HANDBOOK FOR CITY OF NEWPORT BEACH BOARDS, COMMISSIONS, AND COMMITTEES

Prepared by:
Office of the City Manager
Office of the City Attorney
Office of the City Clerk

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How City Government Works

City Charter

Newport Beach is a "Charter" City as contrasted to a "General Law" City. Under California law, the authority of a general law City is derived only from the powers granted to it by the general laws adopted by the State Legislature pertaining to the organization and operation of a municipality, and from the police power granted to it by the State Constitution. On the other hand, a charter City's power is not defined or limited by the State's general laws. Instead, with respect to municipal affairs, a charter City's powers are defined by the City's own charter, subject only to the limitations of the State Constitution. As a result, charter cities usually have more operational latitude than do the more prevalent general law cities. A charter serves as the City's "constitution" and may only be amended by a vote of the people. The City's Charter may be viewed at newportbeachca.gov/nbmc.

Newport Beach's Charter became effective January 7, 1955, and has been amended by popular vote on several subsequent occasions. Pursuant to Section 300 of the Newport Beach Charter, the City follows a Council-City Manager form of government. The City's organizational structure is outlined in the chart on page 3.

City Council

The City Charter provides for an elected, seven-member City Council as the governing body of the City. There is one Council Member elected from each of the seven City districts.

Alternatively, and successively, four seats (Districts 1, 3, 4 and 6) are filled at one General Municipal Election and three seats (Districts 2, 5 and 7) at the next General Municipal Election. The City Council Member's term of office is four years. The Mayor is selected annually by the City Council.

How City Government Works

City Council elections are held the first Tuesdays in November of even-numbered years. Regular Council meetings are generally held on the second and fourth Tuesdays of each month in the Council Chamber at City Hall. In addition, special meetings and study sessions are held from time-to-time as the need arises.

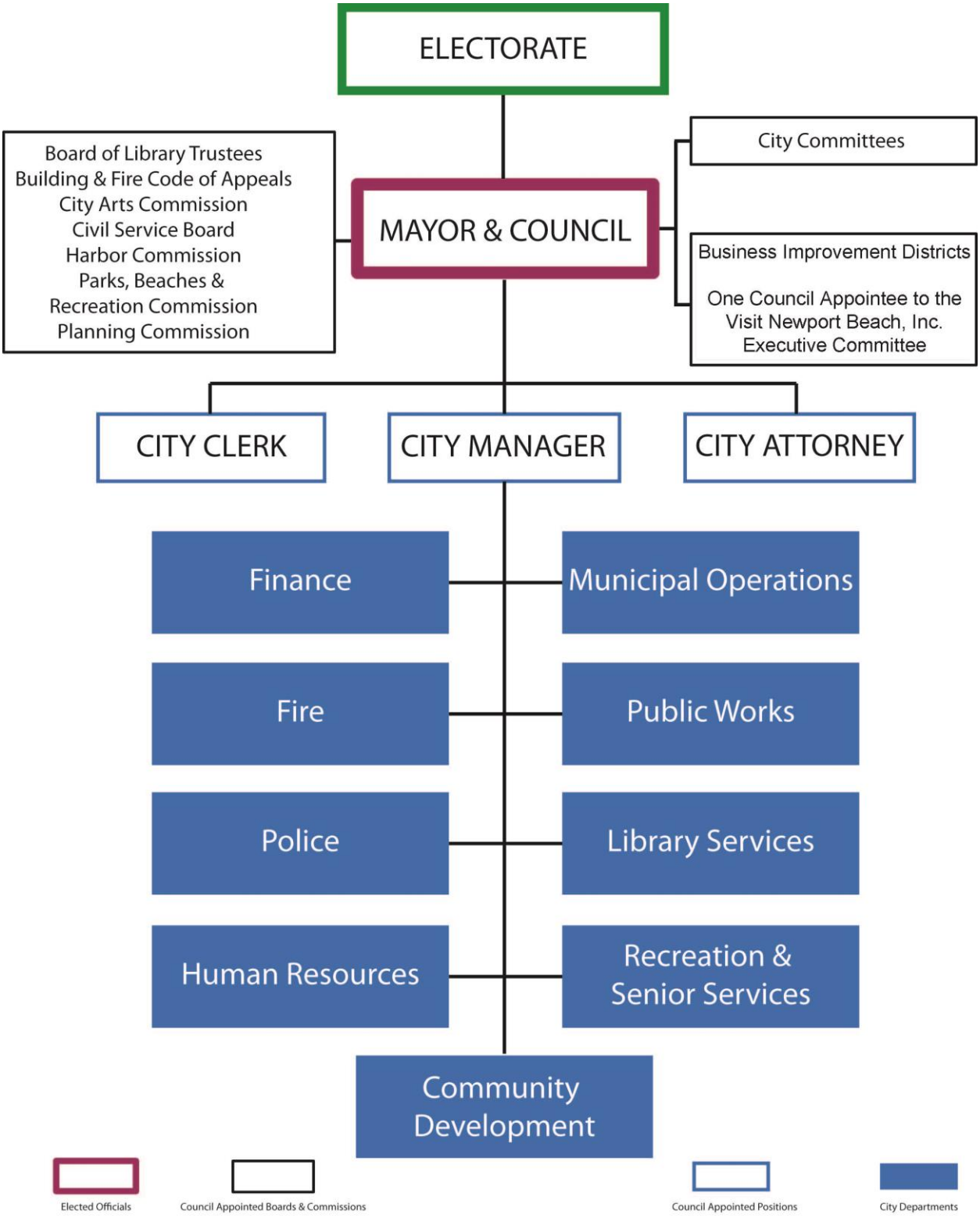
The City Council has the power to make and enforce all laws and regulations relating to municipal affairs, subject to the limitations of the City Charter, the United States and California Constitutions, and certain State statutes.

Boards, Commissions, and Committees ("BCC")

BCCs serve an important role in City governance and serve as the City Council's advisory bodies, or in some instances as decision-makers. Some advisory bodies are created by the City Charter, while others are created by Resolution, Ordinance, or other City Council action.

Unless otherwise stated in the enabling documentation of the BCC, members of an advisory body are appointed by the City Council from the qualified electors of the City, none of whom shall hold any paid office or employment in City government, and may serve for two four-year terms.

City Organizational Chart



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Legal Information

Ralph M. Brown Act ("Brown Act")

What is the Brown Act?

The Ralph M. Brown Act is a California sunshine law that ensures that all meetings of local legislative bodies are open and public, and that all members of the public have the opportunity to attend such meetings. (Cal. Gov. Code § 54950.)

When does the Brown Act apply?

The Brown Act applies to meetings of local legislative bodies, such as the City Council and BCC, (Cal. Gov. Code § 54952.) The City's policy regarding the Brown Act is contained in City Council Policy A-6.

What is a meeting?

A meeting is any discussion among a majority of the members of a BCC (*e.g.*, 3 out of 5 members of a BCC) of any topic within the BCC's jurisdiction. (Cal. Gov. Code § 54952.2(a).) A meeting can take place face-to-face, over the phone, in a chat room, or even by E-mail.

Here are two forms of communication that may result in a meeting:

1. **Chain:** If BCC member A contacts BCC member B, and BCC member B contacts BCC member C, and CC member C contacts BCC member D, and so on until a majority of the BCC members have been contacted and a collective concurrence has been formed, then a meeting has taken place.

A — B — C — D

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2. **Hub-and-spoke:** If an intermediary, such as a staff member, contacts a majority of the BCC members about their positions on a matter within the BCC's jurisdiction, in order to form a collective concurrence, then a meeting has taken place.

```
      A
      |
D — 1 — B
      |
      C
```

(Cal. Gov. Code §§ 54952.2(b)(1),(2).)

HELPFUL TIP: To avoid an accidental meeting, please use "bcc" when sending E-mails to multiple BCC members, and do not hit "Reply All" in E-mail threads with other BCC members.

What is not a meeting?

There are six exceptions to the Brown Act's definition of a meeting:

1. Individual contacts or conversations;
2. Seminars or conferences that are open to the public;
3. Community meetings that are open and publicized;
4. Attending a meeting of a different legislative body;
5. Social or ceremonial occasions; and
6. Attending a BCC's standing committee solely as an observer (*e.g.*, no comments or questions).

(Cal. Gov. Code § 54952.2(c).)

Are there exceptions to the Brown Act's requirements?

Yes, in a few instances, such as threats to public safety, property acquisition, anticipated litigation, labor negotiations, or reviews of audit reports - closed meetings may be permissible. (Cal. Gov. Code § 54956.7 et seq.)

Please contact the City Attorney's Office prior to relying upon an exception to the Brown Act.

Legal Information

What can be discussed at a meeting?

The only topics that may be discussed at a meeting are those that have been described in a properly posted and publicized agenda. (Cal. Gov. Code § 54954.2(a)(1).)

How far in advance must the agenda be posted?

1. Regular Meeting: 72 hours (Cal. Gov. Code § 54954.2(a)(1).)
2. Special Meeting: 24 hours (Cal. Gov. Code § 54956(a).)
3. Emergency Meeting: There is no specific notice requirement, but the BCC should do everything it can to give the public at least one hour notice. (Cal. Gov. Code § 4956.5(b)(1).)

The public's place on the agenda.

A meeting agenda must allow an opportunity for members of the public to speak on any item of interest that is within the BCC's jurisdiction.

In addition, the public must be allowed to speak on a specific item of business before or during the BCC's consideration of the item. (Cal. Gov. Code § 54954.3(a).)

Addressing the public at a meeting.

BCC members may give a limited response to items raised by the public during a meeting, but no topic should be discussed in detail unless it appears on a properly noticed agenda. (Cal. Gov. Code § 54954.2(a)(2).) If an important issue is raised that is not on the agenda, it may be placed on the agenda for the next meeting.

Legal Information

When may items be added to the current meeting's agenda?

In rare instances, if two-thirds of the BCC members vote that there is a need to take immediate action on an item that came to their attention after the current meeting's agenda had already been made, that item may be added to the current meeting's agenda instead of waiting to put it on the agenda for the next meeting. In such circumstances, the item must be publicly identified, and the public must have a reasonable opportunity to speak on it. (Cal. Gov. Code § 54954.2(b).) **This exception is only available in very limited situations.**

What happens if the Brown Act is violated?

If a BCC violates the Brown Act, the District Attorney or any other interested party may issue a written demand that the BCC correct the violation. If the BCC does not correct the violation on its own, the interested party may sue for a court order correcting the violation. (Cal. Gov. Code § 54960.)

In addition, if the District Attorney determines that the BCC intended to deprive the public of information, then the violating BCC members may be criminally prosecuted. (Cal. Gov. Code § 54959.)

Legal Information

Due Process Requirements

Due process is a legal requirement that protects the rights of members of the public by providing notice and an opportunity to be heard prior to taking a governmental action.

Why is due process relevant to BCCs?

BCCs sometimes act in a role similar to that of judges when they administer City business, such as code and zoning enforcement, permitting, and fee assessment. When a BCC acts in a quasi-judicial role, they are required to provide due process to the members of the public whom their decisions affect. (*Mohilef v. Janovici* (1996) 51 Cal.App.4th 267, 276.)

What does due process require?

At the bare minimum, due process requires two things:

1. **Notice:** Notification that is reasonably calculated to apprise interested parties of the action and afford them the right to be heard. (*D & M Fin. Corp. v. City of Long Beach* (2006) 136 Cal.App.4th 165,174.)

2. **Hearing:** A fair opportunity for the affected parties to hear the evidence against them and a chance to controvert that evidence with evidence of their own before an impartial decision-maker. (*Haas v. County of San Bernardino* (2002) 27 Cal.4th 1017, 1025.)

What due process rules should you keep in mind?

1. The City has the burden to prove the alleged violation is more likely than not to have taken place. (*Leppo v. City of Petaluma* (1971) 20 Cal.App.3d 711, 718.)

Legal Information

2. The same notice that is due to a property owner is due to the property owner's tenant, if any. DO NOT rely on the property owner to provide notice to the tenant. The City is responsible for providing such notice.
3. After a party has exhausted all of the options provided by municipal procedure, they have ninety days to seek judicial review of their case from a court. (Cal. Code Civ. Proc. § 1094.6(b).) The City is responsible for notifying the party of this right and the time limit for exercising it. (Cal. Code Civ. Proc. § 1094.6(f).) The ninety-day time limit does not begin until the City provides the required notice. (*Donnellan v. City of Novato* (2001) 86 Cal.App.4th 1097, 1102.)

Political Reform Act

What is the Political Reform Act?

The Political Reform Act is a body of law that prohibits public officials from making, participating in making, or in any way attempting to use their official position to influence a governmental decision in which they know or have reason to know they have a conflict. (Cal. Gov. Code § 87100.) The City's policy regarding the PRA is contained in City Council Policy A-16.

Who is a public official?

Generally, a person is a public official if he or she is an elected or appointed City official, a member of a BCC, or an employee or consultant who manages public investments. (2 Cal. Code Regs. § 18701.)

What is a conflict?

A public official has a conflict if it is reasonably foreseeable that a decision he or she makes will have a material financial effect, distinguishable from its effect on the public generally, on the public official, a member of his or her immediate family, or on certain other financial interests. (2 Cal. Code Regs. § 18700(a).)

Legal Information

How do you know if you have a conflict?

The Fair Political Practices Commission ("FPPC") employs an 8-step test to determine if a conflict exists:

1. Is the individual a public official?
2. Is the public official making, participating in making, or influencing a governmental decision?
3. Does the public official have one of the qualifying types of economic interest?
4. Is the economic interest directly or indirectly involved in the governmental decision?
5. Will the governmental decision have a material financial effect on the public official's economic interests?
6. Is it reasonably foreseeable that the economic interest will be materially affected?
7. Is the effect of the governmental decision on the public official's economic interests distinguishable from its effect on the public generally?
8. Despite a disqualifying conflict of interest, is the public official's participation legally required?

Special rule for appointed BCC members.

Appointed public officials may not accept, solicit, or direct a contribution of more than $250 from anyone who is applying for a license, permit, or other entitlement from the City. Appointed officials also may not accept, solicit, or direct a contribution of more than $250 from anyone who has received a license, permit, or other entitlement from the City in the last three months. (Cal. Gov. Code § 84308(b).)

IMPORTANT: If an applicant comes before an appointed public official's BCC who has already made a donation of more than $250 to the appointed public official, the public official must publicly disclose the donation and then recuse him or herself from the proceeding. However, the public official may avoid recusal by returning the gift to the applicant within thirty days of learning of the conflict. (Cal. Gov. Code § 84308(c).)

Legal Information

Are there exceptions to the Political Reform Act?

There are two exceptions:

Public Generally: Even if a governmental decision will have a reasonably foreseeable material effect on the public official's economic interests, the public official does not have a disqualifying conflict if the effect is indistinguishable from the effect that the decision will have on the public generally. (2 Cal. Code Regs. § 18707(a).)

Necessity: If the public official's participation in making a decision is legally required, then he or she is not disqualified from participating, despite his or her conflict of interest. (Cal. Gov. Code § 87101.)

IMPORTANT: The fact that the public official's vote is needed to break a tie does not qualify his or her participation as legally required. (Cal. Gov. Code § 87101; 2 Cal. Code Regs. § 18708(c)(1).) In addition, the necessity exception may not be invoked if a quorum can be convened of other BCC members who are not disqualified from voting, regardless of whether such other members are actually present at the time of the disqualification. (2 Cal. Code Regs. § 18708(c)(2).)

What do you do if you have a conflict and no exception applies?

When a public official determines that he or she has a conflict that necessitates disqualification under the PRA, the public official must publicly announce the specific financial interest that is the source of the disqualification. (Cal. Gov. Code § 87105(a); 2 Cal. Code Regs. § 18702.5(b)(1).)

After announcing the conflict, the public official must leave the room during any discussion or deliberations on the matter in question, and the public official may not participate in the decision or be counted for purposes of a quorum. (Cal. Gov. Code § 87105; 2 Cal. Code Regs. § 18702.5(b)(3).)

Legal Information

Who can help you determine if you have a conflict?

The FPPC has a full-time staff and several resources available to assist public officials on the Political Reform Act. The FPPC may be contacted via its website, www.fppc.ca.gov, or by phone at 1-866-ASK-FPPC.

IMPORTANT: The City Attorney's Office cannot provide immunity from Political Reform Act violations. Only formal written advice from the FPPC can provide such immunity. (Cal. Gov. Code § 83114(b).)

Robert's Rules of Order

How is City business conducted?

In general, City business is conducted according to Robert's Rules of Order. (City Council Policy A-10.)

IMPORTANT: Failure to strictly follow Robert's Rules of Order does not affect a BCC's jurisdiction or invalidate any otherwise proper action that the BCC takes.

What are Robert's Rules of Order?

Robert's Rules of Order are traditional rules of parliamentary procedure used by governments and private organizations throughout the world.

What is the purpose of Robert's Rules of Order?

The purpose of Robert's Rules of Order is to establish a process so that meetings and hearings can be conducted in a clear, open, and fair manner. In addition, Robert's Rules of Order are designed to ensure that the will of the majority is enforced, while still protecting the rights of the minority.

Legal Information

What is the basic format for a discussion under Robert's Rules of Order?

Meetings conducted under Robert's Rules of Order generally follow this basic format:

1. The meeting is governed by a published agenda.
2. Topics are addressed in the order in which they appear on the agenda.
3. Discussion is taken on topics that receive a motion and a second.
   NOTE: Seconding the motion does not necessarily mean that the BCC member supports the motion; it means that the BCC member wants the motion to be considered.
4. The Chairperson should clarify the motion to make sure that the motion is understood by the BCC members and anyone else who wishes to participate in the discussion.
5. Following discussion and public comment, if any, the BCC members may vote on the motion.
6. The result of the vote should be announced by the Chairperson. The announcement should state the number of votes on each side, as well as the ultimate outcome (*e.g.*, "The motion passes by a vote of 3-2. We have passed the motion to require ten days' notice for all future meetings of this BCC.")

What are the basic types of motions?

There are three basic types of motions:

1. **Basic Motion:** A basic motion is a motion that initially puts forward a decision for consideration by the BCC (*e.g.*, "I move to consider item 'X.'")

2. **Motion to Amend:** A motion to amend is a motion to change a basic motion that is under consideration without doing away with the original motion in its entirety (*e.g.*, "I move to consider items 'X' and 'Y.'")

Legal Information

3. **Motion to Substitute:** A motion to substitute is a motion to completely do away with the motion currently under discussion and put an entirely new motion before the BCC (*e.g.*, "I move to consider item '12.'")

NOTE: Motions are considered from last to first (*e.g.*, a motion to amend is considered before the basic motion that it is amending).

NOTE: A BCC may not have more than three motions before it at the same time. After three, the BCC should vote on the motions before it prior to permitting further motions to be raised.

What types of motions require super-majority votes?

Most motions are decided by a simple majority vote (*e.g.*, three votes of a five-member BCC). However, some motions require a super-majority vote. Examples of motions that require super-majority votes include:

1. **Late Breaking Items:** In rare instances, if two-thirds of the BCC members vote that there is a need to take immediate action on an item that came to their attention after the current meeting's agenda had already been made, that item may be added to the current meeting's agenda instead of waiting to put it on the agenda for the next meeting. In such circumstances, the item must be publicly identified, and the public must have a reasonable opportunity to speak on it. (Cal. Gov. Code § 54954.2(b).)

2. **Emergency Ordinances:** Any ordinance that the City Council declares necessary as an emergency measure to preserve public peace, health, or safety requires five of the seven City Council votes. (Newport Beach Charter § 412.)

Legal Information

What happens if there is a tie vote?

In general, motions can only pass if the majority (or a super-majority, if that is required) votes in favor of them. A tie vote means that the motion fails.

NOTE: Check the bylaws for your BCC, because some BCCs have their own rules regarding tie votes.

Can a past motion be reconsidered?

Past motions may be reconsidered in certain circumstances. A motion to reconsider can be raised by any BCC member who voted *in the majority* on the original motion (*e.g.*, if a motion passed on a 3-2 vote, only one of the three BCC members who voted in favor of the motion may bring a motion to reconsider). (Robert's Rules of Order § 36(a).) Also, the motion to reconsider may only be raised at the same meeting during which the original motion was voted upon or at the very next meeting. (Robert's Rules of Order § 36(b).) If the motion to reconsider is passed, then the BCC may reconsider the past motion and take a new vote on it.

BCC 101

Enabling Legislation or Documents

The enabling legislation that created the BCC (e.g., City Charter, Ordinance, or Resolution) discusses the qualifications, term of office, and responsibilities of the BCC. This information is located in the City Clerk's Office and can be found on the City's webpage at newportbeachca.gov/bccroster.

Oath of Office

Following appointment, the City Clerk will administer the Oath of Office in the City Clerk's Office, which states:

> I, _____, do solemnly affirm that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

BCC Records

BCCs are established by the City Council by either Ordinance, Resolution, or other action of the City Council. Membership is defined in the enabling legislation and all members are appointed by the City Council.

Members are selected:

- On the basis of interest, experience and knowledge in the field pertinent to the BCC.
- To represent a particular segment of the community.

BCC 101

- From a broad representation of community interest and expertise.

Most BCCs meet regularly at established times. Some BCCs are defined as technical or special-purpose. They may meet regularly or only when projects or proposals require their attention.

All enabling legislation is located in the City Clerk's Office.

Orientation

After appointments are made by the City Council, new BCC members will be provided with the most recent BCC Handbook. The BCC's staff liaison will coordinate and conduct an orientation with new appointees. Before or during that orientation, the staff liaison will provide relevant documentation and background information about the specific BCC upon which the new appointee shall serve.

Types of Meetings, Agendas, Minutes and Procedures

Regular Meetings: BCCs should establish meetings as required for the purpose of the body. Most meetings shall be open to the public and are generally held at City Hall, but may be adjourned from time to time to meet elsewhere for specific purposes.

Agendas and minutes shall be prepared, posted and maintained in accordance with all laws and policies of the State of California and the City (See "Brown Act," page 5).

BCC 101

Adjourned Meetings: If for any reason, the business to be considered at a regular meeting cannot be completed, the BCC may designate a time and date for an adjourned meeting. Any matter to have been considered at the regular meeting may be processed at an adjourned meeting. But in order to so adjourn, it is necessary that this be announced to the public present at the time of adjournment and so recorded in the minutes. A notice of an adjourned meeting shall be prepared and posted as required by law.

Special Meetings: A special meeting may be called by the Chairperson or a majority of the members. Care must always be taken when this is done so that adequate advance notice is given. Such notice requires that all interested parties be notified and a notice be posted at least 24 hours in advance of the special meeting. The notice must contain the time and place for such a meeting and the specific subject matter(s) to be considered. Introduction of other items at a special meeting is prohibited.

Subcommittees: The Chairperson may appoint special subcommittees of less than a quorum of the BCC who meet at the convenience of the subcommittee members to carry out the purpose of the subcommittee. Subcommittees may meet without public notice or input. However, any recommendation of a subcommittee shall be presented for discussion and vote at a public meeting of the BCC.

Agendas and Agenda Packets: Each BCC has an assigned staff person serving as secretary. The secretary is responsible for the preparation and distribution of an agenda and supporting documents prior to each meeting. All open meetings must have an agenda. The agenda must be posted 72 hours before a regular meeting. Check with the BCC's secretary relative to agenda packet deadlines.

Only those items appearing on the agenda should be considered at each meeting. However, in an emergency and on two-thirds vote of those members present or unanimous vote if less than two-thirds of the members are present, an item may be discussed if urgency exists and delay would be detrimental to public interest.

BCC 101

Minutes: Minutes are the BCC's official document of record and are permanent records. They are taken at all meetings, transcribed, and included with the next meeting agenda packet. At a minimum, the minutes should be summary minutes. More detailed minutes can be provided at the discretion of the BCC and subject to available resources.

The approved minutes are the vehicle through which the BCC as a whole or its individual members express their interests or opinions. Once approved and signed by the Chairperson and secretary, the minutes are uploaded to the City's webpage and the City's document imaging system.

Public Records Laws: With limited exception, the Government Code of the State of California provides that all official records of the City are open to inspection to any interested citizen at reasonable times. All minutes and supporting documents are public records and must be available for public review with the BCC secretary.

Absences, Leaves of Absence and Resignations

Attendance: Pursuant to City Council Policy A-2 – *Boards, Commissions & Committees*, if a BCC member fails to attend three consecutive regular meetings without prior permission by the Chairperson, that member may be considered for replacement. The Chairperson of the advisory body shall inform their staff liaison and/or the City Clerk of such a situation.

Absences: Because of quorum requirements, when an absence is anticipated, the individual BCC member is responsible for notifying the Chairperson or the staff liaison in advance.

Leaves of Absence: Leaves of absence are not granted to BCC members except under very unusual circumstances and when authorized in advance by the Chairperson. The Chairperson shall inform the staff liaison and/or the City Clerk of the leave of absence.

BCC 101

Vacancies

Generally, seats may become vacant in five ways:

1. The member's term expires.
2. A member resigns during their term, thereby causing an unscheduled vacancy to occur on the BCC.
3. The member moves out of the City or represented Council District, depending on BCC qualifications.
4. The member has too many unexcused absences.
5. The member is removed by the City Council.

If you have any questions regarding vacancies, please contact your staff liaison.

Disclosure of Financial Interests

The City's Conflict of Interest Code was adopted in response to the enactment of the 1974 Political Reform Act ("The Act") (page 9). In February of 1990, the City updated its Conflict of Interest Code pursuant to Section 18730 of the Regulations adopted by the Fair Political Practices Commission ("FPPC"). The City's Conflict of Interest Code consists of two basic parts:

1. The body of the Code which contains the provisions required by Section 87302 of The Act, such as the manner of reporting financial interests and the method to be used by designated positions when they are required to disqualify themselves from participating in decisions; and
2. The Appendix of Disclosure Categories (page 35) lists the designated positions within the agency and the corresponding disclosure categories for each position.

The City Council, by Resolution, designates the positions and the types of financial interests that must be disclosed by persons holding those positions. The extent of disclosure will depend on the types of decisions made by the person in that position.

BCC 101

Public officers disclose their financial interests on a form entitled “Statement of Economic Interests” (“SEI”) or “Form 700" issued by the FPPC. SEIs are filed annually, and also within 30 days of taking office or leaving office. SEIs submitted by public officers are public record and are made available for public inspection upon request.

The City makes every effort to designate all BCCs that make governmental decisions in the local conflict of interest code. BCC members whose positions are not designated in the local conflict of interest code who believe their positions do involve making or participating in a governmental decision should contact their staff liaison. The City Clerk maintains the SEIs filed by the public officers pursuant to the local conflict of interest code. It must be emphasized that, regardless of whether an individual is required to file an SEI, every governmental officer or employee must refrain from making or participating in a governmental decision that has a reasonably foreseeable material financial effect on his or her personal financial interests.

Mastering Your Role

Role of the BCC Chairperson

In addition to the BCC member roles, the BCC Chairperson has additional responsibilities.

A good meeting is one that runs on time, completes the agenda, and moves forward using a thoughtful, informed decision-making process. The role of the Chairperson is critical to making this happen.

The Chairperson is a position of confidence and needs to be informed and prepared. The Chair's role is as a guide that leads and facilitates the discussion and decision-making process in a way where the pros and cons are voiced, the majority prevails, and the minority opinion feels heard.

The Chairperson manages the time of the meeting and keeps things moving. The Chairperson sets the tone for the discussion and creates the structure of that discussion by seeking new information, allowing for a robust airing of opinions, summarizing, checking for readiness to vote, and drawing the discussion to a close in an efficient and fair manner. See "Special Tips for the Chairperson" (page 31) for more guidance on this role.

Role of BCC Members

After appointment by the Council, the City Clerk will present new BCC members with information about their BCC, which includes this Handbook. In addition, the City staff member designated to serve in support of your BCC will schedule an orientation appointment. This is the BCC member's chance to learn more about City government and the scope of responsibility of the BCC to which they have been appointed. In addition to reading this Handbook (which will answer many of your questions), BCC members should start preparing for their new role by:

1. Reviewing the City's Mission Statement, Organizational Values, and the BCC's bylaws, if any.

Mastering Your Role

2. Reading the information provided during the orientation.
3. Getting to know fellow BCC members and staff. Learn the history and "language" of your BCC. Ask about upcoming issues.
4. Considering meeting with the Chairperson of your BCC and/or a Council Liaison to learn more about your role and to understand expectations. This will help you focus on the big picture and how you fit in.
5. Becoming familiar with basic meeting management and diplomatic decision-making procedures.
6. Attending training programs and workshops offered by the City.

Role of City of Newport Beach Staff Person

Staff support and assistance is provided, but BCCs do not have supervisory authority over City employees. While they may work closely with BCCs, staff members remain responsible to their immediate supervisors and ultimately to the City Manager. The BCC members are responsible for the functions of the BCC and the Chairperson is responsible for BCC compliance with the policies outlined in this Handbook.

Staff support includes preparation of a summary agenda subject to approval by the Chairperson, and preparation of agenda reports providing a brief background of the issue, a list of alternatives, recommendations and appropriate backup material, as necessary. Staff will assist BCCs in the conduct of public meetings and ensure that the business listed on the agenda is addressed. BCC members should have sufficient information to reach decisions based upon a clear explanation of the issues involved. The assigned staff person serves as secretary, insuring that minutes are taken as needed.

Mastering Your Role

It is important that recommendations that the BCCs wish to communicate to the City Council are made through adopted or approved Council agenda procedures. Staff members will assist the BCC Chairperson to ensure appropriate legal review, or City and State legislation is complied with.

NOTE: The City may potentially be liable for harassment committed against their staff by BCC members, members of the public, and other third parties if the City knew or should have known of the harassment and failed to take action to stop the harassment. Thus, it is up to the City and its supervisors to ensure that nobody at BCC meetings engages in harassing conduct.

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Being An Effective Member of a BCC

Preparing Ahead for the Meeting

Most citizens understand when they apply to serve on a BCC that they will be making a commitment of time to attend meetings, but many are often surprised by the amount of time it takes to prepare properly for a meeting. Being prepared is key to making good decisions and will strengthen the value of your BCC's recommendations.

- Doing your homework and coming ready to participate is critical. This involves setting enough time aside to review thoroughly and consider the entire agenda packet.

- When you receive your agenda packet, read it carefully. Be prepared to discuss fully, evaluate, and act on all matters scheduled for consideration.

- Think about:
  - The number of items and the amount of time necessary to fully consider each item.
  - Those items that may be controversial and what questions are likely to be asked.
  - Difficult procedural items.
  - Issues you know little about.

- Start a list of questions for staff.

- Consider calling or meeting with staff before the meeting to learn more, if need be. Getting more information ahead of time may make your decision-making easier and help move the meeting. Your questions may also alert staff to issues that others may also be pondering. Advance knowledge assists staff with preparing oral reports and adequately addressing the issues during the meeting.

- Show up on time and be ready to work.

Being An Effective Member of a BCC

Developing Collegial Relationships

Being selected by the City Council to serve on a BCC is a high honor and provides a unique opportunity for genuine public service. Open, honest, and supportive relationships with the City Council, with City staff and fellow members of your BCC will ensure your success and effectiveness.

- The proper channel to contact City staff on items of consideration is through the designated City staff person providing support to your BCC.

- Your attendance at meetings is vital. Recognizing that a scheduling conflict may come up from time to time, commit to attending all the meetings of your BCC. If you are unable to attend, contact the Chairperson and/or staff liaison as soon as possible prior to the meeting. Advance notice of your absence will prevent an unexpected lack of a quorum and may also avoid delays in project or program approvals. (See “Absences,” page 20)

- If time permits, attend meetings of other BCCs or the City Council to stay abreast of current City issues.

- Volunteer to lead the group or serve on a subcommittee.

- The City Council looks to its BCCs to be their eyes and ears in Newport Beach. Talk to members of the community about your role, get their input and invite public participation.

- If there are differences that cannot be resolved through the regular meeting process, consider consulting with the appropriate individual(s) next in line in the "chain of command": 1) Staff Liaison or Chairperson, 2) the Department Head, 3) City Manager or Council Liaison.

Being An Effective Member of a BCC

Managing How You Communicate

BCC members serve as a communications link between the community, staff, and City Council. You provide a channel for citizen expression. The way in which you communicate matters.

- Balance advocacy and inquiry. Say what you think and why you think it. Seek to understand others. Listen carefully, actively asking questions of inquiry. Know when to dialogue and when to debate.

- Put your stake in the ground so others know where you stand, and be willing and able to move your stake when others influence your position.

- Be crisp, get to the point, share the air time.

- Study and understand Robert's Rules of Order (page 12) so that you know how to move an item forward with a motion, how to amend a motion, what motions take precedence over others, etc.

- When speaking to the public and/or press, be sure you are honoring any agreements your BCC has about speaking with the press and/or are representing the majority views of your individual BCC. Personal opinions should be clearly identified as such.

- When necessary, agree to disagree. When disagreeing, do so in an agreeable fashion.

- Speak clearly, moving the microphone closer to your mouth so you are sure the public or fellow BCC members can hear you.

- If you communicate using E-mail, do so wisely understanding the Brown Act and the requirements of this Act (page 5). It is easy to unintentionally violate The Brown Act if you are not familiar with it.

Being An Effective Member of a BCC

Encouraging and Honoring Public Participation

Some BCC meetings are well attended by the public and others are not. Nevertheless, it's important to remember that everyone is entitled to his or her own opinions.

Some members of the public are quite used to speaking before a public body, but most are not. Individuals may address the BCC to either present an issue or concern, or to speak for or against an item. This may be the first time they have ever done this, and they may find the experience intimidating. Anxiety can be expressed in a variety of ways, including aggressiveness or forgetfulness. This requires your patience and keeping in mind the following:

- Be fair and consistent. Set reasonable time limits for participation and apply them equally.
- Pay attention to all speakers and actively listen to what they are saying.
- Ask questions for clarification only, avoiding debate or "cross-examining". If there is discussion or debate, it should be among BCC members. Being respectful at all times is a key.
- Think about your body language and what message you may be sending. Disapproving facial expressions, crossed arms, and/or a slumped posture may communicate a message you do not intend to send.
- Provide reasonable follow-up when it is appropriate.

Being An Effective Member of a BCC

Special Tips for the Chairperson

The Chairperson's main role is to provide the BCC with group direction and to set the tone for meetings. The Chairperson must balance being strong enough to move the meeting along and democratic enough to involve all members in the meeting. It is a challenge to manage the agenda and the time, utilize parliamentary procedure where appropriate, guide the discussion and process, summarize key decisions and actions, and bring the meeting to an efficient close. The tips below may be a helpful summary and reminder for seasoned Chairs. However, a closer reading of a resource provided by the Institute for Local Government ("Understanding the Role of Chair," page 37) might be helpful to any new Chairperson.

Summary of Tips

Moving the Agenda:

- Remember to explain the public participation process to the audience. (For example: "The BCC will hear first from staff who will present the staff report. BCC questions to staff will follow and then the floor will be open to the public who may comment on the matter. Following public comment, the matter will come back to the BCC for deliberation and action.")

- Announce each item before discussion begins.
  - Be clear about the purpose of the agenda item.
  - Know the rules yourself. The Chairperson must understand the rules of proceeding.

- Announce and observe specified time limits for each agenda item and/or for the meeting. Honor whatever ground rules the BCC already has in place regarding time for discussion or decide on this yourself.

Being An Effective Member of a BCC

- Solicit opinions, feelings, and positions from members.
  - Encourage questions of clarification before a full discussion.
  - Invite a motion to get the discussion going
  - Summarize points and identify areas of common ground and consensus.
  - Seek new information by using the "round robin" approach.
  - Encourage the generation of alternative solutions.
  - Makes sure pros and cons are heard so evaluation is fair.
  - Get full participation without everyone feeling the need to speak.
  - Keep the discussion focused on the issue.

- Ensure public involvement as appropriate.
  - Honor time allocations; inquire about how many people want to speak in order to gauge time allocations.
  - Be respectful and thank even the most difficult person.
  - Show interest and concern.
  - Provide reasonable follow-up.

- Discourage finger pointing and blame-orientated statements or questions.
  - Protect BCC members and staff from verbal attacks, within the limits of the Brown Act.

Arriving at Efficient Decisions:

- Make sure everyone knows what action is being requested and what action is being discussed.
  - Restate motions.
  - Weigh in near the end of the discussion. The Chairperson should play a less active role in the debate, usually speaking last.

- Seek consensus when possible and identify areas of common ground.

- Voting is the business. Be complete. Seek voting readiness.

Being An Effective Member of a BCC

- In closing voting, remind the majority of the minority's concerns. Announce the vote by stating what decision just got made and what the vote was.

Using Parliamentary Procedure:

- Use basic elements: principal motions, amendments to a motion, etc.

- View the video, "Parliamentary Procedure Simplified" at http://www.ca-ilg.org/document/parliamentary-procedure-simplified for a review of procedures and how to chair a meeting.

More on How to Manage BCC Member Participation:

- If a BCC member talks too much:
  - Pause to say, "In the interest of time…"
  - Offer to summarize.
  - Deflect to another participant.
  - Ask that before the member speaks, you want to hear from those who have not spoken yet.

- If a BCC member doesn't talk enough:
  - Ask direct, open ended questions.
  - Poll the entire BCC one-by-one.

- When language is confrontational:
  - Paraphrase.
  - Make neutral observations.
  - Call a recess.

- When there are side conversations:
  - Make the observation.
  - Ask for contributions to the larger group.
  - Ask them to take it off line.

Being An Effective Member of a BCC

Managing Difficult Public Meetings

Here are some additional tips for managing any meeting, but particularly the difficult ones:

- Encourage the designation of a spokesperson for groups.
- Ask staff to make sure there are plenty of extra agendas and staff reports.
- Establish and announce rules before the meeting begins.
- Introduce each item and possible actions.
- Try not to waste time on routine items.
- Encourage speakers to address the BCC and not the audience.
- Discourage clapping and shouting.
- Use recesses to help diffuse hostility. Do not seek to avoid, bury, or deny conflict. Strive to contain it.
- Adhere to speaker time limits. Use speaker slips.
- Make sure that all BCC members are addressing each other, through you, and not the audience.
- Consider continuing an item for further discussion if it appears consensus may not be reached.
- Know the difference between visionaries, primary leaders, thoughtful leaders, bandwagoners, and naysayers.
- Stay out of the fray - rise above the situation.

Appendices

Appendix A

Appendix of Disclosure Categories

1. Designated employees whose duties are broad and indefinable must disclose: All investments and business positions in business entities, sources of income and interests in real property within Newport Beach.

2. Designated employees whose duties involve contracting or purchasing must disclose: Investments and business positions in business entities within Newport Beach and income from sources within Newport Beach which manufacture, sell or provide supplies, materials, books, machinery, services, equipment or computer equipment of the type utilized by the City, or utilized by the employee's department.

3. Designated employees whose duties involve regulatory powers must disclose: All investments and business positions in business entities within Newport Beach, and income from sources within Newport Beach which are subject to the regulatory, permit or licensing authority of the City of Newport Beach.

4. Designated employees whose decisions may affect real property interests: Investments and business positions in business entities within Newport Beach, and income from sources within Newport Beach which engage in land development, construction or the acquisition or sale of real property, and all interests in real property.

5. Positions which involve City self-insurance benefits must disclose: All interests in real property, investments and business positions in business entities and sources of income within Newport Beach from:

    a. Persons or entities which provide services, supplies, materials, machinery or equipment of the type utilized by the agency.

Appendices

b. Entities which are engaged in the business of insurance including, but not limited to, insurance companies, carriers, holding companies, underwriters, brokers, solicitors, agents, adjusters, claims managers and actuaries.

c. Financial institutions including, but not limited to, banks, savings and loan associations and credit unions.

d. Entities or persons who have filed a claim, or have a claim pending, against the agency.

*Consultants shall be included in the list of designated employees and shall disclose pursuant to the broadest disclosure category in the code subject to the following limitation:

> The Department Director may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements described in this section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Department Director's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code.

Appendix B

INSTITUTE FOR LOCAL GOVERNMENT
FOUNDED 1955
Promoting Good Government at the Local Level

LOCAL GOVERNMENT 101

Understanding the Role of Chair

www.ca-ilg.org/ChairMeeting
October 2011

Meetings are central to the local agency decision-making process. Through public meetings, elected and appointed officials come together to receive public input, discuss, deliberate and decide issues on behalf of the public. Such decisions typically require support of a majority of the decision-making body.

All members of the decision-making body usually have the same voting power. The meeting chair, however, plays a special role in helping the group reach wise decisions. The following tip sheet offers suggestions for performing that role well.

Related Resources from the Institute

- Dealing with Emotional Audiences, available at www.ca-ilg.org/EmotionalAudiences.
- Codes of Conduct for Elected Boards, available at www.ca-ilg.org/CodesOfConduct.
- ILG's Meeting Resource Center, available at www.ca-ilg.org/meeting-resource-center.

Goal of Meeting Discussions

The usual goal of any discussion at a public agency meeting is for decision-makers to:

- Receive and share information, so everyone can make informed choices.
- Share thoughts and perspectives on what decision best serves the public's interests and other community values.
- Reach a decision on what the best option is.

Another goal is for the group to reach decisions in a way that builds and maintains relationships as well as promotes trust in both decision-makers and the decision-making process.

Everyone's Role

All participants in the decision-making process are responsible for working towards achieving these meeting goals. Moreover, everyone has a shared stake in having an opportunity to be heard and being treated fairly. Thus, all officials have an interest in supporting the chair's efforts to conduct the meeting effectively and fairly.

1400 K Street, Suite 205 ▪ Sacramento, CA 95814 ▪ 916.658.8208 F 916.444.7535 ▪ www.ca-ilg.org

The Chair's Role

The chair's role includes:

- Helping the group determine whether it has all the information necessary and available to make a decision.
- Where there are multiple points of view on what the best decision might be, encouraging decision-makers to share those views.
- Actively listening to determine potential points of agreement and testing those points for actual agreement.
- Managing any conflicts that may arise during the discussions.
- Keeping the discussion on topic.
- Ensuring that clear decisions are made.
- Sticking to the agenda.
- Getting through the agenda items in a timely manner.

As a result, the role of the chair can be understood as:

- A team captain who leads by example and helps the group function as a team;
- A coach who encourages participants to perform at their best, including as it relates to principles of fair play and sportsmanship; and
- A referee who has authority to stop the action and apply the rules of play.[1]

For the chair to play the role of referee effectively, the chair needs the group's trust and respect. To earn this trust and respect, the chair needs to conduct the meeting fairly. This means applying the group's agreed upon standards in an impartial manner. If one's colleagues' understand that the chair's goal is to be an impartial facilitator to help the group achieve consensus, the group will be more inclined to act in ways that support the chair's efforts and achieve the meeting's goals.

To achieve both the perception and the reality of impartiality, it can be helpful for the chair to hold off expressing his or her views on a matter and not engage in debate.

Strategies for Success

At the Beginning of the Meeting

- **Welcome and Introductions.** It can be helpful for the public (particularly first-timers) to know who is sitting at the dais, what opportunities there will be to provide input, and how they can understand what is going on (for example, if translation equipment/service is available, where people can pick up the equipment). This can communicate decision-makers' earnest desire to both receive public input and have the public understand what is going on.

- **Agenda Overview.** A brief statement of the major sections of the agenda can remind both decision-makers and the public of the scope of what needs to be accomplished during the meeting.

- **Aspirational Statement on Decorum.** If the body has adopted a guidelines and goals for civility, a brief reminder to that effect can help set the tone for both decision-makers' interactions and encouragement for other meeting participants' conduct.

As the Body Moves to New Agenda Sections/Items

- **Agenda Sections.** Different agenda sections are sometimes subject to different procedures. For example, a consent agenda usually is a group of items that are routine and non-controversial and are taken up as a group.

  Conversely, other items are taken up one by one. Sometimes certain items are subject to special procedures (for example, public hearings). It can be helpful for the chair to briefly note these differences, as a reminder to new decision-makers and first time attenders at the meeting.

  Example: Chair: "Now we are at the public hearing portion of the agenda. To be respectful of the rights and interests of all involved, there will be three stages to our consideration of each item:

  1. *Facts and Evidence:*
     a. *First staff will summarize their analysis of the issue before us.*
     b. *Then, the applicant will be given a chance to explain, based on facts and evidence, how the applicant has met standards necessary for us to approve the application.*
     c. *Next the public will be given an opportunity to offer their thoughts and evidence on the merits of the application. This can include any suggestions or questions that the public thinks we should ask of the applicant.*
     d. *We will then ask any questions of the applicant.*
  2. *Law and Analysis:*
     a. *After listening and considering both the applicant's and the public's information, it becomes our turn to discuss among ourselves what we have learned based on what has been presented.*

b. *Once it appears that a consensus is developing, we may ask questions of staff on what kinds of findings need to be made to explain our decision based on the information we have received.*

3. *Decision:*

a. *The chair will entertain a motion to make a decision and adopt findings consistent with that decision.*

b. *If the motion receives a second, we'll vote to see if a majority of us can agree."*

- **Being Clear on the Issue to Be Resolved.** In addition to calling the agenda item, it can be helpful to identify the issue to be resolved.

  Chair: "The issue before us is whether the application to engage in X enterprise meets the standards in our zoning code for such activities."

  This reminds staff, decision-makers, the applicant and the public the standard which needs to be focused on. In addition, for complex or divisive items, sometimes participants can lose sight of the issue to be decided. A helpful role the chair can play in getting the discussion to a point of resolution is to remind participants of the issue to be resolved (or ask staff to state the issue to be resolved).

- **Note about Technical Language.** Public agency decisions sometimes involve special terminology, jargon and acronyms. This can lead to confusion and misunderstanding, which in turn, can take the discussion in unproductive directions. Another important role of the chair is to make sure the conversation occurs at a level that everyone can understand. The chair can ask speakers to define unfamiliar terms and explain unfamiliar concepts.

When Consensus Is Not Immediately Forthcoming

If the conversation does not seem to be coalescing into a consensus or even a majority position, one technique for non-time sensitive matters is to refer the matter back to staff for further work. Staff will then have time to craft a decision that endeavors to take into account as many of the concerns expressed as possible.

Fostering Discussion and Decision

- **Opening Up the Issue for Discussion.** Having stated the issue and heard staff and the public's information on it, ask for decision-makers' thoughts. To enable the chair to be a fair guider of the discussion, the chair will typically refrain from offering their thoughts at the beginning.

- **Who Speaks When and to Whom.** At this point in the meeting, the discussion is among decision-makers and therefore decision-makers should be speaking to each other in an effort to come to a decision, not the public.

An important role of the chair is to make sure only one person speaks at a time, so both the public and decision-makers can understand and follow the discussion. A typical approach is for each decision-maker to offer their thoughts and then listen to other decision-makers' thoughts in turn.

If it appears multiple people want to talk at once, the chair has the option of asking people to raise their hands to be recognized before speaking. The chair can keep a list of who has asked to be heard, to call on each person to speak in sequence. Everyone who wants to speak should know that they are on the list and their turn is coming.

- **Keeping Discussion Participation Balanced.** Some bodies have a norm that each person will take a turn in asking all their questions and sharing their thoughts. Others find that such a restriction interferes with dialogue and the deliberative process. If a person seems to be repeating him or herself or otherwise dominating the discussion to the exclusion of others, one approach is for the chair to acknowledge that the individual's perspective has been heard.

  Example: *Chair "We have heard that Supervisor Nasirian feels strongly that fixing our roads is an urgent priority. What are others' thoughts?"* or *"Is there anyone who hasn't spoken yet who would like to share their thoughts?"*

The chair can also give preference to those who haven't spoken.

  Example: *Chair "I see your hand up Council Member Cooke and we'll get to you in a moment; I am going to recognize Council Member Suarez first since she hasn't yet spoken."*

Staff Can Be A Resource

Depending on the nature of the topic under discussion, agency staff and legal counsel can sometimes assist the chair in listening for consensus or clarifying misunderstandings that are impeding the effort to reach consensus.

Where staff sits can determine how helpful they can be in this role. Being able to signal or make eye contact with the chair is one issue. Many agencies have key staff (attorney and chief administrative official) sit at the dais with the body.

- **Avoiding Interrupting One Another.** When people are passionate or otherwise convinced of the correctness of their position or information, they will sometimes jump in to respond to what a colleague is saying. A chair's role is to intervene to protect the person's ability to finish their thought. (*"Let's let Director Feliciano finish his thought; you'll have an opportunity to share your perspectives."*)

- **Dealing with Conflict.** Differing perspectives is inherent in a group decision-making process and healthy. However, if the discussion gets particularly heated among two or more decision-makers, a helpful device is to have people address their remarks to the chair. Another is to summarize the points of disagreement and then move the discussion away from those who are in conflict by asking others how they see the issue. If the conversation turns personal, the chair can ask the group to keep the discussion focused on the problem at hand, not underlying motivations or personalities. If these techniques are unsuccessful, calling a recess can be helpful to enable people to step away from the conflict and reflect on how to move the discussion forward. *See also Dealing with Emotional Audiences.*

- **Actively Listening for Signs of Consensus.** The chair's role is to listen for points of agreement and possible consensus and then test the chair's sense of where people are leaning. Tools the chair has to help the group get to a decision point include:
  - *"It sounds like Supervisor Rodriguez and Supervisor Ifill are both concerned about the impact of the proposed use, even with the proposed conditions on the permit, on surrounding neighbors. Am I understanding your concerns? Would either of you like to move that the application be denied"?*
  - *Thank you Council Member Chen for sharing that view; would you like to make a motion to that effect?"*
  - *"It sounds that there are two views on the board: [state the two views]. Which strikes people as having more advantages for our community?*
  - *"What's the group's pleasure? The question before us is [restate the issue before the group]."*
- **Motion and Second.** Once a motion is made, the chair asks for a second. A second to the motion indicates that at least one other person agrees with the maker of the motion.
  - If no one seconds the motion, the chair can note that the motion is appearing to die for lack of a second. The chair can ask if someone else wants to make a different motion.
  - If the group seems ambivalent, the chair can ask if someone wants to second the motion for purposes of discussion. Through that discussion, an approach at least a majority can agree on may emerge, in which case the chair may want to ask whether there's a friendly amendment to the original motion or a substitute motion.
- **Vote.** It's helpful for the chair to re-state the motion on which the group is voting.

At the End of the Meeting

- **End on an Upbeat Note.** If at all possible, end the meeting on a positive note and thank everyone for their contributions to the meeting and their participation.
- **Explain Next Steps.** Note that the actions taken at the meeting are being recorded through meeting minutes, which will be reviewed at the next meeting. Note when the next meeting will be.

If at First You Don't Succeed

People can take awhile to get used to the norms associated with group decision-making. If an approach doesn't work perfectly the first time, don't give up. Think about what worked and what didn't and consider whether persistence might help get the group to a better place.

About the Institute for Local Government

This resource is a service of the Institute for Local Government (ILG) whose mission is to promote good government at the local level with practical, impartial, and easy-to-use resources for California communities. ILG is the nonprofit 501(c)(3) research and education affiliate of the League of California Cities and the California State Association of Counties.

For more information and to access the Institute's resources on local government 101, visit www.ca-ilg.org/local-government-101. If you would like to access this resource directly, go to www.ca-ilg.org/ChairMeeting.

The Institute welcomes feedback on this resource:

- *Email:* info@ca-ilg.org Subject: *Understanding the Role of Chair*
- *Mail:* 1400 K Street, Suite 205 ▪ Sacramento, CA ▪ 95814

References and Resources

Note: Sections in the California Code are accessible at http://leginfo.legislature.ca.gov/. Fair Political Practices Commission regulations are accessible at www.fppc.ca.gov/index.php?id=52. A source for case law information is www.findlaw.com/cacases/ (requires registration). (kj)

[1] *See* Vermont Institute for Government, Born to Chair: An Introduction to the Science and Art of Chairing a Board Meeting (1998), available at www.sec.state.vt.us/municipal/pubs/chair.pdf and http://crs.uvm.edu/citizens/chair.pdf.

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