduct, and Procedural Guidelines for the Conduct of Council Meetings, and provide direction.

BACKGROUND:

At the October 20, 2015, meeting, the City Council reviewed the City Council and City Manager Roles and Responsibilities, and Procedural Guidelines for the Conduct of City Council Meetings, as defined in Resolution No. 09-6748 and Resolution No. 09-6749, which were adopted by the City Council in 2009. The Resolutions were presented for review, discussion, and possible amendment as provided for in Resolution No. 09-6748, which states, “Annually or as required by law, the Council will review the Council protocols, adopted procedures for meetings, the Brown Act, conflict of interest, and other important procedural issues.” Following reaffirmation by the City Council of the value of the resolutions and guidelines established therein, identification of potential issues to be addressed in future revisions, and examples of guidelines adopted in other communities, the Council requested the matter be scheduled for further review, discussion and direction at a Study Session meeting. The City Council further directed the City Manager to schedule regular Study Session meetings for the third Tuesday of each month at 5 p.m. in a location that is conducive to review and discussion of matters by the Council.

DISCUSSION:

Over the last several months, under the City Council’s leadership and the thoughtful engagement of our community, the City has been working to create a culture of leadership and high performance throughout the organization. While much work remains to be done, we are on a positive course. Based on your comments and suggestions as well as the issues we have been approached with by community leaders, the following are key areas of focus and the outcomes we are working to achieve:

Responsiveness. In the spirit of providing good customer service, we are working to create an atmosphere of caring. It means treating people with respect, listening, proposing reasonable solutions, and following through in a timely manner. Dealing with people honestly and impartially and applying standards consistently builds trust even when they don’t receive the

answer they want. When we demonstrate we are genuinely concerned about producing the best possible set of results to benefit the largest number and applying the standards impartially and consistently, cynicism will diminish.

Priority-setting. Through the recent Strategic Planning process, the City Council and staff established a realistic number of goals for the next year that may be implemented with existing resources. Producing results in a timely manner will instill confidence in the City.

Effective communication. Clear messages that are delivered at the appropriate time are critical to building confidence. It is often tempting to avoid delivering bad news, but avoidance usually prolongs and worsens the inevitable. Promoting transparency and openness is critical to building trust in government, especially in this era of heightened scrutiny. Good communication strategies help to engage people and increase the likelihood they will be supportive.

Engaged leadership. There is no shortage of strong opinion, and polarization makes it impossible for reasonable proposals to gain traction. Decision-making that includes high levels of resident and business leader participation builds public trust in the process. The ability to listen, problem-solve, identify compromise solutions and build consensus will be the standard for our employees.

Create value. There is low tolerance for waste in government, and there is almost universal recognition that decisive action is needed to address problems and build for the future.

The foundation of good governance relies on the cooperative efforts of the City Council members, who set policy and priorities, and City staff, who analyze problems and issues, make recommendations, and implement and administer the City Council's collective policies. The relationship between the City Manager and the elected officials sets a tone for the entire local government. This team or partner relationship between and among members of City Council and between the Council and the staff is critical.

While we continue to build the staff's capacity and create alignment within the organization, it is equally critical that the City Council continue to work together as a body, respectful of one another and in an effective partnership with each other and staff. The City Council has implemented systems that promote effective, respectful governance, and it is important that we periodically review these standards, identify changes such as new state laws, regulations and technology, and consider best practices implemented in other agencies to ensure the standards are meeting the City's needs.

Resolution No. 09-6748, adopted by the Council in March 2009, establishes a code of conduct for the City Council and all City Boards, Committees, and Commissions and articulates the City Council's expectations of themselves and other appointed officials. At the same time, the Council adopted Resolution No. 09-6749 establishing procedural guidelines for the conduct of City Council meetings. The guidelines contained in Resolution No. 09-6749 are intended to comply with The Brown Act and provide continuity and efficiency in the conduct of Council business.

The guidelines established by the Council in Resolution No. 09-6748 and Resolution No. 09-6749 also assist in facilitating effective communications between the City Council and staff and ensure the collective vision, goals, and objectives established by the Council as a body are

realized. Resolution No. 09-6748 and Resolution No. 09-6749 are included as Attachments A and B respectively.

In addition to the guidelines established in the Resolutions adopted by the Council, the Executive Team has committed to the following:

- Ensure all City Council members have the same information with which to make decisions and address issues.
- Respond to citizen concerns and complaints as fully and as expeditiously as practical.
- Respect the role of the City Council in setting policy and effectively fulfilling their roles related to the administrative functions and city operations.
- Respect the will of the "full" City Council.
- Make independent, objective, and thoroughly-analyzed recommendations.
- Support and advocate for adopted Council policy.
- Be sensitive to, but not become engaged in, the political process.
- Lead by example.
- Insist on excellence in customer service internally and externally.
- Be results-driven and vision/goal-oriented and instill a sense of urgency in all we do.
- Exhibit integrity and personal courage by taking responsibility for decisions and actions.
- Think innovatively, strategically, and tactically, and work in the best interests of the City.

Other policy statements of the City Council including provisions of the Covina Municipal Code and various California Government Code sections address the roles and responsibilities of the City Council, City Manager, City staff, and appointed officials. As a general law city and as authorized by state law, the City Council took formal action to establish the form of government as the council/manager form. The provisions of Government Code sections 34851 – 34859 (Attachment C) establish the parameters for the council/manager form (also commonly referred to as city manager form) of city government. Under this form of government, the city manager has the power to:

- Administer the day-to-day affairs of the city;
- Appoint and dismiss city employees, except the city attorney; and
- Perform such other functions as the council chooses to authorize by ordinance.

Chapter 2.08 of the Covina Municipal Code establishes the office of the City Manager (Attachment D). Sections in Chapter 2.08 address the administrative role of the manager and preclude the city manager from exercising policy-making or legislative functions.

The standards and guidelines included in the Resolutions adopted by the City Council are similar to the expectations and best practices adopted by other successful communities. Attachment E is an article that appeared in the May 2004 edition of the International City/County Management Association publication, *Six Reasons Why It's Best to Work Through the Manager*. This article reinforces the reasons these guidelines facilitate effective communications and work flow.

At the October 20, 2015, meeting, the Council referred to examples of guidelines adopted in other communities which may be of value in updating the City's provisions. Attachment F includes sample policies and guidelines adopted in other cities including the Livingston, which was referenced by Mayor Pro Tem, Riverside, Sunnyvale, West Hollywood, and Yucca Valley.

It is a best practice to review codes of conduct, procedural guidelines and other Council policies and procedures periodically or as needed. This report is intended to provide the City Council with an opportunity to review the current practices, procedures and guidelines and consider these expectations in light of changes such as new state laws, regulations and technology and consider best practices implemented in other agencies to ensure the standards are meeting the City's needs.

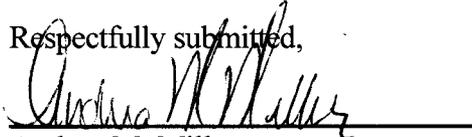
The goal is to promote excellence in the organization, constantly raise the bar, and build a world-class city. By routinely reviewing, modifying as needed, and then committing to and fully implementing these practices, procedures and guidelines, we can capitalize on the City's strengths, leverage our successes, and enable the City Council to focus on its role in addressing the larger, difficult, and more strategic issues in the community.

FISCAL IMPACT:

There is no direct fiscal impact.

CEQA (CALIFORNIA ENVIRONMENTAL QUALITY ACT): Not applicable.

Respectfully submitted,



Andrea M. Miller
City Manager

	N/A	N/A	N/A
City Manager	City Attorney	Finance	City Clerk

ATTACHMENTS:

- Attachment A: Resolution No. 09-6748 establishing a code of conduct for the City Council and all City Boards, Committees, and Commissions
- Attachment B: Resolution No. 09-6749 establishing procedural guidelines for the conduct of City Council meetings
- Attachment C: Government Code sections 34851 – 34859
- Attachment D: Chapter 2.08 of the Covina Municipal Code
- Attachment E: *Six Reasons Why It's Best to Work Through the Manager*, International City/County Management Association publication, May 2004 edition
- Attachment F: Sample Policies from the Following Agencies: Livingston, Riverside, Sunnyvale, West Hollywood, and Yucca Valley.

RESOLUTION NO. 09-6748

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COVINA, CALIFORNIA, ADOPTING CODES OF CONDUCT FOR THE CITY COUNCIL AND ALL CITY BOARDS, COMMITTEES AND COMMISSIONS

WHEREAS, the governance of the City of Covina relies on cooperative efforts of elected officials who set policy; appointed officials who provide community input and recommendations; and City staff who analyze problems and issues, make recommendations and implement and administer Council policies; and

WHEREAS, the City of Covina is composed of individuals with a wide variety of backgrounds, personalities, values, opinions, and goals who have chosen to serve in public office to improve the quality of life in the community; and

WHEREAS, it is the desire of the City Council of the City of Covina to support the orderly, efficient, and responsive conduct of City business.

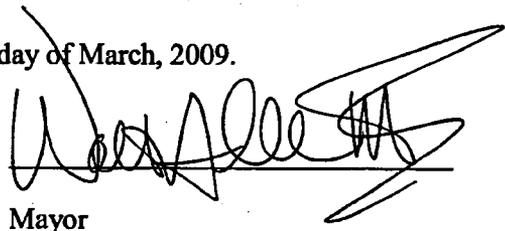
NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Covina as follows:

Section 1. The City Council hereby approves and adopts the Code of Conduct for Boards, Committees and Commissions attached as Exhibit A.

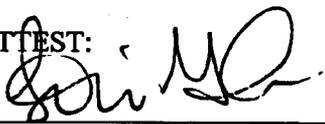
Section 2. The City Council approves and adopts the Code of Conduct for the City Council attached as Exhibit B.

Section 3. The City Clerk shall certify to the passage and adoption of this resolution and the same shall thereupon take effect and is in force.

APPROVED, PASSED AND ADOPTED this 17th day of March, 2009.


Mayor

ATTEST:



City Clerk

C81
3/17/09
S+J
05-04-09

APPROVED AS TO FORM:



Edward Lee, City Attorney

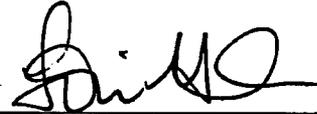
BY WILLIAM JAMES PRIEST

I, TONI J. TABER, City Clerk of the City of Covina, hereby CERTIFY that **Resolution No. 09-6748** was adopted by the Covina City Council at a regular meeting of the City Council held **March 17, 2009** and was approved and passed by the following vote:

AYES: Council Members King, Stapleton, Mayor Pro Tem Delach, Mayor Allen

NOES: Council Member Low

ABSENT: None



Toni J. Taber
City Clerk

EXHIBIT A

**CITY OF COVINA
BOARD, COMMITTEE & COMMISSION PROTOCOLS**

The City has established several Boards, Committees and Commissions as a means of gathering more community input. Citizens who serve on Boards, Committees 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 while treating others in a like manner.

All Board, Committee and Commission members should:

- Demonstrate honesty and integrity in every action and statement
- Serve as a model of leadership and civility to the community
- Inspire public confidence in Covina government
- Work for the common good, not personal interest
- Prepare in advance of Board/Committee/Commission meetings and be familiar with issues on the agenda
- Fully participate in Board/Committee/Commission meetings and other public forums while demonstrating respect, kindness, consideration, and courtesy to others
- Participate in scheduled activities to increase Board/Committee/Commission effectiveness
- Review Board/Committee/Commission procedures, such as these Protocols, at least annually
- 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 Board/Committee/Commission staff liaison in case an emergency

BOARD, COMMITTEE & COMMISSION MEMBER CONDUCT WITH ONE ANOTHER

Boards, Committees and Commissions are composed of individuals with a wide variety of backgrounds, personalities, values, opinions, and goals. Despite this diversity, all have volunteered to serve in order to improve the quality of life in the community. In all cases, this common goal should be acknowledged even as Members may "agree to disagree" on contentious issues.

In Public Meetings

- Use formal titles.

While referring to one another formally during Board/Committee/Commission meetings as Chair, Vice Chair or Board/Commission Member may not be necessary due to the size and nature of the Board/Committee/Commission, respect for all members will be shown at all times.

- 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 parliamentary procedures.

- Demonstrate effective problem-solving approaches.

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. Members are role models for residents 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.

BOARD, COMMITTEE & COMMISSION CONDUCT WITH CITY STAFF

Governance of a City relies on the cooperative efforts of elected officials, who set policy, appointed officials (Board/Committee/Commission members), who make recommendations to Council, 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 group 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 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 Department Heads or Board/Committee/Commission staff liaison. Members should not set up meetings with department staff directly, but work through Department Heads/liaison.

- All Members should have the same information with which to make decisions.

Information requested by an individual Member will be made available to all members. All information requests should respect the "one hour" rule (See below).

- 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 Department Head or City Manager 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. Members shall refrain from coercing staff in making recommendations to the Board/Committee/Commission 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 government agencies or residents, remember to indicate if appropriate that the views you state are your own and may not represent those of the full Board/Committee/Commission or the City Council.

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

Requests for staff support should be made to the appropriate staff liaison, 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 appropriate Department Head to ensure that staff resources are allocated in accordance with overall priorities.

STAFF CONDUCT WITH BOARD, COMMITTEE, AND COMMISSION MEMBERS

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

The protocol for staff time devoted to research and response is in application here.

- Respect the role of Members as policy advisors for the City Council.

Staff is expected to provide its best professional recommendations on issues. Staff should not try to determine Member support for particular positions or recommendations in order to craft recommendations. The Board/Committee/Commission 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 Board/Committee/Commission at all times. All Members should be treated equally.

OTHER PROCEDURAL ISSUES

- Commit to periodic review of important procedural issues.

Annually or as required by law, the Board/Committee/Commission will review the protocols, adopted procedures for meetings, the Brown Act, conflict of interest, and other important procedural issues.

- Recognize and respect the role of the Board/Committee/Commission and the City Council.

Board/Committee/Commission Members are appointed by the City Council to serve them in an advisory capacity. While Members are a valuable resource to the City's leadership and should be treated with appreciation and respect, it should be remembered that it is the role of the City Council, not the Board/Committee/Commission, to set policy.

ENFORCEMENT

Failure of a Board/Committee/Commission Member to observe and conduct himself/herself in accordance with these adopted Board/Committee/Commission Protocols may result in, but not be limited to, the following actions: 1) private counseling of the Member; 2) letter of warning/reprimand from the Board/Committee/Commission; 3) removal from serving as a representative/liaison to other Boards and Commissions; 4) restricting the Member's communications with City staff; 5) censure by the Board/Committee/Commission; and 6) in the most serious cases, removal from the Board/Committee/Commission by the City Council.

EXHIBIT B
CITY OF COVINA
COUNCIL CODE OF CONDUCT

ALL COUNCIL MEMBERS

All members of the City Council, including those serving as Mayor and Mayor Pro Tem, 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
- Serve as a model of leadership and civility to the community
- Inspire public confidence in Covina 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 Manager 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, Mayor Pro Tem 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 Mayor's efforts to focus discussion on current agenda items. Objections to the Mayor's actions should be voiced politely and with reason, following parliamentary procedures.

- 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, 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

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 requests of staff through the City Manager, City Attorney or his/her designee .

Requests of City staff should be directed only to the City Manager, or City Attorney or his/her designee. Council Members should not set up meetings with department staff directly, but work through the City Manager or City Attorney.

- All Council Members should have the same information with which to make decisions.

Information requested by an individual Council Member will be made available to all Council members. All information requests should respect the "one hour" rule (See below).

- 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.

- City Manager is administrative head of the City.

Any concerns a Council Member may have regarding day to day operations of the City should be directed to the City Manager. Avoid any staff interactions that may be construed as trying to direct or 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 City Manager.

Even if the Council Member does not say anything, the Council Member's presence may imply support, show partiality, intimidate staff, or hamper 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 City Manager, 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 Department Head. The senior staff member should respond and is responsible for making sure the Council Member knows how the complaint was resolved.

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. 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 to the Board or Commission. 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 threaten Board and Commission members in any way if they disagree about an issue. 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 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.

OTHER PROCEDURAL ISSUES

- Commit to periodic review of important procedural issues.

Annually or as required by law, the Council will review the Council protocols, adopted procedures for meetings, the Brown Act, conflict of interest, and other important procedural issues.

Use of Letterhead

- City letterhead may be used by Council Members.

Council members may use letterhead only for communication with constituents or stating City adopted positions

- City letterhead may not be used by Council Members.

City letterhead may not be used for personal business or to present an opposing view once an official position has been taken by the Council. All official City Council positions will be stated over the signature of the Mayor only or as directed.

Council Meetings

- The Mayor should work with the City Manager 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 is expected to attend the pre-Council meetings with the City Manager and other staff as required.

- Council Member placement of items on the Agenda.

At the request of two Council members, the City Manager will place an item on the agenda.

- 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 City Attorney, City Manager 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.

- Mayoral discretion on controversial items.

On highly controversial items the Mayor may: 1) move placement of the item on the agenda to facilitate the flow of all agenda business; 2) may limit the time allotted to individual speakers on an item; 3) may limit the total time allotted for public comment on an individual item.

- Confidentiality of Closed Session.

Confidentiality applies to any non-public discussion items. Council Members will not speak to affected/opposing parties, the press, or any individual not present about items discussed in closed session. Any written reports or materials presented during closed session will be turned in at the end of closed session.

ENFORCEMENT

Failure of a Council Member to observe and conduct himself/herself in accordance with these adopted Council Protocols may result in, but not be limited to, the following actions: 1) private counseling of the Council Member; 2) letter of warning/reprimand from the City Council; 3) restrictions upon City-authorized travel; 4) removal from serving as City representative/liaison to internal Boards and Commissions and to intergovernmental organizations; 5) reductions in personal expense budget; 6) exclusion from closed session discussions; 7) restricting the Council Member's communications with City staff; 8) censure by the City Council; and 9) in the most serious cases, referral of the matter to the Fair Political Practices Commission, District Attorney or grand jury for ethics investigation and/or criminal prosecution.

RESOLUTION NO. 09-6749

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COVINA, CALIFORNIA, RESCINDING RESOLUTION NO. 04-6368 IN ITS ENTIRETY AND ADOPTING THE UPDATED PROCEDURAL GUIDELINES FOR THE CONDUCT OF COUNCIL MEETINGS

WHEREAS, it is the desire of the City Council of the City of Covina to conduct all Council meetings in an orderly and responsive manner; and

WHEREAS, Resolution No. 04-6368 set forth procedural guidelines for the conduct of Council meetings; and

WHEREAS, it is the desire of the City Council to update said guidelines to comply with the Brown Act, and provide continuity and efficiency in the conduct of Council business.

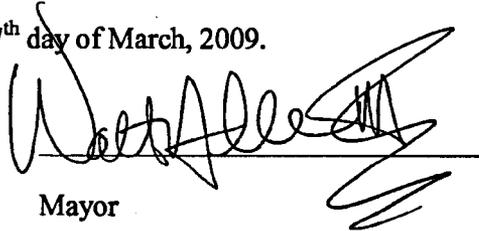
NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Covina as follows:

Section 1. The City Council hereby rescinds Resolution Nos. 04-6368 in its entirety.

Section 2. The City Council approves and adopts the updated Procedural Guidelines for the Conduct of Council Meetings attached as Exhibit A.

Section 3. The City Clerk shall certify to the passage and adoption of this resolution and the same shall thereupon take effect and is in force.

APPROVED, PASSED AND ADOPTED this 17th day of March, 2009.



Mayor

ATTEST:


City Clerk

APPROVED AS TO FORM:


Edward Lee, City Attorney
BY WILLIAM JAMES PRIEST

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I, TONI J. TABER, City Clerk of the City of Covina, hereby CERTIFY that **Resolution No. 09-6749** was adopted by the Covina City Council at a regular meeting of the City Council held **March 17, 2009** and was approved and passed by the following vote:

AYES: Council Members King, Stapleton, Mayor Pro Tem Delach, Mayor Allen
NOES: Council Member Low
ABSENT: None



Toni J. Taber
City Clerk

**PROCEDURAL GUIDELINES
FOR THE CONDUCT OF COUNCIL MEETINGS**

SECTION 1. MEETINGS

The City Council shall hold regular meetings on the first and third Tuesday of each calendar month at 7:30 p.m. in the Council Chambers of the City Hall unless circumstances determine that a particular meeting shall be held at some other location in the City, all as set forth in Section 2.04.010 of the Municipal Code. Special meetings of the City Council may be called at any time in the manner prescribed by State law.

SECTION 2. CONDUCT BY PERSONS IN ATTENDANCE

Any person making personal, impertinent or slanderous remarks or who shall become boisterous while addressing the Council so as to disrupt the Council meeting shall be forthwith, by the Mayor, barred from further audience before Council, unless permission to continue is granted by a majority vote of the Council.

SECTION 3. ENFORCEMENT OF DECORUM

The Police Chief or such other official as the Mayor may designate, shall be Sergeant-at-Arms of the Council meetings. He, she, or they, shall carry out all orders and instructions given by the Mayor for the purpose of maintaining order and decorum at the Council meeting. Upon instructions of the Presiding Officer, it shall be the duty of the Sergeant-at-Arms, or any of them present, to remove any person who violates the order and decorum of the meeting.

SECTION 4. AGENDA

Upon approval by the City Manager, the Chief Deputy City Clerk shall arrange an agenda of such matters according to the order of business and furnish each member of the Council, City Clerk and City Attorney with a copy of the same prior to the Council meeting and as far in advance of the meeting as time for preparation will permit. At least one copy of the agenda packet shall be placed in the City Library for use by the public, and one copy of the agenda packet shall be placed in the City Clerk's office for local newspapers.

SECTION 5. AMENDMENTS TO THE AGENDA

Matters of an urgent or emergency nature may be submitted to the City Council by the City Manager and/or the City Attorney as an amendment to the agenda in accordance with the Brown Act.

SECTION 6. THE PRESIDING OFFICER

The Mayor of the Council shall be the Mayor, or the absence of the Mayor, the Mayor Pro Tem. The Mayor shall preserve strict order and decorum at all regular and special meetings of the Council. He/she shall state every question coming before the Council, announce the decision of the Council on all subjects and decide all questions of order, subject to an appeal to the Council, in which event a majority vote of the Council shall govern and conclusively determine such question of order. He/she shall sign all ordinances, resolutions and contracts adopted or approved by the Council during his/her presence.

SECTION 7. CITY COUNCIL PROCEEDINGS

The City Council meetings shall be conducted in the procedural order set forth below:

a. Call to Order. The Mayor shall take the Chair at the appointed hour for the meeting, and shall immediately call the Council to order. In the absence of the Mayor and Mayor Pro Tem, the City Clerk, Chief Deputy City Clerk or Deputy City Clerk, shall call the Council to order, whereupon a temporary chairman shall be elected by the members of the Council present. Upon the arrival of the Mayor or Mayor Pro Tem, the temporary chairman shall immediately relinquish the Chair upon the conclusion of the business presently before the Council. In the absence of the City Clerk, Chief Deputy City Clerk or Deputy City Clerk, the Mayor shall appoint a Council Member to serve as City Clerk Pro Tem, in accordance with State law.

b. Roll Call. Before proceeding with the business of the Council, the City Clerk, Chief Deputy City Clerk or Deputy City Clerk shall call the roll of the members, and the names of those present shall be entered in the minutes.

c. Quorum. A majority of all the members elected to the Council shall constitute a quorum at any regular or special meeting of the Council. In the absence of a quorum, the City Clerk shall call the meeting adjourned.

d. Order of Business. All meetings of the Council shall be open to the public. Promptly at the hour set by law on the day of each regular meeting, the Council Members, City Clerk, City Attorney and City Manager shall take their regular stations in the Council Chambers, and the business of the Council shall be taken up for consideration and disposition in the following order, unless the Mayor, without objection from the Council Members agree to consider an item out of order:

Call to Order
Roll Call
Pledge of Allegiance

Invocation
Presentations
Oral Communications
Council Comments
Consent Calendar
Continued Public Hearings
Joint Public Hearings
Public Hearings
Continued Business
New Business
Adjournment

SECTION 8. RULES OF DEBATE

a. Mayor. The Mayor may debate and vote on each item before the Council. The Mayor, or such other member of the Council as may be presiding may move, second and debate from the Chair, subject only to such limitations of debate as are by these rules imposed on all members and shall not be deprived of any of the rights and privileges of a Council Member by reason of his/her acting as the Presiding Officer.

b. Getting the Floor. Every member desiring to speak shall address the Chair, and upon recognition by the Mayor, shall confine himself/herself to the question under debate, avoiding all personalities and indecorous language.

c. Interruptions. A member, once recognized, shall not be interrupted when speaking unless it is to call him/her to order, or as herein otherwise provided. If a member, while speaking, be called to order, he/she shall cease speaking until the question of order is determined, and, if in order, he/she shall be permitted to proceed.

d. Privilege of Closing Debate. The Council Member moving the adoption of an ordinance, resolution or other matter shall have the privilege of closing the debate after a full discussion has been had on said item as determined by the Mayor.

e. Move to Reconsider. A motion to reconsider any action taken by the Council may be made prior to the close of such meeting wherein such action was taken. Such motion must be made by a member of the prevailing side, but may be seconded by any member, and may be made at any time and have precedence over all other motions while a member has the floor. It shall be debatable. Nothing herein shall be construed to prevent any member of the Council from

making or remaking the same or any other motion at a subsequent meeting of the Council.

f. Reference to Roberts' Rules of Order. Where not addressed in the body of this resolution, all questions as to procedure and debate shall be resolved by the City Attorney's interpretation of Roberts' Rules of Order, Newly Revised Edition.

SECTION 9. ADDRESSING THE COUNCIL

Any person desiring to address the Council on matters not listed on the agenda shall first secure the permission of the Mayor during the period allowed for Oral Communications. On matters listed on the agenda, persons may request the permission of the Mayor to speak on a matter at the time it is being considered by the City Council.

a. Written Communications. Interested parties or their authorized representatives may address the Council by written communications with regard to matters under discussion.

b. Oral Communications. Individuals, or their authorized representatives, may address the Council by oral communications on any matter concerning the City's business, or any matter over which the Council has control or jurisdiction.

c. Council Response to Oral Communications. Matters brought before the Council under Oral Communications shall be referred to staff for additional information and/or report if deemed appropriate by two members of the Council Members. No formal action shall be taken.

SECTION 10. ADDRESSING THE COUNCIL AFTER MOTION IS MADE

After a motion is made by the Council, no person shall address the Council without first securing the permission of the Chair to do so.

SECTION 11. MANNER OF ADDRESSING COUNCIL – TIME LIMIT

Each person addressing the Council shall step up to the microphone in front, give his or her name and address in an audible tone of voice for the records, and unless further time is granted by the Mayor, shall limit his or her address to five (5) minutes unless reasonably revised by the Mayor due to special circumstances. All remarks shall be addressed to the Council as a body and not to any member thereof. No person, other than the Council and the person having the floor shall be permitted to enter into any discussion, either directly or through a member of the Council, without the permission of the Mayor. No question shall be asked a Council Member,

City Attorney or City Manager except through the Mayor. When called upon by the Mayor, the City Manager may, when deemed appropriate, refer the question to a staff member.

SECTION 12. SILENCE CONSTITUTES AFFIRMATIVE VOTE

Unless a member of the Council states that he/she is not voting, his/her silence shall be recorded as an affirmative vote.

SECTION 13. ABSTENTION FROM VOTING

A Council Member may abstain from voting on any ordinance, resolution, or other motion.

SECTION 14. CITY ATTORNEY OPINIONS

Requests for formal opinions from the City Attorney must be approved by two of the Council Members.

SECTION 15. ORDINANCES, RESOLUTIONS, MOTIONS AND CONTRACTS

a. Presentation of Ordinances. No ordinance shall be prepared for presentation to the Council unless ordered by two members of the Council, or requested by the City Manager, or prepared by the City Attorney on his/her own initiative.

b. Prior Approval by Administrative Staff. All ordinances, resolutions, and contract documents shall, before presentation to the Council, have been approved as to form and legality by the City Attorney or his authorized representative, and shall have been examined and approved for administration by the City Manager or his/her authorized representative.

SECTION 16. REPORTS, RESOLUTIONS & ORDINANCES TO BE FILED WITH CLERK

All reports, resolutions and ordinances shall be filed with the Clerk and entered in the minutes.

SECTION 17. ADJOURNMENT

A motion to adjourn shall always be in order and decided without debate.

SECTION 18. CERTIFICATION

The City Clerk has certified to the passage and adoption of the resolution, and the same has thereupon taken effect and is in force.



California

LEGISLATIVE INFORMATION

Code: Section: ⓘ

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GOVERNMENT CODE - GOV

TITLE 4. GOVERNMENT OF CITIES [34000 - 45345] (Title 4 added by Stats. 1949, Ch. 79.)

DIVISION 2. ORGANIZATION AND BOUNDARIES [34400 - 34906] (Division 2 added by Stats. 1949, Ch. 79.)

PART 1. ORGANIZATION [34400 - 34906] (Part 1 added by Stats. 1949, Ch. 79.)

CHAPTER 4. Alternative Forms of Government [34851 - 34906] (Heading of Chapter 4 renumbered from Chapter 7 by Stats. 1977, Ch. 1253.)

ARTICLE 1. City Manager [34851 - 34859] (Heading of Article 1 renumbered from Article 3 by Stats. 1955, Ch. 624.)

34851. An ordinance establishing a city manager form of government may be:

- (a) Enacted by the legislative body; or
- (b) Submitted to the electors by the legislative body at any municipal or special election; or
- (c) Submitted by the people as an initiative measure.

(Added by Stats. 1949, Ch. 79.)

34852. The ordinance shall define the powers and duties of the city manager and may fix his compensation or the minimum amount he is to receive.

(Added by Stats. 1949, Ch. 79.)

34853. Where the ordinance is submitted by the legislative body, the proposition shall be printed on the ballots substantially as follows: "Shall Ordinance No. ____ providing for a city manager form of government be adopted?" followed by the words "yes" and "no," so printed that the voters may express their choice.

(Amended by Stats. 1957, Ch. 838.)

34854. If a majority of the votes cast at the election is in favor of the ordinance, it shall go into effect on the tenth day after the canvass of votes.

(Added by Stats. 1949, Ch. 79.)

34855. Within sixty days after the effective date of the ordinance, the legislative body shall appoint a city manager, who need not be a resident of the city at the time of his appointment.

(Added by Stats. 1949, Ch. 79.)

34856. The city manager may appoint and dismiss the chief of police and other subordinate appointive officers and employees except the city attorney. When the offices of city clerk and city treasurer are made appointive, appointments to such offices shall be made by the city council unless the city council vests such appointing power in the city manager by ordinance.

(Amended by Stats. 1953, Ch. 491.)

34857. Upon appointment of the city manager, the terms of subordinate officers over whom he has power of appointment and removal cease, unless they are reappointed by him.

(Added by Stats. 1949, Ch. 79.)

34858. Any city adopting the city manager form of government may abolish it in the manner in which it was adopted.

(Added by Stats. 1949, Ch. 79.)

Attachment C

34859. All ordinances establishing a city manager form of government, enacted prior to September 19, 1947, are confirmed, validated, and declared legally effective.

(Added by Stats. 1949, Ch. 79.)

**Chapter 2.08
CITY MANAGER**

Sections:

- 2.08.010 Position created.**
- 2.08.020 Supervision and control.**
- 2.08.030 Bond.**
- 2.08.040 Compensation.**
- 2.08.050 Expenses – Reimbursement.**
- 2.08.060 Absence from city.**
- 2.08.070 Term of office.**
- 2.08.080 Removal from office – Generally.**
- 2.08.090 Removal from office – Preliminary resolution – Salary continuance.**
- 2.08.100 Removal from office – Following municipal election.**
- 2.08.110 Powers and duties – Generally.**
- 2.08.120 Administrative supervision.**
- 2.08.130 Council meeting attendance.**
- 2.08.140 Administrative coordination.**
- 2.08.150 Departmental function analysis – Operational recommendations.**
- 2.08.160 Expenditure estimates – Budget.**
- 2.08.170 Expense supervision – Purchasing.**
- 2.08.180 Public improvement projects and programs.**
- 2.08.190 Public relations duties.**
- 2.08.200 Community organization cooperation.**
- 2.08.210 City property inventory – Purchase recommendations.**
- 2.08.220 Property transfer and disposal recommendations.**
- 2.08.230 Personnel studies, surveys and recommendations.**
- 2.08.240 Technical service contract advice.**
- 2.08.250 Council correspondence responsibility.**
- 2.08.260 Public property supervision.**
- 2.08.270 Officials and employees – Appointment and removal.**
- 2.08.280 Public contacts.**
- 2.08.290 Limitations – Generally.**
- 2.08.300 Limitations – Duties of other officials.**

2.08.010 Position created.

There is created in the unclassified service of the city the position of city manager. (Ord. 1232 § 1, 1973; 1964 Code § 2.11.)

2.08.020 Supervision and control.

The city manager shall serve directly under the supervision and control of the city council in a purely administrative capacity. (Ord. 1232 § 1, 1973; 1964 Code § 2.12.)

2.08.030 Bond.

Attachment D

The city manager shall secure a corporate surety bond to be approved by the city council, in such sum as may be determined by the city council, conditioned on the faithful performance of the duties imposed on the city manager as prescribed in this chapter. The fee for such bond shall be paid by the city. (Ord. 1232 § 1, 1973; 1964 Code § 2.13.)

2.08.040 Compensation.

The compensation to be paid to the city manager shall be fixed and determined from time to time by resolution of the city council, which compensation shall be in full satisfaction for payment of all services performed and rendered by the city manager. (Ord. 1232 § 1, 1973; 1964 Code § 2.14.)

2.08.050 Expenses – Reimbursement.

The city manager shall be reimbursed for and shall be allowed traveling, hotel and incidental expenses reasonably incurred when absent from the city on official city business, but no reimbursement or allowance shall be made except upon an itemized claim duly presented to and approved and allowed by the city council. (Ord. 1232 § 1, 1973; 1964 Code § 2.15.)

2.08.060 Absence from city.

Any absence of the city manager from the city on official city business shall be subject to the approval in advance by the city council. (Ord. 1232 § 1, 1973; 1964 Code § 2.16.)

2.08.070 Term of office.

The city council shall appoint the city manager for an indefinite term. (Ord. 1232 § 1, 1973; 1964 Code § 2.17.)

2.08.080 Removal from office – Generally.

The city council may remove the city manager by a majority vote. The city council, in removing the city manager, shall use its uncontrolled discretion and its action shall be final. (Ord. 1232 § 1, 1973; 1964 Code § 2.18.)

2.08.090 Removal from office – Preliminary resolution – Salary continuance.

At least 30 days before the removal of the city manager becomes effective, the city council shall, by a majority vote of its members, adopt a preliminary resolution stating the reason for his removal. By the preliminary resolution the city council may suspend the city manager from duty, but shall in any case cause to be paid him any unpaid balance of his salary and his monthly salary shall continue to be paid for the next 30 days following the adoption of the preliminary resolution. (Ord. 1232 § 1, 1973; 1964 Code § 2.19.)

2.08.100 Removal from office – Following municipal election.

Notwithstanding the provisions of CMC 2.08.080 and 2.08.090, the city manager shall not be removed from office during or within a period of 90 days next succeeding any general municipal election held in the city, at which election a member of the city council is elected. After the expiration of such 90-day period, the provisions of CMC 2.08.080 and 2.08.090 as to the removal of the city manager shall apply and be effective. (Ord. 1232 § 1, 1973; 1964 Code § 2.20.)

2.08.110 Powers and duties – Generally.

The powers and duties of the city manager shall be as set forth in CMC 2.08.120 through 2.08.300. (Ord. 1232 § 1, 1973; 1964 Code § 2.21.)

2.08.120 Administrative supervision.

The city manager shall execute on behalf of the city council its administrative supervision and control of such affairs of the city as may be placed in his charge. (Ord. 1232 § 1, 1973; 1964 Code § 2.22.)

2.08.130 Council meeting attendance.

The city manager shall 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. (Ord. 1232 § 1, 1973; 1964 Code § 2.23.)

2.08.140 Administrative coordination.

The city manager shall assist the city council in coordinating the administrative functions and operations of the various departments, divisions, properties and services of the city government, and on its behalf carry out the policies, rules and regulations and ordinances adopted by it relating to the administration of the affairs of such departments, divisions, properties or services. (Ord. 1232 § 1, 1973; 1964 Code § 2.24.)

2.08.150 Departmental function analysis – Operational recommendations.

The city manager shall analyze the functions, duties and activities of the various departments, divisions, properties and services of the city government and of all employees thereof, and shall make such recommendations to the city council with reference thereto as in his judgment will result in the highest degree of efficiency in the overall operation of the city government. (Ord. 1232 § 1, 1973; 1964 Code § 2.25.)

2.08.160 Expenditure estimates – Budget.

The city manager shall 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, and shall tabulate the same into a preliminary consolidated municipal budget and submit the same to the city council before the fifteenth day of June of each year, with his recommendations as to such changes which he deems advisable.

The city manager shall be responsible for the administration of the budget after its final adoption. The city manager shall be authorized to amend the budget between cost centers within each fund. City council authorization shall be required for increases in total fund appropriation and the use of council contingency reserve. Continuing appropriations for year-end encumbrances, contractual commitments, and capital projects shall be automatically carried forward. All other appropriations shall lapse at year-end unless carried forward by city council action. The city manager shall keep the city council informed with respect thereto. (Ord. 00-1872, 2000; Ord. 1232 § 1, 1973; 1964 Code § 2.26.)

2.08.170 Expense supervision – Purchasing.

The city manager shall, as agent for the city council, supervise the expenditure of all departments, divisions, properties or services of the city government and act as purchasing agent for the purchase of all supplies, goods, wares, merchandise, equipment and material which may be required for any of such departments, divisions, properties or services. (Ord. 1232 § 1, 1973; 1964 Code § 2.27.)

2.08.180 Public improvement projects and programs.

The city manager shall develop and organize necessary public improvement projects and programs and aid and assist the city council and the various departments in carrying the same through to successful conclusion. (Ord. 1232 § 1, 1973; 1964 Code § 2.28.)

2.08.190 Public relations duties.

The city manager shall serve as the public relations director of the city government, and follow through and endeavor to adjust all just complaints filed against any employee, department, division or service thereof. (Ord. 1232 § 1, 1973; 1964 Code § 2.29.)

2.08.200 Community organization cooperation.

The city manager shall cooperate with all the community organizations whose aim and purpose it is to advance the spiritual and material interests of the city and its people, and provide them with assistance through the city government. (Ord. 1232 § 1, 1973; 1964 Code § 2.30.)

2.08.210 City property inventory – Purchase recommendations.

The city manager shall make and keep up-to-date an inventory of all property, real and personal, owned by the city. He shall 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. (Ord. 1232 § 1, 1973; 1964 Code § 2.31.)

2.08.220 Property transfer and disposal recommendations.

The city manager shall recommend to the city council the transfer of the city-owned equipment, machinery, furnishings, supplies, materials and furniture from one department to another, or the disposal of the same for the benefit of the city whenever in his judgment the transfer or disposal thereof would be advantageous to the city government. (Ord. 1232 § 1, 1973; 1964 Code § 2.32.)

2.08.230 Personnel studies, surveys and recommendations.

The city manager shall make studies and surveys of the duties, responsibilities and work of the personnel in the various departments, divisions and services of the city government. He shall recommend to the city council abolition or consolidation of positions or transfers or removal of personnel whenever in his judgment such action would increase efficiency in the administration of the city government. (Ord. 1232 § 1, 1973; 1964 Code § 2.33.)

2.08.240 Technical service contract advice.

The city manager shall consider and make recommendations to the city council regarding the extent to which the city should contract for the performance of technical services in connection with the establishment or operation of the personnel system. (Ord. 1232 § 1, 1973; 1964 Code § 2.34.)

2.08.250 Council correspondence responsibility.

The city manager shall 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 such communications and not necessarily requiring action by the city council may be disposed of between council meetings. All actions taken pursuant to such communications shall be reported to the city council at its next regular meeting thereafter. (Ord. 1232 § 1, 1973; 1964 Code § 2.35.)

2.08.260 Public property supervision.

The city manager shall exercise general supervision over all public buildings, public parks, public streets and other public property which is under the control and jurisdiction of the city council. (Ord. 1232 § 1, 1973; 1964 Code § 2.36.)

2.08.270 Officials and employees – Appointment and removal.

The city manager shall appoint and remove any officials and employees of the city except elective officials, the city attorney and the city auditor. (Ord. 1232 § 1, 1973; 1964 Code § 2.37.)

2.08.280 Public contacts.

In the discharge of his duties as city manager, the person holding such position shall endeavor at all times to exercise the highest degree of tact, patience and courtesy in his contacts with the public and with all city commissions, boards, departments, officers and employees. He shall use his best efforts to establish and maintain a harmonious relationship between all personnel employed in the city government, to the end that the highest possible standards of public service be continuously maintained. (Ord. 1232 § 1, 1973; 1964 Code § 2.38.)

2.08.290 Limitations – Generally.

The city manager shall not exercise any policy-making 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 action by the city council. (Ord. 1232 § 1, 1973; 1964 Code § 2.39.)

2.08.300 Limitations – Duties of other officials.

No provision of CMC 2.08.110 through 2.08.300 shall be deemed to grant any authority to or impose any duty upon the city manager which is vested in or imposed by general law or provision of this code or other valid city ordinance in any other city commission, board, department, officer or employee. (Ord. 1232 § 1, 1973; 1964 Code § 2.40.)

DEPARTMENTS

Workshop

Six Reasons Why It's Best to Work Through the Manager

I'm a lucky city manager. I work for an excellent city council. Councilmembers take pride in promoting a tradition of community civility. They do their homework, serve for the right reasons, and have a sense of humor. They are supportive of staff, and they trust me. I can talk to them about almost anything. In such a healthy council-staff environment, councilmembers get to know and trust many staffers, and a smart manager wouldn't want to lose the feeling of a friendly, open organization.

So why is it necessary sometimes to remind our active and sincere councilmembers to work through my office or through department heads when seeking information or expressing interests and concerns? And why do I feel so awkward when I do?

Maybe it's because, no matter how diplomatically I express a desire that is consistent with our formal council policies and procedures, it can come across as a trust-and-control issue. And since the councilmembers trust the staff, why shouldn't staff trust councilmembers?

After all, their motivation is typically to avoid bothering me (or department heads) with the small stuff. What's there to hide? I guess this is where I am supposed to exclaim, "But it's not about trust and control!" In truth, however, it is, and here is why.

Trust and Control

The jewel in a healthy local government environment is trust. With trust, we spend our time working together to solve problems and to get good things done for the community. Without trust, problems multiply, and the time spent solving them prevents work on more constructive items.

Preserving trust in any relationship, personal or professional, requires that we exercise a prudent amount of control in how we communicate. The council-staff relationship is no exception. In fact, given the unique pressures and constraints imposed on this relationship, the two groups probably need even more structured guidance than most.

A Lot of Rules, but Why Do We Need Them?

Fortunately, nearly all local governments have some formal rules in place, and virtually all such rules advise councilmembers to work through city and county managers and department heads on most organizational matters. Even with all the rules, however, something significant is missing.

Based on my research (admittedly not comprehensive, but I did check with ICMA, the League of California Cities, various trainers, and California city managers via an e-mail inquiry), there seems to be no prepared explanation for why such rules are important and how they preserve trust and benefit everyone involved in the relationship. In the absence of such context, the rules come across as, well, cold rules—a list of dos and don'ts designed to keep everyone in line.

This "context void" seems to be widely perceived by managers, and many of them have asked me to send them anything that I might find on the subject. Because I was unable to find anything already written, however, I have been forced to do a little more work. With the aid of some helpful managers, then, here are a half-dozen reasons why everyone's best interests are served when councilmembers work through the manager and/or department heads to gather information or address concerns.

Reason 1. Because city managers cannot be on top of things if they don't know what the things are. Councilmembers correctly expect managers to be on top of things. But if councilmembers bypass the manager to make requests of staff or to express concerns to staff, then the manager cannot possibly be sufficiently aware of their interests or concerns. Even the world's greatest local government manager cannot assure a timely response to a councilmember's inquiry if the manager is not aware of the request in the first place. Sure, staff members can inform the manager of the request, but this roundabout way of communication raises the chances of miscommunication.

Reason 2. Because bypassing the manager can give the impression that there is a problem in the council-manager relationship, and this perception can undermine both the manager's credibility within the organization and the respect that the staff feels for the councilmember. If a councilmember (or members) consistently goes directly to other staff members with issues, these harmful perceptions may evolve: 1) the councilmember does not like to work with the manager; 2) the councilmember does not trust the information provided by the manager; 3) the manager is ducking his or her responsibility and just "passing the buck"; 4) the councilmember does not play by the rules and seeks special treatment; and/or 5) it must be okay for staff to go around the manager because councilmembers do it. Such impressions will weaken a manager's credibility and authority in the organization or reflect poorly on the councilmember, or both.

Reason 3. Because it is not possible for managers to treat all councilmembers equally if the manager is unaware of the treatment that one councilmember is getting. Managers are in the highly unusual position of having many, equal bosses, and the expectation of equal treatment by each of those bosses is not only extremely high but also entirely appropriate.

Equal treatment includes providing councilmembers with the same information, the same levels of support, and the same accessibility to the staff in general. Thus, when an elected councillor goes through the manager in making a request, the manager can judge if the desired information should be shared with all councilmembers.

The manager can also judge whether a request for staff work is consistent with council policy or if the full council should direct such work. If requests are only inconsistently made through the manager, then the likelihood of inequities cropping up over time is high. This leads us to Reason 4.

Reason 4. Because councilmembers are often perceived as having "awesome power" and, therefore, direct requests can lead to surprising and negative unintended consequences. Councilmembers may contact staff people in a department to make what they perceive to be "simple requests for information," only to find these requests later perceived as orders to do something never intended by the councilmembers.

This is especially possible when direct contacts are made with staff below the department-head level. Councilmembers are typically surprised by such overreactions and by the complications and rumors that can result (because they know they don't have that much power). But to the staff member who seldom has contact with the higher-ups, the mayor and councilmembers are as "high up" as they come.

Reason 5. Because direct councilmember contact with staff members below the department-head level boosts the likelihood of getting erroneous or incomplete information. The further a councilmember reaches beyond the manager or department head, the more likely he or she will communicate with someone who has significantly less familiarity with the legislative process, the deeper context of various local government issues, the cross-departmental stakeholders who should be consulted, and the local rules for staff-council communication.

Combine these differences with the "awesome power" phenomenon, and the margin for a mistake in responding to the councilmember climbs substantially. On the other hand, a manager can provide one-stop service, saving time while producing better, more complete information.

Reason 6. Because such direct councilmember contact also can inadvertently cause awkward,

embarrassing situations—or worse—for the staff members involved. After a Reason 5 scenario has occurred, a staff member who later learns that he provided incorrect or incomplete information feels embarrassed. In fact, a staff member who learns that she violated some staff-council communication rule is not only embarrassed but also worried that she might be perceived as acting politically and undermining her bosses.

A staff member who incorrectly completes excessive work at the direction of an individual councilmember may perceive him- or herself to be “in trouble,” especially if they have failed to notify their bosses or failed to complete other assigned work as a result.

An Ugly Truth, But Not for Most

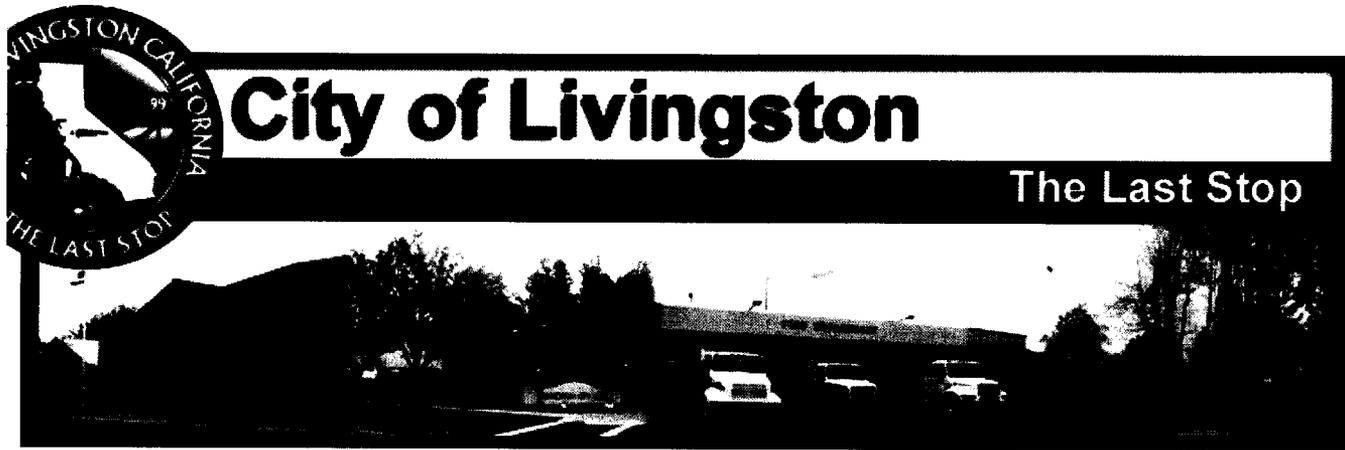
There is one unfortunate truth that needs to be recognized: not everyone is sincere or competent in council-manager relationships. There are councilmembers who deliberately try to undermine the system, and there are managers who are not responsive to councilmember inquiries. For such people, this article will not help, and any solution probably needs to be found through a closed-session discussion but not through short-cutting the system.

Fortunately, most elected officials and managers want the system and the relationships to work in the best possible way. To achieve this end, is it necessary for every little thing to go through the manager? No. What is required, however, is an understanding between the council and the manager as to what differentiates a little thing from a bigger thing. This can only be achieved if the elected officials and manager are regularly talking and if there is a true commitment by all to play by the rules.

Such rules are worthy of commitment, and we can help uphold an excellent system while still preserving city hall as an open, friendly, helpful place.

Ken Hampian, City Manager, San Luis Obispo, California (khampian@slocity.org).

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Duties of The City Council

The powers and duties of the Mayor and City Council are contained in state law and City ordinances, resolutions and regulations. In carrying out their statutory duties, the City's elected officials do the following:

1. Adopt ordinances, resolutions, policies and regulations for the health, safety and welfare of the current and future inhabitants of the City of Livingston.
2. Establish policies for the effective and efficient delivery of municipal services to the City.
3. Establish goals, objectives and performance measures for the City Government and the City Manager.
4. Add, delete, modify or reduce municipal services.
5. Create departments, divisions, bureaus, offices and citizen advisory committees necessary for the efficient and effective operation of the City.
6. Exercise legislative oversight over the City Manager, professional staff, consultants, citizen advisory committees and all other employees, volunteers and officers appointed or retained by the City.
7. Work with citizen advisory committees established by the City Council to formulate recommendations to the City Council on policies, projects and spending allocations. Every member of the governing body is expected to take committee assignments and attend all committee meetings.
8. Participate in community strategic and long-range planning.
9. Adopt a General Plan that contains a land-use element; circulation element; open space, conservation and Recreation element; urban boundary element, noise element, public services and facilities element, safety element, and housing element,
10. Adopt master plans for water, wastewater, storm drainage, parks, municipal facilities to guide the City's future development of critical infrastructure.
11. Approve the municipal boundaries, sphere of influence and all annexations of land into the City.
12. Approve all zoning changes, subdivisions and commercial and industrial site plans.
13. Approve all development agreements with residential, commercial and industrial developers.
14. Adopt a Five-Year Capital Improvements Plan.

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Attachment F

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15. Adopt the annual City budget.
16. Approve expenditures of City funds.
17. Promote good relations with federal, state, county, and other municipal government agencies. The Mayor and City Council will take an active role in working with appropriate officials on Inter-jurisdictional issues and regional problems affecting the residents of Livingston.
18. Serve on regional and state-wide boards, committees, commissions and task forces to advance and protect the interests of the residents of Livingston.
19. Appoint and remove if necessary, by majority vote, the City Manager.
20. Perform other duties established by ordinance, resolution, contract or regulation.

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RESOLUTION NO. 22461

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERSIDE, CALIFORNIA, ESTABLISHING A CODE OF ETHICS AND CONDUCT FOR ELECTED OFFICIALS AND MEMBERS OF APPOINTED BOARDS, COMMISSIONS AND COMMITTEES, AND REPEALING RESOLUTION NO. 22318.

WHEREAS, on November 2, 2004, Measure DD was approved by the voters of the City of Riverside, thereby adding Section 202 to the Riverside City Charter; and

WHEREAS, the City Council desires to further amend the Code of Ethics and Conduct.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Riverside that the following shall be the Code of Ethics and Conduct for all elected officials and members of appointed boards, commissions, and committees for the City of Riverside.

I

PREAMBLE

The people of the City of Riverside, at an election held on November 2, 2004, approved an amendment to the City Charter of the City of Riverside which states: "The City of Riverside shall adopt a Code of Ethics and Conduct for elected officials and members of appointed boards, commissions, and committees which shall assure public confidence in the integrity of local government and its effective and fair operation." To assure public confidence in and ensure effective and fair operation of the local government of the City of Riverside the following Code of Ethics and Conduct is hereby adopted by the City of Riverside.

II

CODE PROVISIONS

A. Purpose

The purpose of this code is to achieve fair, ethical, and accountable local government for the City of Riverside. The people of Riverside expect public officials, both elected and appointed, to comply with both the letter and the spirit of the laws of the State of California, the United States of America and the Charter, Municipal Code, and established policies of the City of Riverside affecting the operations of local government. In addition, public officials are

1 expected to comply with the provisions of this Code of Ethics and Conduct established pursuant
2 to the expressed will of the people. All persons covered by this code will aspire to meet the
3 highest ethical standards in the conduct of their responsibility as an elected or appointed official
4 of the City of Riverside.

5 B. Scope

6 The provisions of this Code of Ethics and Conduct shall apply to the Mayor and members
7 of the City Council, and to all members of the boards, commissions, and committees appointed
8 by the City Council or the Mayor or the Mayor and City Council, including any *ad hoc*
9 committees. The provisions of this code shall also apply to all members of committees
10 appointed by individual members of the City Council or by Department Heads.

11 Further, the provisions of this code shall apply to the Mayor and Members of the City
12 Council at all times during their term of office as elected officials of the City of Riverside.
13 However, the provisions of this code shall apply to the appointed officials only while they are
14 acting in their official capacities and in the discharge of their duties.

15 C. Core Values

16 The people of the City of Riverside share a set of core values that constitute the guiding
17 principles for the establishment of this code. These core values are expressed in the following
18 aspirations:

- 19 (1) To create a government that is trusted by everyone.
- 20 (2) To make decisions that are unbiased, fair, and honest.
- 21 (3) To use public office for service to the public good and not for personal or private
22 gain.
- 23 (4) To ensure that everyone is treated with respect and in a just and fair manner.
- 24 (5) To create a community that affirms the value of diversity.
- 25 (6) To ensure that all public decisions are well informed, independent, and in the best
26 interests of the City of Riverside.
- 27 (7) To maintain a nonpartisan and civic minded local government.
- 28 (8) To ensure that all officials are adequately prepared for the duties of their office.

1 (9) To ensure that members of appointed boards, commissions, and committees make a
2 diligent effort to attend all regularly scheduled meetings of their board, commission, or
3 committee.

4 (10) To ensure that neither the Mayor nor any member of the City Council unduly
5 influence members of appointed boards, commissions and committees.

6 Based upon these core values, it is the City of Riverside's intent to establish through this
7 Code of Ethics and Conduct, a level of reasonable expectations of behavior for elected and
8 appointed public officials.

9 D. Core Values Defined

10 (1) Creating Trust of Local Government.

11 The elected and appointed officials of the City of Riverside shall aspire to operate the
12 City government and exercise their responsibilities in a manner which creates a trust in their
13 decisions and the manner of delivery of programs through the local government. The officials
14 shall aspire to create a transparent decision making process by providing easy access to all public
15 information about actual or potential conflicts between their private interests and their public
16 responsibilities. The officials shall aspire to make themselves available to the people of the city
17 to hear and understand their concerns. They shall aspire to make every effort to ensure that they
18 have accurate information to guide their decisions and to share all public information with the
19 community to ensure the community's understanding of the basis of the officials' decisions.

20 (2) Making Unbiased, Fair, and Honest Decisions.

21 The elected and appointed officials of the City of Riverside shall aspire to ensure that
22 their decisions are viewed as unbiased, fair, and honest. They shall strive to avoid participation in
23 all decisions which create a real or perceived conflict of interest and to disclose any personal
24 interest that would be perceived to be in conflict with the fair and impartial exercise of their
25 responsibilities. They will not accept gifts or favors which might compromise the independence
26 of their judgments or actions or give the appearance of being compromised.

27 (3) Use of Office for Service to the Public Good and Not for Personal or Private
28 Gain.

1 The elected and appointed officials of the City of Riverside have a responsibility to use
2 the benefits of public office exclusively for the public purpose for which it was created. Elected
3 and appointed officials shall not use the Office for personal or private gain except for as allowed
4 by statute. Therefore, acceptances of gifts shall otherwise be consistent with the requirements
5 and limitations allowable by state law. Elected and appointment officials shall refrain from the
6 following: (1) accepting gifts or favors that may compromise independent judgment or give the
7 appearance of compromised judgment; (2) using official title for matters other than the official
8 conduct of the office; and (3) engaging in decisions which would affect the level of
9 compensation received for service except as otherwise required or allowable by law.

10 (4) Treating Everyone with Respect and in a Just and Fair Manner.

11 The elected and appointed officials of the City of Riverside have a responsibility to make
12 extraordinary attempts to treat all people, including city staff, in a manner which would be
13 considered just and fair. They shall strive to value and encourage input from members of the
14 community and encourage open and free discussion of public issues. They shall strive to have all
15 persons treated with respect as they come before the body on which they serve. They shall aspire
16 to create an atmosphere of genuine interest in the point of view expressed by members of the
17 community even if it differs from their own.

18 (5) Creating a Community that Affirms the Value of Diversity.

19 The elected and appointed officials of the City of Riverside shall aspire to recognize and
20 affirm the value of all persons, families, and communities within the City of Riverside. They will
21 encourage full participation of all persons and groups, be aware and observe important
22 celebrations and events which reflect the values of our diverse population, and provide assistance
23 for those who find it difficult to participate due to language barriers or disabilities.

24 (6) Ensuring that all Public Decisions are Well Informed, Independent, and in the
25 Best Interests of the City of Riverside.

26 The elected and appointed officials of the City of Riverside will encourage and support
27 research and information gathering from verifiable sources. They will seek to ensure that
28 information provided by the City Government to the public is accurate and clear. They will

1 ensure that all information utilized in the decision making process, except that which by law is
2 confidential, will be shared with the public.

3 (7) Maintaining a Nonpartisan and Civic Minded Local Government.

4 The elected and appointed officials of the City of Riverside shall affirm the value of a
5 nonpartisan council-manager form of government.

6 (8) Ensuring that All Officials are Prepared for the Exercise of their Duties.

7 The elected and appointed officials shall commit to participation in all orientation and
8 training sessions which are presented to ensure our full preparation for the exercise of their
9 public duties.

10 (9) Ensuring Impartiality When Acting in a Quasi-Judicial Capacity.

11 Whenever the members of a board, commission or committee participate in a matter, the
12 subject of which will be subsequently heard by the City Council, the members shall not contact
13 the Mayor and/or any members of the City Council for the purpose of influencing the City
14 Council's decision.

15 (10) Ensuring Against Undue Influence.

16 Neither the Mayor nor any member of the City Council shall contact a board, commission
17 or committee member at any time for the purpose of influencing that member with respect to the
18 discharge of his/her official duties.

19 III

20 IMPLEMENTATION OF THE CODE

21 A. Implementation, Monitoring and Oversight

22 Monitoring and oversight are essential to ensure this Code of Ethics and Conduct is
23 effectively implemented. The objectives of this implementation effort shall include:

24 All persons covered by this code must be aware of its provisions.

25 All persons covered by this code shall have resources available to clarify expectations in
26 situations where they feel a potential area of noncompliance may exist.

27 All bodies covered by the code shall adopt rules of procedure which include the
28 provisions of this code.

1 Annual review shall be conducted to ensure the code is being applied in a fair and
2 effective manner.

3 Annual review shall be conducted by the City Council at a regular meeting.

4 To achieve these objectives the following mechanisms should be utilized.

5 1. All new members of the City Council, upon election or reelection, and members
6 of boards, commissions, and committees appointed by the Mayor, City Council, Mayor and City
7 Council, individual members of the City Council, or Department Head, upon appointment or
8 reappointment, shall be given a copy of the code and required to affirm in writing they have
9 received the code and understand its provisions. (See Attachment A).

10 2. All new members of the City Council and boards, commissions, and committees shall
11 be provided a training session which shall clarify the provisions and application of the code.
12 These sessions shall be coordinated by the City Manager, City Attorney and City Clerk through
13 the Mayor's Office.

14 3. The City Attorney, or his or her designee, shall serve as a resource person to those
15 persons covered by the code to assist them in determination of appropriate actions consistent
16 with the code.

17 4. Complaints from members of the public regarding elected or appointed officials shall
18 be submitted on the complaint form available from the City Clerk. Complaints concerning
19 Section II, D(4), herein, shall be presented by the person who claims to be treated in a manner
20 inconsistent with that Section. Complaints shall be filed with the City Clerk within 180 days of
21 discovery of an alleged violation of the Code of Ethics and Conduct. "Discovery" is defined as
22 when the complainant knew or reasonably should have known or discovered evidence of the
23 alleged violation through the exercise of reasonable diligence.

24 Upon receipt of the complaint form, the City Clerk and City Attorney will review the
25 submittal for completeness only. Any issue of timeliness will be resolved by the adjudicating
26 body, and, if there is an appeal, by the City Council. Once the filing is deemed complete, the
27 City Clerk will schedule the complaint concerning the elected official for a hearing before the
28 adjudicating body as soon as practicable and notify both parties. For complaints against

1 members of boards, commissions and committees, the City Clerk will forward the matter to the
2 appropriate board, commission or committee chair for informal resolution if so requested by the
3 complainant. If the matter is not resolved, or if the complainant did not request to seek an
4 informal resolution, the City Clerk will schedule the complaint for a hearing before the
5 adjudicating body as soon as practicable and notify both parties.

6 The adjudicating body shall consist of five members and one alternate chosen from the
7 chairpersons of the City's boards and commissions selected by lot by the City Clerk. No
8 chairperson shall serve who is from the same ward as the elected official to which the complaint
9 concerns. The City Clerk will notify both parties of the hearing date, place and time at least
10 fourteen (14) days in advance of the hearing. The adjudicating body shall hear all timely filed
11 complaints and attempt to resolve each complaint on its merits.

12 Following the hearing, the City Clerk will notify both parties, in writing, of the
13 adjudicating body's decision and the appeal process. The decision of the adjudicating body may
14 be appealed by either party by submitting such appeal in writing to the City Clerk within seven
15 (7) days of the adjudicating body's decision. If no appeal is received within seven (7) days, the
16 matter is concluded. If appealed within seven (7) days, the City Clerk will schedule the appeal
17 before the City Council and notify both parties at least fourteen (14) days in advance of the
18 hearing.

19 The record on appeal will consist of a transcript of the hearing before the adjudicating
20 body as well as all documentary evidence submitted at the hearing. No new evidence will be
21 considered. The City Council will review the record and will disturb the adjudicating body's
22 decision only upon a showing of clear error or abuse of discretion.

23 The City Clerk will notify both parties in writing of the City Council's findings and
24 determination. The determination of the City Council is final and there is no further right to
25 appeal. The hearing and appeal process shall be concluded if at all possible, within ninety (90)
26 days of the complaint being determined to be complete. Complaints and any supporting
27 documentation shall be retained for a period of at least two (2) years.

28 5. The chair of each body covered by this code is responsible to intervene and provide

1 appropriate guidance to members and, if need be, communicate concerns to the City Council.

2 6. In September of each year, the Mayor, the City Manager, the City Attorney and the
3 chairs of all Boards and Commissions shall meet with the Governmental Affairs Committee of
4 the City Council to assess the effectiveness of this code and its application. They shall present a
5 report to the City Council which may include recommendations for the inclusion of new values
6 or procedures. Prior to the annual Governmental Affairs Committee meeting, every Board and
7 Commission is encouraged to agendize and discuss the Code and submit any recommendations
8 for the Committee's consideration.

9 7. In September of each year, the City Council shall hold a public hearing on its
10 evening agenda at a regularly scheduled meeting, and shall review the report and make an
11 independent evaluation of the effectiveness of the Code of Ethics and Conduct.

12 B. Enforcement and Sanctions

13 It is the intention that this code be self enforcing. However, it is recognized that there
14 may be instances where even after receiving guidance and counsel, a person may continue to
15 violate the Code's provisions. In those cases sanctions would apply and would occur in a public
16 meeting.

17 (1) Mayor - City Council

18 The sanctions that would apply by action of the City Council would be:

- 19 (a) Public censure of a member.

20 The ultimate sanction of removal from office would lie in the hands of the
21 electorate.

22 (2) Boards and Commissions

- 23 (a) Public censure by the Board or Commission.

- 24 (b) Public censure by the Mayor and City Council.

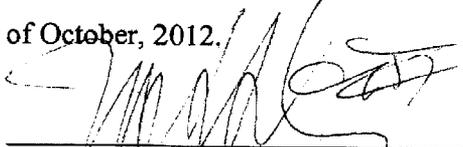
- 25 (c) Removal from office by the Mayor and City Council.

26 Ultimately, the responsibility for the enforcement of this Code of Ethics and Conduct lies
27 with the Mayor and City Council as they represent the will of the people of the City of Riverside.

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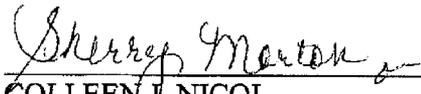
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BE IT FURTHER RESOLVED that Resolution No. 22318 is hereby repealed.
ADOPTED by the City Council this 9th day of October, 2012.



WILLIAM R. BAILEY, III
Mayor Pro Tem of the City of Riverside

Attest:



COLLEEN J. NICOL
City Clerk of the City of Riverside

I, Colleen J. Nicol, City Clerk of the City of Riverside, California, hereby certify that the foregoing resolution was duly and regularly adopted at a meeting of the City Council of said City at its meeting held on the 9th day of October, 2012 by the following vote, to wit:

- Ayes: Councilmembers Gardner, Melendrez, Bailey, Mac Arthur, Hart, and
and Adams
- Noes: Councilmember Davis
- Absent: None
- Disqualified: None

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Riverside, California, this 11th day of October, 2012.



COLLEEN J. NICOL
City Clerk of the City of Riverside

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ATTACHMENT A

City of Riverside
Code of Ethics and Conduct
Officials' Certification

As a newly elected, appointed, or reappointed official of the City of Riverside, California, I herein certify that I have received a copy of the Code of Ethics and Conduct of the City of Riverside, have been offered training and assistance in understanding this Code, and am aware of the provisions of the Code and its application to my responsibilities. Consistent with the Code, I pledge the following in the conduct of my duties.

As an elected/appointed official, I will aspire:

1. To create a government that is trusted by everyone.
2. To make decisions that are unbiased, fair, and honest.
3. To use my public office for service to the public good and not for personal or private gain.
4. To ensure that I treat everyone with respect and in a just and fair manner.
5. To create a community that affirms the value of diversity.
6. To ensure that all public decisions I make are well informed, independent, and in the best interests of the City of Riverside.
7. To maintain a nonpartisan and civic minded local government.
8. To be adequately prepared for the duties of my office.
9. To make a diligent effort to attend all regularly scheduled meetings of the board, commission, or committee.

Signed this _____ day of _____, _____.

Name

Signature

Office



City of Sunnyvale

2012 Code of Ethics and Conduct for Elected and Appointed Officials

"Conduct is three-fourths of our life and its largest concern."

-- Matthew Arnold

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For ease of reference in the Code of Ethics and Conduct, the term "member" refers to any member of the Sunnyvale City Council or the City's boards and commissions established by the City Charter, City Ordinance or Council policy.

Policy Purpose

The Sunnyvale City Council has adopted a 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.

A. ETHICS

The citizens and businesses of Sunnyvale are entitled to have fair, ethical and accountable local government which has earned the public's full confidence for integrity. In keeping with the City of Sunnyvale 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 Sunnyvale City Council has adopted a Code of Ethics and Conduct for members of the City Council and of 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.

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 Sunnyvale and not for any private or personal interest, and they will assure fair and equal treatment of all persons, claims and transactions coming before the Sunnyvale City Council, boards and commissions.
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 Sunnyvale in the performance of their public duties. These laws include, but are not limited to: the United States and California constitutions; the Sunnyvale City Charter; laws pertaining to conflicts of interest, election campaigns, financial disclosures, employer responsibilities, and open processes of government; and City ordinances and policies.
3. 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 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 and board and commissions governing the deliberation of public policy issues, meaningful involvement of the public, and implementation of policy decisions of the City Council by City staff.
5. Conduct of Public Meetings. Members shall prepare themselves for public issues; listen courteously and attentively to all public discussions before the body; and focus on the business at hand. They shall refrain from interrupting other speakers; making personal comments not germane to the business of the body; or otherwise interfering with the orderly conduct of meetings.

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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.
7. Communication. Members shall publicly disclose substantive information that is relevant to a matter under consideration by the Council or boards and commissions, 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, members shall not use their official positions to influence government 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. In accordance with the law, members shall disclose investments, interests in real property, sources of income, and gifts; and they shall abstain from participating in deliberations and decision-making where conflicts may exist.
9. Gifts and Favors. Members shall not take any special advantage of services or opportunities for personal gain, by virtue of their public office, that are 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 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.
11. Use of Public Resources. Members shall not use public resources not available to the public in general, such as City staff time, equipment, supplies or facilities, for private gain or personal purposes.
12. 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 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.
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 Sunnyvale, nor will they allow the inference that they do. Councilmembers and board and commission members have the right to endorse candidates for all Council seats or other elected offices. It is inappropriate to mention or display endorsements during Council meetings, board/commission meetings, or other official City meetings.
14. Policy Role of Members. Members shall respect and adhere to the council-manager structure of Sunnyvale City government as outlined by the Sunnyvale City Charter. In this structure, the City Council determines the policies of the City with the advice, information and analysis provided by the public, boards and commissions, and City staff. Except as provided by the City Charter, members therefore 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.

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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 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.

B. CONDUCT

The Conduct section of the City's Code of Ethics and Conduct is designed to describe the manner in which Councilmembers and board and commission members should treat one another, City staff, constituents, and others they come into contact with in representing the City of Sunnyvale. It reflects the work of a Council Policy and Protocol Subcommittee that was charged with defining more clearly the behavior, manners, and courtesies that are suitable for various occasions. The Subcommittee also considered a wide variety of policy changes and clarifications designed to make public meetings and the process of governance run more smoothly.

The constant and consistent theme through all of the conduct guidelines is "respect." Councilmembers experience huge workloads and tremendous stress in making decisions that could impact thousands of lives. Despite these pressures, elected and appointed officials are called upon to exhibit appropriate behavior at all times. Demonstrating respect for each individual through words and actions is the touchstone that can help guide Councilmembers and board and commission members to do the right thing in even the most difficult situations.

1. Elected and Appointed Officials' Conduct with One Another

"In life, courtesy and self-possession, and in the arts, style, are the sensible impressions of the free mind, for both arise out of a deliberate shaping of all things and from never being swept away, whatever the emotion, into confusion or dullness."

-- William Butler Yeats

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 "agree to 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

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. This does not allow, however, public officials to make belligerent, personal, impertinent, slanderous, threatening, abusive, or disparaging comments. No shouting or physical actions that could be construed as threatening will be tolerated.

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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 reason, 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 to show how individuals with disparate points of view can find common ground and seek a compromise that benefits the community as a whole.

Outside of official board or commission meetings, individual board and commission members are not authorized to represent the City or their board or commission unless specifically designated by the Council or the board or commission to do so for a particular purpose. In private settings, board and commission members may communicate at any time and on any subject with individual members of the City Council, and may express to them individual viewpoints and opinions. In public, however, all members shall represent the official policies or positions of their board or commission, with the following exception. During a Council public hearing on any item addressed by the board or commission, any member may speak under standard time limits, but shall indicate whether their testimony represents an official position (majority opinion) or a minority opinion of the board/commission to which they belong. The chair shall represent the majority view of the board or commission, but may report on any minority views as well, including his or her own. When an official board or commission position differs from staff's recommendation on a particular policy issue, then at the Mayor's discretion additional time may be provided to the chair of the board or commission (or his/her designee) to explain the position of the board/commission or to rebut statements made by staff or the public. If new information is brought to light during a public hearing which was not shared previously with the board or commission, the Mayor may allow the board or commission chair to respond. If the Council deems the new information sufficient to warrant additional study, then by majority vote Council may remand the issue back to the board or commission for further study prior to taking other action itself.

Individual opinions and positions may be expressed by board and commission members regarding items that have not come before the particular board/commission to which they belong. When presenting their individual opinions and positions, members shall explicitly state they do not represent their body or the City of Sunnyvale, nor will they allow the inference that they do.

Although a board or commission may disagree with the final decision the Council makes, the board or commission shall not act in any manner contrary to the established policy adopted by the Council.

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.

Be aware of the insecurity of written notes, voicemail messages, and E-mail

Technology allows words written or said without much forethought to be distributed wide and far. Would you feel comfortable to have this note faxed to others? How would you feel if this voicemail message were

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played on a speaker phone in a full office? What would happen if this E-mail message were forwarded to others? Written notes, voicemail messages and e-mail should be treated as potentially "public" communication.

Even private conversations can have a public presence

Elected and appointed officials are always on display – their actions, mannerisms, and language are monitored by people around them that they may not know. Lunch table conversations will be eavesdropped upon, parking lot debates will be watched, and casual comments between individuals before and after public meetings noted.

In private, board and commission members may communicate at any time and on any subject with the City Council, and may express to Council individual viewpoints and opinions.

2. Elected and Appointed Officials' Conduct with City Staff

*"Never let a problem become an excuse."
-- Robert Schuller*

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 implements and administers 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. Poor behavior towards staff is not acceptable.

Member questions/inquiries to City staff

1. General. Council and board/commission communications with City staff should be limited to normal City business hours unless the circumstances warrant otherwise. Responses to Council questions posed outside of normal business hours should be expected no earlier than the next business day.
2. Routine Requests for Information and Inquiries. Members may contact staff directly for information made readily available to the general public on a regular basis (e.g., "What are the library's hours of operation?" or "How does one reserve a tee time at the golf course?"). Under these circumstances staff shall treat the member no differently than they would the general public, and the member shall not use their elected status to secure preferential treatment. The city manager does not need to be advised of such contacts.
3. Non-Routine Requests for Readily Available Information. Members may also contact staff directly for easily retrievable information not routinely requested by the general public so long as it does not require staff to discuss the issue or express an opinion (e.g., "How many traffic lights are there in the City?" or "Under what circumstances does the City lower its flags to half mast?")
4. Non-Routine Requests Requiring Special Effort. Any member request or inquiry that requires staff to compile information that is not readily available or easily retrievable and/or that requests staff to express an opinion (legal or otherwise) must be directed to the city manager, or to the city attorney, as appropriate (e.g., "How many Study Issues completed over the past five years have required 500 or more hours of staff time?", or "What is the logic behind the City's sign ordinances affecting businesses along El Camino Real?"). The city manager (or city attorney as appropriate) shall be responsible for

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distributing such requests to his/her staff for follow-up. Responses to such requests shall be copied to all Councilmembers (if originating from a Councilmember), relevant board or commission members (if originating from a board or commission member), the city manager, the city attorney as appropriate and affected department directors.

5. Meeting Requests. Any member request for a meeting with staff must be directed to the city manager or city attorney, as appropriate.
6. Public Safety Restrictions. Under certain circumstances, requests for information regarding operations or personnel of the Department of Public Safety may be legally restricted. Applicable statutes include: The Peace Officers' Procedural Bill of Rights (California Government Code Section 3300, et seq.), Confidentiality of Peace Officer Records (California Penal Code Section 832.5-7), and a number of exceptions to the California Public Records Act, defined in Government Code Section 6254. Providing information in response to such requests could violate the law, and might also violate due process rights that have been defined for peace officers in the State of California. Accordingly, it shall be the policy of the City of Sunnyvale to strictly comply with all applicable legal authorities governing the release of Department of Public Safety information and records.

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, intimidates staff, and hampers staff's ability to do their job objectively.

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. Comments about staff in the office of the city attorney should be made directly to the city attorney. Appointed officials should make their comments regarding staff to the city manager or the Mayor.

Do not get involved in administrative functions

Elected and appointed officials 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. [See Code of Ethics] The Sunnyvale City Charter, Section 807, also contains information about the prohibition of Council interference in administrative functions.

Check with City staff on correspondence before taking action

Before sending correspondence, Councilmembers should check with City staff to see if an official City response has already been sent or is in progress. Board and commission members shall not send correspondence except as authorized under the City's policies governing volunteers. (Council Policy 7.2.19, Boards and Commissions.)

Limit requests for staff support

Routine secretarial support will be provided to all Councilmembers. The Council Executive Assistant opens all mail for Councilmembers, unless a Councilmember requests other arrangements. Mail addressed to the Mayor is reviewed first by the city manager who notes suggested action and/or follow-up items.

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Requests for additional staff support – even in high priority or emergency situations – should be made to the city manager who is responsible for allocating City resources in order to maintain a professional, well-run City government.

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.

3. Elected and Appointed Officials' Conduct with the Public

"If a man be gracious and courteous to strangers, it shows he is a citizen of the world, and that his heart is no island cut off from other lands, but a continent that joins to them."

-- Francis Bacon

3(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.

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.

"I give many public presentations so standing up in front of a group and using a microphone is not new to me. But I found that speaking in front of Council was an entirely different experience. I was incredibly nervous and my voice was shaking. I think the reason was because the issue was so personal to me. The Council was going to take a vote that would affect my family's daily life and my home. I was feeling a lot of emotion. The way that Council treats people during public hearings can do a lot to make them relax or to push their emotions to a higher level of intensity."

Be fair and equitable in allocating public hearing time to individual speakers.

"The first thing the Mayor said to me was to be brief because the meeting was running late and the Council was eager to go home. That shouldn't be my problem. I'm sorry my item was at the end of the agenda and that there were a lot of speakers, but it is critically important to me and I should be allowed to say what I have to say and believe that the Council is listening to me."

The chair will determine and announce limits on speakers at the start of the public hearing process. Questions should not be asked for the express purpose of allowing one speaker to evade the time limit imposed on all others (e.g., "Was there something else you wanted to say?"). Generally, each speaker will be allocated three minutes with applicants and appellants or their designated representatives allowed ten. If many speakers are anticipated, the chair may shorten the time limit and/or ask speakers to limit themselves to new information and points of view not already covered by previous speakers.

No speaker will be turned away unless he or she exhibits inappropriate behavior. Each speaker may only speak once during the public hearing unless the chair requests additional clarification later in the process. After the close of the public hearing, no more public testimony will be accepted unless the chair reopens the public hearing for a limited and specific purpose.

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Give the appearance of 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. Be aware of facial expressions, especially those that could be interpreted as "smirking," disbelief, anger or boredom.

Maintain an open mind

Members of the public deserve an opportunity to influence the thinking of elected and appointed officials. To express an opinion or pass judgment prior to the close of a public hearing casts doubt on a member's ability to conduct a fair review of the issue. This is particularly important when officials are serving in a quasi-judicial capacity.

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.

If speakers become flustered or defensive by questions, it is the responsibility of the chair to calm and focus the speaker and to maintain the order and decorum of the meeting. Questions by members to the public testifying should seek to clarify or expand information. It is never appropriate to belligerently challenge or belittle the speaker. Members' personal opinions or inclinations about upcoming votes should not be revealed until after the public hearing is closed.

No personal attacks of any kind, under any circumstance

Members should be aware that their body language and tone of voice, as well as the words they use, can appear to be intimidating or aggressive.

Follow parliamentary procedure in conducting public meetings

The city attorney serves as advisory parliamentarian for the City and is available to answer questions or interpret situations according to parliamentary procedures. The chair, subject to the appeal of the full Council or board/commission makes final rulings on parliamentary procedure.

3(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.

Remember that despite its impressive population figures, Sunnyvale is a small town at heart
Members are constantly being observed by the community every day that they serve in office. Their behaviors and comments serve as models for proper deportment in the City of Sunnyvale. Honesty and respect for the dignity of each individual should be reflected in every word and action taken by members, 24 hours a day, seven days a week. It is a serious and continuous responsibility.

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4. Council Conduct with Other Public Agencies

*"Always do right. This will gratify some people and astonish the rest."
-- Mark Twain*

Be clear about representing the City or personal interests

When representing the City, the Councilmember must support and advocate the official City position on an issue, not a personal viewpoint. Outside of official board or commission meetings, board and commission members are not authorized to represent the City or their board or commission unless specifically designated by the Council or the board or commission to do so for a particular purpose.

When representing another organization whose position is different from the City, the Councilmember should withdraw from voting on the issue if it significantly impacts or is detrimental to the City's interest. Councilmembers should be clear about which organizations they represent and inform the Mayor and Council of their involvement.

Correspondence also should be equally clear about representation

City letterhead may be used when the Councilmember is representing the City and the City's official position. A copy of official correspondence should be given to the Council Executive Assistant to be filed in the Council Office as part of the permanent public record.

City letterhead should not be used for non-City business nor for correspondence representing a dissenting point of view from an official Council position.

5. Council Conduct with Boards and Commissions

*"We rarely find that people have good sense unless they agree with us."
--Francois, Duc de La Rochefoucauld*

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.

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 especially if it is on behalf of an individual, business or developer -- could be viewed as unfairly affecting the process. 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.

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.

Remember 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

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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."

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.

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.

6. Conduct with the Media

*"Keep them well fed and never let them know that all you've got is a chair and a whip."
-- Lion Tamer School*

Board and commission members are not authorized to represent the City outside of official board/commission meetings unless specifically authorized to do so.

Councilmembers are frequently contacted by the media for background and quotes.

The best advice for dealing with the media is to never go "off the record"

Most members of the media represent the highest levels of journalistic integrity and ethics, and can be trusted to keep their word. But one bad experience can be catastrophic. Words that are not said cannot be quoted.

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

The Mayor is the designated representative of the 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.

C. SANCTIONS

*"You cannot have a proud and chivalrous spirit if your conduct is mean and paltry;
for whatever a man's actions are, such must be his spirit."
-- Demosthenes*

Public Disruption

Members of the public who do not follow proper conduct after a warning in a public hearing may be barred from further testimony at that meeting or removed from the Council Chambers.

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Inappropriate Staff Behavior

Councilmembers should refer to the city manager any City staff or to the city attorney any City Attorney's staff who do not follow proper conduct in their dealings with Councilmembers, other City staff, or the public. These employees may be disciplined in accordance with standard City procedures for such actions. (Please refer to the section on Council Conduct with City Staff for more details on interaction with Staff.)

Councilmembers Behavior and Conduct

Compliance and Enforcement. The Sunnyvale Code of Ethics and Conduct expresses standards of ethical conduct expected for members of the Sunnyvale 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 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.

City Councilmembers who intentionally and repeatedly do not follow proper conduct may be reprimanded or formally censured by the Council, lose seniority or committee assignments (both within the City of Sunnyvale or with inter-government agencies) or have official travel restricted. Serious infractions of the Code of Ethics or Code of Conduct could lead to other sanctions as deemed appropriate by Council.

Councilmembers should point out to the offending Councilmember infractions of the Code of Ethics and Conduct. If the offenses continue, then the matter should be referred to the Mayor in private. If the Mayor is the individual whose actions are being challenged, then the matter should be referred to the Vice Mayor.

It is the responsibility of the Mayor to initiate action if a Councilmember's behavior may warrant sanction. If no action is taken by the Mayor, the alleged violation(s) can be brought up with the full Council in a public meeting.

Board and Commission Members Behavior and Conduct

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. Written reprimands administered by the Mayor shall not be included in packets for public meetings and shall not be publicized except as required under the Public Records Act.

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. The Report to Council shall be distributed in accordance with normal procedures, including hard copies to numerous public facilities and posting online. Any Report to Council addressing alleged misconduct by a board or commission member shall be routed through the Office of the city attorney for review of whether any information is exempt from disclosure (subject to redaction) based on privacy interests authorized under the Public Records Act.

When deemed warranted, the Mayor or majority of Council may call for an investigation of board or commission member conduct. Should the city manager or city attorney believe an investigation is warranted,

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they shall confer with the Mayor or Council. The Mayor or Council shall ask the city manager and/or the city attorney to investigate the allegation and report the findings.

The results of any such investigation shall be provided to the full Council in the form of a Report to Council, and shall be placed on the agenda of a noticed public meeting as "Information Only". Any such report shall be made public and distributed in accordance with normal procedures (i.e., hard copies to numerous public locations and posted online). Any report to Council addressing the investigation of board and commission members shall be routed through the Office of the City Attorney for review of whether any information is exempt from disclosure (subject to redaction) based on privacy interests authorized under the Public Records Act.

It shall be the Mayor and/or the Council's responsibility to determine the next appropriate action. Any such action taken by Council (with the exception of "take no further action") shall be conducted at a noticed public hearing. These actions include, but are not limited to: discussing and counseling the individual on the violations; placing the matter on a future public hearing agenda to consider sanctions; forming a Council ad hoc subcommittee to review the allegation, the investigation and its findings, as well as to recommend sanction options for Council consideration.

Under the City Charter, the City Council also may remove members of boards and commissions from office. A violation of this Code of Ethics and Conduct shall not be considered a basis for challenging the validity of a Council, board or commission decision.

D. PRINCIPLES OF PROPER CONDUCT

Proper conduct IS ...

- Keeping promises
- Being dependable
- Building a solid reputation
- Participating and being available
- Demonstrating patience
- Showing empathy
- Holding onto ethical principles under stress
- Listening attentively
- Studying thoroughly
- Keeping integrity intact
- Overcoming discouragement
- Going above and beyond, time and time again
- Modeling a professional manner

Proper conduct IS NOT ...

- Showing antagonism or hostility
- Deliberately lying or misleading
- Speaking recklessly
- Spreading rumors
- Stirring up bad feelings, divisiveness
- Acting in a self-righteous manner

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It all comes down to respect

Respect for one another as individuals ... respect for the validity of different opinions ... respect for the democratic process ... respect for the community that we serve.

E. CHECKLIST FOR MONITORING CONDUCT

- Will my decision/statement/action violate the trust, rights or good will of others?
- What are my interior motives and the spirit behind my actions?
- If I have to justify my conduct in public tomorrow, will I do so with pride or shame?
- How would my conduct be evaluated by people whose integrity and character I respect?
- Even if my conduct is not illegal or unethical, is it done at someone else's painful expense? Will it destroy their trust in me? Will it harm their reputation?
- Is my conduct fair? Just? Morally right?
- If I were on the receiving end of my conduct, would I approve and agree, or would I take offense?
- Does my conduct give others reason to trust or distrust me?
- Am I willing to take an ethical stand when it is called for? Am I willing to make my ethical beliefs public in a way that makes it clear what I stand for?
- Do I exhibit the same conduct in my private life as I do in my public life?
- Can I take legitimate pride in the way I conduct myself and the example I set?
- Do I listen and understand the views of others?
- Do I question and confront different points of view in a constructive manner?
- Do I work to resolve differences and come to mutual agreement?
- Do I support others and show respect for their ideas?
- Will my conduct cause public embarrassment to someone else?

F. GLOSSARY OF TERMS

attitude	The manner in which one shows one's dispositions, opinions, and feelings
behavior	External appearance or action; manner of behaving; carriage of oneself
civility	Politeness, consideration, courtesy
conduct	The way one acts; personal behavior
courtesy	Politeness connected with kindness
decorum	Suitable; proper; good taste in behavior
manners	A way of acting; a style, method, or form; the way in which things are done
point of order	An interruption of a meeting to question whether rules or bylaws are being broken, such as the speaker has strayed from the motion currently under consideration
point of personal privilege	A challenge to a speaker to defend or apologize for comments that a fellow member considers offensive
propriety	Conforming to acceptable standards of behavior
protocol	The courtesies that are established as proper and correct
respect	The act of noticing with attention; holding in esteem; courteous regard

G. IMPLEMENTATION

As an expression of the standards of conduct for members expected by the City, the Sunnyvale Code of Ethics and Conduct is intended to be self-enforcing. 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, applicants to board and commissions, and newly elected

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and appointed officials. Members entering office shall sign a statement affirming they read and understood the City of Sunnyvale Code of Ethics and Conduct. In addition, the Code of Ethics and Conduct shall be annually reviewed by the City Council, boards and commissions, and the City Council shall consider recommendations from boards and commissions and update it as necessary.

(Adopted: RTC 08-113 (4/8/08), Update: RTC 09-036 (2/3/09); Updated: RTC 09-047 (2/24/09); Approved with no changes: RTC 10-078 (3/23/10); Approved with no changes: RTC 11-058 (3/29/11); Approved with no changes: RTC 12-067 (3/20/2012))

Lead Department: Office of the City Manager

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CITY OF WEST HOLLYWOOD

CODE OF CONDUCT FOR ELECTED AND APPOINTED OFFICIALS

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II. Background

West Hollywood is a general law city governed by the council/manager form of government. The City Council, with the assistance of its advisory commissions and boards makes policies and fundamental governmental decisions; the City Manager is charged with implementing those policies and decisions and administering the day-to-day affairs of the City with the assistance of his/her staff. The City Council has direct authority over the City Manager and the City Attorney; all other employees of the City are under the direct authority of the City Manager. This Code establishes rules that contribute to the success of this basic structure and to maintaining positive and effective working relationships between officials and employees.

III. Limitations

This Code addresses selective aspects of the governance of the City and supplements, but does not supplant other laws and rules that prescribe the legal responsibilities of City officials. Those include, among others, the California Constitution, various provisions of the California Government Code (including the Brown Act and the Political Reform Act) and Labor Code, federal laws prohibiting discrimination and harassment, and the provisions of the City’s own Municipal Code. Elected and appointed officials should be familiar with these laws to assure that they exercise their responsibilities properly; to that end, the City provides periodic training and education programs which should be attended by all City officials. In addition, the City Attorney is available to respond to questions about these matters.

It is not possible for a code of this kind to anticipate and provide a rule of conduct for all situations. At bottom, it is expected that officials will manage their behavior in a manner consistent with the rules that follow, respect the chain of command and behave within the bounds of their authority. It is also expected that officials will treat each other, City employees, residents and business-people with courtesy and respect in a manner that reflects well on the City.

IV. Policies and Rules

What follows are general policies governing the conduct of City officials. Following each policy is a set of rules that give specific application to the policy. In *italics* following each rule, is an explanation of the rule and guidance for interpreting and applying the rule.

Policy 1. City officials shall deal with the administrative service solely through the City Manager or his/her delegee.

Rules:

1.1 Officials shall not direct, order or make demands on any City employee, other than inquiries that can be answered routinely and without research.

City staff is organized in a hierarchical structure, and City employees work under the direction and control of several layers of management culminating with the City Manager. Individual officials are not part of that management structure and have no authority to direct employees. When an official attempts to give an employee direction, the employee is put in an awkward position and the management structure is undermined. In some cases such actions have the potential for liability. Officials are not authorized directly to give work assignments to Employees. Employees are instructed not to take directions or work assignments from officials and to report any such attempts to their Department Director. An official may ask a routine question of staff; beyond that, concerns about work assignment should be addressed to the City Manager or to the appropriate Department Director.

1.2 Officials shall not attempt to reorganize an employee's priorities or influence the manner by which City staff perform their assigned functions or duties.

City employees are directed in their everyday tasks by their immediate supervisor in accordance with approved work plans. Interference with an employee's work routine, priorities or decisionmaking processes by an official creates confusion and stress and places the employee in the difficult position of either disregarding his or her assigned work or appearing to disrespect the official's wishes. All requests for work or research should be directed to the appropriate Department Director. From time to time an official may believe that a problem must be looked into immediately, and is tempted to direct an employee to drop everything and focus on that problem. Officials must, however, communicate their concern to the appropriate Department Director or the City Manager.

1.3 Officials shall not retaliate or threaten to retaliate against employees as a result of disagreements over policy recommendations.

It is critical to the success of the City that its employees enjoy a workplace free of the fear of retaliation. The City takes great pride in its creativity and its receptivity to new and different ideas; creativity is fostered by an open and nonjudgmental atmosphere where candor is not penalized. City employees are hired to offer their professional judgments and opinions. Officials are certainly free to disagree with those judgments; indeed, those officials ultimately may have the final word. But, those disagreements must not extend to threats or generate fear of reprisal. Officials enjoy substantial authority within City Hall; this authority must not be exercised in a manner that intimidates staff and degrades morale with resulting damage to the fabric of the organization.

1.4 Officials shall not threaten a City employee with disciplinary action.

If an official is concerned about the performance of a City employee, that concern should be expressed privately to the City Manager or to the employee's Department Director. Such criticisms can then be addressed in accordance with the City's personnel rules, in a manner that protects the employee's rights and protects the City's authority properly to discipline its employees. It is never acceptable for an official directly to threaten disciplinary action of any kind. And, rarely, if ever, is it appropriate to criticize publicly a non-managerial employee. Officials should certainly have high expectations of employees' work performance; but, there is no room in the City organization for public humiliation of any person.

Policy 2. City officials shall act collectively in a properly noticed and constituted meeting; officials have no authority to make decisions or take actions on behalf of the body unless expressly authorized to do so.

Rules:

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

When officials engage in conversations with residents, applicants, developers, lobbyists and officials of other governmental agencies, they should be cautious not to make representations or promises that they cannot legally make or keep. Future actions of a legislative body cannot be promised or predicted with certainty. Individual officials do not have authority to make commitments on behalf of the City unless expressly authorized to do so by the body of which they are a member.

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

Officials occasionally speak before other public bodies, neighborhood groups or to the press. When doing so, they should always make it clear whether they are presenting their own point of view or whether they have been authorized by the body of which they are a member to present a particular view. They should be clear in all oral and written utterances whether they are using their title for identification purposes or because they are speaking in an official capacity. Use of City letterhead shall comply with Rule 4.1 herein. The actions and recommendations of subsidiary bodies are presented to the City Council as part of the staff report, and often memorialized in a resolution. If a subsidiary body feels it necessary to supplement these written transmittals, it should expressly authorize one of its members to speak on its behalf. Seldom should an individual member of a commission or board feel it necessary to explain his or her votes at a City Council meeting.

2.3 Officials shall not interfere with the manner by which the City Manager performs his or her duties.

The City Manager takes direction from the Council acting as a body, not from individual members. And, while the Council as a body may offer its views on matters within the Manager's area of authority (such as hiring subordinates), it is the Manager, as chief executive officer of the organization, that makes the final decisions on such matters. The Manager cannot function effectively if he or she receives inconsistent direction from individual Councilmembers or is not given the support and independence necessary to administer the City.

2.4 City officials shall not interfere with the implementation by City staff of approved projects and programs.

The City Manager is charged with the implementation of approved projects or programs. City Councilmembers must avoid interfering with or directing the Manager's method of carrying out the City Council's decisions, even if the project or program was conceived and initiated by an individual Councilmember. Once a project or program receives Council approval, it is an official activity of the City, not of any individual Councilmember. City officials do not have authority and should refrain from giving directions or instructions to City contractors or consultants working on City projects or programs.

Policy 3. Appointed legislative bodies shall limit their activities to matters within their subject matter jurisdiction.

Rules:

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

The Municipal Code sets forth the subject area jurisdiction of the City's Commissions. The City Council establishes the duties of its advisory boards. These subsidiary bodies are limited to acting and/or making recommendations within the area of their jurisdiction, and in accordance with by-laws approved by the City Council.

3.2 The City Council as a whole shall provide direction and guidance to its subsidiary bodies.

There may be times when the Council feels that an advisory body is straying from its mission or making decisions or recommendations inconsistent with the Council's vision for the City. It is preferable for the Council to communicate its concerns to such bodies in a joint study session.

Policy 4. City resources shall be used solely for proper governmental purposes, and only with proper authorization.

Rules:

4.1 City letterhead may be used by City Councilmembers for official City business.

City letterhead must be used with care to avoid misunderstandings. Letterhead may be used to communicate official City policy or actions. It is also routinely used by Councilmembers to respond to inquiries or communicate their individual opinions, in which event the author should be clear about whose view is being presented. Appointed City officials are not authorized to use City letterhead.

4.2 City employees shall not be asked or directed to spend time on non-City business.

It is improper to ask or require a City employee to engage in non-City related activities. Non-City activities include, among other things, election campaign-related activities and personal errands. This rule especially pertains to Council deputies, who are most susceptible to influence from Councilmembers in the management of their time. Further, City employees should not be solicited to engage in political activity on behalf of a City official; they may, of course, choose to do so when off-duty and away from City Hall.

4.3 When traveling on City business, officials holding a City credit card shall adhere to the City's credit card use policy.

The City has adopted a policy governing the use of City credit cards for official business, and otherwise obtaining reimbursement for business-related expenses. It is expected that all officials holding City credit cards will adhere strictly to this policy.

4.4 Officials shall not use or disclose information obtained through City service for improper purposes.

Officials often acquire information in performing their duties that is not generally available to the public, including information received in closed sessions. Sometimes this information is confidential or highly sensitive. Information that is not generally available to the public must remain confidential and be used only for the purposes for which it was divulged. In particular, this information can never be used for personal gain.

Policy 5. When representing the City, officials shall conduct themselves in a dignified manner and in accordance with all legal requirements.

Rules:

5.1 When representing the City on official business, officials shall behave responsibly and in a manner as to project a positive image for the City.

Whenever an official is representing the City, in or out-of-town, the official is “on-duty” and should behave in a manner that will reflect well on the City. When out-of-town or at social events there is a temptation to behave more informally than one might in City Hall, which can lead to awkward or embarrassing situations, and in extreme cases to improper or illegal behavior. When at official functions, officials should avoid drinking alcohol to excess.

5.2 Officials shall exercise best efforts to avoid the appearance of impropriety in the performance of their official duties.

The public’s confidence in the integrity and fairness of City government often hinges on the behavior of City officials. Real or perceived ethical lapses by City officials undermine the effectiveness of the City and cast a shadow on the decisions of its legislative bodies. Often, ethical considerations extend beyond the legal requirements of conflict of interest law.

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City Council Deputies are unique among employees in City Hall. Unlike other employees they answer directly to City Councilmembers as well as the City Manager, and may be given work assignments directly by the Councilmember to whom they are assigned. They are employed at- will, meaning that they can be terminated without cause at any time.

Deputies are unique from an operational point of view as well. Most of their time is spent performing assignments directly from the Councilmember for whom they work, sometimes representing him or her to constituents, representatives of other governmental agencies and other City staff. In this capacity, Deputies communicate their Councilmembers’ wishes or viewpoints.

Deputies are subject to all of the policies and rules in this Code when acting as a surrogate of the Councilmember to whom they are assigned when relating both to City employees and others, and are otherwise subject to the same rules, expectations of conduct and disciplinary procedures as other employees of the City.

VI. Enforcement

The City is committed to maintaining a healthy, fulfilling and humane workplace. To that end, every City official is expected to observe the foregoing policies and rules when engaged in City business.

Complaints alleging a violation of this Code of Conduct by a City official should be directed to the City Manager or the City Attorney. Upon receipt of a complaint of a minor nature, the City Manager and the City Attorney shall together determine a course of action. The City Manager and the City Attorney shall, should they fail to resolve the complaint or should the complaint be of a serious nature, consult with the Mayor (unless the Mayor is the subject of the complaint, in which event they shall consult with the Mayor Pro Tem or other Councilmember, in order of seniority, as is appropriate under the circumstances) in order to determine an appropriate course of action.

The goal of enforcement of this Code of Conduct is corrective, rather than penal, and a progressive approach to curing violations shall be employed, beginning with informal methods and proceeding to more formal methods as necessary. If appropriate, informal counseling and instruction (including referral to the Employee Assistance Program if appropriate) shall be utilized to correct the official's behavior prior to recommending imposition of sanctions.

Should less drastic measures fail, the City Council may in a public meeting impose one or more of the following sanctions:

- Reprimand
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MANUAL OF PROCEDURAL GUIDELINES
FOR THE CONDUCT OF
TOWN COUNCIL AND CONSTITUENT
BODY/COMMISSION MEETINGS FOR

THE TOWN OF
YUCCA VALLEY

ADOPTED ON MAY 6, 2014



Lesley Copeland
Town Clerk

Lona N. Laymon
Town Attorney

OUTLINE OF PROCEDURAL MANUAL PROVISIONS

Manual Applies to Council; Agency; Housing Authority; All Commissions

A. Agendas (3.1-3.6; 5.1-5.10, 6.1, 6.3)

1. Town Manager (or "TM") generally has the authority to set the agenda. (5.1)
2. The Town Clerk or his/her designee shall prepare the agenda for each Council Meeting. Items of business may be placed on the agenda at the direction of the Town Manager or three affirmative votes of the Town Council during discussion of Future Agenda Items at a Town Council Meeting. (5.1)
3. Permits consent calendars and defines what isn't permitted on consent calendar: ordinances; matters involving split votes or public controversy; excluded consent calendar. (6.3)
4. List order of agenda. (6.1)
5. No action unless listed on agenda. (5.7)
6. Add items if arose subsequent agenda and 2/3 vote or unanimous of those present. (5.9)

B. Minutes, Ordinances, Resolutions and Contracts (5.3 - 5.6, 5.10)

1. Minutes are abbreviated record, revisions factual and not to change intent. (5.10)
2. Defines matter appropriate for ordinance vs. resolution; certain items require supermajority.
3. Defines vote requirements--resolutions require 3 votes.
4. Urgency circumstances defined where resolution can be prepared at a meeting.
5. Contracts may be put in final form by legal counsel. (5.6)
6. Approval of budget does not authorize expenditures. (6.5)

C. Boards and Commissions (6.4)

1. Defines legislative bodies and advisory bodies subject to the Brown Act. (1.2(a))
2. Committees established by official action, continuing jurisdiction more than 180 days, majority of officials from City or other bodies, is standing committee subject to Brown Act.
3. Permits creation of ad hoc council subcommittees (less than majority) not subject to the Brown Act.
4. Permits formation boards and commissions subject to the Brown Act.
5. Provides for appointments of Commission Members; removed by majority vote.
6. Commissions make reports to council; not permitted to create subcommittees.

D. Study Sessions/Closed Sessions (2.5, 4.1 - 4.4)

1. Study session informal but subject to Brown Act; no action taken.
2. Public comments permitted before; report on any action taken.
3. Those persons not relevant to the closed session matter are excluded.

4. Revealing any matter from closed session can subject the person to censure.

E. Public Comments (7.0 – 7.4)

1. Town Council meeting presentations are to be brief and efficient; this is to include all speakers for the group being recognized. Exhibit “B” has full policy.
2. Time limits are up to 3 minutes, but for public hearing applicant not limited. (7.2)
3. Public comment periods include initial comment period on non-agenda items; comment on agenda items. (7.1)
4. Speaker cards provided, but voluntary. (7.4)

F. Hearings (8.1 – 8.4)

1. Before the hearing, Councilmembers limited to factual questions of staff and speakers. Not to engage in debate.
2. Presiding Officer to make it clear when hearing is opened or closed. No questions of speakers or public comment after hearing closed.
3. Hearing must be fair and impartial with decision based on findings required by law.
4. No expression of opinion until hearing is closed.
5. Avoid extra meeting contact with interested persons. Encourage participation in hearing.
6. Presiding Officer can control conduct of hearing--representative speakers, etc. Set any rules at beginning and keep fair to each side.
7. Be attentive during hearings.

G. Conduct of Members

1. Don't represent position of Town or promise Town action. (9.3; 9.10)
2. Don't speak in derogatory fashion concerning colleagues, employees, citizens. (10.1(f))
3. Mayor speaks officially for Town rather than councilmembers. (9.3)
4. Councilmembers in correspondence represent their own position rather than Town unless authorized by Council. (9.3)
5. Commissioners don't speak for Town. (9.3)
6. No Conflicts. Can consult with Town Attorney but advice not binding and no attorney-client confidentiality. (9.7(b))
7. Use Town email account. Emails subject to the Brown Act--no development of collective action. Public Records Act, too. (9.4)
8. Formal process for censure for wrongful conduct involving hearing before Town Council. (10.5)
9. Town Attorney can file amicus briefs. (9.7(d))

H. Procedures

1. Selection of Mayor/Mayor Pro Tem (9.1)

2. Abstentions discouraged but permitted where appearance of impropriety exists, even if no financial conflict.
3. Motions to rescind clarified so that matter can be rescinded if later legislative session. (11.4)
4. Defines process to correct an earlier action in violation of Brown Act. (12.1 – 12.3)
5. Includes Table of Motions and Procedural Actions.

**MANUAL OF PROCEDURAL GUIDELINES FOR THE CONDUCT OF TOWN
COUNCIL AND CONSTITUENT BODY/COMMISSION MEETINGS**

ARTICLE I – SCOPE

1.1 Application of Rules

This Manual (the “Manual”) shall establish the procedures for the conduct of all meetings of the Town of Yucca Valley Town Council, Successor Agency to the Yucca Valley Redevelopment Agency, Housing Authority (if established), and other constituent, governing bodies and commissions.

This Manual rescinds and supersedes all prior Town resolutions setting forth rules of procedure for the conduct of meetings by Town Legislative Bodies. Wherever there is a conflict between this Manual and any prior Town resolution, the terms and rules in this Manual shall govern. Additionally, the Town Council rescinds all conflicting provisions in the Municipal Code through Ordinance No. 248. Resolutions more specifically superseded by this Manual include, without limitation, the following:

- Town of Yucca Valley Resolution No. 98-13;
- Town of Yucca Valley Resolution No. 09-24

1.2 Definitions

The following definitions shall apply to these rules and procedures:

- a) “Legislative Body” means any quorum of any council, board, commission or standing committee (as defined in Government Code § 54952), or other governing body of the Town of Yucca Valley that is subject to the Brown Act (Government Code § 54950 *et seq.*). This includes the Yucca Valley Town Council, Yucca Valley Successor Agency to the former Redevelopment Agency, Yucca Valley Housing Authority Board, Planning Commission, Parks, Recreation and Cultural Commission, Sports Council, Youth Commission and any standing committee subject to the Brown Act. The term “Legislative Body” does not include Non-Governing Bodies, as defined below.
- b) “Presiding Officer” means the chairperson of the Legislative Body. For example, this refers to the Mayor when read in the context of the Town Council, the Board Chair in the cases of the Successor Agency to the Redevelopment Agency and/or the Housing Authority, and the Chair of any Commission or Council.
- c) “Vice Chair” means the vice chairperson to the Presiding Officer. For example, the Vice Chair means the Mayor Pro Tem in the case of the Town Council, the Vice Chairperson in the cases of the Successor Agency to the former Redevelopment Agency and/or Housing Authority, and the Vice Chairperson of any Commission or Council.
- d) “Clerk/Secretary” means the person responsible for taking and maintaining the record of proceedings for all meetings, preparation of agendas, calendar clerk and

custodian of rules, resolutions, ordinances and Legislative Body records. For example, the Clerk/Secretary refers to the Town Clerk in the case of the Town and the Agency Secretary in the cases of the Successor Agency to the former Redevelopment Agency and/or the Housing Authority.

- e) “General Counsel” means the legal advisor to the Legislative Body, such as the Town Attorney in the case of a Town Council meeting, or Agency Counsel in the cases of the Successor Agency to the former Redevelopment Agency and/or Housing Authority.
- f) “Town Manager” means the Chief Executive Officer of the Town, the Successor Agency to the former Redevelopment Agency and Housing Authority. The Town Manager may serve as the Secretary to the Successor Agency or Housing Authority, and the Town Manager can designate appropriate staff to serve as the clerk/secretary to any Commission of the Town.
- g) “Non-Governing Bodies” means wholly advisory committees and bodies that are not subject to the provisions of the Brown Act.
- h) “Sub-Legislative Bodies” means such advisory committees which are subject to the Brown Act but are not “governing” Legislative Bodies.

These rules and procedures are enacted pursuant to authority granted by Government Code §§ 36813 and 54954. The purpose of this Manual is to provide that the Legislative Bodies’ procedures will be consistent with the Brown Act and also to establish procedures which will be convenient for the public and contribute to the orderly conduct of any Legislative Bodies’ business. The procedures herein are in addition to, and not in place of, applicable ordinances and statutes and in the event of conflict between this Manual and applicable ordinances or statutes, the latter shall govern. In the event that any state statute referenced herein is renumbered, the reference herein shall be deemed to refer to the successor statute dealing with the same subject matter.

ARTICLE II – MEETINGS

2.1 Regular Meetings

Unless otherwise specified by a resolution or ordinance applicable to specific Legislative Body, the regular meetings of all Legislative Bodies shall be held on the first and third Tuesday of each month at the time designated by the Legislative Body, in the Council Chambers at Town Hall, 57090 Twenty-nine Palms Highway, Yucca Valley, CA 92284, or at such other locations as the Legislative Body may from time to time designate by resolution, in the order of adjournment, or in the notice of call of any special meeting. In the event a day of meeting shall be a legal holiday, said meeting shall be held on the next business day, or such other time as designated by the Town Council.

2.2 Special Meetings

The Presiding Officer may, when he or she deems it expedient, or upon the request of a majority of the Legislative Body, call a special meeting of the Legislative Body for the purpose of transacting the business designated in the call. The means and method for calling such special meeting shall be as set forth in the Brown Act as it now exists or may hereafter be amended. At such special meeting, no business shall be considered other than as designated in the call.

2.3 Emergency Meetings

An emergency meeting may be called by the Presiding Officer or by a majority of the Legislative Body where an emergency exists:

(a) A work stoppage, terrorist act or threat, crippling disaster or other activity which severely impairs public health or safety as determined by the majority of the Legislative Body; or

(b) Such other circumstance specified by State law as authorizing the conduct of an emergency meeting. Any emergency meeting shall be called, noticed, and conducted only in accordance with the procedures set forth in State law.

2.4 Attendance

A majority of members of the Legislative Body shall constitute a quorum. Less than a majority may adjourn from time to time, and may compel the attendance of absent members. Any member who fails to attend any of the meetings of the Legislative Body for 60 days, unless such absences are excused, shall surrender the office and be deemed to have surrendered the office.

2.5 Study Sessions

The Legislative Body may meet informally in conference or “study” sessions regarding concerns of the Legislative Body to interchange information, provided that all discussions and conclusions shall be informal. Such meeting shall be called in the same manner as for special meetings or adjourned meetings, as applicable, and be subject to the Brown Act. Each notice shall indicate that an opportunity for public comment shall be provided before any matter shall be determined. When a meeting has been designated a Study Session, the Legislative Body shall not take any action with respect to the matter under study except with prior public notice, appearing on a properly posted agenda, of such intent to take action.

ARTICLE III–NOTICE AND AGENDA

3.1 Notice and Agenda for Regular Meetings

For every regular Legislative Body meeting, the Clerk/Secretary or his or her designee shall post a notice of the meeting, specifying the time and place at which the meeting will be held, and an agenda containing a brief description of all the items of business to be discussed at

the meeting as set forth in Article V. The notice and agenda may be combined in a single document.

The notice and agenda must be posted at least seventy-two (72) hours before the regular meeting in a location freely accessible to public twenty-four (24) hours a day during the seventy-two (72) hour period and where the notice and agenda is not likely to be removed or obscured by other postal material. Specifically, the notice and agenda shall be posted at the place indicated below, and/or at such other location(s) as the Clerk/Secretary may designate:

The board used for posting public notices outside of Yucca Valley Town Hall, located at 57090 Twenty-nine Palms Highway, Yucca Valley, CA 92284;
Emailed to all members of the press and public who have requested such notice; and
Posted on the Town's website (with the full agenda packet attached).

3.2 Notice and Agenda for Special Meetings

For every special meeting, the Clerk/Secretary or his or her designee shall post a written notice specifying the time and place of the special meeting and the business to be transacted must be sent to each member of the Legislative Body (unless the member has filed a written waiver of notice with the Clerk/Secretary) and to each local newspaper of general circulation, and radio or television station that has requested such notice in writing. This notice must be delivered by personal delivery or any other means that ensures receipt, at least twenty-four (24) hours before the time of the meeting. The notice shall serve as the agenda for the special meeting and shall contain a brief description of all the items of business to be discussed at the meeting as set forth in Article V.

The notice for a special meeting shall be conspicuously posted at least twenty-four (24) hours prior to the special meeting in a location that is freely accessible to the public twenty-four (24) hours a day and where the notice are not likely to be removed or obscured by other posted material. Specifically, the notice shall be posted at the place indicated below, and/or at such other location(s) as the Clerk/Secretary may designate:

The board used for posting public notices outside of Yucca Valley Town Hall, located at 57090 Twenty-nine Palms Highway, Yucca Valley, CA 92284;
Emailed to all members of the press and public who have requested such notice; and
Posted on the Town's website (with the full agenda packet attached).

3.3 Notice of Emergency Meeting

The special meeting notice provisions provided in Section 3.2 above apply to emergency meetings, except for the following:

In the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities, the 24-hour notice requirement or the 24-hour posting requirement provided in Section 3.2 are not required. Nonetheless, every effort should be made to comply with the 24-hour notice and posting provisions.

Additionally, news media that have requested written notice of special meetings must be notified by telephone at least one hour in advance of an emergency meeting, and all telephone numbers provided in that written request must be tried. If telephones are not working, the notice requirements are deemed waived. However, the news media must be notified as soon as possible of the meeting and any action taken.

3.4 Notice and Agenda for Adjourned Meetings

The Legislative Body may adjourn any regular, adjourned regular, special, or adjourned special meeting to a time and place specified in the order of adjournment. If a quorum is not present, less than a quorum may so adjourn. If all members are absent from any regular or adjourned regular meeting, the Clerk/Secretary may declare the meeting adjourned to a stated time and place and shall cause a written notice of the adjournment to be delivered to each member of the Legislative Body at least twenty-four (24) hours before the adjourned meeting. A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the regular, adjourned regular, special, or adjourned special meeting was held, within twenty-four (24) hours after the time of adjournment. When a regular or adjourned regular meeting is adjourned as provided herein, the resulting adjourned regular meeting shall be a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings. If the subsequent meeting is conducted within five (5) days of the original meeting, matters properly placed on the agenda for the original meeting may be considered at the subsequent meeting. If the subsequent meeting is more than five (5) days from the original meeting, a new agenda must be prepared and posted pursuant to Government Code Section 54954.2.

3.5 Mailed Agenda Upon Written Request

The Clerk/Secretary, shall mail a copy of the agenda or, if requested, the entire agenda packet, to any person who has filed a written request for such materials. These copies shall be mailed at the time the agenda is posted. If requested, these materials shall be made available in appropriate alternative formats to persons with disabilities. A request for notice is valid for one calendar year and renewal requests must be filed January 1st of each year. Failure of the requesting person to receive the agenda does not constitute grounds for invalidation of actions taken at the Legislative Body meeting.

3.6 Affidavit of Posting

Immediately following the posting of the notice and agenda, the Clerk/Secretary or his or her designee shall complete an Affidavit of Posting, in a form to be developed by the Clerk/Secretary. The Affidavit of Posting shall indicate the time of the posting, the location(s) of the posting, and shall be signed under penalty of perjury. The Clerk/Secretary shall retain all such affidavits, together with a copy of each notice and agenda so posted. The affidavit, notice, and agenda shall be retained at least two (2) years subsequent to the date of posting, and pursuant to Government Code § 34090, shall not be destroyed by the Clerk/Secretary thereafter except in accordance with the Town's record retention policies.

ARTICLE IV– CLOSED SESSIONS

4.1 Generally

The Legislative Body may hold closed sessions prior to, or during a regular or special meeting, or at any time otherwise authorized by law, to consider or hear any matter which it is authorized by State law to hear or consider in closed session. Generally, open session regular meetings begin at 6:00 p.m. Closed session meetings may begin at 5:30 p.m. Public comment shall be permitted on closed session matters prior to the closed session. If a closed session is included on the agenda, the description of the item shall meet the requirements of and shall identify the statutory basis for the closed session. During closed session, the Legislative Body shall exclude all persons which it is authorized by State law to exclude from a closed session. No minutes of the proceedings of the Legislative Body during a closed session are required. Closed session may not be held regarding a matter not listed on a properly posted agenda for closed session except upon the Legislative Body first taking action to place the item on the agenda as a closed session item as permitted by law.

4.2 Persons Authorized

Persons present in the closed session shall be only members of the legislative body and support staff necessary to the discussion of the matter under consideration. As a general rule, closed sessions may involve only the members of the Legislative Body plus any additional support staff which may be required (e.g., Town counsel to provide legal advice; supervisor may be required in connection with disciplinary proceeding; labor negotiator required for consultation). Persons without an official role in the meeting should not be present.

4.3 Confidentiality

No person attending a closed session shall publicly discuss or otherwise reveal the proceedings in the closed session unless such publication has been approved by the vote of the Legislative Body taken during the closed session or as otherwise required by law. Violation of this rule shall subject the violator to censure by the Legislative Body as provided in Section 10.5 herein.

4.4 Public Reports

Before recessing into closed session, the Presiding Officer or General Counsel shall announce that the Body is recessing into closed session and shall name each closed session topic that will be discussed in closed session in at least as much detail as shown on the agenda.

Upon leaving closed session, the Presiding Officer or General Counsel shall report publicly any reportable actions taken on a closed session matter and, if any vote was taken, shall announce that the matter was put to a vote, the results of the vote, and how each Legislative Body member voted.

ARTICLE V - AGENDA CONTENTS

5.1 Preparation of Agendas

Barring insurmountable difficulties, the agenda shall ordinarily be delivered to the members of the Legislative Body on Thursday (as an informal deadline) preceding the meeting to which it pertains. The agenda shall also be available to the general public at the time it is delivered to the members of the Legislative Body, or in any case as required by the Brown Act.

The Clerk/Secretary or his/her designee shall prepare an agenda for each Legislative Body Meeting. Items of business may be placed on the agenda at the direction of the Town Manager, or by a majority of the Legislative Body during discussion of Future Agenda Items at a Legislative Body Meeting

Notwithstanding the foregoing, the Town Manager generally has responsibility for setting the agenda for the Legislative Body (except for any Commission where the responsibility may be assigned to the Town Manager's designee), and may place matters on the agenda in accordance with the Manager's evaluation of administrative priorities and resource capacities of Town.

5.2 Description of Matters

All items of business to be transacted or discussed at a meeting of the Legislative Body, shall be briefly described on the agenda. The description may, but need not, set out the specific action or alternatives which will be considered by the Legislative Body, but should contain sufficient detail so that a person otherwise unaware could determine the general nature or subject matter of the item by reading the agenda. The description of closed session matters shall meet the requirements of Government Code Sections §54954.2 and, where applicable, §54954.5. Matters may be designated as "pending" and listed for the sole purpose of determining if they will be on a future agenda.

5.3 Action Items

(a) Matters may formally be adopted by an ordinance, a resolution, minute order, or other motion (thereafter recorded by minute entry). Technically, all three are equally as legally effective and binding but vary in the formality of respective memorialization. While most actions will be presented to the Legislative Body in a written form prior to, or at, the meeting, the Legislative Body may amend any proposed action as written by carried motion of the Legislative Body at the time of its presentation for adoption. If an action as written is so amended by the Legislative Body, it shall be revised to reflect the Body's amendments for later execution by the Presiding Officer.

(b) Besides ordinances and resolutions, action can be taken by motion and recorded as a minute order. A "minute order" denotes a Legislative Body action which is recorded simply by an item entered in the minutes of the meeting at which it was accomplished, and no separate document is made to memorialize it.

(c) As a general rule, a recorded majority of the quorum for a Legislative Body may take an action. However, for the Town Council, resolutions, orders or the payment of

money, and all ordinances require a recorded majority vote of the total membership of the Town Council. Some actions, such as the passage of an urgency ordinance or adoption of a resolution of necessity to condemn property, require a super-majority vote. Under the Political Reform Act of 1974, a member with a financial conflict of interest regarding a matter before the member's board must leave the room while that matter is being discussed, heard, or acted on. In such a case, the member is counted as absent during the vote on that matter, and cannot be counted towards the quorum for the matter. If the member leaves the room for any other reason, the member's vote shall be recorded as an abstention, and the abstaining member shall be counted in determining whether a quorum of the Legislative Body is present.

5.4 Resolutions

(a) A "resolution" is a formal action with findings taken by the Legislative Body, generally pre-prepared in writing, designated by sequential number, and reference to which shall be inscribed in the minutes and an approved copy of each resolution filed in the official book of resolutions of the Legislative Body. Resolutions are used when specifically required by law, when needed as a separate evidentiary document to demonstrate findings or to be transmitted to another governmental agency, or where the frequency of future reference back to its contents warrants a separate document (with the additional "whereas" explanatory material it often recites) to facilitate such future reference and research.

(b) A resolution may be adopted at the same meeting it is presented. Where a resolution has been prepared in advance, the procedure shall be: motion, second, discussion, vote pursuant to methods prescribed in Article XI, and result declared. It shall not be necessary to read a resolution in full or by title except to identify it.

(c) Where a resolution cannot reasonably be prepared in advance of a meeting, the Legislative Body may instruct the Town Manager or the General Counsel to prepare a resolution for presentation at the next Legislative Body meeting. Where urgent, a resolution may be presented verbally in motion form together with instructions for written preparation for later execution. After the resolution has been verbally stated, the voting procedure in Article XI, shall be followed.

5.5 Ordinances (Town Council Only)

(a) The Town Council is the only Legislative Body empowered to legislate the Yucca Valley Municipal Code by adoption of ordinances.

(b) Ordinances, other than urgency ordinances, require at least two readings at different meetings held at least five days apart with the first reading considered to be introduction and the second adoption.

(c) A waiver of further readings requires a majority vote of the Council members present and voting. The waiver of further reading may be accomplished by one vote for all ordinances presented on the agenda of the present meeting. Government Code Section 36934.

(d) The Clerk/Secretary shall prepare copies of all proposed ordinances for distribution to all members of the Town Council at the meeting at which the ordinance is introduced, or at such earlier time as is expedient. Ordinances shall be numbered and kept by the clerk/secretary with the same formality as resolutions as described above in Section 5.4.

(e) An urgency ordinance is an ordinance adopted for the immediate preservation of the public peace, health and safety, containing a declaration of facts constituting the urgency. An urgency ordinance takes effect immediately and requires four-fifths vote of the Town Council for passage pursuant to Government Code § 36937.

5.6 Contracts and Agreements

When any contract or agreement is to be considered by the Legislative Body, the complete contract and agreement, if complete in form for execution, shall be made a part of the agenda package presented to the Legislative Body and shall be made available for viewing by the public within the time frames required under the Brown Act and/or the California Public Records Act (Government Code §§ 6250 through 6276.48). The Legislative Body may choose to leave the final form of the contract to the discretion of General Counsel if the Legislative Body has determined the general conditions of the contract.

5.7 Limitation of Actions by Agenda

No action or discussion shall be taken by the Legislative Body, on any item not appearing on a posted agenda, subject only to the exceptions listed in Section 5.9 below. "Action taken" as used herein shall mean a collective decision made by a majority of the Legislative Body, a collective commitment or promise by a majority of the Legislative Body to make a positive or a negative decision, or an actual vote by a majority of the Legislative Body upon a motion, proposal, resolution, order, or ordinance.

5.8 Public Comment Period

Pursuant to Government Code § 54954.3, every agenda posted for any meeting shall contain an item entitled "Public Comment" in order to provide for an opportunity for the public to address the Legislative Body on items of interest to the public within the Legislative Body's subject matter jurisdiction. The public comment period should be conducted in accordance with Article VII.

5.9 Exceptions to Agenda Requirement for Action Taken

The Legislative Body may take action at a meeting on an item not appearing on the agenda for that meeting only under one of the following circumstances:

(a) Upon a majority determination that an "emergency situation" that is either (i) a work stoppage, crippling activity, or other activity that severely impairs public health, safety, or both, or (ii) a dire crippling disaster, mass destruction, terrorist act, or threatened terrorist activity that poses peril so immediate and significant that requiring a Legislative Body to provide one-hour notice before holding an emergency meeting may endanger the public health, safety, or both. All discussion of such emergencies must be in open session.

(b) Upon a determination by a two-thirds (2/3) vote of the Legislative Body, or if less than two-thirds of the Legislative Body are present by a unanimous vote of those members present, that the need to take action arose subsequent to the agenda posting. For the purposes of this subsection, the term "need to take action" shall mean those circumstances whose occurrence creates a situation which is materially different from that which existed at the time the agenda was posted, and which requires the immediate attention of the Legislative Body. The mere failure of any person to notify the Legislative Body or staff of a pre-existing situation requiring Legislative Body attention until after the time for the posting of the agenda shall not be deemed to constitute a "need to take action" hereunder. If the Legislative Body makes a determination pursuant to this subsection, the minutes of the meeting at which the determination is made shall reflect what circumstances gave rise to the "need to take action" and why the item could not be placed on the agenda.

5.10 Minutes and Recordings

(a) An account of all proceedings of Legislative Body in open meetings shall be kept by the Clerk/Secretary. The Clerk/Secretary shall prepare Summary Minutes of the meetings proceedings for approval by the Legislative Body which when adopted by the Legislative Body shall be the official Minutes of the meeting. Amendment of the minutes may be made only as to factual accuracy and not as to a change of intent. The Minutes of the meeting need not be verbatim. Only the best and most complete available recording of the meeting shall constitute the official record of the Legislative Body, but the Minutes shall constitute the official record of the Legislative Body meeting where a verbatim record of the meeting is not available.

(b) Any recording of a Town Council meeting shall be kept permanently archived. The legislative body must provide to the public, without charge, equipment to review the record. Copies of the record can be made available with payment of standard reproduction costs.

(c) Any recording of commission or committee meetings made by or at the direction of the Legislative Body is a public record that must be retained and made available to the public for at least 30 days or until the minutes of that meeting are approved by such commission or committee. The Legislative Body must provide to the public, without charge, equipment to review the record.

ARTICLE VI – ORDER OF BUSINESS

6.1 Order of Business

The order of business of each meeting shall be as contained in the agenda prepared by the Clerk/Secretary unless the majority of the Legislative Body members consent to take items out of order. The order of business at meetings of the Legislative Body may be as follows, in accordance with the procedures specified below:

- (a) Roll Call.
- (b) Announcement of Closed Session Items, if applicable.*
- (c) Public Business from the floor on closed session items.*
- (d) Recess.

- (e) Reconvene Regular Meeting.
- (f) Pledge of Allegiance.
- (g) Invocation
- (h) Closed Session Report, if applicable.*
- (i) Presentations, Introductions, Recognitions
- (j) Agency Reports.
- (k) Approval of Agenda
- (l) Consent Items. (See Section 6.3 below.)
- (m) Public Hearings.
- (n) Department Reports.
- (o) Future Agenda Items
- (p) Public Comments
- (q) Staff Reports and Comments
- (r) Mayor and Council Reports and Comments
- (s) Announcements
- (t) Announcement of Closed Session Items, if applicable**
- (u) Public business from the floor on closed session items, if applicable**
- (v) Closed Session Report, if applicable**
- (w) Adjournment.

***if Closed Session is held at 5:30 p.m. prior to Regular Meeting.**

****if Closed Session is held at conclusion of Regular Legislative Body business.**

6.2 Call to Order

The meeting of the Legislative Body shall be called to order by the Presiding Officer, or the Vice-Chair in the Presiding Officer's absence. In the absence of both the Presiding Officer and Vice Chair, the meeting shall be called to order by the Clerk/Secretary and the three Legislative Body members present shall elect by majority vote a Presiding Officer for that meeting.

6.3 Consent Items

Matters of a routine or generally uncontested nature and non-controversial, shall be placed on the agenda as Consent Items and may be approved by the Legislative Body in a single motion by adoption of the Consent Calendar. The approval of the Consent Calendar shall signify the approval of each matter or recommendation included therein. All matters on the Consent Calendar shall be the subject to public comment procedures in Article VII. Upon the request of any member of the Legislative Body a matter may be removed from the Consent Calendar for separate discussion and/or action. Any such item shall be considered as part of the Excluded Consent Calendar. Each matter proposed for consideration as part of the Consent Items, including any recommended action, shall be described on the notice and agenda posted for the meeting. The following matters are not appropriate for the Consent Calendar:

- (a) Ordinances shall not be placed on the Consent Calendar for approval unless the ordinance has first been read or the reading of the ordinance has been waived as

required by law. Notwithstanding the foregoing, an ordinance adopting another code by reference shall be adopted in accordance with the procedure set forth in Government Code section 50022.1, *et seq.*

(b) Any matter where the Town Manager believes (i) it unlikely that there would be unanimous approval by the Legislative Body, or (ii) there is likely to be public comment on the matter, or (iii) a public presentation of the matter would be beneficial to the community.

6.4 Town Representatives and Advisory Bodies (Town Council Only)

(a) From time to time the Council may be required to assign a representative of the Town to non-Town boards, commissions or organizations (e.g., boards or commissions of another agency or joint powers authority). Except as otherwise required by law or by the policies of the non-Town organization, the Mayor shall nominate all such appointments of Town representatives on non-Town organizations, and the appointment shall be by a majority vote of the Council. Council appointments to non-Town organizations shall be considered and made with the goal of keeping the appointee in the organization for a long enough period of time that the appointee may gain seniority and/or a position of leadership within the organization. This goal shall be construed to mean that the same appointee should remain within a non-Town organization for at least two years where reasonably possible and convenient for said appointee. Nothing herein, however, shall be construed to limit or waive the Town Council's power to remove appointees pursuant to subsection (c) below.

(b) The Town Council shall have the power to establish advisory committees, commissions, other Legislative Bodies and Non-Governing Bodies. Any committee which is (i) established by ordinance, resolution or other formal action, or (ii) has a fixed regular meeting schedule, or (iii) has continuing subject matter jurisdiction over a non-temporary issue, or (iv) which continues to conduct business in excess of 180 days, or (v) has a majority membership of officials from other Legislative Bodies, shall be subject to the provisions of the Brown Act.

Advisory bodies and committees may take the following form:

i) The Council may, as the need arises, authorize the appointment of "ad hoc" Council committees composed of two members. Except where otherwise specifically provided by law, the Presiding Officer shall appoint the members of the Council committees, subject to the approval of the Council. Any committee so created shall cease to exist upon the accomplishment of the special purpose for which it was created or when abolished by a majority vote of the Council.

ii) The Council may, subject to the Brown Act, create other committees, boards, and commissions, whether Legislative Bodies or Non-Governing Bodies, to assist in the conduct and operation of the Town government with such jurisdiction and duties as the Council may specify. (a) All Town board and commission appointments, except for ex officio members where applicable, shall be made by majority vote of the Town Council: (b) Unless otherwise provided by law, or by ordinance or resolution, or unless by the very nature of the situation the provisions hereof may not be made applicable, all members of boards and

commissions of the Town shall be appointed by the Council for four(4) year terms commencing on February 1 of the year of appointment, provided that interim vacancies shall be filled by appointment of the unexpired term of the member replaced. The term shall coincide with the term of the Council Member nominating the Commission Member. This rule shall not, however, apply in regard to a newly established board or commission to which initial appointments are made on a staggered term basis, provided that the longest such term shall not exceed the term of the Council Member nominating the appointee. There is no maximum number of terms that may be served by any individual commissioner. The Town Council may, by a majority vote of the Town Council, remove from office any commissioner at any time without cause. The procedure of filling vacancies and provision of notice thereof shall be subject to the provisions of the Maddy Act (Government Code §§ 54970-54974).

iii) Sub-Legislative Bodies, including Non-Governing Bodies, shall be responsible for reporting the Body's activities to the Town Council. The members of a Sub-Legislative Body or Non-Governing Body shall operate within the jurisdiction established by the Council and shall not have authority to make subcommittees unless specifically granted such authority by action of the full Town Council. Staff members may be assigned to assist any Council-created committee by the Town Manager; staff members so assigned shall not be members of the committee unless specifically appointed as such by action of the full Council.

(c) Absent any other provision to the contrary, any member of a board or commission of the Town may be removed from office at any time, with or without cause, by a majority vote of the Town Council, except in cases where the Mayor or Town Council is not the appointing authority, in which case such regular appointing authority may exercise the power of removal.

6.5 Budgets

The Town Council shall have the power to approve the Town budget, and each Legislative Body shall have the power to approve the budget of funds specifically apportioned to control of that Legislative Body (e.g., the Successor Agency Board shall approve the budget of the Agency and the Housing Authority Board shall approve the budget of the Authority). Approval of the budget constitutes approval of a proposed plan of expenditures and revenues. With respect to any given expenditure the applicable procedure shall be followed. Further adoption of the budget does not constitute authorization for any specific employment class or position.

6.6 Items from Members

(a) There is a specific item on the agenda entitled Mayor and Council Member Reports and Comments, for receiving general comments, announcements, and/or suggestions from members of the Legislative Body. This can be used to inform the public concerning upcoming events, report on members' attendance at conferences and seminars, for requests by members that staff look into specific matters or similar matters. These matters may not be discussed, opined upon or deliberated, and if they do not concern a matter on the agenda, shall be handled by the Presiding Officer according to the same procedures set out for Public

Comment in Section 7.3. No action may be taken on such matters without being placed on a subsequent agenda.

(b) There is an agenda item referred to as Future Agenda Items, where members can request items to be placed on a subsequent agenda. Approval requires agreement of three council members

(c) There is an agenda item referred to as Staff Reports and Comments. This may be used by the Town Manager and Department Directors similarly to the item for members of the Legislative Body in Subsection (a) above to make announcements without separately listing the matter on the agenda, and subject to the same restriction that there may be no discussion or action on such matter.

ARTICLE VII- PUBLIC COMMENT AND PRESENTATIONS

7.0 Town Council Meeting Presentations

Town Council presentations are for providing information to the Mayor and Council, Town management, and the community about activities of interest and value to include activities, events and infrastructure projects relating to the Town, honors and celebrations for organizations, corporations and residents which reflect their service to the Yucca Valley community, honors and recognitions for Town staff for outstanding service or commitment to the Town's mission and goals. Please Note: This is not the appropriate time to seek funds from the Town and/or endorsements from Town Council or discuss politics.

All presentations are to be a summary level presentation, usually lasting no more than five to ten minutes in length; this is to include all speakers for the group being recognized. Please see the attached "Exhibit B" for a complete copy of the Yucca Valley Town Council Meeting Presentation Policy contained and incorporated as an exhibit to the Manual of Procedural Guidelines for the Conduct of Town Council and Constituent Body/Commission Meetings for the Town of Yucca Valley.

7.1 Public Comment

Every agenda for a Town Council Meeting shall provide a period for members of the public to address the Council on items of Town business that are not on the agenda but are within the subject matter jurisdiction of the Town Council. With regard to matters not on the agenda, the Legislative Body may ask questions of persons who raise new matters during the General Public Comment period or otherwise, and the Presiding Officer should handle such matters as provided in Section 7.3, below. However, all Legislative Body questions must be limited to facts-only informational inquiries, and the Legislative Body may not discuss the merits, express any opinions or ask questions that convey opinions or thought processes with respect to any non-agendized issue. The public shall also be afforded the right to comment on every numbered item appearing on the agenda prior to the Legislative Body's consideration of that item, as provided in Section 7.4 below.

7.2 Time Limitations

The time limit to speak for public comments is up to three (3) minutes on each numbered item on the agenda. These limits do not apply to parties to agenda items (e.g., project applicants, condition use permit applicants, etc.). All such time limits shall be noticed on the

agenda for the meeting. Notwithstanding these time limits, the Presiding Officer has the full prerogative to maintain meeting order and decorum as provided in Section 9.1 and Article X generally, and the Presiding Officer or a majority of the Legislative Body may extend time if they find such extension is reasonably necessary to allow the speaker to compete his/her message without repetition or unnecessary tangents.

The Consent Calendar is considered a single item, thus the three (3) minute rule applies. However, if an item is pulled from the Consent Calendar, a member of the public may speak on the agenda item at the time the item is considered by the Legislative Body.

7.3 Proclamations and Recognitions of the Town Council

Organizations or individuals seeking a Proclamation or Special Recognition should forward any such request to the Town Clerk. Only the Town Council may authorize and issue Proclamations or Special Recognitions. Any such request received by the Town Clerk will be forwarded to the Mayor for consideration. Proclamations and Special Recognitions authorized by the Mayor are not Official Policy Statements or Positions of the Town Council, and are intended for the ceremonial support of civic achievements benefitting the community as a whole. Such requests should be non-controversial and non-political in nature.

7.4 Additional Procedures for Public Comment on Agenda Items

(a) Members of the public shall have the opportunity to address the Legislative Body on each and every numbered item listed on the agenda. Public comment on agenda items must be heard prior to the Legislative Body's consideration/discussion of the item.

(b) In order to facilitate correct minutes of the Legislative Body meeting, the Town requests that members of the public wishing to address the Legislative Body complete a "Request to Speak" form, provided at the meeting room, and present it to the Clerk/Secretary prior to the Legislative Body's consideration of the item. A "Request to Speak" form should be completed for *each* item when an individual wishes to speak. When recognized by the Presiding Officer, speakers should be prepared to step forward and announce their name and address for the record. Notwithstanding the foregoing, a member of the public shall not be prohibited from speaking for failure to provide his or her name and/or address.

(c) The purpose of the public comment period is to receive input from the public, not to create a debate between the Members and the public. Members should generally refrain from debating members of the public during the period for public comment, but if Members desire to clarify comments by members of the public, they may ask factual questions, and if necessary, should do so during the public comment period.

(d) The Presiding Officer should clearly open and close the public comment period. After the close of the public comment period or after a motion has been made, no member of the public shall address the Legislative Body without first securing permission of the Presiding Officer.

ARTICLE VIII– NOTICED PUBLIC HEARINGS

8.1 Public Hearings; Notice; Fairness

(a) Matters noticed to be heard by the Legislative Body shall commence at the time specified in the notice of hearing, or as soon thereafter as is reasonably possible, and shall continue until the same has been completed or until other disposition of the matter has been made. The order of the Public Hearing may be as follows, in accordance with the procedures specified below:

- i) Announce item
- ii) Town Clerk report of correspondence received in favor/opposition
- iii) Staff Presentation
- iv) Open Public Hearing
- v) Presentation from applicant or appellant
- vi) Presentation of persons in favor/in opposition to action
- vii) Questions of speakers
- viii) Rebuttal comments by applicant or appellant
- ix) Closing Remarks by staff
- x) Close public hearing
- xi) Questions of Staff
- xii) Commission/Council Discussion
- xiii) Motion
- xiv) Second
- xv) Discussion
- xvi) Vote

(b) Legislative Body members shall not overtly or implicitly promise a particular action by Town staff or by any Legislative Body. Where a Legislative Body member is contacted about an issue that will be presented to any Legislative Body of the Town, it is appropriate to give a brief overview of Town policy, to refer to Town staff for further information, or to suggest that the concern be brought to the whole Council at the hearing or Council meeting, as appropriate.

(c) All public hearing notices shall be issued and published in compliance with any statutory notice requirements applicable to the particular hearing at issue and such notice shall inform interested persons of the Statute of Limitations to challenge the validity of any action taken by the Legislative Body on such matter.

(d) In all matters before a Legislative Body, whether public hearing or otherwise, the Legislative Body must judge the matter fairly and without personal bias. Although every Legislative Body member has a right to their own personal opinions, Legislative Body members should by their demeanor show an ability to listen to a variety of viewpoints and demonstrate a reasonable willingness to consider all sides of an issue before them. For quasi adjudicative matters involving public hearings, the members of the Legislative Body shall not prejudice the matter prior to the public hearing, shall be fair and impartial, and shall decide the matter based upon the evidence and the statutorily required findings.

(e) For such matters, Legislative Body members should avoid expressing an opinion or divulging their thought process until after the public hearing has been completed.

8.2 Continuance of Hearings

(a) Any hearing being held or noticed or ordered to be held by the Legislative Body may, by order or, notice of continuance, be continued or re-continued to any subsequent meeting in the manner provided for adjourned meetings.

(b) When it is the decision of the Legislative Body to continue an item which appears on the agenda, prior to hearing any report, testimony or taking evidence on the item, the Legislative Body may make such intent known at the beginning of the meeting. At that time the public shall be offered the opportunity to speak regarding the intent to continue the item. At the time regularly scheduled for the hearing of the item, the Legislative Body shall then take action to continue the item after again informing the public of the intent to continue the matter. No testimony or evidence shall be taken at that time unless the speaker will not be available at the continued hearing date.

(c) When the Legislative Body has continued the public hearing on an item after its commencement, persons testifying at the first public hearing shall be permitted to again address the Legislative Body on the item at the renewed hearing subject to the finding of the Presiding Officer that the testimony is not redundant. Upon such finding the time allotted for testimony by the individual may be summarily reduced.

(d) Continuances of a public hearing to a date certain need not be re-noticed unless (i) the hearing has not been continued to a date certain, or (ii) has been continued three or more times and the Presiding Officer believes confusion may be created as to the time of the hearing.

8.3 Conduct of Hearings

(a) When a matter for public hearing comes before the Legislative Body, the Presiding Officer shall request that staff present the staff report and any other relevant evidence, but the presentation of the staff report prior to the formal opening of the public hearing shall not prevent its consideration as evidence. Any such evidence shall be made a part of the record of the public hearing. The Presiding Officer shall permit members of the Legislative Body to ask questions of staff, but should prevent expressions of opinion by members of the Legislative Body before the conduct of the hearing.

(b) The Presiding Officer shall thereafter open the public hearing and inquire if there are any persons present who desire to address the Legislative Body on the matter. Any person desiring to speak or present evidence upon being recognized, may speak or present evidence relevant to the matter being heard. Any testimony shall be truthful.

(c) Members of the Legislative Body who wish to ask questions of the speakers, during the public hearing portion, may do so but should be mindful that the purpose of the public hearing is to obtain testimony and evidence from the speakers, and not to debate the merits of the matter with speakers. Members should avoid debate and expressions of personal

opinion until after the close of the public hearing. Unlike public comment periods, generally there should be no response to speaker comments until after the close of the hearing. The Presiding Officer shall conduct the hearing in such a manner as to afford due process to all affected persons.

(d) All persons interested in the matter being heard by the Legislative Body shall be entitled to submit written evidence or remarks, as well as other graphic evidence. All such evidence presented shall be retained by the Clerk/Secretary as part of the record. Each speaker may only speak once during the public hearing unless the Legislative Body requests additional clarification later in the process.

(e) Upon closing of the public hearing by the Presiding Officer, no additional public testimony shall be solicited or received by the Legislative Body without reopening the public hearing. If, however, the Legislative Body receives relevant new evidence after the close of the public hearing and such new evidence may impact the Legislative Body motion or vote, a majority of the Legislative Body may re-open the public hearing to obtain public comments upon such new evidence.

(f) The Presiding Officer has the prerogative to establish special rules, such as to require group spokesmen, to limit the number of speakers to limit the total time for testimony to allow speakers to give time to others, or otherwise control the hearing, provided that (i) speakers are treated fairly, and that (ii) any such special rules are announced in advance of their application. The Presiding Officer always retains the prerogative to cut off speakers who are unduly repetitious, and to permit the extension of time to speakers.

8.4 Extra-Meeting Contacts on Matters Set for Public Hearing

(a) Legislative Body members should minimize their contacts with developers, applicants, or other persons who will be the subject of a quasi-adjudicative public hearing matter to be heard before the Legislative Body. Legislative Body members should avoid extra-meeting contacts with persons who will be the subject of a public hearing before the Body or with advocacy groups or special interests.

(b) If a Legislative Body member is contacted directly by such person outside the meeting setting, the member shall refrain from expressing any viewpoints or thought processes to the person until after the public hearing. The Legislative Body member may explain that they are unable to express any viewpoint on the matter until all evidence has been heard in the course of a public hearing and should encourage any such person to present their position in writing or orally at the public hearing.

(c) At the commencement of the public hearing, the Legislative Body member must disclose publicly any extra-meeting contacts or discussions had which may be relevant to the decision.

(d) The limitations set forth in this Section shall not be read as preventing a Legislative Body member from inspecting a site that will be relevant to a public hearing, although such sight inspection should be disclosed on the record at the beginning of the public hearing.

ARTICLE IX - OFFICERS

9.1 Selection of Mayor/Mayor Pro Tem (For Town Council Only)

(a) The Town Council reorganizes at the first meeting in December, or, in a councilmanic election year, at the meeting immediately following a certification by the County of San Bernardino Registrar of Voters, whichever is later. Traditionally the Mayor Pro Tem is nominated as Mayor and the next Mayor Pro Tem is nominated according to seniority. Seniority is based on the number of votes received in the member's election cycle, in the order in which the election cycle takes place, including any special election. Later election cycles or special elections do not supersede the seniority rotation in place prior to such elections. Appointed members will be junior in seniority to all other members seated at the time of appointment. While considering Council tradition, the Town Council may choose to nominate and confirm through majority vote any member of the Council for Mayor and Mayor Pro Tem based upon qualifications, need, or other criteria as may be appropriate at any given time.

(b) Upon being properly agendized and upon an affirmative vote of four/fifths (4/5) of the members of the Town Council, the seated Mayor and/or Mayor Pro Tem may be removed prior to the expiration of their terms in office for actions or inactions which have caused detrimental harm to the Town of Yucca Valley. Said actions or inactions include, but are not limited to: (i) gross negligence in performance in his/her duties; (ii) conduct unbecoming the position held; (iii) actions outside his/her scope of authority. Upon removal, the Council shall consider appointment of a Mayor and/or Mayor Pro Tem in as stated above. The new Mayor and/or Mayor Pro Tem shall serve the remaining term of the replaced officer(s) and shall be eligible for reappointment.

9.2 Presiding Officer

(a) The meeting shall be presided over and chaired by the Presiding Officer, or, in the Presiding Officer's absence, the Vice Chair. The Presiding Officer shall have the authority to rule any speaker out of order, including speakers during the public comment period if the subject raised is not within the subject matter jurisdiction of the Legislative Body, or during a public hearing if the speaker is not presenting testimony or evidence relevant to the matter which is the subject of the public hearing. The Presiding Officer shall have the responsibility for the conduct of meetings in an orderly manner and to prevent the obstruction of business, and in carrying out this responsibility shall have the authority to give the floor to any member of the Legislative Body or public by recognizing them, to prevent the misuse of legitimate forms of motions or privileges, to take matters up out of order, to caution speakers as to disruptive behavior, and to order any persons willfully interrupting the meeting to be removed from the room, including as provided in Article X.

(b) The Vice Chair shall generally take the place of the Presiding Officer in the absence of the Presiding Officer. In the absence of the Vice Chair, the Presiding Officer may call any other member to take his or her place as Presiding Officer; such substitution not to continue beyond adjournment.

(c) Any determination made by the Presiding Officer may be appealed by the making of a Motion to Appeal the Ruling by any other member of the Legislative Body. The Presiding Officer's determination will stand unless a majority of the Legislative Body members vote in favor of the Motion to Appeal the Ruling, in which case the ruling of the Presiding Officer will be overridden. The Motion to Appeal the Ruling is governed by the Chart of Motions attached as Exhibit A.

9.3 Representation of Legislative Body

(a) The Mayor is the designated representative of the Town and the Town Council for purposes of presenting and expressing the official Town position on an issue. If individual members of the Council or other Legislative Bodies are contacted by the media for a statement of official Town position, the member should refer such inquiries to the Town Manager. Otherwise public or media statements by a Legislative Body member should be clearly characterized as comments upon a personal viewpoint. Notwithstanding California Family Code section 400.1, allowing Mayors to officiate and perform marriages, it is the policy of the Town that neither the Mayor nor other public official shall be allowed to perform marriages of any form in his or her capacity as Mayor or as a member of the Town Council.

(b) Members of the Town Council may use official Town letterhead to correspond with other public officials and with consultants but any such correspondence shall state that the views expressed therein are personal and not the position of the Town unless the Town Council has officially adopted such position. No commission or Sub-Legislative Body may take a position officially representing the Town unless authorized to do so by the Town Council.

9.4 Email Policy

(a) Members of the Legislative Body are provided with Town email accounts which may be utilized for the conduct of Town business, including communications with constituents. Members should be aware that all such communications may be subject to the Public Records Act (Gov't Code Section 6200). Use of private email accounts for Town business may also make them subject to disclosure.

(b) Members of the Legislative Body are subject to the Brown Act in the use of email. Email communications may not be used to develop a collective consensus or decision on any matter. Email communications to the entire Body should be avoided but may be permitted to provide factual information, for example such as arranging an event, where no discussion or exchange of opinions on a matter within the jurisdiction of the Legislative Body is initiated or occurs.

9.5 Clerk/Secretary

The Clerk/Secretary or his/her deputy shall attend all meetings of the Legislative Body unless excused, and shall keep the official minutes and perform such other duties as may be requested by the Legislative Body.

9.6 Town Manager

The Town Manager, or designee, shall attend all meetings of the Legislative Body unless excused. The Town Manager may make recommendations to the Legislative Body and shall have the right to take part in all discussions of the Legislative Body, but shall have no vote. The Town Manager shall provide the Legislative Body with a staff report providing sufficient information to be the basis for any action by the Legislative Body at its meeting. Any officer or employee of the Town, when directed by the Town Manager, shall attend any meeting of the Legislative Body and may present information relating to matters before the Legislative Body. The Town Manager also serves as the primary point of contact for the Town Council. Town Council inquiries regarding Town matters should not be directed to Town staff, but rather toward the Town Manager for further delegation and response.

9.7 General Counsel

(a) The General Counsel, or deputy, shall attend all meetings of the Town Council unless excused and shall upon request of any member give an opinion, either written or oral, on questions of law. The General Counsel, or deputy, shall attend all meetings of such other Legislative Bodies as directed by the Town Council or Town Manager. The General Counsel serves as advisory parliamentarian for the Town and is available to answer questions or interpret situations according to parliamentary procedures. Final rulings on parliamentary procedure are made by the Presiding Officer, subject to the appeal of the full Legislative Body pursuant to Section 3 of Article XI, below. All ordinances and resolutions and all contracts, deeds, easements or other legal instruments shall be approved as to form and legality by the General Counsel. In any case of ambiguity or uncertainty in the interpretation or application of this Manual to any procedure, the Presiding Officer may direct such question to the General Counsel for a ruling.

(b) Any member of the Legislative Body may request from the General Counsel a legal opinion regarding any matter related to the interests of the Town. Where a legal opinion involves substantial cost, the request for the opinion must first be approved by the Town Manager or by a majority of the Legislative Body. The General Counsel is the legal representative of the Town acting through its Legislative Body. There is a continuing legal question as to whether the General Counsel may have an attorney-client relationship with any individual member of the Legislative Body or the Town staff. As a consequence any discussion with the General Counsel which leads to the conclusion that the interests of the Town are at risk must be revealed to all relevant members of the Legislative Body and the Town staff by the General Counsel. The General Counsel shall not have an attorney-client relationship with individual councilmembers. The General Counsel is required to maintain the confidentiality of such communications from persons outside the Town to the extent required or permitted by law and the code of ethics.

(c) The General Counsel has no statutory duty or authority under the Political Reform Act to provide Political Reform Act advice to any Legislative Body member but should provide advice to members when requested. However, a Legislative Body member may not rely on advice from the General Counsel to provide him or her with immunity from FPPC

enforcement or prosecution. Such immunity may be obtained only through a written advice letter obtained from the FPPC, on the question in issue, by the Legislative Body member. A Legislative Body member enjoys no privilege of attorney/client confidentiality in reviewing these matters with the General Counsel. Any advice given to an individual member of a Legislative Body cannot be withheld from the rest of the Town or Legislative Body. If, after receipt of an opinion of the General Counsel, the Legislative Body member wishes to participate in the decision making process with immunity from prosecution or enforcement, the General Counsel shall assist the Legislative Body member in making direct contact with the FPPC for informal or formal advice upon which the Legislative Body member can rely.

(d) *[Town Council Only]*. It often happens that other jurisdictions or the League of California Cities or other regional or statewide association will ask the Town to participate in the filing of a letter or brief before a court in a matter deemed to be of concern to all or a great many cities. These “friend of the court” or “amicus” briefs have the effect of informing the court how widespread will be its opinion and how that opinion will affect cities. Such participation is normally without direct cost to the Town. In considering whether to direct General Counsel to file an amicus brief, the Town Council shall consider whether such brief would represent or propose a position that conflicts with, or causes strife amongst, other Town-related interests such as, without limitation, the interests of employee organizations, law enforcement or public safety.

i) Upon receipt of the request, the General Counsel shall make the request available through the Town Manager to the Council. Upon a determination by any Council member that there is an interest in participating in the action in the manner proposed, the Council member shall inform the Town Manager or General Counsel who shall place the matter as an item for discussion in closed session on the agenda of the next Legislative Body meeting. The General Counsel may otherwise place an amicus request on the agenda on his or her initiative.

ii) In lieu of the foregoing process, where there is urgency to the matter, General Counsel is authorized to undertake the filing of the letter or brief where (a) the General Council has reviewed the legal issues presented by the case and has determined the participation in the friend of the court brief would protect or advance the Town’s legal interests; (b) joinder in the brief is consistent with existing Town ordinances, resolutions or policies; (c) The League of California Cities and/or its Legal Advocacy Committee is recommending this Town join the brief;

iii) Approval given to General Counsel to defend, or seek or refrain from seeking, appellate review or relief, or to enter as an amicus curiae (i.e. “friend of the court”) in any form of litigation as the result of a closed session consultation shall be reported in open session at the public meeting during which the closed session is held. The report shall identify, if known, the adverse party or parties and the substance of the litigation. In the case of approval given to initiate or intervene in an action, the announcement need not identify the action, the defendants, or other particulars, but shall specify that the direction to initiate or intervene in an action has been given and that the action, the defendants, and the other particulars shall, once formally commenced, be disclosed to any person upon inquiry, unless to do so would jeopardize

the agency's ability to effectuate service of process on one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

9.8 Conflicts of Interest

All Legislative Body members are subject to the provisions of California Law, such as Chapter 1, Title 9, of the California Government Code, relative to conflicts of interest, and to conflicts of interest codes adopted by the Legislative Body. Any Legislative Body member prevented from voting because of a conflict of interest shall refrain from in any way participating in the matter giving rise to the conflict. Where abstention from a matter is made on the basis of a conflict of interest arising from a financial interest in the decision, the Legislative Body member shall announce their abstention from the matter when it is first opened, and then shall set forth the reason for the abstention with the degree of specificity at least equal to the disclosure of the Legislative Body member's financial interests on the Legislative Body member's annual statement of financial interests; immediately after such announcements, the Legislative Body member shall leave the room. The Legislative Body member shall not overhear the staff report, participate in the discussion or deliberations and shall not otherwise make or participate in making the decision or in any way attempt to use his or her official position to influence the decision. This shall not prevent the conflicted Legislative Body member from coming before the Legislative Body solely during the public comment period as an affected citizen to state his/her opinion on how the matter impacts their disqualifying interests.

9.9 Reserved

9.10 No Financial Interest in Contracts

A member of a Legislative Body shall not have a financial interest in a contract within the meaning of (Government Code §1090 *et seq.*) made in their official capacity and such contract shall be null and void whether the member participates in the making of the contract or not.

9.11 Ethical Standards

A member of a Legislative Body shall maintain the highest ethical standards and shall adhere to all laws and the ordinances and regulations of the Town in carrying out their duties.

ARTICLE X- DECORUM AND ORDER

10.1 Decorum and Order – Legislative Body Members

(a) Any member of the Legislative Body wishing to speak, or any member of the public wishing to address the Legislative Body must first obtain the floor by being recognized by the Presiding Officer. The Presiding Officer must recognize any member of the Legislative Body who seeks the floor when appropriately entitled to address the Legislative Body. The Legislative Body member shall confine himself or herself to the question or subject under debate.

(b) Any member of the Legislative Body, including the Presiding Officer, may bring a matter of business properly before the Legislative Body for decision by making a motion. Any Legislative Body member, including the Presiding Officer, except the Legislative Body member making the motion, may second a motion. Once a motion is seconded, it may be opened for discussion and debate.

(c) The Presiding Officer shall determine all points of order, subject to the right of any member to appeal to the majority Legislative Body.

(d) A Legislative Body member, once recognized, shall not be interrupted while speaking unless called to order by the Presiding Officer, unless a Point of Order is raised by another Legislative Body member, or unless the speaker chooses to yield to questions from another Legislative Body member.

(e) Any Legislative Body member called to order while speaking shall cease speaking immediately until the question of order is determined. If ruled to be in order, the member shall be permitted to proceed. If ruled to be not in order, the member shall comply with ruling of the Presiding Officer.

(f) Legislative Body members shall accord the utmost courtesy to each other, to Town or Legislative Body employees, and to the public appearing before the Legislative Body and shall refrain at all times from rude and derogatory remarks, reflections as to integrity, abusive comments and statements as to motives and personalities, which disrupt, disturb or otherwise impede the orderly conduct of the Legislative Body meeting.

(g) Any Legislative Body member may move to require the Presiding Officer to enforce the rules and the affirmative vote of a majority of the Legislative Body shall require the member to so act.

(h) The members of the Legislative Body shall not engage in communications between themselves during the Legislative Body meeting (including breaks) regarding matters being considered on the agenda unless and until the Legislative Body has opened that agenda item. In order to minimize exposure to a Brown Act violation, Legislative Body members are discouraged from discussing any Town business during breaks or before and after meetings; Town business may only be discussed by a quorum of Legislative Body members when it is opened as a duly-noticed agenda item.

(i) The members of the Legislative Body shall always be attentive and show respect to those addressing the Legislative Body provided that nothing shall prevent the enforcement of the rules of decorum herein.

(j) No Legislative Body member attending a meeting of another Town commission or committee shall make any statement or, give the appearance or indicate in any way that they are representing the Legislative Body unless they have been authorized to do so by the Legislative Body. When making a comment at such a meeting, the Legislative Body member should make it clear that they are speaking solely as an individual. Unless officially appointed to participate on a committee, Legislative Body members should make an effort not to insert

themselves into or take positions on matters which will ultimately be decided upon by the Legislative Body.

(k) The Legislative Body may punish its own members for misconduct pursuant to Section 10.5.

10.2 Decorum and Order – Employees

(a) Members of administrative staff and employees of the Legislative Body shall observe the same rules of procedure and decorum applicable to Legislative Body members. The Town Manager shall ensure that all staff and employees observe such decorum. Any staff members, including the Town Manager, desiring to address the Legislative Body or members of the public shall first be recognized by the Presiding Officer. All remarks shall be addressed to the Presiding Officer and not to anyone individual Legislative Body member or member of the public.

(b) Questions of Town staff and/or requests for follow-up or additional background information should be directed only to the Town Manager, General Counsel, Deputy Town Manager or Department Directors. The Office of the Town Manager should be copied on any request, except those to the General Counsel. When in doubt about what staff contact is appropriate, Legislative Body members should ask the Town Manager for direction. Materials supplied to a Legislative Body member in response to a request will be made available to all members of the Legislative Body so that all have equal access to information.

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

10.3 Decorum and Order – Public

(a) Members of the public attending Legislative Body meetings shall observe the same rules of order and decorum applicable to the Legislative Body. All remarks and questions should be addressed to the Presiding Officer and not to any individual Legislative Body member, staff member, the public, directly to the media, video or camera recordings or other person.

(b) Any person conducting their public remarks or behavior before the Legislative Body in such a way as to cause disruption to the conduct of the meeting may be removed from the room by the sergeant-at-arms as directed by the Presiding Officer. Unauthorized remarks from the audience, stamping of feet, whistles, yells and similar disruptive demonstrations shall not be permitted by the Presiding Officer, who may direct the sergeant-at-arms to remove such offenders from the room or call a recess of the meeting. Aggravated cases may be prosecuted on appropriate complaint signed by the Presiding Officer.

(c) Members of the public shall be allowed to video or audio record a public meeting from an area that is reasonably designated by the Town for such audio/video recording,

unless such recording becomes an actual and unreasonable disruption to the Legislative Body's ability to carry-out the meeting.

10.4 Enforcement of Decorum

(a) The San Bernardino Sheriff's Captain or designee shall be ex-officio sergeant-at-arms of the Legislative Body. He shall carry out all orders and instructions given him by the Presiding Officer for the purpose of maintaining order and decorum in the Legislative Body meeting. Upon instructions from the Presiding Officer, it shall be the duty of the sergeant-at-arms to eject any unruly person from the Legislative Body meeting chamber or place him or her under arrest or both for conduct actually disrupting to the Legislative Body proceedings. Such person may be barred from further participation in the meeting.

(b) Generally, if the Presiding Officer intends to eject a person for disruption of a meeting, a public warning should be issued. Examples of remarks or behavior that cause actual disruption of the Legislative Body proceedings include:

- Unauthorized remarks from the audience, stamping of feet , whistles, yells, outbursts, catcalls, cursing, applause, offensive or obscene gestures or similar demonstrations which disrupt, disturb or otherwise impede the Legislative Body proceedings
- Interrupting speakers or speaking when not recognized
- Calling members of the audience names or threatening them
- Extended discussion of matters beyond the jurisdiction of the Legislative Body
- Physical threats to any person
- Shouting into the microphone
- Dumping objects on the floor of the chamber where the proceeding is held for symbolic or other reasons
- Speaking beyond the time limits
- Being unduly repetitious

(c) Examples of non-disruptive conduct include:

- Silent gestures by members of the audience, such as a thumbs up or thumbs down that are not otherwise disruptive of the meeting
- Catcalls or booing during a time allowed for applause that does not otherwise disrupt the meeting
- Criticisms of public officials or staff during a time reserved for public comment that does not otherwise violate Council procedures and does not disrupt the meeting

(d) As set forth in Government Code § 54957.9, in the event that any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are willfully interrupting the meeting, the Legislative Body members may order the meeting room cleared and continue in session. Only matters appearing on the agenda may be considered in such a session. Duly accredited representatives of the press or other news media, except those

participating in the disturbance, shall be allowed to attend any session held pursuant to this Section. Nothing in this Section shall prohibit the Legislative Body from establishing a procedure for readmitting an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting.

10.5 Censure of Legislative Body Members

(a) It shall be a violation of this section for any sitting member of a Legislative Body to violate any general law or regulation, and any, rule, law, ordinance or resolution of the Town of Yucca Valley. It shall also be a violation of this section for any sitting member of a Legislative Body to violate an administrative policy of the Town which has been adopted following a vote of the Legislative Body or the Town Council on the matter and which by its terms is expressly made applicable to the Legislative Body.

(b) Any violation of the foregoing paragraph by a Legislative Body member may be punished through the administration of a public censure of the member by the member's Legislative Body. Such censure may be in addition to any other punishment applicable to the violation. For purposes of this section, "censure" shall mean the adoption of a motion setting forth a statement of disapproval of a Legislative Body member's conduct.

(c) When evaluating a request for defense made by the censured member in litigation arising from the censured conduct, the record of the censure shall be considered by the Legislative Body. Such record shall not be determinative. Failure of the Legislative Body to censure the conduct of a member does not constitute waiver of the Body's right to refuse to defend the member in an action.

(d) A Legislative Body member may not be made the subject of a motion for censure without first being given notice of the violation and an opportunity to correct the violation, if it can reasonably be corrected. Upon a continued violation or failure to correct, the charged member shall be given notice and an opportunity to be heard as follows:

- (i) Only a sitting member of the Legislative Body whose member commits the violation may initiate proceedings for the censure of one of its members.
- (ii) Proceedings shall be commenced by the presentation of a written statement of charges to the subject Legislative Body member with a copy delivered concurrently to the Clerk/Secretary by the member initiating the charge. Initiation shall not require the prior approval of the Legislative Body. The statement of charges shall be given at least ten days prior to the meeting at which the censure motion is proposed to be brought. The notice shall contain, at a minimum, the designation of the specific rule, law regulation, etc. which the member is claimed to have violated and a statement of the date, place and time at which the violation occurred. The statement shall further contain a description of the conduct of the

member which is alleged to constitute the violation. The statement of charges shall be delivered to all other Legislative Body persons.

- (iii) Within seven (7) days after delivery of the statement of charges, the charged member should deliver a written response to the other members of the Legislative Body unless the charged member chooses to defer the response to the hearing.

(e) The motion for censure shall be agendized and considered at the first regular meeting occurring 10 days following the delivery of the statement of changes to the member and Clerk/Secretary. The hearing may not be continued except upon the absence from the meeting of a member of the Legislative Body other than the member bringing the charge or the member who is the subject of the charge.

- (i) The hearing shall be conducted in an open session by the Presiding Officer unless the Presiding Officer is a party to the action, in which case the Vice Chair or some other member shall conduct the proceedings.
- (ii) The hearing shall generally proceed by a reading of the charges by the charging member. The charging member may present witnesses; the charged member may answer in rebuttal; members of the public may speak in favor or opposed to the charge; and the remaining members may speak to the charges in that order.
- (iii) Passage of the motion for censure shall require a majority vote of the members of the Legislative Body. The voting members shall not go into closed session for deliberation.

(f) If the motion for censure does not pass, the proceedings shall be at an end. A new motion for censure on the same grounds of violation may not thereafter be commenced against the same Legislative Body member for a period of 1 calendar year from date of the vote. However, new proceedings may be commenced on the same charges within the 1 year period on the vote of 4 members of the Legislative Body.

(g) If the motion for censure does pass, such motion shall become a part of the public record, a copy of which shall be made available upon demand to any member of the public and notice of same shall be placed in the administrative file of the Legislative Body member.

10.6 Persons Authorized To Be Within Platform/Dais

No person except Legislative Body officials or authorized Legislative Body staff shall be permitted behind the Legislative Body dais without permission or consent of the Presiding Officer.

10.7 Personal Privilege

If a Legislative Body member is personally offended by the remarks of another member, the offended Legislative Body 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 Presiding Officer will maintain control of this discussion. The right of a member to address the Legislative Body on a question of personal privilege shall be limited to cases in which his integrity, character, or motives are assailed, questioned or impugned.

ARTICLE XI – PARLIMENTARY PROCEDURES

11.1 Procedures In Absence Of Rules

(a) Unless otherwise specified in this Manual or by ordinance or resolution, meetings of the Legislative Body shall be conducted in accordance with the most recently revised edition of Robert's Rules of Order. In the event of any conflict between Robert's Rules and this Manual, the provisions of this Manual shall govern.

(b) Any provision of these rules not governed by the Government Code may be temporarily suspended by a two-thirds vote of all members of the Legislative Body. Such suspension may be moved at any time by a member. The vote on any such suspension shall be taken by yeas or nays and entered upon the record.

(c) Motions, motion procedures and precedence of motions shall be conducted in accordance with Exhibit "A" hereto.

11.2 Voting

(a) After a full opportunity for debate if it appears that there is a consensus of opinion among the members of the Legislative Body on the matter to be voted upon, the Presiding Officer may state the consensus of the Legislative Body and ask if there is any objection. If there is no objection, the consensus as so stated shall become the order of the Legislative Body and shall be recorded as a vote for or against the question by each member of the Legislative Body. Any abstention shall also be recorded. The Presiding Officer may also determine that a consensus exists following a call for a vote by any member of the Legislative Body by a Motion to Call the Question. If it is unclear whether a consensus exists or whether the consensus is for or against the matter to be voted upon, the Clerk/Secretary or his or her designee may call for a roll call vote.

(b) Otherwise, all votes of the Legislative Body shall be by voice or roll call vote. The order of voting shall be alphabetical with the Presiding Officer voting last. The Clerk/Secretary shall call the names of all members seated when a roll call vote is ordered or required. Members shall respond 'aye', 'yes', 'no', or 'abstain.' After every vote the Legislative Body shall declare the result and shall note for the record the number of votes for or against the question, as well as any abstentions. The ayes and noes shall be taken upon the passage of all ordinances and resolutions and entered upon the official record of the Legislative Body.

11.3 Votes Needed

(a) Usually, in the absence of a contrary statutory provision (such as urgency measures), a majority of a quorum which constitutes a simple majority of the Legislative Body may act for that body. However, resolutions, orders for the payment of money, and all ordinances require a recorded majority vote of the total membership of a Legislative Body.

(b) State law may dictate certain instances in which the number of votes required is greater than a majority of all Legislative Body members. As a matter of convenience, questions on which the voting requirement is varied by the State statutes and these rules, include, without limitation, the following:

- (i) Levying Taxes - Ordinances providing for the Assessment and collection of taxes require the approval of two-thirds of the members of the whole Council.
- (ii) Assessment - Assessments require a two-thirds vote of the whole Council.
- (iii) Bonds and Certificates of Participation - Authorizing these financial instruments the issuing requires a two-thirds vote of the total Council.
- (iv) Eminent Domain - The exercise of Eminent Domain requires a two-thirds vote of the total Council.
- (v) Certain Parliamentary Motions – Motions requiring a supermajority vote are noted in the Motions Chart attached hereto.

(c) Any official with a conflict of interest is not counted for purposes of establishing a quorum, and must not vote on, make, participate in any way in, or attempt to influence the decision. A Legislative Body member abstaining on any other grounds than a conflict under the Political Reform Act shall be counted as present for purposes of a quorum and such abstentions are counted with the majority. The Legislative Body member who leaves the dais solely to avoid participating in a specific item shall, in absence of a conflict, be counted as if they were present but abstaining and such abstentions are also counted with the majority.

11.4 Reconsider

Any Legislative Body member who voted with the majority may move to reconsider any action at the same meeting or, within the next two regularly scheduled meetings, request in writing to the Clerk/Secretary that it be agendized for consideration at the following meeting, provided that reconsideration shall not be permitted where a party other than the Town has acted in reliance on the Legislative Body's action and would be substantially prejudiced by such reconsideration. The Clerk shall apprise the Town Attorney of any facts constituting substantial prejudice and may rely upon the determination of the Town Attorney. In the event that the subject of the reconsideration is a motion that failed as the result of a tie vote, any Legislative Body member who voted against the earlier motion may move for reconsideration at the

following meeting. The member seeking reconsideration must have the matter agendaized unless the motion will be made at the same meeting where the original action was taken. If the motion to reconsider passes, then the original item may be reconsidered at that time or agendaized for the next meeting which meets any applicable noticing requirements. After a motion for reconsideration has once been acted upon, no other motion for reconsideration thereof shall be made without unanimous consent of the Legislative Body.

11.5 Tie Votes

Tie Votes shall be lost motions unless an additional Motion is made which obtains a majority vote to break the tie. When all Legislative Body members are present, a tie vote on whether to grant an appeal from official action shall be considered a denial of such appeal. In such case the findings in support of the decision shall be those of the lower body. If a tie vote results at a time when less than all members of the Legislative Body are present, the matter shall automatically be continued to the agenda of the next regular meeting of the Legislative Body, unless otherwise ordered by the Legislative Body.

11.6 Abstentions

Members of the Legislative Body are discouraged from abstaining from a vote for reasons other than legally-disqualifying, financial conflicts of interest. However, if a member chooses to abstain from voting as a result of what he/she perceives as a personal or non-financial conflict of interest, the member may do so after stating for the record the nature of the perceived conflict. In the event of such a perceived conflict (as opposed to a legally-disqualifying conflict), the member is not required to leave the dais.

(a) A Legislative Body member shall generally express their positions on all matters except those where they are required to abstain due to legally recognized conflict of interest.

(b) A Legislative Body member who has appealed the action of any person or body of the Town on a matter which does not constitute a conflict of interest for the member under any law, may participate in the hearing on the appeal, unless there is clear and convincing evidence that such member is not objective or the member feels that they are unable to remain neutral, or as may be otherwise advised by the General Counsel. Notwithstanding any contrary provisions herein, in bringing an appeal, the Legislative Body member need not give reasons for making the appeal.

(c) A Legislative Body member may abstain from action on a matter where in the member's opinion, there might be a public perception that participation in the discussion or decision would be inappropriate even though the member has no disqualifying financial interest within the meaning of FPPC rules and regulations.

11.7 Votes Of Members Previously Absent

(a) A Legislative Body member who was not present at a meeting should generally not vote on the approval of minutes for that meeting, but the voting on such minutes shall have no effect on the validity of the minutes.

(b) A Legislative Body member may vote on a continued item after an absence from the earlier public hearing of the matter if, prior to the vote, the member affirms on the record that they have familiarized themselves with the record of the earlier meeting and are prepared to vote on the issue. If the member shall abstain from the vote, the member shall be counted towards the quorum on the issue and the abstention shall be counted with the vote of the majority of the quorum.

(c) The forgoing shall not apply to the matter of a vote on the minutes of a meeting at which the member was not in attendance. In that instance, the member abstaining on the grounds of non-attendance at the meeting to which the minutes pertain shall not be counted towards the quorum on the issue and the abstention shall not be counted with the votes of the majority of the quorum.

11.8 Appeals by Members of Legislative Body

Except where otherwise provided, a member of the Legislative Body shall be deemed an interested person in any matter by a subordinate body and shall have standing to appeal to the Legislative Body any decision by a Sub-Legislative Body, or any determination made by any official of Town by filing a written appeal. The appeal shall not state any grounds for the appeal and the resulting hearing shall be *de novo* (new) The reviewing body shall not be bound by any determination of the lower body from which the matter was appealed. The appeal must be filed within 10 days of the making of the decision being appealed and shall be filed with the Clerk/Secretary who shall give written notice to the applicant, and provide written notice to other persons as required for the original action. The hearing shall be held at the first regular meeting of the Council for which notice can be legally given. No appeal fee shall be required to be paid for such appeals.

11.9 Findings and Decisions

Decisions of a Legislative Body, when acting as a quasi adjudicative body (public hearings) should be framed in terms of “findings” of fact, potentially relevant conclusions of law, and ultimate decisions showing the basis for the decision and the nexus between the findings, the conclusions and the decision. The Legislative Body members must consider any legally-mandated findings applicable to a matter and consider the evidence presented to them in light of such findings in making their decisions.

ARTICLE XII- PROCEDURES FOR CONSIDERATION OF DEMANDS FOR CORRECTIVE ACTION

12.1 Requirement of Written Demand

Prior to any person commencing a judicial action for injunction or mandamus to declare any action taken by the Legislative Body void because of failure to observe Brown Act requirements, such person must first serve upon the Clerk/Secretary a written demand clearly describing the challenged action, the nature of the claimed violation, and the corrective action sought. Such demand must be served upon the Clerk/Secretary within ninety (90) days of the alleged violation or thirty (30) days if the action was taken in open session but in violation of § 54952.2 of the Government Code. Failure to serve any such demand within this thirty (30) day

period shall result in the loss of any right to challenge any action alleged to have been taken in violation of §§ 54953, 54954.2, 54954.5, 54954.6, 54956, or 54956.5 of the Government Code.

If the written demand is timely served, the Legislative Body has up to thirty (30) days to cure and correct its action. If the Legislative Body does not act, any lawsuit must be filed within the next fifteen (15) days.

12.2 Consideration of Corrective Action

Upon receipt of such a demand, consideration of the demand shall immediately be placed on the agenda for the next meeting of the Legislative Body. If the demand is received less than 72 hours prior to the time set for the next meeting, the Legislative Body may determine that the notice constitutes the initiation of litigation, and that the need to take action on the threatened litigation arose subsequent to the posting of the agenda, and may consider it at that meeting pursuant to Article VI Section 9, above. A description of any item so placed on the agenda shall include both consideration of the demand, and the possibility of corrective action by the Legislative Body.

In considering such demands, the Legislative Body shall first determine by motion whether to reconsider the prior action. The motion to reconsider shall be in order as long as made by a party on the prevailing side. If no motion to reconsider is carried the Clerk/Secretary shall inform the demanding party in writing of the Legislative Body's decision not to cure or correct the challenged action. (See, § 11.4 hereof.)

12.3 Implementing Corrective Action

If a motion to reconsider passes, the Presiding Officer may entertain a motion to take corrective action. Any motion taking corrective action shall address the concerns raised in the consideration of corrective action. The motion taking corrective action may include a motion to rescind prior action taken, as appropriate. Passage of a motion to rescind invalidates prior action only as of the time of the passage of the motion, and not from the date of the initial action. A motion implementing corrective action resulting from a written demand is out of order if the action complained of: (i) was in connection with the sale or issuance of notes, bonds, or other evidences of indebtedness, or any contract, agreement, or incident thereto; (ii) gave rise to a contractual obligation upon which a party has, in good faith, detrimentally relied; or (iii) was taken in connection with the collection of any tax.

In any event, the Legislative Body shall notify the party making the demand in writing of its decision to take corrective action, and shall describe any corrective action taken. This notice shall be given to the demanding party as soon as possible after the meeting, but in no event more than 30 days after receipt of the demand.

ARTICLE XIII – MISCELLANEOUS

13.1 Interpretation

This Manual shall be liberally construed to effectuate its purpose and no ordinance, resolution, proceeding or other action of the Legislative Body shall be invalidated or the legality

thereof otherwise affected by the failure or omission of the Legislative Body to technically comply with, observe or follow the within rules. The Town Council may, by resolution, adopt further rules of interpretation or practice.

13.2 Amendments

This Manual may be amended from time to time as necessary by resolution passed by a majority vote of the Town Council at any regular or special meeting, provided that no such amendment shall be adopted unless at least seven days' written notice thereof has been previously given to all Legislative Body members serving the Town. Such notice shall identify the section or sections of the Manual proposed to be amended.

13.3 Power to Issue Subpoenas

The Legislative Body may issue subpoenas requiring attendance of witnesses or production of books or other document for evidence or testimony any action or proceeding pending before it. (Gov't Code Section 37104.) Subpoenas shall be signed by the Presiding Officer and attested by the Clerk. They may be served as subpoenas are in civil actions.

EXHIBIT “B”

YUCCA VALLEY TOWN COUNCIL MEETING PRESENTATION POLICY





YUCCA VALLEY TOWN COUNCIL MEETING PRESENTATION POLICY

Presentation Purpose

Town Council presentations are for providing information to the Mayor and Council, Town management, and the community about activities of interest and value including:

- Activities, events and infrastructure projects relating to the Town
- Honors and celebrations for organizations, corporations and residents related to Yucca Valley
- Honors and celebrations for organizations, corporations and resident which reflect their service to the Yucca Valley community.
- Honors and recognitions for Town staff for outstanding service or commitment to the Town's mission and goals.
- Please note this is not the appropriate time to seek funds from the Town and/or endorsements from Town Council or discuss politics.

Presentation Length

All presentations are to be as brief and concise as reasonable. Typical presentations should last no more than five to ten minutes in length; this is to include all speakers for the group being recognized. Depending on the matter being presented, the Presiding Officer may afford the speaker or group extended time.

Presentation Schedule

Town Council begins at 6:00 p.m. with an invocation and pledge to the American flag followed by presentations. All honorees or groups are to arrive no later than 5:45 p.m.

Public Comment Period

The public shall be afforded the right to comment on every numbered item appearing on the agenda prior to the Legislative Body's consideration of that item, including presentation periods, as provided in Section 7.4 above. The time limit to speak for public comments is up to three (3) minutes on each numbered item on the agenda. All such time limits shall be noticed on the agenda for the meeting. Notwithstanding these time limits, the Presiding Officer has the full prerogative to maintain meeting order and decorum as provided in Section 9.1 and Article X generally, and the Presiding Officer or a majority of the Legislative Body may extend time if they find such extension is reasonably necessary to allow the speaker to compete his/her message without repetition or unnecessary tangents.

Presentation Location

Presentations take place in the Council Chambers inside Yucca Valley Town Hall located at 57090 Twenty-nine Palms Highway, Yucca Valley, CA 92284. Parking is available in the Community Center lot adjacent to the Council Chambers, or in the Town Hall parking lot.

Presentation Technical Support

The Town has the capability to display PowerPoint during the presentation. If a PowerPoint is to be used during the presentation:

- The Power Point is to be submitted to the Town Clerk's Office no later than the Thursday prior to the scheduled Tuesday Town Council meeting (first and third Tuesdays of the month).
 - PowerPoints are subject to editing for appropriateness
 - PowerPoints which do not meet these standards will not be used



CITY OF COVINA

ITEM NO. NB 2

STUDY SESSION REPORT

MEETING DATE: November 17, 2015

TITLE: Covina Irrigating Company – October 15, 2015 Board of Directors Election Update

PRESENTED BY: Siobhan Foster, Director of Public Works

RECOMMENDATION: Receive and file this report.

BACKGROUND:

The Restated Articles of Incorporation of the Covina Irrigating Company indicate that the corporation's purpose is to develop, distribute, supply, or deliver water for irrigation and domestic uses to or for the benefit of shareholders, at cost plus necessary expenses, in proportion to the number of shares of stock held by them respectively. The corporation is authorized to issue 10,000 shares of capital stock, all of one class, to be designated as "common stock."

Unless and until changed by the by-laws, there are nine (9) Directors. The Board of Directors may, in its discretion, levy and collect assessments upon all issued shares of the corporation. Fifty percent (50%) of the shares entitled to vote, represented in person or by proxy, constitute a quorum at a meeting of the shareholders. If a quorum is present, the affirmative vote of the majority of the shares represented at a meeting and entitled to vote on any matter shall be the act of the shareholders. Pursuant to Article III (Meeting of Shareholders) Section 2 (Annual Meeting) of the Covina Irrigating Company By-Laws, the Company holds an "annual meeting" of shareholders to elect the Board of Directors and present annual reports to shareholders. With the Board of Directors comprised of nine (9) Directors, each share of stock is worth nine (9) votes for a total of 90,000 votes.

The 2014-15 Board of Directors was comprised of five (5) Directors nominated by the City, including Ron Capotosto, Geoffrey Cobbett, John Fielding, Richard Jett, and Henry Morgan. The other four (4) Directors were Andrew McIntyre, William McIntyre Jr., Michael Quinn (affiliated with Suburban Water Systems), and Steven Renders. These nine (9) Directors also comprised the slate of candidates for the Covina Irrigating Company Proxy for Annual Meeting of Stockholders on October 15, 2015.

Pursuant to Article III (Meeting of Shareholders) Section 8 (Proxies) of the By-Laws, every shareholder is entitled to vote in person or by an agent authorized by written proxy executed by the shareholder, or by the duly authorized agent of such shareholder.

DISCUSSION:

On October 15, 2016, the Covina Irrigating Company held the Annual Meeting of Stockholders. Shareholders attending the meeting signed the Annual Meeting Sign-In Sheet before the meeting was called to order by the Chairman. Proxies received by mail from shareholders who signed in

were changed to “present” and recorded as such for both quorum and voting purposes. Once all shareholders that were present were recorded by the Proxy Committee, all mailed in proxies were verified and validated to determine any specific instructions as may have been marked on the proxy cards. A review in the presence of the Company Attorney was conducted to verify the total count for accuracy.

The Company Attorney obtained a copy of the total count and reported to the Chairman, at the appropriate time during the annual meeting. The report included the number of votes by proxy and votes tallied as being present.

Through this process, it became apparent that one of the City’s incumbent Directors may fail to be nominated and a different shareholder may be nominated to the Board of Directors from the floor. At that time, City and Covina Irrigating Company representatives caucused and determined that based on the fact that the City of Covina owns 4,218 shares of stock or 42.18% of the 10,000 total shares of stock, the City’s 37,962 votes out of a total voting pool of 90,000 votes could only sustain four (4) of its incumbent Director nominees. As a result, the nomination to add the General Manager of Suburban Water Systems to the Board, primarily for succession planning purposes, was going to occur.

The City of Covina is the largest shareholder of Covina Irrigating Company. There are approximately 150 total shareholders owning anywhere from one (1) share to several shares of stock. Other large shareholders include Suburban Water Systems (1,230.5 shares/11,074.5 votes), McIntyre Family (1,123.75/10,113.75 votes), Oakdale Memorial Park (562.75/5,064.75 votes), DA Davidson and Company (546.5 shares/4,918.5 votes), and Valencia Heights Water Company (453.25/4,079.5 votes). As shareholders may vote in person or by an agent authorized by written proxy executed by the shareholder, or by the duly authorized agent of such shareholder, these and other shareholders may or may not exercise their votes directly and may represent and vote on behalf of other shareholders. Some shareholders elect not to vote.

Prior to the resumption of the Annual Meeting, the City’s incumbent Director, John Fielding, elected to resign from the Board to make room for the nomination of Richard Rich. When the meeting resumed, a motion was made for following slate of nominees to the 2015-16 Board of Directors: Ron Capotosto, Geoffrey Cobbett, Richard Jett, and Henry Morgan, nominated by the City, plus Andrew McIntyre, William McIntyre Jr., Michael Quinn, Steven Renders, and Richard Rich (new). The nominees were approved. Mr. Fielding will serve as a Director emeritus and continue to share his expertise and experience with the Board of Directors.

Directors Capotosto, Cobbett, Jett, and Morgan and David De Jesus, President of Covina Irrigating Company, were invited to this evening’s meeting and confirmed their participation, to assist in presenting this report to the City Council and answer questions.

FISCAL IMPACT:

There is no fiscal impact associated with the receipt and filing of this report.

CEQA (CALIFORNIA ENVIRONMENTAL QUALITY ACT):

The project has been reviewed for CEQA compliance and is exempt per Section 15061(b)(3). The project is covered by the general rule that CEQA only applies to projects that have the potential for causing a significant effect on the environment. The October 15, 2015 Board of Directors Election Update will not result in any significant effect of the environment.

Respectfully submitted,



Siobhan Foster
Director of Public Works

City Manager	City Attorney	Finance	City Clerk

ATTACHMENTS:

Attachment A: Articles of Incorporation, By-Laws (most recently amended to August 12, 2015), and the Compromise Agreement

Attachment B: Covina Irrigating Company Proxy for Annual Meeting of Stockholders October 15, 2015

Attachment C: Covina Irrigating Company Election Ballot 2015-16

Articles of Incorporation

- AND -

B Y - L A W S

(Most recently amended to August 12, 2015)

of the

Covina Irrigating Company

**(Formerly known as Azusa Water Development
and Irrigation Company)**

AND THE

Compromise Agreement

Signed January 26, 1889

**Recorded November 2, 1889,
Book 607, Pg. 138 Deeds
Los Angeles County**

Restated
Articles of Incorporation
- of -
Covina Irrigating Company

First: The name of this Corporation shall be COVINA IRRIGATING COMPANY (formerly known as Azusa Water Development and Irrigation Company):

Second: The Corporation's only purpose shall be to develop, distribute, supply or deliver water for irrigation and domestic uses to or for the benefit of its shareholders, at cost plus necessary expenses, in proportion to the number of shares of stock held by them respectively.

In carrying out said purpose; it shall have no obligation to construct any delivery facilities nor to deliver any water, for whatever purpose, to share holders or their designees, outside the area or territory described as follows, to wit:

BEGINNING at a point on the main "Covina Cement Ditch" at the intersection of said "Covina Ditch" with North Citrus Avenue or the extension thereof, thence following the line of said "Covina Ditch," in a southeasterly direction to its intersection with Dawson Avenue; thence east along the center line of Dawson Avenue to the center line of Glendora Avenue in Rancho Addition to San Jose; thence south following the center line of Glendora Avenue to the center line of Gladstone Avenue; thence west on the center line of Gladstone Avenue to its intersection with the said "Covina Ditch"; thence along said "Covina Ditch" in a southeasterly direction to its intersection with the Covina San Jose pipe line just south of Juanita Avenue; thence southeasterly following the Covina San Jose pipe line to its intersection with the center line of Banna Street; thence southerly along the center line of Banna Street to the northerly line of Lot 3, Block 3, Hollenbeck Ranch Partition; thence easterly along said northerly line of Lot 3, Block 3, to the easterly line of said lot; thence southerly along said easterly line of said Lot 3, Block 3, to the center of Badillo Avenue; thence easterly following the center line of Badillo Avenue to the east line of Lot 7, Block 2, of the Hollenbeck Ranch Partition Tract, in the Rancho La Puente; thence southerly along said easterly line of Lot 7, Block 2, to the southeast corner of said Lot 7 thence 20 feet west from the southeast corner of Lot 7, Block 2, to the southeast corner of said Lot 7; thence 20 feet west from the southeast corner of Lot 7, Block 2; thence south 310 20' West, 250.39 feet; thence following the eastern boundary line of the "Masonic Homes for Children" properties on a curve concave to the south 332.7 feet; thence on a curve concave to the west 66.98 feet; thence south 74.2 feet to the north line of Puente Street; thence south across Puente Street to the northeasterly corner of Lot 4, Block 1, Shouse and Chapman Tract, Rancho La Puente; thence southerly along the easterly line of said Lot 4, Block 1, Shouse and Chapman Tract to its intersection with the northeast boundary line of Lots 3 and 5 of the Chaffey Tract; thence following along said northeasterly boundary of the Chaffey Tract to the point farthest east in said Lot 5 of the said Chaffey Tract; thence in a southerly and southwesterly direction following the easterly boundary line of said Lot 5 of the said Chaffey Tract to its intersection with the center line of a road known as the "Pomona and Covina Road", also known as Covina Hills Road; thence northwesterly and westerly along the center line of said "Pomona and Covina Road" to its intersection with the east line, or the northerly prolongation thereof, of Lot 21, McCarthy Co.'s subdivision of Block 1, Hollenbeck Tract, in the Rancho La Puente; thence south along said easterly line of Lot 21 to its intersection with the southerly line of said Lot 2 1; thence westerly along said southerly line of said Lots 21, 20, 19, 18, Block 1, McCarthy Co.'s subdivision and the southerly line of Lot 8, Block 25, Phillips Tract, Rancho La Puente, to its intersection with the easterly line of Lot 11 of Tract No. 2371; thence southerly along said east line of Lot 11 and Lot 12, Tract No. 23 7 1, to its intersection with the center line of Virginia Avenue; thence Westerly and Northwesterly along the center line of Virginia Avenue until it intersects with Barranca Avenue; thence northerly along the center line of Barranca Avenue

to its intersection with Walnut Creek Wash; thence along and following the center line of the stream bed of the said Walnut Creek Wash in a southwesterly direction until said Walnut Creek Wash intersects with the center line of Glendora Avenue, Rancho La Puente; thence along the center line of Glendora Avenue in a northeasterly direction to its intersection with the center line of Arroyo Avenue, also known as the San Bernardino Freeway; thence northerly across Arroyo Avenue to the southwest corner of Block 30, Phillips Tract; thence northerly following the westerly boundary lines, or prolongation thereof, of Lot 7 and Lot 2, Block 30; Lot 7 and Lot 2, Block 19; Lot 7 and Lot 2, Block 18; Lot 7 and Lot 1, Block 7; and Lot 1, Block 6, all of the Phillips Tract, Rancho La Puente, to their intersection with Covina Boulevard, sometimes known as San Bernardino Road; thence easterly following the center line of San Bernardino Road to its intersection with the center line of Azusa Avenue; thence along the center line of Azusa Avenue in a northerly direction to its intersection with the south line of the branch line of the Southern Pacific Railroad tracks; thence along said southerly line of the said Southern Pacific Railroad tracks in an easterly direction until it intersects with the southerly prolongation of the westerly line of the N.E. 1/2 of the W. 1/2 of the southeast 1/4 of the southeast 1/4 of Sec. 11, Township I South, Range 10 West; thence along said westerly line in a northerly direction to its intersection with the center line of Cypress Avenue; thence along the center line of Cypress Avenue in a westerly direction to its intersection with Azusa Avenue; thence northerly along the center line of Azusa Avenue until it would intersect with the easterly prolongation of the southerly line of the northeast 1/4 of the southeast 1/4 of Section 10; thence following the southerly and westerly boundary lines of the said northeast 1/4 of the southeast 1/4 of Section 10 to the northwest corner of said property; thence along the northerly line of said property and its prolongation in an easterly direction until it intersects with the center of Citrus Avenue at Section Center Avenue, now known as New Covina Boulevard, thence north along the center line of Citrus Avenue to the center line of Bonita Avenue, also known as Arrow Highway; thence along the center line of Bonita Avenue to the center line of Cerritos Avenue; thence northerly along the center line of Cerritos Avenue to the northwest corner of the west 1/2 of the southwest 1/4 of the southwest 1/4 of Section 2, Township I South, Range 10 West, S.B.B. & M.; thence easterly along said north line of the said property to the southwest corner of the northeast 1/4 of the southwest 1/4 of the southeast 1/4 of said Section 2; thence north along said westerly boundary line of said property to the northwest corner of said property; thence east along the north line of said property and its prolongation to an intersection with the center line of Citrus Avenue; thence south along the center line of Citrus Avenue to the center line of Bonita Avenue; thence east along the center line of Bonita Avenue to its intersection with Ben Lomond Avenue and the main "Azusa Ditch"; thence following the said "Azusa Ditch" in a northerly and northwesterly direction until it intersects with the center line of Citrus Avenue; thence north along the center line of Citrus Avenue to the said "Covina Ditch," the point of beginning; all in the County of Los Angeles, State of California; and said company shall not be required to furnish water to any stockholder from any of its ditches, pipe lines or conduits outside of the said area; PROVIDED, that wheresoever any stockholder shall have heretofore been receiving and using water from this Company upon lands outside of said area, such stock may continue to receive and use such water on the same lands in the future.

The boundaries of and the property to be included within said area may be changed at any annual shareholders' meeting or special shareholders' meeting called for that purpose.

Third: Unless and until changed by the By-Laws, as hereinafter provided, the number of directors shall be Nine (9); and authority is hereby conferred upon and reserved to the shareholders to adopt, repeal and amend the By-Laws, wherein and whereby the number of directors of the Corporation at any time shall be as fixed and provided in the By-Laws then in force, and such number may be changed from time to time by a By-Law adopted by the shareholders as other By-Laws are adopted.

Fourth: The corporation is authorized to issue 10,000 shares of capital stock, all of one class, of the par value of \$40.00, to be designated "Common Stock."

Fifth: The Board of Directors may, in its discretion, levy and collect assessments upon all issued shares of the corporation. Such assessments shall be a lien upon the shares assessed from the time of the levy. The levies of assessments and assessments shall be in conformity with Corporations Code Section 423. In the event of non-payment of any assessment, the Corporation may sell or forfeit the shares against which the assessment was levied, in the manner now, or as may be hereafter provided by the laws of the State of California. The Board of Directors may levy and collect from the shareholders water tolls and charges, and withhold delivery of water while any such tolls or charges are delinquent; and make such tolls and charges a lien against the shares; and withhold transfer of any shares while subject to the lien of any unpaid tolls, assessments or charges. The Board of Directors may adopt, repeal, modify, from time to time change, and enforce all rules and regulations which it may deem advisable for carrying out any and/or all of the foregoing purposes and powers, including the right to provide and determine when, where and in what manner delivery of water is to be made, and also the right to provide for and enforce the imposition of penalties for violation of such rules and regulations, as well as to discontinue the delivery of water for such violation or for failure to pay any charges, tolls or assessments.

The foregoing purposes and powers are subject to the express limitation and condition that the Corporation shall carry on its business without the distribution of any gains, profits or dividends to its shareholders except upon dissolution.

Sixth: Notwithstanding any other provisions in these Articles, fifty percent (50%) of the shares entitled to vote, represented in person or by proxy, shall constitute a quorum at a meeting of shareholders. If a quorum is present, the affirmative vote of the majority of the shares represented at the meeting and entitled to vote on any matter shall be the act of the shareholders.

**Of
Covina Irrigating Company**

**ARTICLE I
California General Corporation Law Applicable**

The term "General Corporation Law" is used in these By-Laws with the same meaning as defined in Section 100 of the Corporations Code of the State of California; and words, phrases and terms are used in these By-Laws with the same meaning as used or defined in the General Corporation Law.

**ARTICLE II
By-Law Amendments**

These By-Laws may be repealed or amended or new By-Laws adopted by (a) the vote of a majority of a quorum of shareholders, represented in person or by proxy, at a shareholders' meeting, at which such meeting fifty percent (50%) of the issued shares of the Company shall constitute a quorum, or, (b) the written assent of shareholders entitled to exercise a majority of the voting power, filed with the Secretary; or (c) by a two-thirds (2/3) vote of the Board of Directors.

2. AMENDMENT BY DIRECTORS. Subject to the rights of the shareholders to adopt, amend or repeal Bylaws as provided in Section 1 of this Article II, Bylaws, other than a Bylaws amendment changing the authorized number of directors, may be adopted, amended or repealed by the board of directors.

**ARTICLE III
Meetings of Shareholders**

Section 1. Provisions of the General Corporation Law Applicable. Except in those particulars and to the extent hereinafter expressly provided for, all of the provisions (whether mandatory or permissive) of the General Corporation Law of the State of California, as now or hereafter existing, are approved, adopted, and made applicable to the Company; and whenever no express provision is contained herein with respect to any matter authorized to be regulated, fixed, or established by or in the By-Laws, it is intended to adopt and approve the statutory provisions pertaining thereto and regulating or providing for the same.

Section 2. Annual Meeting. A meeting of shareholders to be known as the "annual meeting," shall be held each year on a day and time to be determined by board action. The vote of a majority of the shares represented at the meeting, in person or by proxy, shall be the act of the shareholders.¹

Section 3. Special Meetings. Special meetings of the shareholders, for any purpose whatever, may be held at any time upon call, which shall be made by the Chairman, or by the Board of Directors, by resolution adopted by majority vote, or by the written assent of a majority of all the acting directors filed with the Secretary, or by one or more shareholders holding not less than one-tenth of the voting power of the Company.

Section 4. Place of Meetings. Unless some other place shall be appointed in any instance or instances, as hereinafter provided, meetings of shareholders, both annual and special, shall be held at the principal office of the Company.

Authority is hereby conferred upon the Board of Directors, by resolution adopted by majority vote of all its members, or by written assent of a majority of such members, filed with the Secretary, to fix or designate (and from time to time change) the place for any shareholders' meeting, or meetings, one, or more, or all, whether annual or special. Any place so designated shall be within the County where the principal office is situated, and in such instance said meeting, or meetings, shall be held at the place so fixed or designated.

Section 5. Notice of Meeting. Written notice of each meeting of shareholders, whether annual or special, shall be given to each shareholder entitled to notice, not more than sixty (60) days, nor less than ten (10) days, before the meeting, in any of the following ways:

First: By delivering such notice personally; or,

Second: By mailing such notice, charges prepaid, addressed to such shareholder at his address appearing on the books of the Company. If no address appears on the books of the Company, then the notice shall be addressed to the shareholder at the place where the principal office of the Company is situated.

Section 6. Form of Notice and Statement of Purpose. Notice of the meeting shall specify the place, the day and the hour of the meeting. In the case of special meetings, the general nature of the business to be transacted shall be stated in the notice, but in the case of the annual meeting need not be stated; provided, however, the provisions of Section 601 of the Corporations Code requiring notice to the shareholders of special proposals to be submitted at a meeting, whether annual or special, shall always be observed.

Section 7. Shareholders Entitled to Notice. All notices of any meeting shall be mailed on the same day and at the same time. Where notice of any shareholders' meeting is to be mailed, notice shall be given to those who appear from the stock records as record holders at 12 o'clock, Noon, on the day immediately preceding the day of mailing; and 12 o'clock Noon on the day immediately preceding the day of mailing is the record date and time for the determination of shareholders entitled to notice of the meeting.

Section 8. Proxies. Every shareholder entitled to vote or execute consents or assents shall have the right to do so either in person by an agent or agents authorized by written proxy executed by the shareholder, or by the duly authorized agent of such shareholder, filed with the Secretary of the Company on or before the date of the meeting for which such proxy is being submitted. Proxy blanks shall be sent to each shareholder along with notice of meeting. All proxies which appoint the Secretary or Assistant Secretary of the Company as the holder thereof shall be used for quorum purposes only, unless the maker of such proxy shall in writing instruct otherwise; in which event it shall be voted by the Secretary or Assistant Secretary in accordance with such written instructions, and this provision as to the Secretary voting proxies shall be noted on the blank proxies sent to the shareholders.

Section 9. Shareholders Entitled to Vote. 12 o'clock Noon on the day next preceding the day first appointed for a shareholders' meeting is hereby fixed as the time for the close of the stock books and the determination of those entitled to vote at the meeting, and, subject to the provisions of law, only persons in whose names and the shares stand on the stock records of the Company, at the close of stock books, as aforesaid, shall be entitled to vote at that meeting, or any adjournment thereof.

No transfer of shares shall be made on the stock records of the Company during the period elapsing between said close of stock books and adjournment of the meeting on the day first appointed therefor. If a

meeting be adjourned to a subsequent date, the stock books shall open upon adjournment so as to permit transfer, but not so as to affect the right of voting, determined as above provided.

Section 10. Business to Be Transacted. At the annual meeting, directors to the number authorized shall be elected, reports of the affairs of the company shall be considered, and any other business may be transacted which is within the powers of the shareholders, including the amendment, repeal and adoption of By-Laws, the approval and ratification of amendments of the Articles of Incorporation, and action upon or with respect to any or all questions and matters requiring the vote, consent or approval of the shareholders, or with respect to which the shareholders are permitted to act, subject, however, to the provisions of Section 601 of the Corporations Code, requiring notice to the shareholders of special proposals. At a special meeting, any business may be transacted of the general nature specified in the notice thereof, but not otherwise.

Section 11. Manner of Voting at Shareholders' Meetings. At meetings of shareholders, all questions, other than an election of directors, or except as otherwise expressly provided by statute, or by these By-Laws, shall be determined by majority vote of the shares represented at the meeting, and all voting shall be viva voce, unless a majority in voting power of the shares represented shall demand a vote by written ballot

Section 12. Election of Directors and Cumulative Voting. In an election of directors, the entire number to be elected shall be elected at the same time and upon a single vote or ballot, and directors shall not be elected separately or in any number less than the entire number to be elected.

At such election cumulative voting shall obtain, and a shareholder shall have a number of votes equal to the number of shares held by him multiplied by the number to be elected, and may cast all of his votes in favor of one or more candidates not exceeding the number to be elected.

If there has been nominated for the office of director more than the number to be elected, or upon the demand of any shareholder represented at the meeting, or if voting by mail has been provided for, the election shall be by written ballot, otherwise, it shall be viva voce.

Section 13. Directors Elected at Special Meeting. Whenever, for any reason, no election of directors has been had for more than one year a Board of Directors may be elected at a special meeting of the shareholders called for that (in addition to any other) purpose, by the person or persons, in the manner and upon the notice in these By-Laws provided for calling and noticing special meetings of shareholders.

The terms of directors elected at a special meeting shall expire at the same time as though they had been elected at the annual meeting next preceding such special meeting.

Section 14. Inspectors of Elections. Inspectors or an Inspector, of Elections may be appointed and shall have and exercise the powers and authority provided by provisions of law and these By-Laws.

Section 15. Quorum of Shareholders. The presence in person or by proxy of the holders of fifty percent (50%) of the shares entitled to vote at any meeting shall constitute a quorum for the transaction of business including the election of directors; provided, if at any time a larger percentage shall be required by law to constitute a quorum, then a quorum shall consist of the smallest percentage permissible by law at that time.

ARTICLE IV

Directors

Section 1. Provisions of the General Corporation Law. Except in those particulars and to the extent hereinafter expressly provided for, all provisions (whether mandatory or permissive) of the General Corporation Law, as now or hereafter existing, are approved, adopted and made applicable to the Company; and whenever no express provision is contained herein with respect to any matter authorized or permitted to be regulated, fixed or established by or in the By-Laws, it is intended to adopt and approve the statutory provisions pertaining thereto and regulating or providing for the same.

Section 2. Qualifications and Term. No person shall be eligible for election as a member of the Board of Directors unless he is a bona fide owner of at least one share of the Capital Stock of the Company; provided that any business entity or public agency shareholder may assign at least one share of Capital Stock of the Company to any person designated by such business entity or public agency to enable such designated person to serve on the Board of Directors.² No regular employee of the Company who receives a salary shall serve on the Board of Directors. The term of office of a director shall begin immediately upon his election or appointment; and each director so elected or appointed and qualifies, or until he resigns or is removed from office, whichever shall first occur.

Section 3. Organization Meeting. A meeting of the Board of Directors (to be known as the "Organization Meeting") shall be held within one month following the adjournment of the shareholders' meeting at which directors are elected.³

Section 4. Regular Meetings. Meetings of the Board of Directors, to be known as "Regular Meetings," shall be held at such date and time as the Board of Directors shall determine from time to time.⁴ If the date appointed for a regular meeting falls upon a legal holiday, it shall be held at the same hour on the next succeeding business day.

Section 5. Special Meetings; Emergency Meetings. Special meetings of the Board of Directors may be held from time to time, in accordance with the notice provisions of Section 6, below, upon call by the Chairman or if he be absent or be unable or refuse to act, by any Vice Chairman; and it shall be the duty of the Chairman, or, if he be absent or be unable or refuse to act, then of any Vice Chairman, to call a special meeting upon the written request of two directors, specifying the purpose; and in the event neither the Chairman nor Vice Chairman shall call such meeting upon said request, then the same may be called by said two directors. The call, in any instance, shall be delivered to the Secretary or person whose duty it is to give notice. An emergency meeting of the Board may be called by the Chairman, or by any two directors other than the Chairman, if there are circumstances that could not have been reasonably foreseen which require immediate attention and possible action by the Board, and which of necessity make it impracticable to provide notice as required by Section 6.⁵

Section 6. Notice of Board Meetings; Open Board Meetings; Executive Sessions. All Board of Directors' meetings shall be open to attendance by Eligible Persons ("Eligible Persons" shall mean shareholders, except for executive sessions of the Board to discuss (a) litigation; (b) contracts to be formed with third parties; (c) shareholder discipline; provided that the shareholder that is the subject of any fine, penalty or other discipline has the right to attend the executive session; (d) personnel matters; or (e) a shareholder's payment of assessments where the shareholder requests to meet in executive session. Any matters discussed in executive session of a Board meeting must be generally noted in the minutes of the

immediately following meeting. Any Eligible Person who desires to attend a Board of Directors' meeting must provide at least twenty-four (24) hours' prior written notice of his or her intent to attend that meeting. Any Eligible Person who attends a Board meeting must be allowed to speak at the meeting, although the Board can establish a reasonable time limit for such comments.

Notice of the time and place of all Board meetings must be provided, as specified in this paragraph, to all Eligible Persons at least four (4) days before the meeting; provided, that if the Board meeting only consists of an executive session, the notice must be given at least two (2) days before the meeting. Notice of the meeting must specify the time and place of the meeting and must include an agenda for the meeting, specifying the items to potentially be discussed and upon which action may be taken. Notice of the meeting shall be posted at the outside of the Company's office, may be provided by e-mail to any Eligible Person if the Eligible Persons consents, and must be provided by mail to any Eligible Person who has requested mailed notice of the meetings; provided that the Company may recover from the recipient the reproduction and mailing costs for that requested notice.

Notices of meetings shall be delivered at least four (4) days before the meeting to directors personally, by facsimile, by electronic mail or by telephone to each director or sent by first-class mail, charges prepaid, addressed to each director at that director's address as it is shown on the records of the Company, or as may have been given to the Company by the director for purposes of notice, or, if such address is not shown on such records or is not readily ascertainable, at the place where the meetings of the directors are regularly held.⁶

Section 7. Place of Directors' Meetings; Meetings by Telephone or Electronic Transmission. Meetings of the Board of Directors, whether regular or special, shall be held at such place within the State of California as has been designated from time to time by motion or resolution of the Board; and, in the absence of such designation, shall be held at the principal office of the Company. Any meeting, regular or special, may be held by conference telephone or similar communications equipment, so long as notice of the teleconferenced meeting is provided (including identifying at least one physical location where Eligible Persons, as defined in Section 6, above, may attend) and all directors participating in the meeting, and any Eligible Person attending the meeting, can hear one another. All directors participating by teleconference shall be deemed to be present in person at the meeting. The Board may not conduct a meeting by a series of electronic transmissions, except in the event of an emergency meeting, as described in Section 5, above, where all directors consent in writing to the action.⁷

Section 8. Limitation on Board Action and Discussion. Other than for the exceptions listed in subdivision (i) of Corporations Code Section 14305, the Board of Directors may not discuss or take action on any item at a non-emergency Board meeting that is not placed on the agenda included in the notice for that meeting. Directors are also prohibited from taking action on any items outside of a Board meeting unless the item has been delegated by the Board to another person.⁸

Section 9. Vacancies. Any vacancy in the office of director, however created or arising, may be filled by a majority of the remaining directors, though less than a quorum; and the shareholders may fill any vacancy existing at any time and not filled by the directors.

Section 10. Quorum. A majority of the authorized number of directors shall be necessary to constitute a quorum for the transaction of business; and, unless otherwise required by law or these By-Laws, every act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present shall be regarded as the act of the Board of Directors.

Section 11. Performance of Duties by Director; Liability.

(a) A director shall perform the duties of a director, including duties as a member of any committee of the board upon which the director may serve, in good faith, in a manner such director believes to be in the best interests of the Company and its shareholders and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

(b) In performing the duties of a director, a director shall be entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by any of the following:

(1) One or more officers or employees of the Company whom the director believes to be reliable and competent in the matters presented.

(2) Counsel, independent accountants or other persons as to matters which the director believes to be within such person's professional or expert competence.

(3) A committee of the Board upon which the director does not serve, as to matters within its designated authority, which committee the director believes to merit confidence, so long as, in any such case, the director acts in good faith, after reasonable inquiry when the need therefor is indicated by the circumstances and without knowledge that would cause such reliance to be unwarranted.

(c) A person who performs the duties of a director in accordance with subdivisions (a) and (b) shall have no liability based upon any alleged failure to discharge the person's obligations as a director.⁹

Section 12. Compensation of Directors. Directors shall receive no stated salary for their services as directors, but each director shall be paid for each regular or special meeting attended by him such sum as may be fixed by the shareholders or fixed by the Board of Directors, from time to time, at any meeting thereof. In the event a director cannot attend an assigned outside committee meeting as the voting representative the appointed voting alternate shall be compensated in his place, receiving the same amount of compensation.¹⁰ A director shall also be allowed his reasonable expenses (which includes transportation, meals and lodging) when actually engaged in the business of the Company, to be audited, allowed and paid as other claims against the Company.

Each Director of the corporation shall be paid the amount fixed as compensation for attendance at regular meetings of the Board and the annual meeting even though he may be absent from such meeting; provided, however, that such compensation shall be paid for a maximum of two absences from such meetings during any one fiscal year of the corporation.¹¹

ARTICLE V
Notices

Section 1. Applies to All Notices. Except as in conflict with law, or other provisions of these By-Laws, including Section 6 of Article IV with respect to notice of Board of Directors' meetings, the provisions of this Article are intended to, and shall apply to, all notices required, or permitted, to be given, including notices of shareholders' meetings and assessments.

Section 2. By Whom Given, Method of Making, and Signing. Notices shall be given by the Secretary, or by an Assistant Secretary, if such assistant be so directed by either the Secretary, the President, or the directors. If the person whose duty it is to give any notice shall fail or refuse so to do, then it shall be given by any person thereto directed by the Chairman or the directors; or in the event of a called meeting, it may be given (in the event of such refusal by the one directed so to do) by the person or persons calling the meeting. Whenever a written notice is required to be given, or is given, under these By-Laws, or pursuant to any provision of law, it may be made by any method appropriate for such purpose, including longhand writing, printing, stamping, multigraphing, mimeographing, typing, sent by e-mail transmission in accordance with applicable law, or by one or more or all of such methods, or in part by one method and in other parts by another or other methods.¹²

No notice need be actually signed or subscribed by the hand of the person giving it, and in lieu of actual signing, the name of such person may be made by the method used in making any other portion of the notice, or by any method by which any portion of the notice might be made as hereinbefore provided.

Section 3. Where Notice Is to Be Mailed. When resort is had to giving any notice by mail, such notice shall be deposited in the United States Post Office in the city or community in which the principal office of the Company is situated, or in a United States Post Office within not more than fifty miles from said principal office, with postage thereon prepaid, and directed to the person to be served at the address of such person, if such address appears on the records of the Company; and if same does not appear on such records, then addressed to such person at the Post Office at or from which delivery of mail is made at the principal office of the Company. The notice shall be deemed to have been deposited in said Post Office, when deposited in a letterbox, or other mail receptacle from which mail is regularly collected for said Post Office.

Section 4. Method, Publication and Form. The Board of Directors shall have power, subject to provisions of law, or of these By-Laws specifically regulating the matter, from time to time and at any time, to determine and order, with respect to notices, or any notice, as follows:

- (a) Where two or more methods are available, which method shall be used, and use of one method as to one or more persons to be served, and another method, or methods, as to others;
- (b) The newspaper in which publication is to be made;
- (c) The date, or dates, of publication;
- (d) The form and contents of the notice; and
- (e) The date of mailing of the notice.

If the time has arrived when the person charged with the duty desires to give notice, and the board has failed to determine any of the above, the same shall then be determined by such person; and the power

reserved to, and conferred upon the Board, as above stated, shall be exercised, and the determination made, by the person giving the notice.

ARTICLE VI

Officers

Section 1. Number of Officers. The officers of the Company (herein called “regular officers”) shall be elected by the directors, and shall consist of a Chairman of the Board, a Vice-Chairman of the Board, a President, a Chief Financial Officer, a Secretary and a Treasurer. The Company shall also have, at the discretion of the Board of Directors, one or more additional Vice Chairmen's, one or more Assistant Secretaries, one or more assistant Financial Officers, and such other officers as they deem desirable for the transaction of the business of the Company.

The Chairman of the Board and the Vice-Chairman of the Board must be members of the Board of Directors.¹³

Any two or more of said officers, except the Chairman of the Board and Secretary, may be held by the same person. Regular officers shall be elected at the organizations meeting of the Board. Unless sooner removed by the Board of Directors, or unless they resign or become or be disqualified, all of the officers shall hold office until their successors are chosen and qualified. The Chairman of the Board, Vice-Chairman of the board and any other officer, whether elected or appointed by the Board of Directors, may be removed at any time by the affirmative vote of a majority of the whole Board of Directors, and the Chairman of the Board, Vice-Chairman of the Board and each other regular officer shall take and hold office subject to the right of removal by the Board of directors.¹⁴

Section 2. Chairman of the Board. The Chairman of the Board shall, if present:

- (a) Preside at all meetings of the Board and at all Shareholder meetings. Such shall not prevent him from voting, either at shareholders’ meetings or as a director at directors’ meetings upon any question.
- (b) Unless otherwise directed by the Board of Directors, sign as Chairman of the Board all deeds and all other instruments in writing which have been first approved or authorized by the Board of Directors.
- (c) Have, subject to the advice of the directors, general and active supervision of the business and affairs of the corporation, and shall have power to cause the orders and resolutions of the Board to be carried into effect, and exercise and perform such other powers and duties as may from time to time be assigned to him or her by the Board or prescribed by law or by these By-Laws.¹⁵

Section 3. Vice-Chairman of the Board. The Vice-Chairman of the board shall, in the absence or disability of the Chairman of the Board, perform the duties exercise the powers of the Chairman of the Board, and shall perform such other duties as the board of Directors.¹⁶

Section 4. President. Subject to the supervisory powers of the Chairman of the Board and/or the Vice-Chairman of the Board, if there be such an officer, the President shall have (1) general supervision,

direction, and control of the day to day business and affairs of the Company, including the supervision and direction of other employees of the Company; (2) the power to enter into contracts on behalf of the Company as may from time to time be authorized by the Board of Directors; (3) subject to the prior approval of the Chairman of the Board or the Directors, the power to employ and discharge all agents and employees of the Company other than the duly appointed officers, and the Chairman and Vice-Chairman of the Company; and (4) such other powers and duties as may be prescribed by the Board or by these By-Laws. Within this authority and in the course of his duties, he shall:¹⁷

- (a) Be ex officio a member of all Board committees unless appointed by the Board as a regular member.
- (b) As from time to time directed by the Board of Directors, sign contracts and all other instruments in writing which have been first approved or authorized by the Board of Directors.¹⁸

Section 5. Secretary. The Secretary shall:¹⁹

- (a) Attend all sessions of the Board, and all meetings of the shareholders, and record all votes and minutes of all proceedings in a book to be kept for that purpose, and perform like duties for the standing committees *when required*;
- (b) Keep the corporate seal of the Company and books of blank certificates of stock, fill up and countersign all certificates issued, and affix the corporate seal to all papers requiring a seal; and
- (c) Keep proper account books and such records and books pertaining to the issuance and transfer of shares as may be required by law, or these By-Laws, or as the Board of Directors shall prescribe, and discharge such other duties as pertain to his office, or which may be required by law, or by these By-Laws, or by the Board of Directors.

Section 6. Chief Financial Officer. The Chief Financial Officer shall:

- (a) Have custody of the corporate funds and securities and keep full and accurate accounts of receipts and disbursements in books belonging to the Company and deposit all moneys and other valuable effects, in the name and to the credit of the Company, in such depositories as may be designated by the Board of Directors;
- (b) Disburse the funds of the Company as may be ordered by the Board, taking proper vouchers for such disbursements, and render to the Chairman of the Board and Directors, at the regular meetings of the Board, or whenever they may require it, an account of all his transactions as Chief Financial Officer and of the financial condition of the Company; provided, the Board may prescribe the manner in which funds shall be withdrawn from and paid out by any depository; and
- (c) Give the Company a bond if required by the Board of Directors in a sum, and with one or more sureties satisfactory to the Board, for the faithful performance of the duties of his office, and for the restoration to the Company, in case of death, resignation, retirement, or removal from office, of all

books, papers, vouchers, money and other property of what ever kind in his possession or under his control belonging to the Company.²⁰

Section 7. Duties of Officers May Be Delegated. In case of the absence of any officer of the Company, or for any other reason that the Board may deem sufficient, the Board may delegate, for the time being, the powers or duties, or any of them, of such officer, to any other officer, or to any director, provided a majority of the entire Board concur therein.²¹

ARTICLE VII Certificates and Transfers of Shares

Section 1. By Whom Signed. Certificates for shares shall be signed by the Chairman of the Board or Vice-Chairman of the Board and the Secretary, or by the President, if such assistant be thereto authorized by the Board of Directors.²²

Section 2. Form. Subject to the provisions of law, and these By-Laws, certificates for shares shall be of such form and device as the Board of Directors may direct.

The person to whom issued shall be denominated therein as the "record holder," or by such other designation as shall be ordered by the Board pursuant to any provision of law.

The person in whose name a pledge of shares may be registered on the certificate (and on the stock records of the Company) shall be known as the "registered pledgee." Each certificate shall be issued and held upon and subject to all of the conditions and provisions thereon stated, all of which shall be binding upon the record holder, and registered pledgee (if any) and any transferee or person claiming any interest in the shares, or any of them, evidenced thereby.

Section 3. Registration of Pledge. Upon surrender to the Secretary of a certificate, accompanied by proper and satisfactory evidence of an assignment in pledge, the Company shall issue a new certificate stating therein the name of the record holder, and also the name of the one registered as pledgee, and cancel the old certificate, and record the transaction (with the name of the pledgee) on its books. More than one pledgee may be registered, their priority being indicated by the expressions "first pledgee," "second pledgee," and so forth.

Section 4. Charges Are Liens on Shares. Each charge or toll for water delivered to or for the record holder of any shares by virtue of or in respect of ownership of such shares is a lien against said shares from the time when furnished until paid. Said lien may be foreclosed in the manner now or as may be hereafter provided by law of the State of California for foreclosure of pledge. Notice of the time and place appointed for the sale of any shares upon foreclosure of such lien shall be mailed to the record holder of said shares at the address of such record holder as it then appears upon the books of the Company, and if no address appears, then mailed to said record holder at the city or community where the principal office is situate. No demand for payment or other notice of sale to the record or to any person appearing by the records of the Company to have an interest in said shares need be given other than as provided by law or as herein before provided. At any such sale or sales the Company may bid and purchase.

Section 5. No Transfer While Unpaid Liens. No transfer of the shares of the Company can or will be made on the books of the Company while any assessment, charge or toll there against remains or is unpaid.

Section 6. Assessments and Liens. An assessment shall be a lien upon the shares assessed from the time of the levy. Subject to provisions of law applicable thereto, there shall be on the face of each certificate a statement in form, meaning and effect, substantially as follows:

"Shares evidenced by this certificate are Assessable. No shares are transferable when:

- (a) An assessment currently due and payable is unpaid; or
- (b) When a registered holder is indebted to the Corporation.

If an assessment is payable in installments over a period of time, no shares subject to that assessment will be transferable until the installments which will become due and payable in the then current fiscal year of the Corporation are paid."²³

Section 7. Penalties, Interest and Collection Costs. Each shareholder shall be liable for payment of and shall pay to the Company, upon its demand, all expenses incurred by the Company in collecting or enforcing payment from such shareholder of any delinquent assessment, charge, toll or other indebtedness. Included in such expenses are attorney's fees in any proceeding for the enforcement of any lien herein provided for, or the collection of such indebtedness, whether by court action or otherwise, and all expenses of any sale.

If payment is made after a stock assessment has become delinquent and before the sale of such stock, the shareholder shall pay a penalty of five percent (5%) of the amount of the assessment on the shares in addition to the assessment. All penalties on delinquent assessments, interest on overdue charges, tolls or other indebtedness, and expenses of collection, as above provided for, shall be added to the principal debt, and shall become and be a lien upon and against the shares, and be secured thereby and enforced in the same manner and with the same effect as the principal debt.

Whenever elsewhere in these By-Laws or in the share certificates, the terms assessment, charge, toll, or any of them, shall be used, such terms shall be deemed to include, in each and every instance whenever such construction is possible or permissible, all penalties, interest and collection expenses pertaining to such assessment, charge or toll, or attaching, accruing or resulting from the nonpayment thereof when due.

Section 8. Record Holder Liable for Tolls and Charges. The record holder of any shares shall be entitled to the delivery of all water apportioned to such shares within the area described in the Articles of Incorporation, subject to suspension or discontinuance, as herein provided, and shall be personally liable for the payment of all tolls, charges, interest, costs and penalties in respect of or on account of such shares during the time the same are registered in his name on the books of the Company.

ARTICLE VIII Powers of Board of Directors

The Board of Directors, subject to restrictions laws, the Articles of Incorporation, of these By-Laws, shall exercise all of the powers of the Company, and without prejudice to or limitation upon their general

powers, it is hereby expressly provided that the Board of Directors shall have, and they are hereby given, full power and authority, in their unlimited discretion (to be exercised by motion or resolution adopted by majority vote of all the members of the Board whether denominated a rule or regulation, or otherwise), in respect other matters, and as hereinafter set forth, to-wit

1. Seal. To adopt, use and at will alter, a corporate seal of form and device approved by the Board; provided, there shall be set forth on said seal, the name of the Company and the State and date of incorporation. Said seal shall be affixed to the share certificates and such other instruments as the Board shall direct.

2. Share Register. To prescribe the form and provide for keeping a share register and records pertaining to the issuance, registration and transfer of shares.

3. Financial Reports; Annual Review; Budget. To prescribe the form, and provide for making and giving financial statements and reports to the shareholders. No balance sheet with statement of income and profit and loss, or other report need be sent to the shareholders. The Board shall cause the Company to engage a certified public accountant or public accountant to conduct an annual review in accordance with generally accepted accounting principles of the Company's financial statements and financial reports. The Board shall adopt a budget prior to the commencement of the Company's fiscal year.²⁴

4. Rules and Regulations. To adopt, repeal, modify, from time to time change, and enforce, all rules and regulations not inconsistent with the laws of the State of California, or with the Articles of Incorporation, or with these By-Laws, by them deemed essential or desirable for the management or conduct of the Company's business and affairs, or the exercise of their powers. Said rules and regulations may, in addition to any other things, provide for and regulate any of the matters in this Article referred to, and authorized to be determined by the Board of Directors.

5. Transfer Fee. To provide for the payment of a transfer fee, to be fixed by the Board of Directors, for the transfer of shares upon the books of the Company.²⁵

6. Compulsory Exchange of Certificates. To require the respective holders of outstanding share certificates, or of any of such certificates, to surrender and exchange them for new certificates within a period to be fixed by the Board, not less than thirty (30) days from the giving of notice, whenever the Articles of Incorporation have been amended in any way affecting the statements contained in the outstanding share certificates, or whenever it becomes desirable for any reason, in the discretion of the board, to cancel any outstanding share certificate and issue a new certificate therefor conforming to law or to the rights of the holder. In any order requiring such surrender and exchange, the Board may provide that no holder of any such certificate ordered to be surrendered shall be entitled to vote or to receive any water or exercise any of the other rights of the shareholders of record until he shall have complied with such order, but such order shall only operate to suspend such rights after notice and until compliance. Notice of such order shall be given in the manner prescribed in these By-Laws for notice of meetings of shareholders, provided that mailing of notice shall in any instance be sufficient and no publication thereof need be made. Such duty of surrender may also be enforced by action at law and any shareholder having the ability, or other person having the possession and control, refusing or failing to surrender and exchange any certificate in accordance with the order of the Board of Directors shall be liable to the Company for all damages incurred

by it from such refusal or failure, including reasonable attorney's fees incurred by the Company, in enforcing such duty.

7. Committees. The Board of Directors, by action approved by a majority of the authorized number of directors, may designate one or more committees, including an Audit Committee, each consisting of two or more directors, to be appointed by the Chairman to serve on any committee. The Chairman also shall designate one or more directors as alternate members of any committee, who may replace any absent member at any meeting of the committee. Any committee, to the extent provided in the Board's action, shall have all the authority of the Board, except with respect to:

- (a) The approval of any action which, under the General Corporation Law of California, also requires shareholders' approval or approval of the outstanding shares;
- (b) The filling of vacancies on the Board of Directors or in any committee;
- (c) The fixing of compensation of the directors for serving on the Board or on any committee;
- (d) The amendment or repeal of By-laws or the adoption of new By-laws;
- (e) The amendment or repeal of any resolution of the Board of Directors which by its express terms is not amendable or repealable;
- (f) A distribution to the shareholders of the Company, except at a rate or in a periodic amount or within a price range set forth in the articles of incorporation or determined by the Board of Directors; or
- (g) The appointment of any other committees of the Board of Directors or the members of these committees.

The Board shall have the power to prescribe the manner in which proceedings of any such committee shall be conducted. In the absence of any such prescription, the committee shall have the power to prescribe the manner in which its proceedings shall be conducted. Unless the Board or the committee shall otherwise provide, the regular and special meetings and other actions of any such committee shall be governed by the provision of Article IV applicable to meetings and actions of the Board. Minutes shall be kept of each meeting of each committee. ²⁶

8. Delegation of Powers. To delegate to the Chairman, President, any superintendent or other employee or agent of the Company, the enforcement of the rules and regulations of the Company, and the determination of all matters of a ministerial nature.²⁷

9. Tolls and Assessments. To fix and from time to time change the charges or tolls payable for water furnished, or other service rendered; and to levy, collect and enforce assessments against the shares of stock.

It shall lie within the discretion of the Board of Directors to determine what part of the revenue of the Company shall be raised by assessments, and what part by tolls or rates, and what amount or items shall be charged to current operating expense, and what to permanent additions or betterments.

10. Delinquency and Interest. To provide the time when tolls, charges and accounts shall be due, and when delinquent, and for the payment of interest on past due tolls, charges and accounts at the rate of not to, exceed two percent (2%) per month.

11. Suspension of Services. To provide for the suspension of water service and for discontinuance of water delivery for violation of the rules and regulations, or for failure to pay any charges, tolls, assessments, costs, interest, penalties or other sums payable to the Company, and the time when the conditions upon which such delivery or service shall be resumed. Such discontinuance may be solely with respect to the delinquent shares, or with respect to all shares of the shareholder, whether delinquent or not.

12. Measuring and Diversion Devices. To provide for, determine and fix the location and installation of the measuring gates, hydrants, weirs and meters for turning out or measuring the water to which the respective share holders may be entitled, and that no gate, hydrant, weir or meter shall be installed or changed without the consent and approval of the Board, and that each new installation of such gate, hydrant, weir or meter shall be installed by the Company at the expense of the shareholder or share holders using the same. Any such appliance shall be owned by, be under the control of the Company, and be deemed a part of the Company's distribution system.

No shareholder, by virtue of the ownership of shares, shall be entitled to connect with the distributing system, used by the Company for delivery of water, or to take water therefrom, except with the consent, and upon and subject to the rules and regulations of the Company pertaining thereto; and the Company reserves and shall have full control over all storing, distributing, measuring and diversion appliances, and over all water until it shall have been actually released or delivered for or to the shareholder.

13. Regulations of Water Service. To provide, determine and fix, at such time or times, and in such manner as the Board shall determine, and to change, any or all of the following with respect to delivery of water, to-wit:

- (a) The amount of water available for distribution to the shareholders, and the amount apportioned for and to be delivered for or to each share for any season, year or period of time. In making such determination the Board shall take into consideration all factors by them deemed relevant, and their determination, in good faith shall be conclusive upon each and every shareholder.²⁸

14. Extension of Distribution System. To provide and determine the place or places where, and the points to which the water distributing system or any other system, service, or appliances of the Company shall be located or extended. The holding of shares of the Company shall confer no right upon the shareholder to have any pipeline, water conduit, or other appliance of the Company enlarged or extended without the consent of the Board of Directors, and the Board of Directors shall at all times, be the exclusive judge of the necessity and expediency of constructing, enlarging, changing and extending the water distribution system or other appliances of the Company, and such expediency and necessity shall, at all times, be determined by and subject to the sole and uncontrolled discretion of the Board of Directors. Provided, however, that irrespective of where used, water is to be delivered by the Company, for whatever purpose, to shareholders solely within the area or territory described in the Company's Articles of Incorporation and

no extension of Company delivery facilities shall be provided for an extension of water service or delivery of water outside said area.

ARTICLE IX
Miscellaneous

Section 1. Fractional Shares Prohibited. Shares may not be divided, and certificates for fractional shares shall not be issued or permitted, except in cases where fractional shares have heretofore been issued and are still outstanding. Shares sold or forfeited to the Company for nonpayment of an assessment and any penalty thereon shall also be for full shares, except for outstanding fractional shares.

Section 2. Company Fiscal Year. The Company's fiscal year for allocating its water among shareholders and for accounting purposes shall be the period July 1 through the following June 30. The Board of Directors by Resolution may change the Company's fiscal year at any time and from time to time.

Section 3. Shareholders' Right Of First Refusal To Company Owned Water. The Company has been adjudicated to be the owner of a right to annually produce water from the Main San Gabriel Groundwater Basin and its relevant watershed. The quantitative right of such production depends upon rainfall and other relevant factors prescribed by the Court in said adjudication action and by the Main San Gabriel Basin Watermaster appointed by said Court. For each fiscal year, the said Watermaster establishes the Operating Safe Yield of the Basin and the share thereof of each Basin producer, including the Company.

Each Company shareholder is entitled to the delivery of his individual proportionate share of the Company's owned water, based upon such shareholder's percentage of ownership of Company capital stock. All Company shareholders shall have a right of first refusal to all Company owned water and water entitlement, as hereinafter set forth.

Each year, pursuant to an operational calendar established by the Board of Directors and after the Main San Gabriel Basin Watermaster has notified the Company of the quantitative amount of its entitlement to water from said Basin during the next fiscal year, the Company shall notify each of its shareholders of the amount of his proportional entitlement to Company water during said fiscal year. Such Company notification to its shareholders shall include a questionnaire requiring each shareholder to timely advise the Company of his intention to use more than (designating the amount), all, some (designating the amount), or none of his said share of Company water from his said Company entitlement. Each shareholder shall complete said questionnaire and return it to the Company within 30 days of its receipt. Failure of a shareholder to timely return said questionnaire to the Company shall be deemed a designation by such shareholder that he will temporarily lease all of his company owned shares of stock through the "Pooled-Water" program established and maintained by the Company and not use any of his company entitlement water during the next fiscal year.

All Company allocated water which is designated as not to be used by the original shareholders entitled thereto, shall be classified as "Pooled-Water" and first made available, proportionately, for temporary lease of the shares of said original shareholder as "Pooled Water" and the water entitlement use thereof by other Company shareholders, as herein provided.

Any Company shareholder desiring delivery of more than his original proportionate and allocated share of Company water in the next fiscal year shall be entitled to temporarily lease non-user shares of stock and purchase his proportionate share of Pooled-Water, to the whole of shareholders' allocated but currently not to be used water.

Such non-user stock and Pooled-Water shall be so available to other Company shareholders at a price to be reviewed and determined annually based on the Main San Gabriel Basin Watermaster's cost of Replacement Water during the then current fiscal year and, in addition thereto, the Company's charge for water delivery at the time of such delivery.²⁹

The purchase price paid by Company shareholders for such leased shares and Pooled-Water shall be allocated between the offering shareholders and the Company whereby the Company's delivery charge shall be retained by the Company and the balance paid proportionately to or for the benefit of the shareholders making such stock and additional water available to the other shareholders by way of the Company's Pooled-Water program.

In the event of over-subscription of Pooled-Water whereby more water is requested by Company shareholders from Pooled-Water than is available from the pool, Pooled-Water shall be made available to requesting shareholders in the proportion that each requesting shareholders' stock ownership bears to the total of the shares requesting delivery from the Pooled-Water.

Both requesting and releasing shareholders shall be notified by the Company, within thirty (30) days of its receipt of the above mentioned questionnaire, whether the Pooled-Water is over or under-subscribed and the effect thereof, individually, upon each requesting and releasing shareholder.

In the event of under-subscription of Pooled-Water whereby more water is made available by non-user shareholders that is requested by other Company shareholder's, the Pooled-Water requested to be delivered by the Company (and the said shares therefor, minus Company delivery charges,) shall be appointed among the releasing or non-using shareholders in the fraction of an individual shareholders' released amount over the total so released, multiplied by the total requested temporary stock leases and Pooled-Water purchased.

The proportionate balance of a shareholders' un-subscribed but offered to release amount of water, if any, shall be available to him for other disposition, through his own temporary lease of his Company stock and the Company's temporary transfer of its water rights, at such shareholder's request to the Company, to his own negotiated stock leasee-water purchase, at his own negotiated price and conditions and without any additional Company incurred non-reimbursable expense.

In the event a shareholders' total water needs are not met through his individual entitlement and his request for Pooled-Water, such additional amount of water shall be delivered by the Company at a cost to such shareholder of the Main San Gabriel Basin Watermaster's Replacement Water Assessment for over production during the then current fiscal year plus the Company's then current charge for water delivery.

Any and all Pooled-Water which has been subscribed for by Company shareholder(s) but which has not been delivered by the Company to such subscribing shareholder(s) in the requested fiscal year, for any reason not occasioned by the aside subscribing shareholder, shall be carried over to the credit of the said shareholder(s) for delivery by the Company in the next fiscal year at the price charged by the Company on to its users in the year in which the water is delivered.³⁰

In the event a shareholder does not take deliver or otherwise makes use* of all or part of his remaining proportionate and allocated share of subscribed Company Pooled-Water for a particular fiscal year, as

herein provided, such remaining an unused amount of water shall accrue to the general benefit of the Company and all of its shareholders. *The word "use" as used in the foregoing paragraph shall be understood to include use of a shareholder's share of Company water by any person or entity leasing said stock.³¹

Nothing in these By-Laws shall be deemed to prohibit any shareholder from independently leasing all or any portion of his stock in the Company and the accompanying right to the delivery of his pro-rata share of Company water to any other person or entity that is a shareholder within the Company for such price and upon such conditions as he shall determine.³²

ARTICLE X INDEMNIFICATION OF AGENTS

Section 1. Agents, Proceedings, and Expenses. For the purposes of this Article, "agent" means any person who is or was a director, officer, employee, or other agent of this Company, or is or was serving at the request of this Company as a director, officer, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust or other enterprise; "proceeding" means any threatened, pending or completed action or proceeding, whether civil, criminal, administrative, or investigative; and "expenses" includes, without limitation, attorneys' fees and any expenses of establishing a right to indemnification under Section 4 or Section 5(c) of this Article.

Section 2. Actions other than by the Company. This Company shall indemnify any person who was or is a party, or is threatened to be made a party, to any proceeding (other than an action by or in the right of this Company) by reason of the fact that such person is or was an agent of the Company, against expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with such proceeding if that person acted in good faith and in a manner that person reasonably believed to be in the best interests of this Company and, in the case of a criminal proceeding, had no reasonable cause to believe the conduct of that person was unlawful. The termination of any proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which the person reasonably believed to be in the best interests of the Company or that the person had reasonable cause to believe that the person's conduct was unlawful.

Section 3. Actions by the Company. The Company shall indemnify any person who was or is a party, or is threatened to be made a party, to any threatened, pending or completed action by or in the right of this Company to procure a judgment in its favor by reason of the fact that such person is or was an agent of this Company, against expenses actually and reasonably incurred by such person in connection with the defense or settlement of that action if such person acted in good faith, in a manner such person believed to be in the best interests of the Company and its shareholders. No indemnification shall be made under this Section for any of the following:

- (a) In respect of any claim, issue or matter as to which that person shall have been adjudged to be liable to this Company in the performance of that person's duty to the Company and to its shareholders, unless and only to the extent that the court in which that action was brought shall determine upon application that, in view of all the circumstances of the case, that person is

fairly and reasonably entitled to indemnity for expenses and then only to the extent which the court shall determine;

- (b) Of amounts paid in settling or otherwise disposing of a pending action without court approval; or
- (c) Of expenses incurred in defending a pending action which is settled or otherwise disposed of without court approval.

Section 4. Successful Defense by Agent. To the extent that an agent of the Company has been successful in the merits in defense of any proceeding referred to in Section 2 or 3 of this Article, or in defense of any claim, issue, or matter therein, the agent shall be indemnified against expenses actually and reasonably incurred by the agent in connection therewith.

Section 5. Required Approval. Except as provided in Section 4 of this Article, any indemnification under this Article shall be made by this Company only if authorized in the specific case on a determination that indemnification of the agent is proper in the circumstances because the agent has met the applicable standard of conduct set forth in Sections 2 or 3 of this Article, by any of the following:

- (a) A majority vote of a quorum consisting of directors who are not parties to the proceeding;
- (b) If such a quorum of directors is not obtainable, by independent legal counsel in a written opinion;
- (c) Approval by the affirmative vote of a majority of the shares of the Company entitled to vote represented at a duly held meeting at which a quorum is present or by the written consent of holders of a majority of the outstanding shares entitled to vote. For this purpose, the shares owned by the person to be indemnified shall not be considered outstanding or entitled to vote thereon; or
- (d) The court in which the proceeding is or was pending, on application made by the Company or the agent or the attorney or other person rendering services in connection with the defense, whether or not such application by the agent, attorney, or other person is opposed by this Company.

Section 6. Advance of Expenses. Expenses incurred in defending any proceeding may be advanced by the Company before the final disposition of the proceeding on receipt of an undertaking by or on behalf of the agent to repay such amount of the advance if it shall be determined ultimately that the agent is not entitled to be indemnified as authorized in this Article.

Section 7. Other Contractual Rights. The indemnification provided by this section shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any Bylaw, agreement, vote of shareholders or disinterested directors or otherwise, both as to action in an official capacity and as to action in another capacity while holding such office, to the extent such additional rights to indemnification are authorized in the articles of incorporation. The rights to indemnity hereunder shall continue as to a person who has ceased to be a director, officer, employee, or agent and shall inure to the benefit of the heirs, executors, and administrators of the person. Nothing contained in this Article shall affect any right to indemnification to which persons other than directors and officers of this Company may be entitled by contract or otherwise.

Section 8. Limitations. No indemnification or advance shall be made under this Article, except as provided in Section 4 or Section 5(d), in any circumstance where it appears:

- (a) That it would be inconsistent with a provision of the Articles, the Bylaws, a resolution of the shareholders, or an agreement in effect at the time of the accrual of the alleged cause of action asserted in the proceeding in which the expenses were incurred or other amounts were paid, which prohibits or otherwise limits indemnification; or
- (b) That it would be inconsistent with any condition expressly imposed by a court in approving a settlement.

Section 9. Insurance. Upon and in the event of a determination by the Board of Directors to purchase such insurance, the Company shall purchase and maintain insurance on behalf of any agent of the Company against any liability asserted against or incurred by the agent in such capacity or arising out of the agent's status as such whether or not the Company would have the power to indemnify the agent against that liability under the provisions of this section.³³

Compromise

This Agreement between the Azusa Irrigating Company, a corporation duly organized and existing under the laws of the State of California, party of the first part, and the Azusa Water Development and Irrigation Company, a like corporation, party of the second part, The Duarte Mutual Irrigation and Canal Company, and The Beardslee Water Ditch Company, like corporations, parties of the third part, and the Azusa Land and Water Company and the Azusa Agricultural Water Company, like corporations, and Kate S. Vosburg and Louise S. Macneil, parties of the fourth part, and E. P- Thompson, J. W. Marshall, George E. Gard and other parties hereto signing this agreement individually and known as old users, parties of the fifth part; Witnesseth:

That Whereas the aforesaid parties own or claim waters of the San Gabriel Canyon, developed or hereafter to be developed above the upper end of the tunnel of parties of the first and third part as well as that flowing on the surface in the San Gabriel Canyon, in the County of Los Angeles, and whereas the party of the second part has instituted a suit in the Superior Court of, Los Angeles County, Cal., vs. some of the parties hereto and others, wherein it is alleged that the defendants therein have appropriated and used waters from the San Gabriel river, and whereby it is sought to limit the use by defendants of the waters of

said river and establish the rights of the plaintiff in water collected and brought out in its tunnel as well as in the surface flow; and whereas disputes exist as to the extent of the respective rights of the parties hereto in said waters; and whereas it is desired to settle all disputes, and, to a certain extent, pipe the water and divert it in a common aqueduct for amicable division and use:

Now, Therefore, it is hereby mutually agreed that out of all the waters of the San Gabriel river, including the water now or hereafter coming from or through the tunnel, run under the bed of the San Gabriel river by the party of the second part, and all waters now or hereafter taken by or in the interest of or used by either of the parties hereto, taken from any point above the tunnel of the said parties of first and third part, from said canon or river or its tributaries by any works, means or methods, the aforesaid parties shall take for and on account of their claims to the waters aforesaid, water in the following proportions: So long as there may be an amount equal to the flow of 1700 inches, miners' measurement under four-inch pressure, or any lesser amount at the point of division between the party of the third part and the other parties hereto, then seventy-two, seven hundred and twentieths (72-720) shall be taken by the party of the second part. Two hundred and sixteen, seven hundred and twentieths (216-720) shall be taken by the party of the third part. Forty-five, seven hundred and twentieths (45-720) shall be taken by the Azusa Land and Water Company. Fifty-four, seven hundred and twentieths (54-720) shall be taken by the Azusa Agricultural Water Company. Twenty-seven, seven hundred and twentieths (27-720) shall be taken by Kate S. Vosburg and Louise S. Macneil. Three hundred and six, seven hundred and twentieths (306-720) shall be divided into as many parts as there are acres in the tract hereafter agreed to be known as "The Azusa Water District" and taken by parties of the fifth part and by the parties of the first and second parts pro rata in proportion to acreage represented therein by said first, second and fifth parties. Said parties of the first and second parts shall each represent all the acreage and take the water of an lands of the so-called old users who have turned over to such corporation the management and control of the water to which they are entitled. Parties of the first, second and fifth parties hereto agree among themselves that the following are the boundaries of such acreage: Beginning at the N. W. comer of Section 36, T. 1 N., K 16 and west center line of Section 2, T. 1 S., K 10 W., S. B. M.; thence west through the center of Sections 2 and 3 to the west line of Section 3; thence south to N. E. comer of Section 9, same township and range; thence west along north line of said Section 9, twenty chains; thence south forty chains; thence west twenty chains, to center of Section 9; thence south twenty chains; thence west twenty chains; thence south twenty chains to south line of Section 9; thence due west thirty chains to a point due north of a sycamore tree, the N. W. comer of the land of Humphries; thence south to the southwest comer of Humphries' land; thence east along the south line of the land of Humphries and the land formerly known as the Bonebrake tract to the S. E. comer of said tract; thence north a little east to the San Bernardino road at the northeast comer of the Bonebrake tract; thence east by north along said road to where it is crossed by the east line of Section 13, same township and range; thence north along said east line and continuing north on east line of section 12, to point of intersection with the west boundary line of the San Jose Addition; thence north by west along said boundary line to the northwest comer of said ranch; thence north by east along said ranch to point of intersection with east and west center line of Section 1; thence west to center of Section 1; thence north twenty chains; thence east twenty chains; thence north twenty chains; thence east twenty chains; thence south to the intersection with the north line of the San Jose Addition; thence east by north along said line to the point of intersection with the cement ditch; thence north by west along the cement ditch to point of intersection with the east and west fine through the center of Section 3 1, T. 1 N., R. 9 W., S. B. M.; thence west thirty chains; thence north fifteen chains; thence west ten chains; thence north to the point of intersection with the east and west line through the center of the south half of Section 25; thence west along said line to the west line of said Section 25; thence south along said west line to point of beginning; said tract being the Azusa Water District It is further agreed that all said waters shall be run through the upper tunnel and to the point of division between the party of the third part and the other parties hereto, and 3/10ths of said first 1,700 inches of said water or of a less amount if there is less at said point, turned out to party of third part. The

remaining 7-10ths of said first 1700 inches of said water shall run in the ditch, tunnels and flumes of the said party of the second part as herein provided. When said waters at said point of division between the party of the third part and the other parties are in excess of said 1700 inches such excess shall be divided as follows:

241-720ths of such excess to party of second part.

160-720ths of such excess to party of third part.

33-720ths of such excess to Azusa Land and Water Company.

40-720ths of such excess to Azusa Agricultural Water Company.

226-720ths of such excess to fifth party and to the parties of first and second parts, divided between said parties of the first, second and fifth parts pro rata, as the 306-720ths of the aforesaid 1700 inches, are divided among said parties, and said water above 1700 inches shall be conveyed by the same means by which said first 1700 inches is conveyed, except as herein otherwise provided. The said Azusa Land and Water Company and Azusa Agricultural Water Company of the fourth part, may take their parts of the water at four places, or any one or more of them between the point of division with the Duarte and the part of the long flume immediately over the greatest depression of the Arroyo, one of said four places for division, being at said point over said Arroyo, and also at any two places on the old main ditch, such places to be designated by the said parties of the fourth part within six months from the date hereof. That said Kate S. Vosburg and Louise S. Macneil can take any portion of their proportions of water from the cement ditch at a separate gate for each, between said long flume and the east line of said ranch, or at one of the places established for the corporations of the fourth part on the cement ditch, at or west of said long flume, or at one place, for each on the old ma ditch. Parties hereto agree that the water belonging to parties west of the east line of Section 3 and west of its due south extension, and all water represented and controlled as herein apportioned by party of the first part and by old users not under contract, if so requested and without reference to location of land may be dropped from the cement ditch from said main flume into the old main ditch, subject to right of the Azusa Land and Water Company to use and control for water power as herein after provided. That such use and control of the water for water power shall be such that when so used for water power by the Azusa Land and Water Company, it shall be dropped by the said company at such point, that it can be taken up by the parties in interest and used by them in the old main ditch, the squatters' ditch, and the pipe line provided for on Cerritos Avenue and from said old main ditch, such part as the parties are entitled to and may be desired may be dropped from the old main ditch into and run in the natural water course south by west, to within about 260 yards of the center of the track of the Santa Fe Railroad; thence south to within twenty-five feet of the said center line; thence west parallel to said line to the intersection with the squatters' ditch, said water hereafter to be used as part of the water power hereinafter provided for, and for irrigation had from the old main ditch, and for three years as much as may be desired by parties not exceeding their proportions in the squatters' ditch. Said Azusa Land and Water Company further grants a right of way for a pipe of capacity sufficient to carry, not exceeding 500 inches of water, measured under four inch pressure from the point on the old main ditch where the forth prolongation of Cerritos Avenue intersects said ditch, thence south along said prolongation through said Avenue to the south line of the Azusa Ranch, the top of said pipe to be buried at least fifteen inches below the general surface of the ground, and completed within three years from the date hereof, and from and after said three years from the date he of all the parties hereto abandon to said

Azusa Land and Water Company all right of way for what is known as the squatters' ditch, and for that part of the old main ditch lying west of the drop for water power.

And it is further agreed and mutually understood between the parties that for the purpose of water power and mechanical purposed to be owned and enjoyed by the Azusa Land and Water Company, the said company may, as soon as it is prepared to use the said power, take from said cement ditch at a gate in the main long flume, an amount of water which added to the quantity of water belonging to the party of the fourth part and to that herein specially provided to be dropped from the cement to the old main ditch for use of other parties for irrigation, shall not, when so computed exceed in amount two-thirds of the water belonging to and at such time possessed by the east side of the river out of said first 1700 inches, and convey the same into the old main ditch, and during the fall and transfer, the Azusa Land and Water Company shall control and use the same for power and mechanical purposes as it may desire, but said company shall not deteriorate the quality, or diminish the quantity in said use. The water in excess of the 7-10ths of the said first 1700 inches of the water, unless in the judgment of the owner, or the company with which he is associated, is required for irrigation by the owner or the irrigation company with which he is associated, shall flow by the east line of the Azusa Ranch in the ditch of the Azusa Water Development and Irrigation Company. That such portion of said water so dropped belonging to said parties of the fourth part as may not be desired for any purpose on said Azusa Ranch, may flow past the line of said ranch, in said old main ditch, or in the squatters' ditch for the next three years, said Azusa Land and Water Company and Azusa Agricultural Water Company having the right to divert any portion of its part of such water at any two points on said ranch, on the said main ditch, or during the transfer between the cement ditch, and the old main ditch.

The parties of the fourth part grant to the other parties hereto, the right of way for all purposes of this contract above the point of division with the third party, and also the parties of the fourth part grant to the parties hereto, other than the third party, the right of way for said cement ditch, tunnels and flumes, subject to any right of way heretofore given, and subject to and reserving to said party of the fourth part, the right for road crossings and water conduits, across said cement ditch wherever desired to run the portion of water belonging to said party as herein before stated, through and -take out the same therefrom as above set out. Parties of the first and third parts grant to each of the other parties the right of enjoyment and use with themselves of their tunnel and approaches, and said second party grants to the other parties hereto the use and enjoyment and with itself, of its tunnels, ditches and flumes to the gate provided for in the long flume of said party of the second part, and to the party of the fourth part said right to the east line of the Azusa Ranch for conveying water as provided in this agreement, but the 724ths interest now owned in said ditch by said party of the fourth part shall to that extent be used in the conveyance of said water.

The cost of protecting and defending the tide and possession of all said waters from this day forward, including the litigation now pending with parties claiming adversely to the water rights herein adjusted, and the expense of development in the canyon to the extent of \$10,000, and of constructing a pipe line of about two miles in length of sufficient capacity to carry twenty-eight hundred and eighty inches of water, miners' measurement under four-inch pressure, said pipe line not to cost exceeding twenty-seven thousand dollars, and work of development and piping to be done within two years of this date, and the expense of keeping dams, tunnels, flumes and ditches in repair to the said point of division, between the party of the third part and the other parties hereto, and the general expense incurred above the point of division, shall be paid by all the parties hereto, in the following proportions: by party of the second part, 165 parts; by party of the third part, 180 parts; by party of the fourth part, to-wit Azusa Land and Water Company, 39 parts; Azusa Agricultural Water Company, 47 parts; Kate S. Vosburg and Louise S. Macneil, 23 parts; and by old users, 266 parts, one-half the said 266 parts to be apportioned between said old users in the same proportion that

the first 1700 inches of water is divided among them, and the other half in the same proportion that the excess of water over 1700 inches is divided among them, and the cost of repairs below the first division to the gate in the long flume shall be paid in the same proportion, except that the party of the third part does not contribute thereto, and each of said parties mutually agrees with the others to pay its respective proportion of said expenditures, to and on demand of the committee of nine, selected as follows: party of the first part shall elect two members, party of the second part shall elect one member, party of the third part shall elect two members, party of the fourth part shall elect two members, and the old users under contract, with the party of the second part, as well as those not at time of election under contract, shall voting by acreage and with a right of cumulative voting elect the remaining two members. The said election of said nine members, shall, within thirty days, from the date hereof, be severally made by the respective parties, and such members' names certified to John Scott of Duarte, when- a day shall be appointed by said Scott, for the meeting and organization of the committee, and five days' notice thereof given by him by mail to each member and to any member of any party hereto for whom no representative has been certified. Said committee shall organize and shall provide for regular meetings, at least once a month, and make such regulations and provisions as it deems necessary to carry into effect, and maintain this agreement, and subsequently members of the committee shall be elected annually on the second Tuesday of January in each year thereafter.

Six members shall constitute a quorum, but no business shall be transacted that does not receive the concurrent vote of at least five members of said committee; and each party hereto shall be bound by the acts of said committee, to the extent of the work hereinbefore provided to be done by said committee, whether represented or not Said committee shall keep regular minutes of the proceedings, and regular account of all receipts and disbursements, subject to inspection of any party in interest, and shall have charge of all work of the parties hereto, in reference to water from the Duarte division box, to the source of supply, and especially of the character, construction and location of the pipe line, and of all work in the canyon and general repairs above the division with the parties of the third part, and of all litigation affecting the water, other than litigation that may arise between the parties hereto, and of all future developments, it being agreed that none of the parties hereto will enter at any point above the tunnel of the parties of the first and third parts into any independent development in said canon. It is further agreed that any of the parties hereto may free itself from assessments for the cost of development and piping, to wit: \$ 10,000 and \$27,000 by an assignment to other parties hereto, or to one of them, of the interest in said water in excess of said 1700 inches, the assignee assuring said cost, and all who fail to pay said amount assessed by said committee for developments and pipe line in 60 days after due, shall be held to have assigned the interest of said party in the water in excess of 1700 inches, to whomsoever of the parties hereto, who may pay said amounts so in default, even though part of the expenditure had been previously paid by the party in default. Said committee shall not have the power to bind any party to this agreement for any sum beyond the proportions fixed herein, nor for future developments beyond the amount fixed herein; and in contracting for said pipe line or lines, the contract shall be so drawn that each party shall be liable only for the proportions established herein; and the contractor and material man shall waive all lien and claim upon said pipe line or lines. Said committee shall provide and maintain correct division works at the lower end of the tunnel of the party of the first and third parts, so constructed as to measure to the party of the third part, the proportion of the water provided ' to be taken by it. Water gates shall be constructed on the Azusa Ranch to accurately measure the water diverted at any point of diversion under this contract. The action of said committee in the measurement of the water shall not be conclusive, but either party, upon showing error in this respect, shall have the right to have the means of measurement corrected by the committee; and if for the purpose of correcting the measurement any party hereto shall employ skilled labor, or engineers, and succeed in showing error, then the cost of such investigation shall be borne by all the parties in proportion as the other expenses are borne. Each party hereto shall pay any committee man representing it, and no claim for services shall be made by any member of said committee against any of the parties hereto, other

than the party hereto which he represents. All suits between the parties hereto relative to said water rights shall be dismissed, each party paying his own cost The parties hereto respectively acknowledge the right of either party to further separate 4nd divide its or their portion of said water according to their respective rights in this contract. And nothing herein shall be construed as depriving any of the parties hereto of the right to maintain a suit or action in any of the parties hereto of the right to maintain a suit or action in any court of competent jurisdiction for the enforcement or protection of his right under this agreement. This agreement shall bind the heirs, assigns and successors of the respective parties hereto.

In witness whereof, etc.

In Witness Whereof, the parties hereto have hereunto caused to be set their names and seals, this 26th day of January, 1889.

**Azusa Land and Water Company,
By J. S. Slauson, President, and James Slauson, Secretary.**

**Azusa Agricultural Water Company,
By J. S. Slauson, President, and
James Slauson, Secretary.**

Louise S. Macneil. (Seal)

Kate S. Vosburg. (Seal)

**Beardslee Water Ditch Company,
By Thomas Wardall, President, and
A. T. Taylor, Secretary.**

**Duarte Mutual Irrigation and Canal Company,
By Jno. Scott, President. (Seal) and Wm. Chippendale, Secretary.
I certify that said Company has no formal Seal.**

**Azusa Irrigating Company,
By E. F. Badger, Vice-President, and H. D. Briggs, Secretary.**

**Azusa Water Development and Irrigation Company,
By M. Baldridge, President, and Chas. E. Bemis, Secretary.
W. B. Kemper, W. E. Parker, Henry Bohannan, T. B. Goodnight, J. Loder, J. D. Bradford,
Guadalupe Ruelas, J. M. Trujillo, Samuel Willits, J. P. Hanes, L. M. McNish, C. C. Bohannan, F. M.
Bohannan, Lucy Bohannan, J. C. Jones, D. A. Ames, E. S. Harris, George Wright, C. R. Gatton,
Jessie Justice, J. B. Beardslee, W. T. Barker, R. J. Pollard, Joshua King, J. B. Reichard, Jose G.
Padilla, F. L. Hostetler, C. M. L. Hostetler, Warner L. Keller, J. Corrello, William T. Keller, Mary
A. Marshall, L. Lestrade, James M. Riley, Walter Thomason, Elmer Thomason, L. C. Pollard, by J.
W. Marshall, E. R. Thompson, George E. Gard, as attorneys in fact of said thirty-seven signers**

J. W. Marshall,
Samuel McCurdy,
H. D. Briggs,
Fred I. Smith,
William Forbes,
W. J. DeShields,
Allen Poe,
John Bohannan,

S. D. Woodworth,
Alfred Spruce,
M. Larkin,
Daniel Houser,
T. F. Griswold,
C. Vaughn,
S. Huges,
T. R. Monje,
A. M. Park,
E. R. Thompson, J
P. Bohannan,
Geo. E. Gard,
James Cleminson,
Thos. A. Smith, his Conrad A. X Smith, Mark Witness S. P. Rees, N.P.
Wm. Y. Earle, E. R. Coffman,
Geo. T. Ott,
O. Streshly,
Geo. C. Egan,
J. R. Elliott,
M. Wakefield,
G. N. Lewis, his Rafael X Montallo, Mark S. P. Rees, Witness
J. P. Wade,
Anna E. Logan.

The execution is acknowledged by the parties to the agreement.

Recorded at the request of James Slauson, November 2nd, 1889, in Book 607, page 138 of Deeds, County Recorder's office of Los Angeles County.

Footnotes

- ¹ This recommendation to add language to Article III, Section 2 was approved by Board action at the August 12, 2015 Board Meeting
- ² This recommendation to Article IV, Section 2 to add language was approved by Board action at the August 12, 2015 Board Meeting.
- ³ This recommendation to amend language in Article IV, Section 3 was approved by Board action at the August 12, 2015 Board Meeting
- ⁴ This recommendation to amend language in Article IV, Section 4 was approved by Board action at the August 12, 2015 Board Meeting.
- ⁵ This recommendation to add language in Article IV, Section 5 was approved by Board action at the August 12, 2015 Board Meeting.
- ⁶ Amendment to all language in Article IV, Section 6, to be AB240 compliant, approved by Board action at the August 12, 2015 Board Meeting.
- ⁷ Amendment to language in Article IV, Section 7, to be AB240 compliant was approved by Board action at the August 12, 2015 Board Meeting.
- ⁸ Amendment to all language in Article IV, Section 8, to be compliant with AB240 was approved by Board action at the August 12, 2015 Board Meeting.
- ⁹ Amendment to all language in Article IV, Section 11, to be compliant with AB240 was approved by Board action at the August 12, 2015 Board Meeting.

- ¹⁰ This recommendation to add language in Article IV, Section 12 was approved by Board action at the October 14, 2015 Board Meeting.
- ¹¹ This resolution was adopted at the September 14, 1995 Board Meeting
- ¹² This recommendation to add language in Article V, Section 2 was approved by board action at the August 12, 2015 Board Meeting.
- ¹³ This recommendation to add language in Article VI, Section 1 was approved by board action at the August 12, 2015 Board Meeting.
- ¹⁴ Amendment proposed at the October 10, 2002 Board Meeting. Approved at the November 14, 2002 Board Meeting.
- ¹⁵ Amendment proposed at the October 10, 2002 Board Meeting. Approved at the November 14, 2002 Board Meeting.
- ¹⁶ Amendment proposed at the October 10, 2002 Board Meeting. Approved at the November 14, 2002 Board Meeting.
- ¹⁷ This recommendation to amend language in Article VI, Section 4 was approved at the August 12, 2015 Board Meeting.
- ¹⁸ New Section proposed at the October 10, 2002 Board Meeting. Approved at the November 14, 2002 Board Meeting.
- ¹⁹ Section 4 changed to Section 5 due to the action taken at the October 10, 2002 Board Meeting. Amendment made at the November 14, 2002 Board Meeting.
- ²⁰ Section 5 changed to Section 6 due to the action taken at the October 10, 2002 Board Meeting. Amendment made at the November 14, 2002 Board Meeting.
- ²¹ Section 6 changed to Section 7 due to the action taken at the October 10, 2002 Board Meeting. Amendment made at the November 14, 2002 Board Meeting.
- ²² Proposed and made effective at the October 10, 2002 Board Meeting. Amendment made at the November 14, 2002 Board Meeting.
- ²³ Article VII, Section 6 was amended at the August 15, 1995 Board Meeting.
- ²⁴ Amendment to add language to Article VIII, Section 3, to be AB240 compliant, approved by Board action at the August 12, 2015 Board Meeting.
- ²⁵ Article VIII, Section 5 was amended at the August 12, 2015 Board Meeting.
- ²⁶ Article VIII, Section 7 titled "Dismissal of Employees" was removed in its entirety due to language added in VI Section 3. The new section Committees was incorporated in order to be compliant with AB240, and approved at the September 8, 2015 Board Meeting.
- ²⁷ Article, VII, 8 amendment proposed at the October 10, 2002 Board Meeting. Approved at the November 14, 2002 Board Meeting.
- ²⁸ Article VIII, Section 13 was amended, taking out section (b) at the September 8, 2015 Board Meeting
- ²⁹ Article IX, Section 3 was amended and approved at the August 12, 2015 Board Meeting.
- ³⁰ Article IX, Section 3 was amended and approved at the May 12, 1994
- ³¹ Article IX, Section 3 was amended and approved at the May 14, 1991
- ³² Article IX, Section 3 additional language was added at the August 12, 2015 Board Meeting
- ³³ Article X, all sections were amended and approved to incorporate AB240 at the August 12, 2015 Board Meeting

**COVINA IRRIGATING COMPANY
PROXY FOR ANNUAL MEETING OF STOCKHOLDERS OCTOBER 15, 2015**

The undersigned hereby appoints _____ or
Geoffrey H. Cobbett and William L. McIntyre, Jr. as my attorney in fact, to vote as my proxy at the annual meeting of the Covina Irrigating Company, a corporation, to be held on the 15th day of October, 2015 or any adjourned meeting thereof, all shares of common stock of Covina Irrigating Company, a corporation, held by me of record as of 8:00 o'clock a.m. on October 14, 2015 with full power of substitution and revocation.

Executed on _____, 2015, at _____, California

Print Name _____, Signature _____

Print Name _____, Signature _____

Sign your name as it appears as a Stockholder on the company records. If signing for estates, trusts, corporations or partnerships, indicate your title or capacity. Each joint tenant should sign.

INSTRUCTIONS:

1. All proxies which appoint "Secretary" as proxy shall be used for quorum purposes only, unless the stockholder directs otherwise in writing.
2. If the proxy is left blank, or in the event the named proxy fails to attend the meeting, the proxy shall be deemed to be an appointment of those persons named above as proxy, or the other if either fails to attend. Said proxies shall be used with such power as may be exercised by proxies as provided under the laws of the State of California.

EXCEPT THAT:

Such proxies shall be deemed an instruction to vote the shares equally for the election of the following named incumbent directors of the company duly nominated at the meeting; provided, however, that in the event that any of the incumbent directors named below fails to be nominated for reelection or otherwise is not a candidate to be elected, then the proxyholder shall refrain from casting any votes for any such person and the shares subject to this proxy shall instead be equally divided among those incumbent directors who are candidates for election:

Ron F. Capotosto	Geoffrey H. Cobbett	John B. Fielding	Richard J. Jett	William L. McIntyre Jr.
Andrew M. McIntyre	Henry M. Morgan	Michael O. Quinn	Steven N. Reenders	

NOTE: To withhold authority to vote for an individual incumbent, indicate by drawing a line through that individuals name.

PLEASE MARK, SIGN, DATE, AND RETURN PROMPTLY

City of Covina

1

COVINA IRRIGATING COMPANY

Election Ballot 2015-2016

Record Holder :
City of Covina

Shares Held :4214.00

Check those nominees you wish to vote for, add any additional nominees that you desire to elect that are not on the list, for a total of no more than nine (9) nominees only.

You can elect to vote for less than nine (9) nominees if you so desire.

Nominees

_____ CAPOTOSTO, RON

_____ MCINTYRE, ANDREW

_____ COBBETT, GEOFFREY

_____ MCINTYRE Jr., WILLIAM

_____ FIELDING, JOHN

_____ QUINN, MICHAEL

_____ JETT, RICHARD

_____ REENDERS, STEVEN

_____ MORGAN, HENRY

Additional Nominees

1) _____

6) _____

2) _____

7) _____

3) _____

8) _____

4) _____

9) _____

5) _____

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