



City of Sunnyvale

Notice and Agenda

Council Subcommittee on Board and Commission Bylaws Amendments

Tuesday, December 11, 2018

4:00 PM

West Conference Room, City Hall, 456 W.
Olive Ave., Sunnyvale, CA 94086

Special Meeting - 4:00 PM

CALL TO ORDER

ROLL CALL

PUBLIC COMMENT

This category provides an opportunity for members of the public to address the committee on items not listed on the agenda and is limited to 15 minutes (may be extended or continued after the public hearings/general business section of the agenda at the discretion of the Chair) with a maximum of up to three minutes per speaker. Please note the Brown Act (Open Meeting Law) does not allow committee members to take action on an item not listed on the agenda. If you wish to address the committee, please complete a speaker card and give it to the Recording Secretary. Individuals are limited to one appearance during this section.

CONSENT CALENDAR

- 1.A [18-1097](#) Approve the Council Subcommittee on Board and Commission Bylaws Amendments Meeting Minutes of November 14, 2016

Recommendation: Approve the Council Subcommittee on Board and Commission Bylaws Amendments Meeting Minutes of November 14, 2016 as submitted.

GENERAL BUSINESS

If you wish to speak to a public hearings/general business item, please fill out a speaker card and give it to the recording secretary. You will be recognized at the time the item is being considered by the committee. Each speaker is limited to a maximum of three minutes.

- 2 [18-1068](#) Review of the City's Practices and Policies Relative to Boards
and Commissions to Ensure Their Continued Effectiveness

INFORMATION ONLY

ADJOURNMENT

Notice to the Public:

Agenda information is available by contacting the office of the City Clerk at (408) 730-7483. Agendas and associated reports are available on the City's website at sunnyvale.ca.gov 72 hours before the meeting and in the West Conference Room on the night of the meeting, pursuant to Government Code §54957.5.

Pursuant to the Americans with Disabilities Act, if you need special assistance in this meeting, please contact the Office of the City Clerk at (408) 730-7483.

Notification of 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. (28 CFR 35.160 (b)(1))



City of Sunnyvale

Agenda Item

18-1097

Agenda Date: 12/11/2018

SUBJECT

Approve the Council Subcommittee on Board and Commission Bylaws Amendments Meeting Minutes of November 14, 2016

RECOMMENDATION

Approve the Council Subcommittee on Board and Commission Bylaws Amendments Meeting Minutes of November 14, 2016 as submitted.



City of Sunnyvale

Meeting Minutes - Draft Council Subcommittee on Board and Commission Bylaws Amendments

Monday, November 14, 2016

5:30 PM

West Conference Room, City Hall, 456 W.
Olive Ave., Sunnyvale, CA 94086

CALL TO ORDER

Chair Hendricks called the meeting to order at 5:39 p.m.

ROLL CALL

Present: 3 - Chair Glenn Hendricks
Member Jim Griffith
Member Gustav Larsson

CONSENT CALENDAR

- 1 [16-0193](#) Approve the Council Subcommittee on Board and Commission
Bylaws Amendments Meeting Minutes of June 2, 2014

Member Larsson stated he would abstain as he was not at the meeting.

MOTION: Member Griffith moved and Member Hendricks seconded the motion to approve the Council Subcommittee on Board and Commission Bylaws Amendments Meeting Minutes of June 2, 2014 as submitted.

The motion carried by the following vote:

Yes: 2 - Chair Hendricks
Member Griffith

No: 0

Abstain: 1 - Member Larsson

ORAL COMMUNICATIONS

None.

PUBLIC HEARING/GENERAL BUSINESS

- 2 [16-1073](#) Review of the City's Practices and Policies Relative to Boards

and Commissions to Ensure Their Continued Effectiveness

Chair Hendricks and City Manager Deanna Santana provided brief opening remarks.

Public comment opened at 5:40 p.m.

Kevin Jackson stated that these issues are being talked about because they are causing problems now, and that per the proposed work plan, it could take a year and a half or longer to work through any proposed modifications. Jackson stated his recommendation is to consider asking the full Council to suspend the recent changes to long-standing practices that are causing the problems because those were imposed without deliberation and they have worked very well for many years. Jackson stated he is speaking about the study issue procedure that differs from Council in terms of sponsorship and deferral. Jackson also stated BPAC had a long-standing Chair and Staff Liaison coordination practice that worked well, but that now there is no coordination, as the Chair doesn't see the agenda until it gets published, and then it is too late. Jackson also made reference to the communication issue.

Public comment closed 5:44 p.m.

Senior Management Analyst Yvette Blackford provided information regarding Option A and B in the report and responded to subcommittee member questions.

Chair Hendricks suggested a faster timeline, but if an item requires more time, to decide at that time what to break out and address it without holding up the entire process.

Member Larsson suggested topic A. Interaction with City Council, Public, Staff, and other Board and Commission Members might require more time.

City Attorney John Nagel stated a memo could be prepared for a January timeline.

A. Interaction with City Council, Public, Staff, and other Board and Commission Members

Chair Hendricks stated the importance of determining the vision of what board and commission interaction with the public should be. Chair Hendricks stated it is

important that board and commission members ensure they are not taking positions in advance, that they are keeping an open mind, and that they are careful about how they respond to members of the public.

City Manager Santana stated staff would like to look at how other cities are handling the issue, and report back to Council.

Member Larsson stated the importance of keeping in mind the distinction of quasi-judicial versus legislative responsibilities.

City Attorney Nagel stated that the distinction regarding the quasi-judicial responsibilities is made clear in the training given to Planning Commissioners and that perhaps there could be a dual training track going forward.

Chair Hendricks stated he has seen the line getting blurred at board and commission meetings between what is City policy versus advocating for a new City policy.

Member Larsson provided comments regarding sending operational emails to commissioners and expressed concern that it could create the appearance or expectation that commissioners are in an oversight role over operational matters.

Chair Hendricks spoke regarding the role of the Council Liaison.

Member Larsson stated the current policy is clear on the role of Council Liaisons.

Member Griffith stated he wrote the section regarding Council Liaisons, and Council Liaisons should be listening for the most part, and only providing information on request.

Chair Hendricks stated the attendance by Council Liaisons is optional.

Member Griffith spoke regarding attendance by Council Liaisons being optional.

Senior Management Analyst Yvette Blackford spoke regarding the potential to swap assigned Council Liaison responsibilities with another Councilmember should the board/commission meeting date conflict with an Intergovernmental Relations Committee assignment.

Members discussed the issue of networking opportunities for board and commission members to network outside of their board or commission business.

Senior Management Analyst Yvette Blackford stated there was a board and commission member networking event before the 2016 State of the City event.

Chair Hendricks stated that as part of the new website it could be an option to sign up to receive agendas for other boards and commissions in addition to the ability to sign up to receive City Council and Planning Commission meeting agendas.

Member Larsson stated he did not think networking opportunities needed to be part of the policy.

Senior Management Analyst Yvette Blackford stated it may just be a matter of keeping networking opportunities in mind.

Chair Hendricks stated the importance of having board and commission applicants attend a board or commission meeting before they apply.

B. Work Plans & Agendas

Mayor Hendricks stated with regard to agenda development, he is looking for language to clarify how the Chair works with staff, but staff is responsible for setting the agenda. Hendricks stated there can be commentary from the Chair but he does not believe it is a 50/50 involvement.

Member Larsson concurred, and stated the word “coordinate” is probably too strong; that perhaps language such as “staff can consult with the Chair,” but that it is the staff responsibility to develop the agenda. Larsson stated regarding who can add items to the agenda not currently on the approved work plan, he is reluctant to open it up for adding too many items, being mindful of staff time. Larsson stated the suggestion regarding consideration of a rolling update to the work plan may be a better opportunity to get something added to an approved work plan instead of waiting to the next year.

Chair Hendricks stated the issue implies that something is not working between staff and the board or commission; a symptom of some other underlying issue. Hendricks

stated the Chair could bring the issue to the Council Liaison, Mayor or city manager, and perhaps language regarding other avenues to manage the issue could be added.

City Manager Santana stated the Planning Commission proposed the issue of agenda publishing timelines as a study issue and staff removed it as a study issue because it is not in the purview of the Planning Commission, but is more of a governance issue Citywide.

Chair Hendricks stated he does not see a reason to publish board and commission agendas 10 days in advance if Council agendas are not.

Member Larsson stated that for very large Planning Commission issues he is sympathetic to the request. Larsson stated as a Councilmember he can access those reports when it goes to Planning Commission, but for Planning Commissioners to get it on Friday before a Monday meeting, it is a short time. Larsson stated that he is fine with the current practice for other boards and commissions and stated 10 days in advance would cause scheduling issues, but for certain very controversial or very complex items, receiving the items earlier would be helpful. Larsson stated he does not want a blanket change.

Chair Hendricks stated some items are available early. Hendricks stated that perhaps there could be an aspirational statement regarding larger items to publish in advance, but not a hard and fast rule.

Member Griffith stated at the very least the Planning Commission should be getting the same number of week day hours for review as Council. Griffith stated there are other cities that do 10 days or two weeks in advance. Griffith stated some larger items have been published early and staff needs to look at the scope of a project and be willing to provide more time for the benefit of the board or commission and the public.

City Manager Santana expressed concern regarding agenda production for Planning Commission and City Council in the same timeframe. Santana stated it does not mean it's not possible, but staff needs more time to look into it and bring some options or solutions back to the subcommittee.

Chair Hendricks requested staff come back with more information.

Senior Management Analyst Blackford provided background information regarding the annual budget review sub-topic.

Subcommittee Member Larsson stated there are a handful of commissioners who like to dive into the details of the budget and appreciated when staff came to a board or commission meeting to present the budget information. He stated that if it's just a pro forma review, it's not worth it.

Member Griffith stated Council has the responsibility to commissions to focus on their area of expertise. Griffith stated there are certain commissions where a budget review is more relevant, but there is a pro forma element in some cases. Griffith stated it may be wise to set expectations of contributions on a commission by commission basis.

Chair Hendricks stated it would be appropriate to send the budget transmittal to each of the boards and commissions at minimum.

Member Griffith stated he thinks we would want each board and commission to have a high-level overview, and certain commissions to have a subset or no review in some cases.

Regarding work plans and agendas, Member Griffith stated work plans are reviewed and approved by Council, and agendas are not. Griffith expressed concern that anything that appears on a commission agenda is a public hearing held by the City. Griffith noted cases in which boards or commissions have created hearings on topics Council may not have requested, and the general public may not differentiate between a Council meeting, Study Session or a commission meeting. Griffith stated he likes the notion of giving boards and commissions more direct control over their work plan because Council can review it and make changes as appropriate, but Council does not review agendas. Griffith stated that we want to be very careful about commissions creating a public hearing item as a few commissioners were representing the City and doing site tours unbeknownst to staff or City Council. Griffith stated the policy needs to hope for the best and plan for the worst.

Chair Hendricks stated he agrees it is the staff responsibility to set the agenda and provide oversight.

Member Griffith reiterated that caution needs to be exercised when creating board and commission agendas as the public may misinterpret what they see on an agenda and its significance. Griffith stated the Council wants boards and commissions to come up with new ideas, but it should be done in a way that does not convey that it is the intent of the City to take action.

Chair Hendricks stated this issue goes back to how board and commission members communicate with the public and the need for awareness as to how the public can interpret their comments.

City Attorney Nagel stated it is important Council understands that the Non-Agenda Items and Comments portion of the agenda is not for discussion or taking action, it is a discussion of whether something is going to be agendaized for a future meeting. Nagel stated the Brown Act requires a posted agenda that gives members of the public a reasonable understanding of what is going to be discussed so they can appear and support or oppose the item. Nagel stated it is a two-step process to put an item on the next agenda.

Member Larsson inquired as to who is authorized to put an item on the agenda.

Chair Hendricks stated that there needs to be training for board and commission members and staff regarding navigating how items brought up in the Non-Agenda Items and Comments portion of the agenda are handled. Chair Hendricks requested staff bring back language for review, and added it could be handled as it is at Council meetings, where staff is asked to bring back information on how to handle the item as necessary. Chair Hendricks stated that in general the Mayor can add anything to a Council agenda, but it is different for a board or commission Chair. Chair Hendricks stated the Mayor would not add something to an agenda without consultation with staff.

Member Griffith stated that an important distinction is that the Non-Agenda Items and Comments section on a Council agenda takes 5-10 minutes but on a board or commission agenda it can take up to an hour.

Chair Hendricks stated the importance of training for staff and boards and commissions on the purpose of the Non-Agenda Items and Comments portion of the agenda.

Member Larsson stated the Non-Agenda Items and Comments section is not for discussion.

C. Study Issues Process

Senior Management Analyst Blackford stated current Council Policy and practice regarding study issues is that it takes two Councilmembers to sponsor a study issue. Blackford stated a board or commission sponsored study issue requires a motion and a majority vote to approve sponsorship. Regarding deferrals of study issues, Blackford stated that Council policy states if Council defers a study issue, it will automatically come back the following year. Blackford stated that if a board or commission decides at their November ranking meeting to pull from consideration an item that has not yet gone to Council, staff has required the next year an action by the board or commission to decide if it is to remain pulled from consideration or if it is to move forward.

Chair Hendricks stated he has heard there are issues regarding the write-up by staff and whether it is brought back to the commission in a timely manner.

Senior Management Analyst Blackford stated the issues are interrelated. Blackford stated some commissions used to do a list of ideas for study issues which they would add to throughout the year as commissioners had study issue ideas, and they would look at the comprehensive list in the fall. Blackford stated that was their way of reducing the list if it was long. Blackford stated other commissions required sponsorships for any study, with no list of potential items. Blackford stated the board/commission agenda template currently has a standing agenda item regarding potential study issues, but the City Attorney has concern as to whether the language gives the public enough information about what will be discussed. Blackford stated one option might be that at meeting one, a study issue is proposed, and at the next meeting it is added to the agenda for discussion. Blackford stated another option would be to have an ideas list in which any member can add to the ideas list, but the study issue isn't officially sponsored until the majority takes action. Blackford stated staff is looking for direction on the route for board and commission sponsorship of study issues.

Chair Hendricks stated he thought the concerns were around study issues being sponsored by a board or commission and the study issue paper didn't come back in

a timely manner and the essence of the sponsored study issue was not captured by staff in the study issue paper. Chair Hendricks stated he is looking for a definition of the review process for study issue papers so that the board or commission can see the item and discuss whether it is capturing the essence of what the board or commission was trying to communicate. Chair Hendricks stated he is not looking for group editing of the study issue paper, but as long as it is not proposed at the last minute in November, an opportunity for the language to be reviewed as to whether it captures the essence of what the board or commission proposed. Hendricks spoke regarding the process when he was on the Planning Commission.

City Manager Santana noted the importance of a discussion of the workload impact as a whole. Santana stated it is important to look at the board and commission recommendation for topics similar to the way we look at Council and the role of the administration. Santana stated it would be inappropriate from a governance standpoint for Council to try to inform the administration as to what it would like to see in a report that goes to Council for policy decision making. Santana stated staff's role is to provide a professional assessment, analysis and expertise in supporting the policy making body. Santana expressed concern with some of the comments regarding authorship beginning to deviate from the city manager, because it begins to degrade the governance structure and the role of providing policy analysis from a neutral perspective. Santana stated it is important that board and commission members find that their voices are included or are part of the process and that what is important to the board or commission is carried through in a way that does not impact the write-up; the authorship, which constitutes her recommendation, needs to remain with the administration, while at the same time advances that key voice from the board or commission.

Member Griffith stated he is sensitive to commissions tending to have an attitude that proposing a study issue is cheap and free, and it is not. Griffith stated a simple write-up can be staff intensive. Griffith stated he has seen commissions sponsor 10 or 15 study issues and in the end they only support five. Griffith stated striking a balance between getting the commissions to propose interesting ideas and "throwing everything against the wall and seeing what sticks," is the challenge.

Chair Hendricks stated he is not trying to take away authorship, but wants to ensure it is capturing the intent of the board or commission. Hendricks stated an item to discuss at the strategic session is striking a balance between what it takes to run the City and strategic priorities. Hendricks stated the study issues idea, when there

were not strategic planning sessions, was a way to bring up strategic ideas. Hendricks stated that to a certain extent, the annual strategic planning sessions fills part of the role of the study issue process, but there are other things that get brought up in the study issues process that he would not want to lose. Hendricks spoke regarding striking a balance between what needs to be done to run the City and the broader view.

City Manager Santana stated that if the Council subcommittee meets before the upcoming operational and policy priority sessions, it may want to discuss more details so that the messages from the subcommittee that are delivered to the full Council are better coordinated. Santana stated the number of study issues staff works on each year is large and difficult to absorb. City Manager Santana stated that given the transition of new Councilmembers, a clear message from the subcommittee would be useful.

Member Larsson stated that in regard to deferrals at the commission level, he liked the “pull back” language to make it clear that it is different than a Council deferral. Larsson stated that some of the confusion or concern regarding items automatically coming back the following year for Council deferrals and not for board or commission deferrals is that the same language is being used for two different processes.

Senior Management Analyst Blackford stated staff can clarify the language if that is still an acceptable process. Blackford stated that similar to sponsorship, if it is still acceptable to the Subcommittee that it takes a motion and majority vote by a board or commission in order to sponsor a study issue to trigger the drafting of a study issue paper, then staff can clarify the language and bring back recommendations to the Subcommittee.

Member Larsson stated he is in support of that.

Chair Hendricks requested an accelerated path for the process.

Chair Hendricks stated it is important Council and boards and commissions do not get involved in operational matters. Hendricks stated there is a difference between what is an operational item versus what might be something that will become a broader policy change that a Councilmember wants to advocate for.

Regarding Staff Liaisons, Senior Management Analyst Blackford stated Council Policy asks the city manager to appoint staff resources to each board and commission. Blackford stated that in accordance with the direction that Council takes on the Council Policy, staff will update the corresponding Administrative Policies.

City Manager Santana stated that with the input received at the Study Session with Chairs and Vice Chairs, staff pulled out the operational issues and brought forward the policy issues to the subcommittee. Santana stated that some operational issues can be changed in response to the input received, and others require more time to talk through workload. Santana stated staff can then bring forward a memo to the subcommittee.

Regarding an Annual Satisfaction Survey, Senior Management Analyst Blackford stated staff will come back to the subcommittee with more information.

Chair Hendricks stated that if an annual satisfaction survey will be given, there should be a free form text box. Hendricks stated if boards and commissions members have a concern, they should reach out to the Chair, staff liaison, City Council Liaison, Mayor or City Manager.

Member Larsson stated the recent study session was more effective than a survey, and if Council continues to have regular study sessions, we may not need to have an annual survey.

Chair Hendricks stated the regular study sessions needs to get on the calendar.

Member Griffith stated he is not sure he agrees that a study session could replace a survey; there are morale issues on a couple of the commissions.

Chair Hendricks inquired as to who should handle issues brought to the Mayor by board and commission members.

Regarding Agenda Notification Options for all Commission Meetings, Chair Hendricks provided comments regarding agenda notification options, and inquired if there is a broader question regarding how easy the agendas are to understand. Hendricks stated the agenda templates for boards and commissions should be consistent.

Senior Management Analyst Blackford stated there is a template in use and the agendas were reviewed by the Clerk's office for consistency.

Regarding Live-Streaming of All Commission Meetings, City Manager Santana stated staff needs to look at the issue to determine what, if anything, can be done to be responsive.

Senior Management Analyst confirmed City Council meeting are closed-captioned.

Public Comment continued:

Kevin Jackson stated with regard to networking, that perhaps Sustainability Commission and BPAC could work together on some items, or joint sponsorship of study issues. Regarding agenda preparation, the staff liaison takes primary responsibility for preparing the agenda, but it would be helpful if the Chair was notified a couple of days prior to the agenda being posted, so that if there is something that was not included, there would be an opportunity to correct it. Jackson stated an opportunity for a quick review would be helpful.

Jackson stated he thought the 10-day agenda notification timeline suggested by the Planning Commission was generous, but if that's impractical, five days would be optimal. Jackson stated the full packet download option has been hit or miss for the Bicycle and Pedestrian Advisory Commission. Regarding study issues, Jackson restated the earlier discussion and stated the extra delay would have an impact. Jackson stated the staff recommendation in a study issues write-up is where there are often misunderstandings, and that is not often seen until the end. Jackson cited an example of a recent study issue proposal.

Jackson stated the deferral process is defined for City Council, but not for boards and commissions.

Jackson stated notification of operational issues is vital to keep the commission apprised of what is going on in the community, such as signals that don't work, curb cuts or hazards.

Jackson stated regarding the satisfaction survey that he believes it's a good idea, and a way of prompting feedback from commissioners.

Public Comment closed.

ADJOURNMENT

Senior Management Analyst Blackford stated that if the Subcommittee is open to a January meeting, staff can begin polling the subcommittee for their availability.

Chair Hendricks provided closing comments. Chair Hendricks adjourned the meeting at 7:09 p.m.



City of Sunnyvale

Agenda Item

18-1068

Agenda Date: 12/11/2018

Review of the City's Practices and Policies Relative to Boards and Commissions to Ensure Their Continued Effectiveness



Memorandum

Date: 12/11/2018
To: Council Subcommittee on Board and Commission Bylaws
From: Lupita Alamos, Senior Management Analyst
Subject: Joint Council and Board and Commission Chair and Vice Chair Study Session Notes

The City Council held a joint study session on November 13, 2018 with Board and Commission (B/C) Chairs and Vice Chairs. The purpose of the study session was to discuss issues related to board and commission operations and to refer issues in need of resolution to the Council Subcommittee on Board and Commission Bylaws. Staff has organized board and commission member comments by topic and identified whether the comment is an operational or policy issue. The Subcommittee may make recommendations to the City Council on changes to Council Policy 7.2.19 *Boards and Commissions* and the *Code of Ethics and Conduct for Elected and Appointed Officials* (both attached).

Communication:

Policy-

- Commissioners expressed interest in having business cards to hand out at networking events.
- Several commissioners expressed a desire to respond directly to members of the public on emails addressed to the commission, instead of having the commission liaisons respond on their behalf.

Administrative Process-

- Would like to ensure that public inquiries/requests made through the Customer Relationship Management System (CRM) are being forwarded to commissions, specifically CRMs about bicycle issues.
- Commissioners expressed a desire to improve the communication process and feel there is a current gap in communication. Commissioner did not elaborate on what communication process should be improved.
- Would like to have a best practices forum/networking event where B/C chairs and vice chairs from all B/Cs discuss and share best practices and experiences.
- Regarding community outreach/engagement: how can B/Cs better access the community to solicit input?



Memorandum

- It would be helpful to coordinate and work with other commissions on topics in common to avoid the feeling of working in silos and isolation.
- Commissioner expressed the idea of hosting a networking event with prospective commission members to attract public interest and participation.

Study Issues:

Policy-

None

Administrative Process-

- There have been many changes to the study issues process over the years, it would be helpful to track and have an accounting of changes over the years.
- Would like to see improved communication to Board and Commissions from Council on study issues, what would Council like to see recommended by B/Cs?
- Would like to see a history of past study issues to review what has been brought forth in the past and reduce redundancies in ideas and process.
- Would like to see progress and updates on approved Study Issues.
- Would like staff to create a webinar on the study issues process and made available online to educate the public on the process.
- The finalized study issue doesn't always reflect all the points made by the B/C, commissioners would like the opportunity to view the study before it is finalized by the City Manager.

Budget Review:

Policy-

- B/C should have a budget for special/project initiatives, and to attend conferences and meetings.
- Explore the idea of community based budgeting (for trails that span several jurisdictions, for example).

Administrative Process-

- Would like to see advanced notification of projects to allow enough time for participation in the review process and feedback (i.e. Washington Pool).
- Commissioners would like more clarification/education on review expectations of Capital Improvement Projects.



Memorandum

- Budget review period is not long enough to provide meaningful discussion and input.

Agenda Planning:

Policy-

None

Administrative Process-

- Clarification and education on how to place items on the agenda.
- The process of adding and managing items on the agenda is not clear and consistent across B/Cs, would like clarification of chair involvement in agenda setting.

Onboarding New B/C Members:

Policy-

None

Administrative Process-

- Would be helpful to provide onboarding on the specific duties of each B/C in addition to the general orientation on parliamentary procedures provided by the City Clerk.
- Develop a new B/C member toolkit that includes scope of duties specific to the that B/C, review of past work plans and study issues, etc.
- Would like to see chair and vice chair orientation focused on meeting effectiveness and leadership, including agenda preparation policies.

Workplan/Project Review

Policy-

None

Administrative Process-

- Would like more opportunities for early input on items going to Council, such as was the process for the Civic Center.

Attachments

Council Policy 7.2.19 *Boards and Commissions*

Code of Ethics and Conduct for Elected and Appointed Officials

Policy 7.2.19 Boards and Commissions

POLICY PURPOSE:

The purpose of this policy is to outline those Council policies pertaining to the City's Boards and Commissions Program.

1. POLICY STATEMENT:

This policy pertains only to Council-appointed boards and commissions. Many of its provisions are rooted in the City Charter, and where any conflict exists between this policy and the City Charter, the City Charter shall prevail.

A. Boards and commissions are created by the City Council for the following general purposes:

- (I) To recommend to City Council specific policy-related issues for possible Council study and action, and to provide a forum and opportunity for broad community participation in the identification and prioritization of those issues; and
- (II) To advise City Council on specific policy issues Council has chosen to study, and to provide a forum and opportunity for broad community input on those issues.
- (III) See also Section 2.I, Duties.

B. Boards and commissions shall not involve themselves in administrative/operational matters or the implementation of Council policy, except as requested by the city manager or his/her designated staff. (See also Section 2.I., Duties.)

2. BOARD AND COMMISSION BYLAWS

A. The City maintains ten Council-appointed boards and commissions.

As a matter of policy, it serves the public interest to have the greatest possible public access to board and commission meeting. As such, meeting locations for boards and commission shall be selected by staff according to the following guidelines:

- Meeting rooms should be of a size adequate to allow for public participation.
- Commissions should meet in a location permitting recurring usage of that location to the greatest extent possible.
- Boards and commissions should preferably meet in either Council Chambers or the West Conference Room at City Hall.

COUNCIL POLICY MANUAL

- (I) Arts Commission: This five-member commission acts in an advisory capacity to the City Council in matters pertaining to the arts and the development and promotion of arts programs and activities. Meetings are held on the third Wednesday of each month at 7 p.m.
- (II) Bicycle and Pedestrian Advisory Commission: This seven-member commission acts in an advisory capacity to the City Council on bicycle and pedestrian issues. Meetings are held on the third Thursday of each month at 6:30 p.m.
- (III) Board of Building Code Appeals: formed by Municipal Code Ordinance 1315. This five-member board has final decision-making authority in all appeals related to building construction, including interpretation of building codes. Meetings are held only as necessary, on the third Wednesday of the month at 6 p.m.
- (IV) Board of Library Trustees: formed by City Charter Section 1013. This five-member board acts in an advisory capacity to the City Council on library related issues. Meetings are held on the first Monday of each month at 7 p.m. If the first Monday is a City observed holiday, the meeting will be held on the second Monday of the month.
- (V) Heritage Preservation Commission: formed by City Charter Section 1015. This seven-member commission acts in an advisory capacity to the City Council and has certain decision-making authority on the restoration, maintenance and operation of heritage resources throughout the City. Meetings are held on the first Wednesday of every other month beginning in January (and on the first Wednesday of alternate months when needed) at 7 p.m.
- (VI) Housing and Human Services Commission: This seven-member commission acts in an advisory capacity to the City Council on programs, policies, and other issues regarding housing and human services. Meetings are held on the fourth Wednesday of each month at 7 p.m.
- (VII) Parks and Recreation Commission: formed by City Charter Section 1011. This five-member commission acts in an advisory capacity to the City Council in matters and services pertaining to parks, open space, playgrounds, entertainment, other cultural and recreational activities. Meetings are held on the second Wednesday of each month at 7 p.m.
- (VIII) Personnel Board: formed by City Charter Section 1007. This five-member board acts in an advisory capacity to the City Council and city manager in matters pertaining to personnel administration. Meetings are held only as necessary, on the third Monday of each month at 5 p.m.

COUNCIL POLICY MANUAL

- (IX) **Planning Commission:** formed by City Charter Section 1009. This seven-member commission acts in an advisory capacity to the City Council and has some decision-making authority on land use and development of the City. Meetings are held on the second and fourth Monday of each month at 8 p.m.
- (X) **Sustainability Commission:** This seven-member commission acts in an advisory capacity to the City Council to provide expertise on major policy areas related to the environmental sustainability goals of the Climate Action Plan (CAP) and General Plan. Meetings are held on the third Monday of each month at 7 p.m. If the third Monday is a City observed holiday, the meeting will be held on the third Tuesday of the month at 7 p.m.

B. Eligibility and Membership

No board or commission members shall hold any paid office or employment in the City Government. All persons appointed shall be registered voters of the City and shall maintain their principal place of residence within the City at the time of their appointment (exceptions: Bicycle and Pedestrian Advisory Commission, Category Two, per Section 2. B. (IV) (b) (ii)), Sustainability Commission, Category Two, per Section 2.B. (IV) (d) (ii)). If at any time during their term any member of a board or commission shall cease to be an elector of the City or shall cease to maintain their principal place of residence within the City, then such person shall become ineligible to continue to serve as a member of the board or commission and said position shall be declared vacant by the City Council.

(I) Spouses, Household Members, and Relatives

No individual shall be eligible to serve on a City board or commission, chartered or otherwise, who has a spouse, household member living under the same roof, or designated relative (parent, step-parent, grandparent, child, sister, brother, niece, nephew, uncle, or aunt of the individual or of the individual's spouse), currently serving as a member of the City Council, or employed as the city manager, assistant city manager, assistant to the city manager, city attorney, department director or assistant director or equivalent for the City of Sunnyvale.

(II) Concurrent Service

No member of any board or commission listed herein, chartered or otherwise, may serve on more than one board or commission at the same time.

- (a) Exception:

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Members of the Board of Building Code Appeals may serve on another board or commission at the same time.

(III) **Specific membership requirements for charter-related Boards and Commissions are as follows:**

(a) Board of Building Code Appeals:

To be eligible for appointment, each appointee shall be qualified by experience and training to pass upon matters pertaining to building construction. (*Source: Municipal Code Chapter 16.08*)

(b) Personnel Board:

To be eligible for appointment, each appointee shall neither hold public office or employment nor be a candidate for any other public office or position, nor be a former City employee. (*Source: City Charter Section 1007*)

No individual shall be eligible to or continue to serve on the Personnel Board who has a spouse, household member, or designated relative (parent, step-parent, grandparent, child, sister, brother, niece, nephew, uncle, or aunt of the individual or of the individual's spouse), employed by the City of Sunnyvale *in a position which has the right to have a disciplinary matter heard before the Personnel Board.*

Two of the five members shall be appointed by the City Council from a list of five persons to be nominated by election of the employees in the classified service. (*Source: City Charter Section 1007*)

(c) Planning Commission:

To be eligible for appointment, each appointee shall not hold any paid office or employment in the City government, *except that the city manager or his/her designated representative, shall serve as an ex-officio member of the Commission.* (*Source: City Charter Section 1009*)

(IV) **Specific membership requirements for non-charter-specified Boards and Commissions are as follows:**

(a) Arts Commission:

The members of this commission shall have a demonstrated interest in the arts (such as visual, performing, literary) and in the art programs of the City. It is preferable that the Arts Commission include at least one

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member with a background in visual arts and at least one member with a background in performing arts.

(b) Bicycle and Pedestrian Advisory Commission

The members of the commission shall be selected from two categories:

- i. Category One (four members) shall be bicyclists or pedestrians in the City of Sunnyvale. Every person in this category shall, at the time of his or her appointment, be a registered voter of the City and shall maintain his or her principal place of residence within the City. Should any person so appointed cease to be an elector of the City or cease to maintain his or her principal place of residence within the City, that person shall be ineligible to continue to serve as a member of the commission.
- ii. Category Two (three members) shall include members of the PTA or other parent groups, administrations of schools in Sunnyvale, commute coordinators for major employers within the City, members of neighborhood associations, principals or teachers from Sunnyvale schools or persons interested in park and recreational activities in the City.

(c) Housing and Human Services Commission:

The members of the Housing and Human Services Commission shall have a demonstrated interest in housing or human services issues.

(d) Sustainability Commission

The Sustainability Commission shall be open to individuals with a demonstrated interest in environmental sustainability issues. The members of the commission shall be selected from two categories:

- i. Category One (minimum of three members) shall be Sunnyvale registered voters.
- ii. Category Two (minimum of one member) shall include members of the Sunnyvale business community. Such members need not be Sunnyvale residents.

(V) **Limitation on Terms**

Any person appointed to a board or commission shall be immediately eligible, upon the expiration of their term or resignation prior to completion of their term if appointed to a different board or commission, to serve on a different board or commission.

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All board and commission members are eligible to serve two successive four-year terms on the same board or commission. No person who has served two such successive four-year terms shall be eligible for appointment to that same board or commission for two years following the expiration of the second full term for which the member was appointed and served. Serving an unexpired term of up to 2 years in length shall not count toward years served in terms of eligibility.

C. Recruitment

Through the Office of the City Manager, efforts will be made to fill board or commission vacancies as soon as practical. Upon notification of a vacancy, whether planned or unplanned, staff shall inform Council of the status of recruitment efforts to fill the vacancy.

D. Appointment

Appointments of board and commission members shall be placed on the agenda at a City Council meeting.

The appointment process will be conducted according to one of the following two methods. In the event that one or more Councilmembers participate via teleconference, voting shall be done using individual candidate votes. Otherwise, the choice of methods is at the discretion of the Mayor on a commission-by-commission basis.

Individual Candidate Votes:

The Mayor will announce by board or commission each vacancy including its term, and then will read each applicant's name. Council will vote on each applicant. The candidate receiving the most affirmative votes and at least four affirmative votes will be appointed. Should no candidate receive at least four affirmative votes, the vacancy will remain. The process is repeated for each board or commission.

Paper Votes:

The Mayor will announce each board or commission in an order predetermined by the City Clerk to facilitate a speedy process and to accommodate applicants who specify multiple preferences. The City Clerk will distribute individual voting sheets to be completed by each Councilmember. The candidate receiving the most votes and at least four affirmative votes will be appointed. Should no candidate receive at least four affirmative votes, the vacancy will remain.

Resolving ties:

Should a tie between the candidates receiving the most affirmative votes occur, the affected applicants will be voted on again. If a tie still remains, and the

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affected applicants each have received at least four affirmative votes, the Mayor would ask the city attorney to draw the name of the person to be appointed.

If vacancies still exist after the appointment process is conducted, staff shall inform Council of alternative courses of action.

(I) **Exception:**

(a) Board of Building Code Appeals

- i. In the event an appeal to be heard by the Board of Building Code Appeals is filed and the board lacks a quorum, the Director of Community Development shall select a temporary board member(s) to hear such an appeal. Any temporarily appointed board member(s) shall hear no more than three appeals within 12 months and shall meet all eligibility requirements as described in this policy.

E. Oath of Office

Each board and commission member, before entering upon the discharge of the duties of his/her office, shall sign the City's Model of Excellence (an attachment to the Code of Ethics document) and take, subscribe to, and file with the city clerk the following oath or affirmation:

"I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of the United States and the Constitution of the State of California, and that I will faithfully discharge the duties of the office of (here inserting the name of office) according to the best of my ability." (*Source: City Charter Section 910*)

After taking the Oath of Office and signing the Model of Excellence in the Office of the City Clerk, each board and commission member shall have the opportunity to receive a ceremonial Oath of Office at a regularly scheduled Council meeting.

F. Required Training/Conferences and Disclosure Obligations

- (I) Mandatory training shall be provided to all board and commission members by the City through the Office of the City Manager, including an orientation session for new members. Training shall be delivered as deemed necessary by the Council and/or city manager and may include topics germane to a specific board or commission and/or training generic to all boards and commissions (e.g. ethics training or "how to run a meeting" for board and commission chairs).

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- (II) Conferences are conducted periodically by outside groups to assist members of boards and commissions in meeting their respective responsibilities more effectively. The City's interests are often served by participation in the educational and training programs offered at the conferences. Each member of City boards and commissions may attend related training and/or conferences, provided that the conference subject matter pertains directly to the function of the board and commission and that funds for this purpose have been budgeted.
- (III) Designated boards and commissions are subject to conflict of interest provisions of the Political Reform Act and must file Statements of Economic Interests. Statements must be filed within 30 days of taking office and thereafter annually, as well as upon leaving office.

California Government Code Section 87200 (the Political Reform Act) specifically applies to:

- Members of the Planning Commission

The City's Conflict of Interest Code requires appointees of designated boards and commissions to file Statements of Economic Interests. The City's Conflict of Interest Code designates members of the following boards and commissions to file Statements of Economic Interests:

- Members of the Board of Building Code Appeals
- Members of the Heritage Preservation Commission
- Members of the Housing and Human Services Commission

G. Officers

(I) Selection of Chair and Vice Chair

Unless otherwise dictated by City Charter, each board and commission shall, within the month of July each year, or during the next regularly scheduled meeting if a July meeting is not otherwise necessary, elect one of its members as presiding officer, to serve commencing after the end of the meeting, upon completion of mandatory chair training and ideally in time to advise staff on the agenda for the next regularly-scheduled meeting. The Board of Building Code Appeals must meet in July to select a chair and vice chair if no meetings are scheduled in the future. The selection of chair and vice chair shall be the last item on the agenda at the scheduled meeting. All boards and commissions shall select their chair and vice chair in accordance with practices and procedures outlined by the Office of the City Clerk.

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(II) **Chair's Role and Responsibilities**

- (a) Attends training in how to be an effective chair prior to assuming the role.
- (b) Presides at meetings of the board or commission, and follows Brown Act requirements for conducting meetings.
- (c) Serves as a liaison to Council at City Council meetings.
- (d) Coordinates the scheduling of special meetings or cancellation of a meeting with the staff liaison.
- (e) Coordinates the setting of the agenda with the staff liaison. Should the chair and the staff liaison disagree regarding the agenda, the city manager shall have final authority subject to appeal to the City Council.
- (f) Board and commission chairs or a designated alternate may always attend Council meetings to present the board or commission's position to Council. However, they must attend Council meetings to present the board or commission's position to Council on any non-consent calendar item previously addressed by the board or commission when only action minutes from the board or commission meeting are available to Council. The chair or designated alternate shall report back to their board or commission on Council's discussion and ultimate decision.
- (g) Counsels and administers verbal reprimands and written warnings to board and commission members who do not comply with City policy.
- (h) Meets with Council in a study session setting on a regular schedule at least annually.

(III) **Vice Chair's Role and Responsibilities**

- (a) Attends training in how to be an effective vice chair prior to assuming the role.
- (b) Serves as the presiding officer in the absence of the chair.
- (c) Joins board or commission chairs in meetings with Council in a study session setting on a regular schedule at least annually, per Section G.(II)(h).

H. Meetings, Attendance and Quorums (see also Council Policy 7.3.8 Posting of Agendas and Procedure for Confirming Proper Posting and Notice of Meetings)

(I) **Meetings**

Each board and commission shall hold regular meetings and special meetings as it may require. All meetings shall be open to the public and

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meet Brown Act requirements (with the exception of certain disciplinary review proceedings of the Personnel Board).

All board and commission meetings shall operate under Parliamentary Procedure. Should this policy and Parliamentary Procedure conflict, this policy shall take precedence.

(II) **Attendance**

Each member of a City board or commission is expected to attend all regularly scheduled meetings*, and as many special meetings as possible. When a board or commission member knows in advance that he/she will be absent from a meeting, the member shall give advance notice to the chair and/or staff liaison.

The board/commission chair shall, in consultation with the staff liaison, propose that each absence be “excused” or “unexcused”. Each board or commission shall then determine by general consent (or, failing to achieve general consent, by majority vote) their members’ absences from regularly scheduled meetings as excused or unexcused** and shall include that record in official meeting minutes. Absences from special meetings shall be recorded but shall not be classified as “excused” or “unexcused”.

Unexcused absences from three consecutive regularly scheduled meetings, or from more than 25% of all regularly scheduled meetings over any twelve consecutive month period, shall result in that member’s seat being declared vacant by the city clerk. Any declaration of vacancy based on unexcused absence from more than 25% of all regularly scheduled meetings over any consecutive 12-month period shall be appealable to the City Council. (Declarations based on absence from three consecutive regularly scheduled meetings are Charter-based and are not appealable.)

Board and commission members are responsible for monitoring their own attendance records. Staff shall prepare for the City Council semi-annual reports of all the City’s boards and commissions showing the attendance of each member at both regular and special meetings during the past 12 months. The percent of regularly scheduled meetings attended shall only be shown for board and commission members having been in office at least six months.

Council shall take into consideration board and commission member attendance records, including tardiness, when evaluating the overall performance of board and commission members.

* *Regularly scheduled meetings* are defined as those in alignment with the general description provided the public as to the times that board or

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commission routinely meets. For example, if the Heritage Preservation Commission is advertised as meeting the first Wednesday of every month, meetings held on these dates only shall be considered “regular meetings”. Any other meetings shall be considered special meetings. Regularly scheduled meeting *dates and times* for all boards and commissions shall be posted on the City’s Web site and in the Boards and Commissions Handbook.

**** *Excused absences*** shall be limited to those which meet both of the following requirements:

- (a) The absent member must have informed the chair and/or the City staff liaison to the board or commission, of their intended absence prior to the scheduled meeting. (Failure to inform the chair or the staff liaison prior to the meeting shall result in an unexcused absence, unless extenuating circumstances prevent advance notice),
and
- (b) The absence is due to one of the following:
 - i A death in the family,
 - ii Personal illness,
 - iii Board or commission-related business,
 - iv Personal leave (limited to one per fiscal year for those boards/commissions meeting monthly or less frequently and to 10% of regularly scheduled meetings for those meeting more frequently)
 - v Emergency, or
 - vi Decision by member’s supervisor in employment or required military service,
 - vii Maternity leave.

(III) **Quorums**

Boards and commissions have a quorum present when a majority of their total membership is present. “Total membership” means the number of members indicated in Section 2.A (I) through (VIII); i.e., the Planning Commission has a total membership of seven.

(IV) **Majority and Abstentions**

Board and/or commission motions shall be approved by a majority of legal votes cast. Members who fail to vote are presumed to have waived the exercise of their right and to have consented to allow the will of the organization to be expressed by those voting. The tabulation of a vote is based on the number of members present *and* voting. Abstentions are not

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counted, since a member who abstains voluntarily relinquishes his or her vote, and is not counted in the results. (*Source: The Standard Code of Parliamentary Procedure, 4th Edition*)

(V) **Ad-hoc Committees**

Ad-hoc committees may be established as required to facilitate the study of Council-directed or staff-requested initiatives. These committees will be project-specific and will function only for the duration of the project.

I. Duties

Aside from obligations related to attendance and training noted elsewhere in this policy, the general duties for all board and commission members are:

(I) **General Duties**

(a) **Work Plans**

Each board and commission shall create an Annual Work Plan which is a 12-month calendar of the policy issues the board/commission will be acting on during the year.

(b) **Study Issues Process**

The Study Issues process is designed to assist City Council with setting priorities for the coming calendar year. Board and commission members have two roles in this process:

- To advise Council regarding the identification of policy issues to study
- To advise Council on those issues Council has decided to study

Within one month of origin, new study issue papers sponsored by Council or a board or commission will be presented to respective boards or commissions, or at the next regular meeting of the respective board or commission.

(c) **Budget**

Board and commission members have two roles in the budget process:

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- To advise Council regarding the identification of budget issues
- Provide Council a recommendation regarding the city manager's recommended budget for content under the purview of their board or commission.

(d) Operational Issues

Board and commissions may serve as advisory bodies to staff regarding operational issues upon request by staff.

(II) **Specific Duties**

(a) Arts Commission

- i Review those portions of master plans of park or facility development or expansion which relate to the arts, for adequacy, appearance and other appropriate criteria, in an attempt to ensure good design and then make recommendations to City Council.
- ii Review and make recommendations on the Arts Sub-Element of the General Plan.
- iii Review and make recommendations regarding agreements with arts-related outside groups and recommend funding allocations.
- iv Make policy recommendations regarding the purchase of art for public buildings and for art in private development in accordance with the Sunnyvale Municipal Code.
- v Study the regional and state Arts Master Plans and make recommendations to the City Council.

(b) Bicycle and Pedestrian Advisory Commission

- i Recommend priorities for bicycle and pedestrian projects for the annual TDA Article 3 funding application cycle.
- ii Participate in periodic review and revision of the Bicycle Plan and Map.
- iii Review and make recommendations on changes to the Sunnyvale Municipal Code related to bicycles and pedestrians.
- iv Review and make recommendations on Federal, State and regional policy proposals related to bicycles and pedestrians.
- v Develop recommendations on promotion of bicycling and walking as viable, sustainable means of transport.
- vi Review and make recommendations on the applicable sections of the General Plan.

(c) Board of Building Code Appeals

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- i Consider and make determinations on appeals of building code decisions made by the Chief Building Official or Fire Marshal. *(Source: Sunnyvale Municipal Code Chapter 16.16.020)*
 - ii Consider and make determinations on appeals of green building requirements made by the director of community development. *(Source: Sunnyvale Municipal Code Chapter 19.39)*
- (d) Board of Library Trustees
 - i Review and make recommendations on the Library Sub-Element of the General Plan.
 - ii Assess community conditions which affect Library goals and policies.
 - iii Review and make recommendations regarding agreements with outside groups and recommend funding allocations.
- (e) Heritage Preservation Commission
 - i Act in an advisory capacity to the City Council in all matters pertaining to heritage resources, landmark sites and landmark districts. *(Source: City Charter Section 1016)*
 - ii Exercise such functions with respect to any heritage resource, landmark site or landmark district as may be prescribed by ordinance. *(Source: City Charter Section 1016)*
 - iii Decision-making authority on resource alteration permits and landmark alteration permits as well as actions to remove a heritage resource from the list of heritage resources. These decisions are final unless appealed to the City Council.
 - iv Final decision-making authority on appeals of staff decisions of minor landmark and resources alteration permits.
 - v Recommendations to City Council on new heritage resource and landmark sites and districts (including buildings, landscapes, and other artifacts that are considered significant in Sunnyvale's history).
 - vi Recommendation to the City Council on Heritage Housing and other heritage zoning districts.
 - vii Participation in the development and promotion of museums and City archives.
- (f) Housing and Human Services Commission
 - i Review and make recommendations on the Housing and Community Revitalization Sub-Element and Socioeconomic Element of the General Plan.
 - ii Review proposed funding policies and grant applications by eligible housing and human service* agencies for Community Development Block Grant (CDBG) HOME and/or other available funds for public services and/or housing projects, and

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make funding recommendations to Council in response to the proposals received.

- iii Hold public hearings on draft HUD Consolidated Plans and Annual Action Plans to receive public input and provide recommendations to Council regarding the content of those plans.
- iv In the interest of efficiency and certainty of the land use planning and development process, the Housing and Human Services Commission shall not be involved formally in matters within the responsibility of the Sunnyvale Planning Commission, as defined by State law and the Charter and ordinances of the City of Sunnyvale, in any manner that would delay or interfere with consideration of land use permit applications or legislative decisions affecting particular properties. The commission shall not be formally involved in issues pertaining directly to current or future human services programs which are directly provided by, co-sponsored by, or relate directly (in the case of outside funding) to the programs provided by City departments for which the Council has established an advisory board or commission, unless dual responsibility therefore is explicitly authorized by a City Council-approved Agenda Calendar or work plan.
- v Study, evaluate and recommend policies relating to human rights and human relations issues related to housing and human services* in Sunnyvale.

*human services as defined by Council Policy 5.1.3

(g) Parks and Recreation Commission

- i Study, evaluate and recommend to the City Council policies relating to parks and recreation activities, such as:
 - Community center use policy
 - Park building use policy
 - Picnic facility use policy
 - License agreements
- ii Review master plan of park development or expansion for adequacy, appearance and other appropriate criteria in an attempt to assure good design and make recommendations to the Council.
- iii Review and make recommendations regarding agreements with parks and recreation related outside groups and recommend funding allocations.
- iv Study, evaluate and recommend to the City policies relating to human rights and human relations issues that may arise when addressing issues such as inclusion in the use of City parks and

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recreation facilities, program accessibility and cultural diversity.

(h) Personnel Board

- i Hear appeals of any officer or employee in the Classified Service who is reclassified, suspended, demoted or removed, and report its finding to the City Council and City Manager; the findings and conclusions of the Personnel Board shall be final and no appeal may be taken therefrom. (*Source: City Charter Section 1008*)
- ii After a public hearing thereon, recommend to the City Council the adoption, amendment or repeal of the civil service rules and regulations. (*Source: City Charter Section 1008*)
- iii Perform such other duties with reference to personnel administration, not inconsistent with this Charter, as the City Council may require by ordinance. (*Source: City Charter Section 1008*)

(i) Planning Commission

- i After a public hearing thereon, recommend to the City Council the adoption, amendment, or repeal of Master, General, or Precise Plans, or any part thereof, for the physical development of the City. (*Source: City Charter Section 1010*)
- ii Exercise such functions with respect to land subdivisions, planning, and zoning as may be prescribed by ordinance. (*Source: City Charter Section 1010*)
- iii Exercise such other functions as now or may be hereafter authorized by the provisions of Title 7 entitled “Planning” of the Government Code of California, or as hereafter amended or added to, insofar as they do not conflict with the provisions of the Charter. (*Source: City Charter Section 1010*)
- iv Decision-making authority on a variety of discretionary land use applications (e.g. use permits, special development permits, variances, specified design reviews, tentative maps and appeals of decisions of the Zoning/Administrative Hearing Officer). These decisions are final unless appealed to the City Council.
- v Final decision-making authority on appeals of staff decisions on minor land use applications (e.g. Tree Removal Permits, Miscellaneous Plan Permits).
- vi Provide recommendations to City Council on legislative actions such as zoning code amendments, rezoning of property, amendments to the General Plan, and new and

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revised specific plans as well as related applications considered at the same time as a legislative action.

- vii Review and make recommendations on the entire General Plan (all Elements and Sub-elements) as updates and amendments are considered.
- viii Review and act on environmental documents in compliance with the California Environmental Quality Act (CEQA), when related to any of the above actions.

(j) Sustainability Commission

- i. Advise Council on policy issues addressing sustainability goals.
- ii. Advise Council on how to strategically accelerate Sunnyvale's progress towards sustainability and recommend priorities, in order to promote continued regional leadership in sustainability.
- iii. Periodically review policies governing specific practices, such as greenhouse gas (GHG) emissions reduction, water conservation, renewable energy, energy efficiency, waste reduction, and urban forestry. Illustrative examples include creation of infrastructure for low emission vehicles, habitat restoration and conservation, biodiversity preservation, and reduction of toxics in the waste stream.
- iv. Advise Council on ways to drive community awareness, education, and participation in best practices.
- v. Review and make recommendations to Council on Federal, State and regional policies related to sustainability which impact Council's goals and policies.

(III) Additional Duties

Additional duties may be conferred upon specific boards and/or commissions by the City Council. These shall be memorialized via the City Charter or by revision to this policy.

J. Interaction with City Council, Public, Staff, and other Board and Commission Members

The city manager shall appoint a staff liaison to support each board and commission.

In addition to their role as advisors to the Council, boards and commissions serve as liaisons between the City and the general public regarding issues under their purview at City sponsored meetings or events. Each board and commission functions as a communication link between the community and the City,

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explaining City programs and recommendations, advocating established City policy and services, as well as providing a channel for citizen expression.

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. (*Source: Code of Ethics and Conduct for Elected and Appointed Officials*)

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. (*Source: Code of Ethics and Conduct for Elected and Appointed Officials*)

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. (*Source: Code of Ethics and Conduct for Elected and Appointed Officials*)

Board and commission members shall adhere to the City's Code of Ethics and Conduct for Elected and Appointed Officials. Council conduct with boards and commissions is also covered in the City's Code of Ethics and Conduct for Elected and Appointed Officials.

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Council shall be kept informed of the activities of boards and commissions by virtue of the board and commission minutes.

Council shall conduct regular joint meetings with Chairs and Vice Chairs per paragraph G.(II)(h) with the intention to review and improve overall effectiveness of commission meetings.

Council shall consider joint study sessions with boards and commissions as warranted.

Council shall encourage members of the public to submit issues and/or concerns to the appropriate board or commission prior to Council considering the matter.

(Source: Community Engagement Sub-Element 7.2C.5(a))

Board and commission members with individual concerns of a non-operational nature may seek guidance in any of the following ways:

- (I) Consult with the board/commission chair. If possible, this is the preferred course of action.
- (II) Consult with the Mayor.
- (III) Consult with another Councilmember.

When a commission has questions about the commission's duties or the interpretation of Council policy, the commission may direct an inquiry to:

- (I) The Mayor.
- (II) The Council Subcommittee on Bylaws.
- (III) The full Council.

When sharing public correspondence with boards and commissions, staff shall be guided by the following principles:

- Facilitate communication of information on policy issues from the public to the boards and commissions
- Adhere to the law and Council policy (the two Council policies that most relate to this issue are: "Outside of official b/c meetings, individual b/c members are not authorized to represent the City or their b/c unless specifically designated by the Council or the b/c to do so for a particular purpose", and "Boards and commissions may serve as advisory bodies to staff regarding operational issues upon request by staff.")
- Treat all the City's boards and commissions equitably
- Provide all boards and commissions the information needed to do their jobs
- Avoid misleading the public

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- Utilize staff time efficiently and effectively

K. Recognition

An annual event to recognize the service of all board and commission members, as well as citizens serving on special Council ad-hoc committees, shall be coordinated through the Office of the City Manager.

Outgoing board and commission members who have served their full term shall receive a certificate of appreciation and a small memento of appreciation. The type of certificates and mementos provided are at the discretion of the Office of the City Manager, shall not exceed the gift limit established by the Fair Political Practices Commission in effect at the time, and will be suitable for the occasion.

L. Resignation/Completion of Term

When a board or commission member resigns from his or her seat, the member shall notify the Mayor in writing (email, fax or letter), with copies to the staff liaison, city clerk and city manager, indicating the effective date and the reason(s) for resignation. When the resignation notice is received by the Office of the City Clerk, staff shall notify Council of the resignation and the status of recruitment efforts to fill the vacancy.

Upon resignation or completion of board or commission assignment, individuals shall not represent themselves further as a board or commission member.

M. Sanctions

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. (*Source: Code of Ethics and Conduct for Elected and Appointed Officials*)

Any form of discipline involving formal censure, or affecting board or commission member status (i.e., removal from office or removal of chairperson status), shall be imposed 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

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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.

N. Investigations

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, 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. These actions include, but are not limited to: take no further action; 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.

O. Removal

The members of each board or commission shall be subject to removal by motion of the City Council approved by at least four affirmative votes, for the following reasons:

- (I) Failure to maintain eligibility requirements
- (II) Failure to take the required Oath of Office
- (III) Failure to complete required training
- (IV) Failure to meet attendance requirements
- (V) Failure to fulfill board or commission duties
- (VI) Failure to adhere to Council policy governing boards and commission member interaction with City Council, the public, staff, and/or other board or commission members.
- (VII) Violation of Code of Ethics and Conduct

P. Administrative Policies

The city manager shall have full authority to develop and implement any administrative policies and practices deemed necessary to support the operation of all boards and commissions.

Q. Council Liaisons to Boards and Commission

The City Council shall appoint one councilmember to serve as a council liaison to each board and commission, except for the Planning Commission, the Personnel Board, and the Board of Building Code Appeals. Appointments shall change every six months, with the roster established annually as part of the City Council intergovernmental relations appointment process. The method of assignment shall be automatic rotation using seat numbering and alphabetic ordering of commissions. Attendance at board or commission meetings by the council liaison is encouraged but not mandatory. Council liaisons may informally arrange for a council alternate when scheduling conflicts arise.

During a board or commission meeting, the Council liaison shall serve a role similar to that of the staff liaison. The primary responsibility for providing information to boardmembers or commissioners belongs to the staff liaison, but the council liaison may provide additional information at the request of the chair when questions fall beyond the scope of staff's expertise. The council liaison may raise points of order when procedural issues arise.

During board or commission meetings, authority resides with the board or commission chair. Council liaisons shall refrain from:

- i. Interfering with the smooth operation of board or commission meetings
- ii. Acting in a manner that undermines the chair's authority
- iii. Participating in policy discussions except when providing factual information at the request of the chair
- iv. Speaking on behalf of the full Council without appropriate authority
- v. Acting as spokesperson for the board or commission.

When questions or concerns arise regarding the conduct of a council liaison, the chair of the board or commission should consult with the Mayor for possible resolution. When the liaison in question is the Mayor, the chair should consult with the Vice Mayor for possible resolution.

R. Bylaw Revisions

Boards and commissions may craft additional bylaw provisions specific to themselves as long as they do not conflict with Sections A through P above. Any additional bylaw provisions must be approved by the City Council.

S. Council Subcommittee

COUNCIL POLICY MANUAL

A standing subcommittee of three members of City Council shall review all bylaw revisions. The role of the subcommittee shall be to review the proposed bylaws before consideration for action by the full Council. Subcommittee meetings are subject to Brown Act noticing requirements.

((Adopted: RTC 07-148 (5/1/07); clarity update 9/21/07; Revised by RTC 08-043 (2/12/08) in accordance with Council action on 11/27/07 and 1/29/08; Revised by RTC 08-294 (10/14/08); Revised by RTC 09-047 (2/24/09); Revised by RTC 09-098 (5/12/09); clerical update (5/15/09); Revised by RTC 09-315 (12/15/09); Revised by RTC 10-143 (5/25/10) in accordance with Council action on 3/23/10); Revised by RTC 10-217 (8/31/10); Revised by RTC 10-249 (9/14/10); Revised by Resolution 458-10 (11/9/10); Revised by RTC 11-009 (1/25/11) in accordance with Council action on 12/7/10); Amended: RTC 11-184 (8/23/2011); Amended by Council action (9/13/2011); Amended by Council action (12/6/2011); Revised by RTC 12-010 (2/7/2012); Amended by Council action, Item #5 (5/15/2012); Revised by RTC 15-0401 (4/21/2015); Clarity Update 6/9/15)

Lead Department: Office of the City Manager



City of Sunnyvale

**2018 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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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.

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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.
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.

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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.
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

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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.

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

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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 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

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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 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

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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.

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.

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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.

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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.

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

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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 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.

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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

Model of Excellence

City Councilmembers, Board and Commission Members, and Council appointees who do not sign the Model of Excellence (Appendix A) shall be ineligible for intergovernmental assignments or Council subcommittees.

Ethics Training for Local Officials

City Councilmembers, Board and Commission Members, and Council appointees who are out of compliance with State- or City-mandated requirements for ethics training shall not represent the City on intergovernmental assignments or Council sub-committees, and may be subject to sanctions.

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.

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

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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, 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

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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

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.

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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

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board and commissions, and newly elected 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); Updated: RTC 13-060 (3/19/13); Approved with no changes: RTC 14-0211 (3/18/14); RTC 15-0050 (3/24/15); RTC 16-0360 (4/5/16); RTC 17-0161 (3/28/17); RTC 18-0036 (1/9/18)

Lead Department: Office of the City Manager

APPENDIX A - Model of Excellence Member Statement

MODEL OF EXCELLENCE

Sunnyvale City Council, Boards and Commissions

MEMBER STATEMENT

As a member of the Sunnyvale City Council or of a Sunnyvale board or commission, I agree to uphold the Code of Ethics and Conduct for Elected and Appointed Officials adopted by the City and conduct myself by the following model of excellence. I will:

- Recognize the worth of individual members and appreciate their individual talents, perspectives and contributions;
- Help create an atmosphere of respect and civility where individual members, City staff and the public are free to express their ideas and work to their full potential;
- Conduct my personal and public affairs with honesty, integrity, fairness and respect for others;
- Respect the dignity and privacy of individuals and organizations;
- Keep the common good as my highest purpose and focus on achieving constructive solutions for the public benefit;
- Avoid and discourage conduct which is divisive or harmful to the best interests of Sunnyvale;
- Treat all people with whom I come in contact in the way I wish to be treated;

I affirm that I have read and understood the City of Sunnyvale Code of Ethics and Conduct for Elected and Appointed Officials.

Signature

Date

City Council Seat #____

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