

**CITY OF LOMPOC**  
**CITY COUNCIL HANDBOOK**

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# CITY COUNCIL HANDBOOK

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## **INTRODUCTION AND ADOPTION**

The policies, rules, and guidance contained in this Handbook have been adopted by incorporation into Resolution No. 5611(10).

Council business on behalf of the City of Lompoc and its citizens will be transacted in accordance with applicable laws and regulations and generally in accordance with this Handbook. However, the provisions of this Handbook are directory, not mandatory. Failure to adhere strictly to Handbook provisions will not affect the Council's jurisdiction or the validity of any of its actions. Where this Handbook conflicts with statutory law, the statutes will prevail.

Unless specifically noted otherwise, all Handbook references to Councilmembers include the Mayor. In addition, any reference to Councilmember shall include Lompoc Redevelopment Agency ("Agency") Member and any other legislative body consisting of all Councilmembers. In case of any conflict between this Handbook and information contained in the Appendices, the text of this Handbook shall control.

This Handbook may be reviewed and amended at any time by Council Resolution. Within 120 days after any new Councilmember formally assumes office, Council should review the contents of this Handbook and, by Resolution, revise or repeal this City Council Handbook. Until the review, revision or repeal occurs, this Handbook shall remain in effect. All references to sections in this Handbook shall be references to those sections, as amended from time to time.

## **PART A**

### **ORIENTATION**

#### **A1. City of Lompoc – General Information**

##### **A1.1 Incorporation and Authority**

The City of Lompoc was incorporated on August 13, 1888, pursuant to the general laws of California, and therefore is known as a “general law city.” Cities which have adopted charters are known as “charter cities.” Cal. Gov. Code §§34101, 34102.

General law cities are governed by a council of at least five members, and managed by a city manager (administrator), city clerk, city treasurer, chief of police, a fire chief, and any subordinate officers or employees in accordance with the law. When a city manager (administrator) is appointed by ordinance, as in Lompoc, he/she may appoint and dismiss the chief of police and other subordinate appointive officers and employees except the city attorney. Cal. Gov. Code §§34857 and 36501 and Lompoc Municipal Code Chapter 2.12.

##### **A1.2 Redevelopment Agency**

The five Councilmembers serve collectively as governing board of the Lompoc Redevelopment Agency. The City Administrator functions as the Agency Executive Officer, the City Attorney provides legal advice as Agency General Counsel, and the City Clerk performs as Agency Secretary. Agency meetings are held concurrently with the regular Council meetings on a combined agenda. Health & Safety Code §33000 *et seq.*; Lompoc Municipal Code §2.44.020.

Agency members may be compensated up to Thirty Dollars (\$30) per Agency meeting, although to date the Council has not authorized such payments. Agency members will receive their actual and necessary expenses incurred in the performance of official Agency duties. Reimbursement for official Agency travel exceeding 100 miles per round trip will be at the rate established for Councilmembers. Health & Safety Code §§33114 and 33114.5; see, also, Section A2 of this Handbook.

##### **A1.3 Lompoc Public Financing Authority (LPFA)**

The City and Agency form the Lompoc Public Financing Authority, an entity created to issue municipal bonds to finance major public projects. In 1974 the Financing Authority approved issuance of bonds for Five Million Dollars (\$5,000,000) for the Water Treatment Plant. In 1998 bond issuance of Nine Million Five Hundred Thirty-five Thousand Dollars (\$9,535,000) was approved for water and wastewater systems. In 2005, Sixteen Million Nine Hundred Seventy Thousand Dollars (\$26,970,000) was approved for water and wastewater improvements. In 2007, Seventeen Million Eighty Thousand Dollars (\$17,080,000) was approved for water and wastewater projects.

##### **A1.4 Joint Powers Authorities**

The City of Lompoc is a member of several joint powers authorities (“JPA”). Cal. Gov. Code §6502 specifically authorizes public entities to enter into agreements to exercise any power common to the contracting parties or to jointly form a separate entity. Organization as a JPA does not operate to increase the powers of any of the members. JPAs are public bodies subject to open meeting

laws and to conflict of interest statutes and regulations, including the filing of Statements of Economic Interest by the officials acting for the JPA member entities.

The JPAs in which Lompoc participates are described below. Formation documents are public records in the custody of the City Clerk. At the beginning of each calendar year, Councilmembers are selected to represent the City at the JPAs as necessary.

1. California Law Enforcement Telecommunications System/Message Switching System (CLETS) - The Chief of Police attends CLETS meetings as the City's representative and advises Council of significant matters from time to time.

2. CSAC Excess Insurance Authority -The City is a member of this entity that provides general liability insurance in excess of the City and Agency's \$100,000 Self-Insured Retention.

3. Northern California Power Agency (NCPA) - NCPA is a nonprofit JPA formed in 1968 by fifteen municipal utilities to purchase, generate, transmit, sell, interchange, and pool electric power. NCPA is concerned also with business and legislative education/lobbying services with respect to Lompoc's electric utility. NCPA is governed by a Commission. Two Councilmembers serve as commissioner and alternate. The City Utility Director and Electrical Utility Manager also are available as alternates if required. The NCPA operates pursuant to bylaws adopted by the Commission. The Articles of Formation of the NCPA and the Bylaws are on file at NCPA Headquarters in Roseville, California.

4. Santa Barbara County Association of Governments (SBCAG) - This organization functions as the local Transportation Planning Authority and as the Airport Land Use Commission. Santa Barbara County and each of the cities located in Santa Barbara County are represented by an elected official.

5. Santa Barbara County Air Pollution Control District (APCD) - This organization is composed of five County Supervisors and one representative from each of the cities in Santa Barbara County.

6. Santa Barbara Water Purveyors Agency - This joint powers authority was formalized in 1982 to deal with various water issues of common interest to the membership, which includes all cities and water districts within Santa Barbara County as well as some private interests. Typical areas of concern are supplemental water, water management, cloud seeding, and water conservation.

7. Transmission Agency of Northern California (TANC) - This organization is composed of several public utilities which jointly pursue transmission projects. The NCPA Commissioners and alternates represent the City to this agency.

#### **A1.5 City Participation in Other Bodies**

The City is a member of a number of public bodies in addition to JPAs. The City is represented on such governing bodies or boards by a Councilmember or other City official designated by Council. The major bodies with City representation are listed below.

1. Community Action Commission (CAC) - This Countywide social service agency is supported by public and private donation. In the Lompoc Valley CAC programs include operation of

several Head Start Centers and administration of home weatherization programs for low income households.

2. Lompoc Valley Committee - Committee members are a number of public officials from governmental entities in the Lompoc Valley. The Lompoc Valley Committee was created in the mid-1980s by former Mayor Andrew Salazar to create the opportunity for discussion of areas of mutual interest that are not confined to the jurisdictional territory of any one entity -- e.g., water, oil, growth, etc.

3. Santa Barbara County City Selection Committee - The Mayors of every city within the County comprise this Committee. They serve to ratify the appointments of city representatives to LAFCO, APCD, and SBCAG.

4. United States Penitentiary Community Relations Board - A number of community representatives comprise this Board.

5. Local Area Agency Formation Commission (LAFCO) - A County-wide governmental body composed of two members from cities, two from the county, two from special districts, and one member from the public at large.

6. Allan Hancock College Ad Hoc Committee (AHCAHC) - This group meets quarterly to discuss issues of common interest relating to the Lompoc Valley AHC Campus.

## **A2. Councilmember Salaries and Benefits and Travel Expenses**

A2.1 Councilmember salaries, benefits and travel expenses policies are established by Cal. Gov. Code §§36516, 36516.1, 36516.5 53232.2 and 53232.3; Lompoc Municipal Code §2.04.020, as amended, Council Resolution No. 5312(06), as amended or replaced, and other duly adopted laws and regulations.

### **A2.1 Recreational Benefits**

As part of the City's Wellness Program, Councilmembers may use City recreational facilities. City ID cards available from Personnel Division staff may be required when using City recreational opportunities.

### **A2.2 Professional Development**

The Council's budget includes funds for professional development to help accelerate Councilmembers' comprehension and understanding of municipal and legislative operations after taking office.

Councilmembers are encouraged to join the Employee Development Association (EDA), which provides career enhancement opportunities for City employees through periodic meetings and training sessions.

### **A3. Administration of Duties**

#### **A3.1 Access to City Hall**

A key card and alarm access code to City Hall are provided on request during a Councilmember's term of office. In addition, a parking ID plaque may be issued to each Councilmember upon request; this alerts the Police Department a personal vehicle is authorized to park in any "City Vehicles Only" zone outside City Hall. That parking ID plaque does not exempt that vehicle from other parking or traffic laws, rules and regulations.

An office for the Mayor and Councilmembers is provided for private meetings, attending to correspondence, and other City-related activities. A telephone is provided in the office for any necessary local or long-distance calls concerning City business.

#### **A3.2 Supplies and Equipment**

Business cards are provided to each Councilmember during the term of office.

A briefcase and file cabinet are supplied to each Councilmember upon request. The briefcase and file cabinet should be returned to the City upon leaving office, or it may be purchased at a depreciated value reflecting age and use.

City letterhead is available upon request from the Administration staff. The stationery can be imprinted with a Councilmember's name and title during word processing.

City letterhead should not be used when campaigning for political office for oneself or another person; it also should not be used for non-City business purposes or to communicate a position contrary to a position formally expressed by the Council as a body.

#### **A3.3 Contact and Correspondence with the Community**

Citizens are encouraged to contact Councilmembers. Any telephone message or e-mail for a Councilmember to the City Clerk or City Administrator's Office will be promptly routed to that Councilmember. Most Councilmembers publish their home addresses, phone numbers, and e-mail addresses to encourage public contact. Contacts by citizens and their comments and requests may be made part of the next meeting's record at the discretion of the Councilmember.

When contacted in person or by telephone by an appellant or other party to a pending hearing, Councilmembers should decline to meet or speak with such persons regarding the appeal outside the formal hearing. See Section B8.4 of this Handbook.

All un-anonymous and civil correspondence should be answered or acknowledged as soon as practical.

Mail addressed to Councilmembers by name and noted as confidential or personal or some other similar designation will be delivered, unopened, to that individual's mail drawer in the Council office. The substance of those communications may be made a part of the regular meeting minutes at the discretion of the Councilmember.

The City Administrator and administration staff are authorized to receive and open all other business mail to the Council and give it prompt attention so all actions required by that correspondence may be carried out between Council meetings if not requiring Council action. Non-routine communications and any action taken in response should be reported to the Council.

Communications requiring Council action normally will be placed on the agenda of the next regular meeting accompanied by a report and recommendation from the appropriate City staff member.

#### **A3.4 Administrative Support**

The City Administrator is responsible for the retention and maintenance of records of Council's correspondence and administrative documents. Administration staff will maintain all such files and make them readily available to Councilmembers. Such files are generally available for public viewing and disbursement pursuant to the Public Records Act.

Administration staff will place general correspondence and routine mail in a tray maintained for that purpose in the Council Office. Date of receipt will be noted on each document. Each Councilmember should review items in the tray and initial the document to signify it has been reviewed. Administration staff will remove documents from the tray and file or otherwise appropriately dispose of them after thirty days (30) or after all Councilmembers have reviewed the documents.

#### **A4. Appointments to Advisory Bodies**

All appointees to City advisory commissions, committees, and boards (the "Council Advisory Bodies") serve at the pleasure of the Council. Councilmembers will periodically review a list of all assignments, and, at least annually, attempt to fill vacancies and determine any changes in the assignments.

Appointments to the Beautification, Human Services, Parks and Recreation, Planning, Public Safety, and Utility Commissions, are handled by nomination to the body by individual Councilmembers. The nominated appointee must be approved by majority vote of the Councilmembers. Additional details of the nomination and appointment processes for those and other commissions, committees and boards are contained in the respective Lompoc Municipal Code provisions, ordinances and resolutions, and in the Handbook for Boards, Commissions, and Committees adopted by Council. Commissions, committees, and boards are subject to the rules and regulations of the Brown Act unless otherwise instructed by the City Attorney.

Unexpected vacancies may be filled at any time during the year, in accordance with applicable laws. The City Clerk is expected to publicize all vacancies on the Council Advisory Bodies as they occur, by publishing solicitations for applications in the *Lompoc Record* and reporting existing vacancies to Council.

#### **A4.1 Attendance at Meetings of Commissions and Committees**

Councilmembers are encouraged to occasionally attend the meetings of Council Advisory Bodies. Rotation schedule for Councilmembers serving as liaisons to commissions will be given to Council by the City Clerk annually.

#### **A5. Professional Participation**

The Council recognizes professional and trade associations are an important component in the professional education of City officials, that these groups afford the opportunity to advocate the interests of the City and local governments in legislative and regulatory actions at State and Federal levels, and that the effectiveness of such organizations depends upon leadership from local officials. Reimbursement of expenses of Councilmembers attending such events is subject to the availability of funds.

Councilmembers are strongly encouraged to support and participate, as appropriate, in the activities of the League of California Cities, the National League of Cities, the National Conference of Mayors, and such professional and trade associations such as the American Public Power Association, the California Parks and Recreation Society, and other advocacy groups concerned with municipal issues.

#### **A6. Council Vacancies**

Council vacancies can arise from death, resignation, relocation outside the City limits, intentional abandonment of office, excessive numbers of unexcused absences, assumption of an incompatible office, acceptance of free passes or discounts from transportation companies, certain felony convictions, willful or corrupt conduct in office, and recall.

Councilmember vacancies are filled by Council appointment or special election. The new Councilmember serves until expiration of the predecessor's term. All Councilmembers shall be automatically eligible to fill any such vacancy by appointment. Cal. Gov. Code §§34902 and 36512.

#### **A7. Use and Arrangement of Council Chambers**

Use of the Council Chamber is reserved for the City Council, Agency Board, government agencies, Council Advisory Bodies, and entities with contractual relationships with the City. The City Receptionist maintains a calendar for reserving use of the Council Chamber.

Council seating and other physical arrangements for Council meetings in the Council Chambers are at the discretion of the Council. Councilmembers' positions on the dais may be arranged alphabetically, by seniority, through random selection, by collective preference, or by any other equitable method Council wishes to use. Traditionally, the Mayor or Councilmember conducting the meeting occupies the center chair on the dais.

The speaker's podium may be positioned to face the dais, at right angles to the dais, facing the audience, or any other arrangement Council prefers. Council may wish to direct placement of staff tables, audience seating, and other physical arrangements in the Chambers.

#### **A8. Conflict of Interest Code and Disclosure**

As required by law, the Council adopted the City's Conflict of Interest Code which designates the persons required to file Statements of Economic Interests (Form 700). State law requires the Council review this Code every two years and amend it if necessary, *e.g.*, to add incumbents of newly created positions to the filing list. The City Attorney will initiate the Council's review.

Councilmembers, Council candidates, Planning Commissioners, the City Administrator, the City Attorney, and all others required by the City's Conflict of Interest Code must complete and file Form 700 with the City Clerk. Form 700 must disclose certain economic interests of the filer and of his/her spouse

and dependent children. Disclosable interests include specified types of investments, interests in real property, business interests, sources of income, gifts, and loans.

A completed Form 700 must be filed annually, and within thirty days after assuming or leaving office. The Fair Political Practices Commission supplies forms and instructions to use in complying with disclosure requirements, and the City Clerk and City Attorney are available to answer any questions.

Councilmembers and other City officials serving on the boards and agencies of other public entities normally will be required to file Statements of Economic Interests with the clerks or secretaries of those entities. Copies of any such disclosure statements should be filed also with the City Clerk.

## **PART B**

### **PROCEDURES**

It is not Council's intention to become unduly entangled in parliamentary procedure. Accordingly, any procedural issue not provided for in this Handbook may be determined by the Mayor, subject to an appealable point of order.

#### **B1. MEETINGS**

Council meetings are governed largely by the Ralph M. Brown Act (Cal. Gov. Code §§54950-54962), which expresses the Legislature's intent councils and other public bodies exist to aid the conduct of the people's business. To that end, the Brown Act mandates that deliberations and actions at meetings of the Council be open and public. Council policy is to comply with both the spirit and the letter of open meeting laws. Elected officials who have not yet assumed office are subject to all Brown Act requirements. (Please see *Appendix One* for a complete recitation of the Brown Act.)

##### **B1.1 Attendance**

Councilmembers should attend all meetings of the Council. If a member has unexcused absences from all regular Council meetings held during sixty (60) consecutive days, the office of the absent member becomes vacant and is filled as any other vacancy. (Cal. Gov. Code §36513.) Council may grant or ratify an excuse by majority vote of the remaining members.

When a member must leave a meeting in progress, the Presiding Officer should be advised so agenda adjustments can be considered. If a member must leave unexpectedly, then he/she should notify the Presiding Officer or another member, if possible, to allow the Presiding Officer to try to accommodate the absence.

Councilmembers must be physically present or lawfully participating by teleconference to vote on action items before the Council at that meeting. A majority of the Councilmembers present may, as a courtesy, continue the pending action to a subsequent meeting to allow the absent member to be present for the final vote. That assumes, of course, there exist no legal or practical reasons requiring action at a given meeting.

A Councilmember absent from a meeting which may involve due process considerations and for which action was continued may vote on the item at a subsequent meeting if he/she has reviewed the meeting record and tapes and otherwise is informed of the issues involved. Prior to deliberations, Councilmembers who were absent typically state, "I was absent but have listened to the tape and am prepared to participate."

##### **B1.1.1 Meeting Attendance and Participating by Teleconference**

The Brown Act allows the Council to conduct meetings by use of electronic means (audio or video, or both) to connect members in different locations. It is Council's policy use of teleconferencing is limited to closed sessions, and that open sessions of Council meetings shall not utilize teleconferencing.

## **B1.2 Quorum**

Three members of the Council constitute a quorum sufficient to transact regular business. If fewer than three members appear at a regular meeting, then any member, or the City Clerk if all members are absent, may adjourn the meeting to a stated day and hour. The City Clerk will cause written notice of the adjournment to be delivered personally to each member at least three hours before the adjourned meeting and to the public as may otherwise be required by the Brown Act. Cal. Gov. Code §§36810, 36811.

## **B1.3 Types of Meetings**

Regular Meetings: Council holds regular meetings on the first and third Tuesdays of each month at 7:00 p.m. in the Council Chambers of City Hall, 100 Civic Center Plaza, or other locations within the City limits. If for emergency reasons, it is considered unsafe to meet in City Hall, then the meetings may be held for the duration of the emergency at another place designated by the Mayor or by three Councilmembers. When the day for regular meeting is a legal holiday, no meeting is held on the holiday, but a regular meeting will be held at the same hour on any day designated by the Mayor or by three Councilmembers. Cal. Gov. Code §54954.

No regular meeting will be conducted past 11:00 p.m. At that time the meeting will be continued, to a time and place acceptable to a majority of the Councilmembers present, to consider any items where action is necessary prior to the next regular Council meeting. If a second meeting is held and continues until 11:00 p.m., then the meeting will be adjourned and remaining agenda items continued to the next regular Council meeting. Adjournment at 11:00 p.m. may be disregarded by means of a motion to suspend the rules, if seconded and approved by a vote of two-thirds of the members present. See, also, Section B6.3 of this Handbook.

Regular meetings may be canceled in advance or rescheduled by majority vote of the Council.

Special Meetings: Special meetings may be called in good faith at any time by the Mayor or by three Councilmembers by notifying all Councilmembers by telephone as far in advance as possible [but in no event less than twenty-four (24) hours prior to the meeting] and by written notice at least twenty-four (24) hours in advance unless written notice has been previously waived, as discussed below. Twenty-four (24) hours prior to the meeting, written notice will be delivered to each local newspaper of general circulation, and to any radio or television station which has filed a written request for such notice. The agenda notice must be posted in a location freely accessible to the public at least twenty-four (24) hours prior to the meeting.

Any Councilmember may elect to waive written notice by completing the appropriate form and filing it with the City Clerk. Waiver may be given by telegram, facsimile, or e-mail. Written notice of special meetings must be sent to all Councilmembers who have not waived this right. Notice is deemed waived by any Councilmember who actually is present at the meeting at the time it is called to order.

Emergency Meetings: Emergency meetings are permitted under very limited circumstances.

Adjourned Meetings: Any regular or special meeting may be adjourned to a specified time and place. Cal. Gov. Code §54955.

Continued Hearings: Any hearing may be continued to any subsequent meeting. The time and place when the hearing will resume will be announced at the time of the continuance.

Information Sessions: From time to time, informal gatherings may be held by the Mayor, a Councilmember, or several Councilmembers. Sometimes called “town hall meetings,” “study sessions,” or “workshops,” these informal groups allow the public to provide their opinions in detail to their elected officials on issues of concern to residents of the community.

A notice of the session will be prepared and circulated to advise the public of the subject, the time and place of the session, and that the official presiding, and any other Councilmembers who may be present, will not be taking action on the day of the gathering.

#### **B1.4 Closed Sessions**

Closed sessions are meetings conducted in private without the attendance of the public or media.

Attendance at closed sessions is limited to persons actually necessary to advise or take direction from the Council on the specific subject of the session. Third parties not serving as agents of the City may not attend, with the exception of witnesses at a closed session to hear charges or complaints related to public employment and employees. A Councilmember may be excluded from a closed session only if he/she has a conflict of interest. On Council’s behalf, the City Administrator and City Attorney determine the appropriate attendees for each closed session. Teleconferencing is allowed if in compliance with the Brown Act.

Only those matters properly noticed on the agenda or by oral announcement may be considered in closed session. After any closed session, Council or its designee will report to persons present at the site of the public portion of the meeting to the extent required by the Brown Act. The reports may be oral or written. Cal. Gov. Code §54957.1.

Councilmembers and other persons attending any closed session are bound by a duty to treat as confidential all information presented in closed sessions. **Disclosure of any closed session information is a breach of the fiduciary duty required of officers of the City.**

### **B2. AGENDA**

#### **B2.1 Preparation**

The Council meeting agenda is a collaborative effort among the City Administrator, the City Clerk, and the City Attorney. Responsibility for preparation and notice of the agenda lies with the City Clerk. Deadlines established by the City Clerk will prevail.

Each regular meeting requires preparation of an agenda containing an informative description of each item of business to be transacted and the order thereof. Item descriptions may be brief but must contain sufficient information in plain language to adequately and accurately inform the public of the specific action contemplated.

Agenda packets include staff reports, correspondence, maps, and other information to supplement the agenda descriptions. Each item on the agenda is numbered consecutively for cross

reference to supporting data in the agenda packet. A copy of the complete agenda packet is available for public review at least seventy-two (72) hours before the meeting.

When a business item is added or substantially changed after the agenda packet is distributed, the City Clerk will contact each Councilmember by phone or in person to advise of the change and make arrangements for distribution of the agenda changes. Any documents provided to one Councilmember for a meeting shall be provided to all Councilmembers and, prior to that item being called on the agenda also made available to the public.

## **B2.2 Notice**

Regular Meetings: The agenda, together with all supplementary reports, should be available to Councilmembers on the Wednesday preceding a regular meeting.

The agenda will specify the time and location of the regular meeting and be posted at least seventy-two (72) hours before the meeting in a location that is freely accessible to members of the public. The City Clerk is strongly encouraged to arrange for maximum publicity of the agenda and its supporting staff reports by the media and on the Internet.

Special Meetings: See Section B1.3 of this Handbook. Only business listed on the meeting notice will be discussed or transacted at a special meeting, and public comment is limited only to the subject(s) on the special meeting agenda. Those special notice requirements apply even if the entire special meeting is conducted in closed session.

Emergency Meetings in Emergency Situations: No written notice is required. However, each local newspaper of general circulation and any radio or television station requesting written notice will be notified by telephone at least one hour before the meeting if telephone services are functioning. All special meeting requirements, other than twenty-four (24) hour notice, apply. As soon after the meeting as possible, the City Clerk shall post, in a place freely accessible to the public and for at least ten days, a copy of the minutes, a list of persons notified or attempted to be notified, information regarding the roll call vote(s), and actions taken at the meeting.

Adjourned Meetings: Any regular or special meeting may be adjourned. An adjournment must be ordered if less than a quorum attends, since no business lawfully can be transacted. If no members attend, then the Clerk declares the meeting adjourned to a stated time and place. In that case, written notice of the adjournment must be given in the same manner as notice of special meetings. In all cases, notice of adjournment must be posted immediately on or near the door of the Council Chambers and in a place freely accessible to the public.

Closed Sessions: Meeting notices will contain descriptions of items to be discussed in closed sessions. Closed session notices will state only the information required by law and not include names or facts that would constitute invasion of privacy or divulge information concerning the subject of the session.

Before any closed session, the items to be discussed will be disclosed. That disclosure may be simply a reference to the agenda item number. Before conducting any real estate negotiations in closed session, Council must hold an open session during which it identifies the property under negotiation and the persons with whom the City's representative may negotiate. That identification can also be made by reference to the agenda if the property and persons are designated on the agenda.

The City Attorney will advise the Presiding Officer of the required information to be announced before and after closed sessions.

Continuances: A duly noticed public hearing need not be re-noticed if that public hearing is continued, as long as the time and place when the public hearing will resume is announced at the time of the continuance. Written notice of the continuance must be posted near the Council Chambers and in a place freely accessible to the public immediately following the meeting at which the continuance was ordered.

### **B2.3 Placing Business on the Agenda**

Agenda items are limited to those business matters within the City's subject matter jurisdiction that are at issue and actually require the Council to hear, discuss, deliberate, decide, or act on the matter. Items of a theoretical nature and hypothetical questions generally are not suitable for inclusion on the agenda and should be avoided.

Placement of agenda items should be arranged with the City Clerk as far in advance of the meeting as possible. Before presentation to Council, all documents will be reviewed and approved by the City Administrator, City Attorney, City Clerk, or their respective designees.

Any item within the Council's jurisdiction may be placed on an agenda by a majority of Councilmembers, the City Administrator, the City Attorney, the City Management Services Director, or the City Clerk. During a meeting, any Councilmember may request an item be placed on a future agenda for the Council to decide whether that matter should be returned to Council for consideration and whether, when it is returned, staff should prepare a staff report discussing the matter and with recommendations. During public comment periods or by correspondence with Councilmembers, a member of the public may ask Council consider an item, and, upon consent of a majority of Councilmembers present, a staff report will be prepared and processed for a future agenda.

### **B2.4 Non-agendized Actions Prohibited**

No action may be taken on any item not appearing on the posted agenda. Non-action items such as presentations, entertainment, and ceremonial activities should be scheduled and appear on the agenda so members of the public wishing to attend will be notified.

Notwithstanding the foregoing, Council may take action on items of business not on the posted agenda as permitted by the Brown Act:

The following non-agendized behavior also is permitted:

- Brief responses by Councilmembers and staff to statements or questions posed by the public.
- Questions for clarification.
- References to staff or other resources for factual information.
- Requests to staff to report on an issue at a future meeting.
- Requests to agendize a matter of business for a future meeting.

- Brief announcements by Councilmembers or staff and brief reports on their official activities.

## **B2.5 Order of Business**

Council meetings should proceed efficiently and expeditiously, in full compliance with all applicable laws and with due regard for proper and appropriate consideration of Council's business on behalf of the City's residents.

Prior to the time set for each meeting, the Councilmembers, City Administrator, City Attorney, City Clerk, and any department heads required to be present, or their respective representatives, should take their regular places in the Council Chambers. The Presiding Officer should call the meeting to order promptly at the time set, and the business of the Council will be taken up for consideration and disposition in the order set forth in the published agenda, except that, with the consent by acclamation of two-thirds of the members present, items may be taken out of order. See, also, Section B6.3 of this Handbook.

## **B3. PRESIDING OFFICER**

### **B3.1 Mayor to Preside**

The Mayor is the Presiding Officer at all meetings of the City Council. The Mayor pro tempore will preside in the Mayor's absence or at the Mayor's request. If both are absent, the City Clerk will call the Council to order, whereupon a temporary Presiding Officer will be elected by the Councilmembers present to serve until the arrival of the Mayor, the Mayor pro tempore, or adjournment of the meeting.

### **B3.2 Mayor pro tempore**

At a regularly scheduled meeting soon after a General Municipal Election, the City Council shall choose one of its members as Mayor pro tempore, to serve a term of one year or until a successor is chosen. The Mayor pro tempore has all the powers and duties of the Mayor. Cal. Gov. Code §36801; Lompoc Municipal Code §2.04.030.

### **B3.3 Powers and Duties**

Participation: The Presiding Officer may move, second, debate, and vote from the Chair. He/she shall not be deprived of any of the rights and privileges of a Councilmember by reason of acting as Presiding Officer.

Questions to be Stated: The Presiding Officer may restate each question immediately prior to calling for the vote. Following the vote, the Presiding Officer shall announce whether the question carried or was defeated. At his/her discretion, the Presiding Officer may explain the effect of a vote for the audience, or direct a member of the City staff to do so, before proceeding to the next item of business.

Maintaining Order and Decorum: The Presiding Officer is responsible for the maintenance of order and decorum at all meetings, and decides all questions of order, subject to an appeal to the Council. See Section B4.5 of this Handbook. Nondisruptive minor deviations in procedure and order generally are permitted if the validity of Council's action is unaffected.

Except when an action is required by law, the Presiding Officer may assume reasonable authority to modify procedures or otherwise speed up administrative processes. For example, the Presiding Officer may propose a recess without putting the matter to a formal vote. If no Councilmember objects, then the action is considered to be approved unanimously by acclamation or consent.

Signing Documents: The Councilmember serving as Presiding Officer will sign all ordinances, resolutions, contracts, minutes, and other official documents approved at the meeting over which he/she presided, unless another is authorized to do so by Council action. If the Councilmember who presided at the meeting is unavailable, then any Councilmember who participated in the debate and decision may sign the subject document(s).

Appointing Committees: The Mayor may, subject to the advance general consent of the Council, appoint committees of Councilmembers, City staff, and private citizens, or a combination thereof, as necessary and expedient to assist and advise the Council in its work. At the time of the appointment of the committee, the City Attorney shall advise such committee whether or not it is subject to the Brown Act.

#### **B4. DEBATE AND DECORUM**

##### **B4.1 Robert's Rules For Reference Only**

Because of their complexity and formality, Robert's Rules of Order are not adopted for use by the Council. However, consultation of those and other formal rules may be useful for reference and supplemental guidance when the rules are consistent with this Handbook. The City Attorney shall act as parliamentarian for Council meetings.

##### **B4.2 Obtaining the Floor**

Every Councilmember wishing to speak should indicate that desire by lighting their "speaking light" on the dais, gain the Presiding Officer's recognition, and confine all remarks to the question under debate. Staff and other speakers also should seek permission to speak from the Presiding Officer and observe the rules of decorum.

##### **B4.3 Questions of Staff**

Every Councilmember wishing to question the City staff should, after recognition by the Presiding Officer, address his/her questions to the appropriate department head or staff person. Such questions should address the substance of a matter and not impugn, directly or indirectly, the competence, integrity or efforts of any staff member or other person.

#### **B4.4 Interruptions**

A Councilmember, once recognized, should not be interrupted when speaking except when called to order by the Presiding Officer, a point of order or personal privilege is raised by another member, or the speaker chooses to yield to a question by another member. Members of the City staff, after recognition by the Presiding Officer, will hold the floor until completion of their remarks or until recognition is withdrawn by the Presiding Officer. If a person is called to order while speaking, then he/she should cease speaking until the question of order is decided and, if determined to be in order, then the speaker may proceed.

#### **B4.5 Point of Order**

A point of order is a call for the Presiding Officer to enforce the Council's rules of procedure. No second is required, and the call is not amendable or debatable. In response and without a vote, the Presiding Officer must (1) comply, (2) determine that the rules are being observed, or (3) move to suspend the rules.

The member calling for the point of order then may appeal the determination of the Presiding Officer. No second is required, and the appeal is not amendable or debatable. The question is "Shall the decision of the Presiding Officer be sustained?" The Council's decision by majority vote conclusively determines such question of order by sustaining or overruling the Presiding Officer's decision. Frivolous or repetitive appeals should be ruled out of order by the Presiding Officer.

#### **B4.6 Point of Personal Privilege**

A point of personal privilege is a request for the Presiding Officer to accommodate the personal needs of a member. The Presiding Officer rules without a vote and usually in an informal manner -- such as by a handwritten note or whispered comment so as to minimize disruption of the business in progress.

The right of a Councilmember to address the Council on a point of personal privilege generally is limited to cases in which the integrity, character, or motives of the Councilmember are questioned or where the welfare of the Council is concerned. A member raising a point of personal privilege may interrupt another member who has the floor subject only to the power of the Presiding Officer to call him/her out of order. No second is required, nor is the point debatable or amendable. Since the matter is decided by the Presiding Officer, no vote is required.

#### **B4.7 Decorum and Order, Council and Staff**

Only Councilmembers, designated City staff, and those authorized by the Presiding Officer or City Administrator are permitted to sit on the dais.

While the Council is in session, the Councilmembers and City staff shall preserve appropriate order and decorum. No person, by conversation or otherwise, should delay or interrupt the proceedings or the peace of the Council, disturb any speaker, or refuse to obey the directives of the Presiding Officer. All persons must refrain from rude, boisterous, profane, abusive, disruptive, demeaning, and unprofessional behavior.

Staff members are encouraged to present their reports as concisely as possible. Staff should assume that Councilmembers have studied all agenda packet information and therefore require

only brief summation by staff speakers. Because the official meeting record will contain the entire staff submittal and copies of reports are available to the public, verbatim reading of staff reports is not required and is strongly discouraged.

#### **B4.8 Decorum and Order, Audience**

Members of the public attending Council meetings should observe the same rules of order and decorum applicable to the Councilmembers and City staff. Any person making impertinent, slanderous, or profane remarks or who becomes rude, boisterous, abusive, disruptive, demeaning, profane, or unprofessional while attending the Council meeting may be removed from the room, and such person may be barred from further audience at the meeting in question. Unauthorized remarks from the audience, heckling, stamping of feet, whistles, yells, applause, and similar demonstrations should not be permitted by the Presiding Officer. Aggravated cases may be prosecuted on appropriate complaint signed by the Presiding Officer or a Councilmember.

The Presiding Officer may order the meeting room cleared and Council may continue in session if the meeting is willfully interrupted by a person or group of persons so as to render the orderly conduct of the meeting infeasible without removal of individuals who are willfully disrupting the meeting. In these cases, only matters appearing on the agenda may be considered. Representatives of the press or other news media, except those participating in the disturbance, and individuals not responsible for disturbance of the orderly conduct of the meeting, will be allowed to remain at the meeting or may be readmitted. Cal. Gov. Code §54957.9.

#### **B4.9 Public Comment**

Addressing the Council: Subject to compliance with rules of order and decorum, members of the public have an absolute right to address the Council at open meetings during oral communications segments of the agenda. Restricting speakers to the subject at hand and proper decorum is Constitutionally permitted.

Manner of Addressing Council: At the appropriate time, any person wishing to address the Council should stand and wait to be recognized by the Presiding Officer. After being recognized, the speaker may state his/her name and place of residence for the record. The speaker should address the Council from the podium.

All remarks and questions should be addressed to the Council as a whole and not to any specific Councilmember, staff, the audience, or the media. No question should be asked a Councilmember or staff member without first obtaining permission from the Presiding Officer.

Comments should be fundamentally impersonal: the subject of the debate is the issue, not its proponent. A motion and its consequences may be attacked vigorously, but speakers should not attack the motives, character, or personality of a member, speaker, or any other person, either directly or by implication or innuendo. Improper language, irrelevancy, dilatory tactics, rude behavior, and disorderly conduct, including, but not limited to, use of signs or other means to disrupt the meeting, Notwithstanding the foregoing, no speaker will be censured or prohibited from speaking based upon the content of his/her remarks, but may be removed from the meeting if the Presiding Officer or a majority of the Councilmembers determines the speaker is out of order pursuant to the foregoing.

Time Limitation: Every member of the public addressing the Council shall limit his/her remarks to a maximum of five minutes during all speaking opportunities, provided that comment shall not

exceed two minutes per speaker during oral communications just prior to adjournment. When large numbers of persons wish to speak, the Presiding Officer may announce a reduction of the speaking time allotted to each person so all persons wishing to speak may do so.

Each person normally is allowed only one opportunity to comment on each item of business or during oral communications. When any group wishes to address the Council on the same subject, it is appropriate for the Presiding Officer to request a spokesperson be chosen to represent the group to avoid redundancy.

No express time limits are imposed on any appellant or respondent during quasi-judicial proceedings (i.e., appeals, statutorily required public hearings, and other proceedings involving due process rights such as appeals of land use decisions and denials of business license applications); however, the Presiding Officer may limit repetitive presentations and curtail irrelevant remarks.

#### **B4.10 Enforcement of Decorum**

The Police Chief, or a member of the Police Department designated by the Chief, serves as Sergeant-at-Arms of the Council and may attend meetings at the request of the Presiding Officer or the City Administrator. The Sergeant-at-Arms will be available to serve at all meetings immediately upon call, and will carry out all lawful orders given by the Presiding Officer or Council for the purpose of maintaining order and decorum at meetings.

#### **B4.11 Failure to Observe Rules of Order**

Rules adopted to expedite the orderly transaction of Council business are deemed to be procedural only. The failure to observe such rules strictly does not affect the jurisdiction of the Council or invalidate any action taken at a meeting that otherwise conforms to applicable law. Any member may move to require the Presiding Officer to enforce the rules, and the affirmative vote of a majority of the members present will require him/her to do so.

### **B5. MOTIONS**

#### **B5.1 Presentation**

A motion is a formal expression of approval or denial of an action. Every Councilmember has the right to present a motion. Motions should be phrased, for example, as “I move to accept the Administrator’s report.”

A main motion is the primary question or proposal before the Council for discussion and decision, and is always amendable and debatable.

#### **B5.2 Second**

With the exceptions noted in Section B5.4 of this Handbook, a motion by any Councilmember must be seconded prior to any vote thereon. Discussion may follow the second to any motion. Seconds “for discussion purposes only” are unnecessary, since the member seconding a motion is under no obligation to vote in its favor.

A motion that fails to receive a second is known as a “lost motion.” It is not entitled to any discussion or debate. A lost motion may be reintroduced at any time while the relevant agenda item remains under deliberation.

Seconds are not required for nominations, points of order or personal privilege, calls for the order of the day, motions to divide the question or withdraw a motion, or inquiries of any kind.

### **B5.3 Purposes and Precedence of Substantive Motions**

After a main motion has been moved, seconded, and is under discussion or debate, no motion should be entered except one of the six motions discussed below. Those take precedence over the main motion, and over each other, in the following order of precedence.

#### **Call for the Question**

**Purpose.** To prevent or halt discussion on the pending question and bring the question to immediate vote. The question may be called for on a main motion or on an amendment to the main motion. If the motion fails, then discussion resumes.

**Debatable or Amendable.** No.

**Voting.** Requires a second and approval by two-thirds of the members present, often expressed by acclamation.

#### **Motion to Limit or Extend Debate**

**Purpose.** To limit or determine the time that will be devoted to discussion of a pending motion or to extend or remove limitations already imposed on its discussion.

**Debatable or Amendable.** Not debatable; amendments are restricted to the duration of the proposed limit or extension.

**Voting.** Needs a second and majority vote of members present.

#### **Motion to Postpone to a Time Certain**

**Purpose.** To temporarily set aside a pending main motion, provided that it is taken up again for consideration later in the current meeting, at the next regular meeting, or at another specified time. Also referred to as a “motion to table” or a “motion to lay on the table.” When a motion is laid on the table, the record of debate should be preserved.

**Debatable and Amendable.** Yes.

**Voting.** Needs a second and a majority vote of members present.

**Motion to Refer to Committee or Staff**

**Purpose.** To refer the question before the Council to a committee or to City staff for further investigation or additional study of the proposal and future report to the Council. If the motion fails, then discussion or vote on the question resumes.

**Debatable and Amendable.** Yes.

**Voting.** Requires a second and a majority vote of members present.

**Motion to Amend/Substitute**

**Purpose.** To modify or change a motion being considered by the Council so it will express more satisfactorily the will of the members. An amending motion must be related to the main motion and may not completely change its character -- e.g., proposing to change “the City will...” to “the City will not...” is an inappropriate amendment.

To ensure members and the public are aware of the matter being discussed, the Presiding Officer normally should not accept amendments to amendments. Those tend to make an issue so complex as to focus on form rather than substance. The Presiding Officer will attempt to deal informally with amendments to amendments, or will call for the vote on one amendment and then allow another.

Amendments must be disposed of before voting on the main motion. If that motion fails, then discussion or vote on the main motion resumes. If the motion passes, then the main motion is voted on as amended, unless it is further amended.

**Debatable and Amendable.** Yes.

**Voting.** Requires a second and a majority vote of members present.

**Motion to Postpone Indefinitely**

**Purpose.** To prevent further discussion and voting on the main motion.

If the motion fails, then discussion or voting on the main motion resumes. If the motion passes, then the subject of the main motion is suspended and the vote avoided. Introduction of a new motion is then appropriate.

**Debatable or Amendable.** Debatable but not amendable.

**Voting.** Needs a second and a majority vote of members present.

This order of precedence is subject to the following restrictions:

- A motion should not be repeated without intervening business or discussion.
- A motion is not in order when the previous question has been ordered.

- A motion is not in order while a vote is being taken.

#### **B5.4 Motions of Procedure and Convenience**

Certain motions are used to ensure orderly conduct of the meeting and to provide for the convenience of the Councilmembers. Those motions can be made at any time, even if a proposed issue has been moved and is being debated. Disposition of the following motions takes precedence over substantive motions and their subsidiary motions.

Call for the Order of the Day. This is a motion for the Presiding Officer to adhere to the published agenda. It does not require a second, nor is the call debatable or amendable. No vote is required. The Presiding Officer must comply or respond with a motion to suspend the rules.

Motion to Recess. This request permits an interlude in the meeting and sets a definite time for continuing the meeting. Normally such requests are handled informally. However, if the Presiding Officer fails to respond, then a motion may be made. Amendments and debate on the motion are limited to the time and duration of the recess. A second and majority vote of members present are required, but the vote often is expressed by acclamation or general consent.

Motion to Suspend the Rules. This is a call to suspend the rules of the Council. Unless advised by the City Attorney a procedure is required by law, a suspension of rules may be achieved with this motion. The motion is not debatable or amendable, and requires a second and the affirmative vote of two-thirds of the members present.

Motion to Divide the Question. A member may ask any subject made up of several parts be divided into two or more motions so separate votes can be taken on each part. No second is required. This motion is debatable, amendable, and requires approval by a majority of members present.

Motion to Adjourn. This motion is raised to terminate a meeting and may be made by any member, at any time. The motion is amendable and debatable only as to the time of the future meeting. The motion requires a second and a majority vote, although the matter is often decided by the Presiding Officer.

Withdrawing a Motion. Once a motion is made and seconded, it is a matter of record and must be properly disposed of rather than merely superseded by another motion. At any time before the voting, a Councilmember may move to withdraw a motion. No second is required, nor is the motion to withdraw amendable or debatable.

The effect of withdrawal is as if the motion never existed, although debate and comments are preserved in the record. Withdrawal technically requires a majority vote, but if there is no objection, the motion to withdraw is considered approved by acclamation. Introduction of a new motion then is appropriate.

*(Please see Appendix Two.)*

## **B6. VOTING**

### **B6.1 Procedure**

When any motion is in order for the question, a vote thereon is taken and entered in full in the official record. Motions do not require roll call votes unless required by law or requested by a Councilmember. The Council customarily uses an electronic voting procedure which displays the vote of each member after all members vote simultaneously.

It is not in order for Councilmembers to explain their votes during the roll call. Nor is it in order for Council to vote on any matter or action they do not intend to actually take effect or occur -- in other words, "conceptual votes" should be avoided as they are legally questionable and create practical difficulties arising from public confusion regarding the effect of such a vote.

### **B6.2 Adoption**

Unless otherwise required by law, motions are passed by a simple majority of the members present at a properly convened meeting. Two votes are sufficient if only three members are present, except as provided below".

- Adoption of ordinances: three. Cal. Gov. Code §36936.
- Urgency ordinance with immediate effect: four. Cal. Gov. Code §36937(b).
- Urgency interim zoning ordinance ("moratorium"): four. Cal. Gov. Code §65958.
- Ordinance affecting charges for sanitation and sewer services: four. Cal. Health & Safety Code §5471.
- Ordinance to charge fees for improvements or connection to sanitation or sewage facilities: four. Cal. Health & Safety Code §5474.
- Resolutions and orders for the payment of money: three. Cal. Gov. Code §36936.
- Resolution initiating condemnation: four. Cal. Civ. Proc. Code §§1245.220, 1245.240.
- Resolution to perform public project after rejection of bids: four. Cal. Pub. Cont. Code §20167.
- Resolution to immediately expend public funds in case of great public calamity: four. Cal. Pub. Cont. Code §20168.
- Resolution to adopt or amend General Plan: three. Cal. Gov. Code §65356.
- Resolution to adopt or amend Specific Plan: three. Cal. Gov. Code §65453.

- Any ordinance, resolution, or other matter requiring more than a simple majority vote pursuant to state law.

### **B6.3 Supermajority Requirements**

Motions which limit a procedure designed to allow the expression of all points of view or which may affect public access to Council deliberations require a “supermajority” vote. One example is a change in order of the published agenda, which can cause persons relying on the published order to miss the opportunity to observe or speak on the issue prior to Council action.

Supermajority means an affirmative vote of two-thirds of the Councilmembers present. When five members are present, then four must vote in favor of a measure. If four are present, then the votes of three members constitute a supermajority. If only three are present, then two votes operate as a supermajority.

### **B6.4 Abstention**

Every member should vote unless disqualified for cause or conflict of interest. A member who abstains consents a majority of the quorum is acting for him/her. A briefly stated reason for abstention is appropriate and should be noted in the minutes. Self-disqualification which results in a tie vote should be avoided as thwarting Council action, but no member will be forced to vote.

Abstention differs from nonparticipation arising from conflicts of interest. Councilmembers who abstain are counted for purposes of determining a quorum and the abstentions simply are not counted in tallying the votes. See Sections B6.6 and B6.7 of this Handbook.

### **B6.5 Tie Votes**

Tie votes result in lost motions, and the Council’s purported action on the question is a nullity -- the matter is neither approved nor denied. The effect of a tie vote is that no action is taken on the item of business.

The effect of no action depends on the nature of the business being considered. If the item involves appeal of a Planning Commission decision which would otherwise be final absent the appeal, then a tie vote creates “no decision” on the matter since, pursuant to LMC Subsection 17.120.060 F., Planning Commission decisions are “stayed” on appeal. In other situations, tie votes operate to deny the action requested. For example, a rezoning ordinance or a General Plan amendment could not be adopted because those require at least three affirmative votes, regardless of the number of members present.

After the nullity of a tie vote, further motions regarding the item may be entertained by the Council. A majority of the Council could vote on some other motion. If the tie occurs because one member is absent, then the remaining members might vote to bring the item back for action when the fifth member is present, unless there is some legal reason why final action cannot be delayed or that Councilmember has a conflict and cannot participate. The potential danger of a tie vote is a project may be “deemed approved” under the automatic approval provisions of the Permit Streamlining Act or Subdivision Map Act. Cal. Gov. Code §§65920 *et seq.*; 66410 *et seq.*

On the rare occasions when tie votes occur, the City Attorney will advise of their effects and the available options to resolve them.

## **B6.6 Conflicts of Interest**

Conflicts of interest are governed by the Political Reform Act of 1974, as amended (Cal. Gov. Code §§81000-91015, 1090 *et seq.*, 1126 *et seq.*, Cal. Health & Safety Code §33130, and other provisions of applicable law, case law, and common law principles. Cal. Gov. Code §1090 applies to conflicts of interest involving contracts made by the Council. Cal. Gov. Code §1126 pertains to situations of incompatibility when Councilmembers hold offices of other bodies. Cal. Health & Safety Code §33130 applies only to certain situations confronting the Redevelopment Agency.

Under the Political Reform Act, a Councilmember has a conflict of interest when all of the following occur:

- The member makes, participates in, or uses his/her official position to influence a governmental decision;
- It is foreseeable the decision will affect the member's economic interest;
- The effect of the decision on the member's economic interest is material; and
- The effect of the decision on the member's economic interest is distinguishable from its effect on the public generally.

When a Councilmember suspects he/she may have a conflict of interest in an upcoming decision, the City Attorney should be consulted at the earliest possible time and provided with all pertinent facts. The Councilmember may also seek advice from the Fair Political Practices Commission (FPPC). Requests for written advice from the FPPC generally are answered within twenty-one (21) working days, although written or telephone advice may be obtained more quickly in urgent situations.

If the FPPC advises a Councilmember in writing disqualification is unnecessary, and the member has truthfully provided all material facts, then he/she is immunized against any administrative action brought by the FPPC arising from the same conflict of interest charges. Reliance on FPPC written advice also serves as evidence of good faith conduct in any civil or criminal proceeding based on the same charges.

The California courts have held reliance solely upon the City Attorney's opinion does not confer immunity on the Councilmember. Therefore, it is important to raise complex conflict of interest questions early enough to allow time to obtain a written FPPC opinion. Absent a reliable determination that no conflict exists, the City Attorney will advise self-disqualification is the only prudent resolution of the problem.

The following information will assist in contacting the FPPC:

Fair Political Practices Commission  
428 J Street, Suite 800 Sacramento, CA 95814  
866.275.3772  
<http://www.fppc.ca.gov>

## **B6.7 Disqualification Procedure**

A Councilmember who is disqualified by a conflict of interest should step down by briefly announcing the conflict and the reason for it. After that announcement, the member should leave the Chamber or at least leave the dais during consideration of the item of business.

A disqualified member must refrain from any participation in the matter at issue, including attempting to influence the decision by informal conversations or contributing advice or research. A disqualified member who owns a property interest affected by the pending decision may address the Council solely as a private citizen during the public participation portion of the meeting. In a private capacity a member may speak only on his/her own behalf and not as a representative of any other person or entity.

Although there is some disagreement, the FPPC is of the opinion a Councilmember not participating due to a conflict of interest is not counted toward the quorum since making up the quorum can be regarded as participation.

There are certain limited circumstances in which disqualified Councilmembers may participate under the Rule of Necessity which allows participation in the making of a governmental decision to the extent participation is legally required for the action or decision to be made.

Participation is legally required only if there is no alternative source of decision. The member whose participation is legally required may participate in the decision only in an open Council meeting or in closed session where participation by the official is legally essential for City action. The fact a Councilmember's vote is needed to break a tie does not make participation legally required. Cal. Gov. Code §§871200, 87101; 2 C.F.R. §18701(b)(4).

The City Attorney will advise the Council of the proper procedures on the extremely rare occasions a disqualified Councilmember's participation is legally required.

*(Please see Appendix Three.)*

## **B6.8 Change of Vote**

A Councilmember may change his/her vote only if a request to do so is made immediately following the City Clerk's announcement of the vote and prior to the time that the next item in the order of business, a recess, or a break begins. After announcement of the next item, the vote is recorded as cast. A proposal to reconsider the matter requires agenda action at a future meeting. See Section B6.9 of this Handbook.

## **B6.9 Reconsideration**

It is the policy of the Council no decision shall be reconsidered on the same date as originally decided, unless such reconsideration is requested immediately after the original decision is made. That avoids conflict with such rules regarding notices, public hearings, and similar issues and ensures persons who may leave a meeting after an issue is decided will not be denied their rights to attend, observe, or participate in full reconsideration of the issue.

A Councilmember wishing to reopen and revisit Council action on any main motion may request reconsideration of that action in the following manner. Without being agenda action, reconsideration

may be moved by any Councilmember, whether voting with the majority or minority, at the meeting where the decision was taken or at any subsequent meeting.

The member moving for reconsideration should amplify his/her motion as much as possible so the public will be fully aware of the changes being proposed -- i.e., repeal, rescission, cancellation, nullification, or partial alteration of the prior decision. A motion to reconsider requires a second, is debatable but not amendable, and must carry by a majority vote of members present.

If reconsideration is approved, then the matter will be placed on a future agenda. The effect of rescinding or amending a prior action overrules and cancels all or part of the prior decision; however, rescissions and amendments operate prospectively only and not retrospectively to the date of the original action. Rescission and amendments therefore will not adversely affect intervening legal rights arising in the period between approval and rescission/amendment.

## **B7. LEGISLATION AND CONTRACTS**

The City, acting through its Council, is empowered to “make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws” of the United States and California. Legislative acts are effected by ordinance or by resolution. California Constitution, Article XI, Section 7; Cal. Gov. Code §37100.

### **B7.1 Preparation**

Ordinances: Ordinances express a command or prohibition and have the force of law within City limits. An ordinance is the only mechanism by which a city may impose fines or incarceration as penalties for violations. An ordinance is amended or repealed only by adoption of another ordinance.

All ordinances will be prepared or reviewed by the City Attorney and presented to the Council when ordered by the Council, requested by the Mayor or City Administrator, or prepared on the City Attorney’s own initiative.

Resolutions: A resolution expresses Council policy, directs certain administrative or legal actions, and documents significant public Council statements. A resolution is changed or rescinded by subsequent resolution. Resolutions may be prepared for submission by any staff member, although preparation by the City Attorney or City Clerk is preferred. When drafting new resolutions, all staff members are encouraged to provide for rescission of all or portions of existing resolutions being superseded by the proposed resolution.

Contracts: All contracts and other formal agreements will be prepared or approved by the City Attorney and presented to Council when required by law or submitted by the Mayor, City Administrator, or City Attorney.

### **B7.2 Procedure**

Ordinances: Introduction. Ordinances are introduced by motion and Council vote, known as “the first reading” and may be adopted after the expiration of a period of five days. When ordinances (other than urgency ordinances) are altered after introduction, they must be reintroduced and may be passed only at a regular or adjourned regular meeting held at least five days after alteration. Corrections of typographical or clerical errors are not considered alterations. Cal. Gov. Code §36934.

Ordinances: Adoption. Ordinances are adopted by motion and electronic vote at a regular or adjourned regular meeting at least five days after their introduction. (Cal. Gov. Code §36934.) Councilmembers who were absent during the first reading may participate by voting to enact the ordinance. Voting requirements for adoption of various ordinances are discussed in Section B6.2, of this Handbook.

Ordinances: Reading. The Presiding Officer, Clerk, or other person designated by the Council shall read the full text of the ordinance being acted upon by Council unless, by unanimous vote, Council waives such reading and approves introduction or adoption of the measure by title only.

Urgency Ordinances. An urgency ordinance is legislation for the immediate preservation of the public peace, health, or safety of the City. It may be adopted immediately upon introduction at either a regular or special meeting. The ordinance must declare the facts constituting the urgency and be approved by four or more affirmative votes. Cal. Gov. Code §36937(b).

Interim Ordinances. Council may adopt interim ordinances effective for a maximum of two years. Interim ordinances often prohibit uses conflicting with a contemplated zoning proposal under study and consideration. Interim ordinances require at least four affirmative votes and take effect immediately. Cal. Gov. Code §65858.

Resolutions: Reading. Reading of resolutions, either in full or by title only, is not required. Resolutions may be adopted by motion on the date first presented to the Council. In matters of urgency, a resolution may be presented orally in motion form together with instructions for written preparation for later execution by the Mayor.

### **B7.3 Effective Date**

Ordinances generally take effect on the thirty-first day after adoption. However, an ordinance takes effect immediately if it relates to elections, emergencies, street improvement proceedings, or taxes for the usual and current expenses of the City, or if particular provisions of law prescribing the manner of its passage and adoption apply. Cal. Gov. Code §36937.

Resolutions become effective immediately upon adoption or on another date specified by the Council. If the resolution adopts or amends the City's General Plan or a Specific Plan, its effective date is thirty (30) days after Council approval. Resolutions imposing or increasing development fees are effective sixty (60) days after adoption.

## **B8. HEARINGS**

### **B8.1 Application and Definition**

The following procedural rules apply to all hearings before the Council. "Hearing" includes all public hearings required by State law or City ordinance. The most common of those concern zoning and annexation, assessment districts, franchises, employee disciplinary proceedings, and appeals of decisions of subordinate City commissions and boards. Because the Council functions much like a court in finding facts and reaching decisions, hearings are known also as "quasi-judicial" proceedings. However, due process and "quasi-judicial" rules do not apply to hearings for zoning and other legislative matters.

The proceeding commences with the Presiding Officer opening the hearing. That is normally followed by presentation of the staff report, remarks by the applicant or proponent, public comments in support of the proposal, public comments opposing the proposal, rebuttal by the proponent, Council examination of evidence, Council deliberations and findings, motion, roll call vote, and announcement of decision.

## **B8.2 Rights of Interested Persons**

On the date and at the time and place designated in the notice, Council shall afford interested persons and/or their authorized representatives the opportunity to examine and cross examine witnesses and present evidence, statements, arguments, and contentions orally and in writing, subject to the rules stated below.

## **B8.3 Presentation of Evidence**

Oral Evidence: All oral statements which are relevant to the subject matter of the hearing will be considered by the Council. All Handbook rules pertaining to oral communication by members of the public apply during public hearing, except for strict time limits. Oral evidence may be taken on oath or affirmation administered by the City Clerk at the request of any Councilmember, City staff member, or interested party or his/her authorized representative.

Exhibits and Documents: Exhibits and documents used by City staff and any hearing participants will be considered as evidence.

Communications and Petitions: All communications and petitions concerning the subject matter of the hearing will be read aloud by synopsis thereof, provided that a reading in full may be had at the request of any Councilmember. All such communications and petitions may be considered as evidence by the Council.

Staff Reports: Whenever practical, a written staff report will be prepared and read aloud in whole or in part as part of the staff presentation. The report will be considered as evidence.

Visual Aids: Large maps and other visual aids presented for use at the hearing will, when practical, be displayed in full view of the participants and the audience. The maps and visual aids, or authentic reductions thereof, may be considered as evidence.

Admissible Evidence: The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence will be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a decision unless it would be admissible over objection in civil actions. The rules of privilege are effective to the extent they are otherwise required by statute to be recognized at the hearing. Irrelevant and unduly repetitious evidence may be excluded.

## **B8.4 Ex Parte Communications Discouraged**

Council's decisions in quasi-judicial proceedings must be based upon the evidence presented at the hearing and must be consistent with that evidence.

Any evidence acquired outside the hearing, such as by field trips, viewing of the premises, and discussions with individuals, should not be considered by the Council in reaching its decision except when, during the hearing, the meeting is adjourned to a date, place, and time certain for the specific purpose of receiving outside visual or demonstrative evidence. Councilmembers may view the subject premises but should indicate on the record such viewing took place. In addition, with the oral or written consent of all interested persons or their authorized representatives appearing at the hearing, individual members of the Council may receive visual or demonstrative evidence outside the Council Chambers, provided that the main hearing is continued to a date and time certain and, at the beginning of the public hearing reconvened in Chambers, Councilmembers orally report their observations of such outside evidence and are subject to examination thereon by any interested persons or their authorized representatives.

Because due process rights are crucial to a lawful hearing, Councilmembers should not meet or converse with any of the parties before the hearing or outside the proceeding. Meeting with only one party is known as “ex parte” communication and should be scrupulously avoided. Although such meetings must be disclosed for the record, the better practice is to avoid them entirely.

#### **B8.5 Continuance**

Any hearing held, noticed, or ordered to be held by the Council may be continued to any subsequent regular or adjourned meeting of the Council, provided that if the hearing is continued to a time less than twenty-four (24) hours later, a copy of the notice of continuance shall be posted outside the Council Chambers immediately following the meeting at which the continuance was ordered.

#### **B8.6 Decision**

The Council will consider all credible evidence properly presented in accordance with the rules stated herein and, unless otherwise required by law, render a decision or determination on the matter not later than forty (40) days after the close of the hearing. The decision or determination will be made by motion and action taken thereon at a regular or adjourned meeting of the Council. Any Councilmember who was not present during the entire hearing (unless having read or listened to the entire transcript thereof and so stating for the record) or who, in the opinion of the City Attorney or the Fair Political Practices Commission, has a substantial conflict of interest in the matter, must disqualify himself/herself from participating and voting on the matter.

#### **B8.7 Record**

A verbatim audio recording will be made of the oral evidence presented at the hearing. The recording, together with all documents, maps, exhibits, and displays admitted into evidence, will be retained by the City Clerk for two years after the close of the hearing. The recording, any transcript thereof, and the documentary evidence will be available for public inspection in accordance with the Public Records Act. Cal. Gov. Code §§6250-6290.

**PART C**  
**POLICIES**

**C1. Graffiti Abatement**

All state statutes and City ordinances pertaining to the abatement of graffiti will be aggressively enforced within the City of Lompoc.

**C2. Official Statements by Subordinate Bodies**

Boards, commissions, and committees wishing to announce official positions on issues shall first forward the matter to Council, with recommendations. Council then will determine the City's official position. This policy does not apply to matters for which a commission has direct authority as set forth by the City Code or state law.

**C3. Legislative Review**

City staff will review various bills pending before the State and Federal legislatures that may affect City finances, programs, revenues, home rule, municipal affairs, and other local concerns. These bills will be agendized and presented to Council for its consideration of formal support or opposition. If time constraints prevent discussion at a regular meeting, staff will prepare a letter on the issue for the Mayor's signature, consistent with Council policy. If no policy exists, no letter shall be sent.

Legislation at another government level generally will be formally supported or opposed only if the issue directly affects the City of Lompoc, is within Council's jurisdiction, and is consistent with Council policies. Formal support or opposition may be expressed on legislation that may affect City finances, enhance public revenue sources, help regain revenues retained by the State of California, and preserve and enhance local control of municipal affairs.

**C4. Judicial Support**

From time to time the City Attorney is contacted by staff attorneys of the League of California Cities, its Legal Advocacy Committee, other city attorneys, or retained counsel who solicit Lompoc's support in pending litigation. The City is often asked to join other public entities as an *amicus curiae* ("friend of the court") to help persuade an appellate court to decide a pertinent issue in favor of the municipality involved in the case. Helping the courts understand the practical impacts of their decisions is useful since large numbers of cities expressing a certain point of view can be persuasive.

The City Attorney shall consider all requests for joinder and, as deemed appropriate by the City Attorney, submit for Council consideration, with his/her recommendation, those involving issues of particular concern to Lompoc and in which joinder would be in the City's best interests. If time constraints prevent Council consideration prior to joinder deadlines (which are often less than ten days), the City Attorney may, after consultation with the City Administrator and oral approval by the Mayor or Mayor pro tempore, submit the City's name as *amicus curiae*, provided that such joinder is consistent with any existing Council policy on the question at issue and a written report is provided to the Council at its next regular meeting.

## **C5. Fundraising and Donations**

Funds raised over and above City moneys (e.g. from donations, contributions, special project fundraising activities, and grants) by the Lompoc Library, the Lompoc Museum, and their respective boards, foundations, and fundraising agents, should be used to strengthen their respective services. Foundation funds and donations received by the Lompoc Museum and Library therefore will not be used to set off or replace public funds.

The donor of any funds to the City of Lompoc may designate a mandatory or preferred use of the gift by accompanying the donation with a written expression of its required or optional use. If the City is unable to carry out the stated mandatory purpose of a designated gift, then the gift shall be returned to the donor or his or her successors-in-interest. If after good faith attempts the donor or his or her successors-in-interest can not be found, then the City shall treat the donation as unspecified and follow the procedure set forth below.

If donors do not specify suggested or required uses of their gifts, then the City shall place undesignated donations in a Public Safety Fund for expenditures within the police and/or fire budgets to strengthen public safety services in the community. If Council wishes, then public comments may be received prior to its decisions on uses of donations.

Council shall not reduce City funding to any department or service solely because of donations.

## **C6. Redevelopment Loans**

It is the policy of the Lompoc Redevelopment Agency, in order to protect the Agency's interests in the lending of Agency funds, loans shall be subject to all applicable laws, secured by trust deeds and borrower's guaranty, and require a debt coverage ratio of less than 1.15 or loan to value ratio greater than 85 percent. Housing loans shall be subject to recorded affordability covenants. Borrowers' creditworthiness and the value of the pledged security shall be evaluated, and no loan shall be made to any person convicted of a felony in fiduciary matters or who was subject to foreclosure within the seven years preceding the loan.

## **C7. Performance Evaluation of Employees Appointed by Council**

### **C7.1 Introduction**

The City Council is responsible for the hiring, periodic performance evaluation, and retention decisions regarding the City Administrator, and City Attorney. This policy establishes a uniform policy and procedure with respect to the administration of the performance evaluations for these employees.

### **C7.2 Amendments**

The City Council may amend this procedure as required.

### **C7.3 Guidelines**

- a. Goal-setting workshops with each employee shall be conducted by Council in January of each year with regular performance evaluations conducted in closed session in September/October. Additional evaluations may be conducted as needed at the Council's discretion.
- b. Not later than September 15, an e-mail or other communiqué will be sent by the Personnel Department to the Council, advising them of the upcoming performance evaluation of the employees who are the subject of these procedures.
- c. On forms acceptable to the Council, each Councilmember should independently assess the current performance of the individual being evaluated.
- d. Prior to communicating with those individuals being evaluated, the Council may meet in a closed session to reconcile any major areas of disagreement. Nothing contained in this policy requires a Councilmember to change any opinions expressed on the evaluation forms.
- e. The Council will meet with each employee covered under this policy and provide feedback on the incumbent's performance.
- f. Completed forms will be signed by individual Councilmembers and presented to the employee.
- g. Employees receiving these evaluations will sign each form acknowledging receipt of the performance review.
- h. A copy of the completed documents will be placed in each employee's personnel file.

### **C8. Composition of Board of Library Trustees**

Trustees will be appointed by the Mayor with the consent of the City Council. All five trustees shall reside in the service area of the Lompoc Library. Three trustees shall reside within the City of Lompoc; one trustee shall reside in Vandenberg Village; and one trustee shall reside in Buellton. In the event there are no applicants from Vandenberg Village and/or Buellton, the remaining trustees shall reside within the City of Lompoc.

### **C9. Statements of Economic Interests**

Councilmembers and City officials who are required to file Statements of Economic Interests with one or more entities other than the City of Lompoc shall promptly notify the City Clerk of the existence of those filings and provide copies of such filings. The City Clerk shall compile and maintain a list of all jurisdictions in which Councilmembers and officials have filed such Statements.

### **C10. Minutes of Council Meetings**

The minutes of Council meetings should consist of clear and concise statements of every Council action, including the principal points of debate, the motions made, and the votes thereon. Minutes are intended to be a synopsis of the meeting rather than a transcript. A permanent record of reasons for making a motion or for voting, seconds, lengthy Council debate, and audience reaction generally is

unnecessary, although such information may be included in the minutes if particularly relevant or otherwise necessary. Webcasts of each Council meeting contain the verbatim record and shall be maintained in perpetuity. Every Councilmember has the right to have his/her verbatim statements entered in the minutes; this right is exercised by specific direction to the City Clerk at the Council meeting.

The City Clerk is exclusively responsible for preparation of the minutes. Minor and administrative corrections, such as grammatical or typographical errors, do not require Council action; members are encouraged to informally bring these matters to the Clerk's attention prior to meetings so as to avoid the necessity of removal of minutes from the Consent Calendar.

Substantive changes in the minutes will be made only by Council action. Substantive changes brought to the Clerk's attention outside the Council meeting should be included in revised minutes, highlighting the change(s), and distributed to Councilmembers prior to minutes approval on the Consent Calendar. If time does not permit the distribution of revised minutes, the City Clerk shall announce the revisions prior to Council's approval of the minutes.

#### **C11. Invocations**

The courts have concluded sectarian prayer as part of City Council meetings is not permitted under the Constitution. To meet that legal requirement, the City Council will allow, on a rotating basis, one person to provide an invocation consisting of non-sectarian prayer or inspiring words at the beginning of each Council meeting. Any person providing that invocation will be expected to follow the above legal requirements. If someone does not follow those requirements, then that person shall be removed from that rotation list. During the public comment period of any regular Council meeting, the City Council will not impinge on any person's Constitutional right to provide prayers or other inspiring words they choose about matters of public interest which are within the City Council's jurisdiction.

#### **C12. Establishment of Committees**

Whenever a new committee is established by the City Council, the City Attorney shall determine whether such committee is subject to the provisions of the Brown Act. If such committee is determined to be subject to the Brown Act, the Committee Chair shall provide each new member of the committee with a copy of the Brown Act and admonish such member to abide by the requirements therein.

#### **C13. Reporting on Meetings with City Staff and Public**

Councilmembers are required by law to report on any meeting attended where City funds were used. In addition, all Councilmembers shall make a report of any meeting attended where the Councilmember represented the City and voted on an action concerning the City's interests. Councilmembers shall also make a report of any meeting held with both City staff and the public.

#### **C14. Representing City**

A Councilmember should always remember he/she will be perceived as representing the City at any event, whether or not the City is involved or the Councilmember's participation is paid by the City. Therefore, each Councilmember should ensure the City will not be seen in a disparaging light by that Councilmember's actions or words. In addition, each Councilmember should fairly present the City

Council's collective decision on matters within the City Council's jurisdiction, while also retaining the right to express that Councilmember's differing point of view.

## **APPENDIX ONE**

# **THE BROWN ACT**

## **California Government Code §54950 *et seq.***

### **§ 54950. Declaration, intent; sovereignty**

In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.

The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

### **§ 54950.5. Short title**

This chapter shall be known as the Ralph M. Brown Act.

### **§ 54951. Local agency**

As used in this chapter, "local agency" means a county, city, whether general law or chartered, city and county, town, school district, municipal corporation, district, political subdivision, or any board, commission or agency thereof, or other local public agency.

### **§ 54952. Legislative body, definition**

As used in this chapter, "legislative body" means:

- (a) The governing body of a local agency or any other local body created by state or federal statute.
- (b) A commission, committee, board, or other body of a local agency, whether permanent or temporary, decisionmaking or advisory, created by charter, ordinance, resolution, or formal action of a legislative body. However, advisory committees, composed solely of the members of the legislative body that are less than a quorum of the legislative body are not legislative bodies, except that standing committees of a legislative body, irrespective of their composition, which have a continuing subject matter jurisdiction, or a meeting schedule fixed by charter, ordinance, resolution, or formal action of a legislative body are legislative bodies for purposes of this chapter.
- (c)(1) A board, commission, committee, or other multimember body that governs a private corporation, limited liability company, or other entity that either:
  - (A) Is created by the elected legislative body in order to exercise authority that may lawfully be delegated by the elected governing body to a private corporation, limited liability company, or other entity.
  - (B) Receives funds from a local agency and the membership of whose governing body includes a member of the legislative body of the local agency appointed to that governing body as a full voting member by the legislative body of the local agency.
- (2) Notwithstanding subparagraph (B) of paragraph (1), no board, commission, committee, or other multimember body that governs a private corporation, limited liability company, or other entity that receives funds from a local agency and, as of February 9, 1996, has a member of the legislative body of the local agency as a full voting

member of the governing body of that private corporation, limited liability company, or other entity shall be relieved from the public meeting requirements of this chapter by virtue of a change in status of the full voting member to a nonvoting member.

(d) The lessee of any hospital the whole or part of which is first leased pursuant to [subdivision \(p\) of Section 32121 of the Health and Safety Code](#) after January 1, 1994, where the lessee exercises any material authority of a legislative body of a local agency delegated to it by that legislative body whether the lessee is organized and operated by the local agency or by a delegated authority.

#### **§ 54952.1. Member of a legislative body of a local agency; conduct**

Any person elected to serve as a member of a legislative body who has not yet assumed the duties of office shall conform his or her conduct to the requirements of this chapter and shall be treated for purposes of enforcement of this chapter as if he or she has already assumed office.

#### **§ 54952.2. Meeting; prohibited communications; exclusions from chapter**

(a) As used in this chapter, “meeting” means any congregation of a majority of the members of a legislative body at the same time and location, including teleconference location as permitted by [Section 54953](#), to hear, discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the legislative body.

(b)(1) A majority of the members of a legislative body shall not, outside a meeting authorized by this chapter, use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the legislative body.

(2) Paragraph (1) shall not be construed as preventing an employee or official of a local agency, from engaging in separate conversations or communications outside of a meeting authorized by this chapter with members of a legislative body in order to answer questions or provide information regarding a matter that is within the subject matter jurisdiction of the local agency, if that person does not communicate to members of the legislative body the comments or position of any other member or members of the legislative body.

(c) Nothing in this section shall impose the requirements of this chapter upon any of the following:

(1) Individual contacts or conversations between a member of a legislative body and any other person that do not violate subdivision (b).

(2) The attendance of a majority of the members of a legislative body at a conference or similar gathering open to the public that involves a discussion of issues of general interest to the public or to public agencies of the type represented by the legislative body, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specified nature that is within the subject matter jurisdiction of the local agency. Nothing in this paragraph is intended to allow members of the public free admission to a conference or similar gathering at which the organizers have required other participants or registrants to pay fees or charges as a condition of attendance.

(3) The attendance of a majority of the members of a legislative body at an open and publicized meeting organized to address a topic of local community concern by a person or organization other than the local agency, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency.

(4) The attendance of a majority of the members of a legislative body at an open and noticed meeting of another body of the local agency, or at an open and noticed meeting of a legislative body of another local agency,

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

(5) The attendance of a majority of the members of a legislative body at a purely social or ceremonial occasion, provided that a majority of the members do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency.

(6) The attendance of a majority of the members of a legislative body at an open and noticed meeting of a standing committee of that body, provided that the members of the legislative body who are not members of the standing committee attend only as observers.

#### **§ 54952.6. Action taken**

As used in this chapter, “action taken” means a collective decision made by a majority of the members of a legislative body, a collective commitment or promise by a majority of the members of a legislative body to make a positive or a negative decision, or an actual vote by a majority of the members of a legislative body when sitting as a body or entity, upon a motion, proposal, resolution, order or ordinance.

#### **§ 54952.7. Copies of chapter to members of legislative body of local agencies**

A legislative body of a local agency may require that a copy of this chapter be given to each member of the legislative body and any person elected to serve as a member of the legislative body who has not assumed the duties of office. An elected legislative body of a local agency may require that a copy of this chapter be given to each member of each legislative body all or a majority of whose members are appointed by or under the authority of the elected legislative body.

#### **§ 54953. Meetings to be open and public; attendance**

(a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b)(1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to [Section 54954.3](#) at each teleconference location.

(4) For the purposes of this section, “teleconference” means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) No legislative body shall take action by secret ballot, whether preliminary or final.

(d)(1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), when a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and that number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to [Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code](#), any joint powers authority created pursuant to Article 1 (commencing with [Section 6500](#)) of Chapter 5 of Division 7 for the purpose of contracting pursuant to [Section 14087.3 of the Welfare and Institutions Code](#), and any advisory committee to a county sponsored health plan licensed pursuant to Chapter 2.2 (commencing with [Section 1340](#)) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(4) This subdivision shall remain in effect only until January 1, 2009.

#### **§ 54953.1. Testimony of members before grand jury**

The provisions of this chapter shall not be construed to prohibit the members of the legislative body of a local agency from giving testimony in private before a grand jury, either as individuals or as a body.

#### **§ 54953.2. Legislative body meetings to meet protections and prohibitions of the Americans with Disabilities Act**

All meetings of a legislative body of a local agency that are open and public shall meet the protections and prohibitions contained in Section 202 of the Americans with Disabilities Act of 1990 ([42 U.S.C. Sec. 12132](#)), and the federal rules and regulations adopted in implementation thereof.

#### **§ 54953.3. Conditions to attendance**

A member of the public shall not be required, as a condition to attendance at a meeting of a legislative body of a local agency, to register his or her name, to provide other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to his or her attendance.

If an attendance list, register, questionnaire, or other similar document is posted at or near the entrance to the room where the meeting is to be held, or is circulated to the persons present during the meeting, it shall state clearly that the signing, registering, or completion of the document is voluntary, and that all persons may attend the meeting regardless of whether a person signs, registers, or completes the document.

**§ 54953.5. Right to record proceedings; conditions; audio or video recordings made by or under direction of local agencies**

(a) Any person attending an open and public meeting of a legislative body of a local agency shall have the right to record the proceedings with an audio or video recorder or a still or motion picture camera in the absence of a reasonable finding by the legislative body of the local agency that the recording cannot continue without noise, illumination, or obstruction of view that constitutes, or would constitute, a persistent disruption of the proceedings.

(b) Any audio or video recording of an open and public meeting made for whatever purpose by or at the direction of the local agency shall be subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with [Section 6250](#)) of Division 7 of Title 1), but, notwithstanding [Section 34090](#), may be erased or destroyed 30 days after the recording. Any inspection of an audio or video recording shall be provided without charge on equipment made available by the local agency.

**§ 54953.6. Prohibitions or restrictions on broadcasts of proceedings of legislative body; reasonable findings**

No legislative body of a local agency shall prohibit or otherwise restrict the broadcast of its open and public meetings in the absence of a reasonable finding that the broadcast cannot be accomplished without noise, illumination, or obstruction of view that would constitute a persistent disruption of the proceedings.

**§ 54953.7. Allowance of greater access to meetings than minimal standards in this chapter**

Notwithstanding any other provision of law, legislative bodies of local agencies may impose requirements upon themselves which allow greater access to their meetings than prescribed by the minimal standards set forth in this chapter. In addition thereto, an elected legislative body of a local agency may impose such requirements on those appointed legislative bodies of the local agency of which all or a majority of the members are appointed by or under the authority of the elected legislative body.

**§ 54954. Time and place of regular meetings; special meetings; emergencies**

(a) Each legislative body of a local agency, except for advisory committees or standing committees, shall provide, by ordinance, resolution, bylaws, or by whatever other rule is required for the conduct of business by that body, the time and place for holding regular meetings. Meetings of advisory committees or standing committees, for which an agenda is posted at least 72 hours in advance of the meeting pursuant to [subdivision \(a\) of Section 54954.2](#), shall be considered for purposes of this chapter as regular meetings of the legislative body.

(b) Regular and special meetings of the legislative body shall be held within the boundaries of the territory over which the local agency exercises jurisdiction, except to do any of the following:

(1) Comply with state or federal law or court order, or attend a judicial or administrative proceeding to which the local agency is a party.

(2) Inspect real or personal property which cannot be conveniently brought within the boundaries of the territory over which the local agency exercises jurisdiction provided that the topic of the meeting is limited to items directly related to the real or personal property.

(3) Participate in meetings or discussions of multiagency significance that are outside the boundaries of a local agency's jurisdiction. However, any meeting or discussion held pursuant to this subdivision shall take place within the jurisdiction of one of the participating local agencies and be noticed by all participating agencies as provided for in this chapter.

(4) Meet in the closest meeting facility if the local agency has no meeting facility within the boundaries of the territory over which the local agency exercises jurisdiction, or at the principal office of the local agency if that office is located outside the territory over which the agency exercises jurisdiction.

(5) Meet outside their immediate jurisdiction with elected or appointed officials of the United States or the State of California when a local meeting would be impractical, solely to discuss a legislative or regulatory issue affecting the local agency and over which the federal or state officials have jurisdiction.

(6) Meet outside their immediate jurisdiction if the meeting takes place in or nearby a facility owned by the agency, provided that the topic of the meeting is limited to items directly related to the facility.

(7) Visit the office of the local agency's legal counsel for a closed session on pending litigation held pursuant to [Section 54956.9](#), when to do so would reduce legal fees or costs.

(c) Meetings of the governing board of a school district shall be held within the district, except under the circumstances enumerated in subdivision (b), or to do any of the following:

(1) Attend a conference on nonadversarial collective bargaining techniques.

(2) Interview members of the public residing in another district with reference to the trustees' potential employment of an applicant for the position of the superintendent of the district.

(3) Interview a potential employee from another district.

(d) Meetings of a joint powers authority shall occur within the territory of at least one of its member agencies, or as provided in subdivision (b). However, a joint powers authority which has members throughout the state may meet at any facility in the state which complies with the requirements of [Section 54961](#).

(e) If, by reason of fire, flood, earthquake, or other emergency, it shall be unsafe to meet in the place designated, the meetings shall be held for the duration of the emergency at the place designated by the presiding officer of the legislative body or his or her designee in a notice to the local media that have requested notice pursuant to [Section 54956](#), by the most rapid means of communication available at the time.

#### **§ 54954.1. Mailed notice to persons who filed written request; time; duration and renewal of requests; fee**

Any person may request that a copy of the agenda, or a copy of all the documents constituting the agenda packet, of any meeting of a legislative body be mailed to that person. If requested, the agenda and documents in the agenda packet shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 ([42 U.S.C. Sec. 12132](#)), and the federal rules and regulations adopted in implementation thereof. Upon receipt of the written request, the legislative body or its designee shall cause the requested materials to be mailed at the time the agenda is posted pursuant to [Section 54954.2](#) and [54956](#) or upon distribution to all, or a majority of all, of the members of a legislative body, whichever occurs first. Any request for mailed copies of agendas or agenda packets shall be valid for the calendar year in which it is filed, and must be renewed following January 1 of each year. The legislative body may establish a fee for mailing the agenda or agenda packet, which fee shall not exceed the cost of providing the service. Failure of the requesting person to receive the agenda or agenda packet pursuant to this section shall not constitute grounds for invalidation of the actions of the legislative body taken at the meeting for which the agenda or agenda packet was not received.

#### **§ 54954.2. Agenda; posting; action on other matters**

(a)(1) At least 72 hours before a regular meeting, the legislative body of the local agency, or its designee, shall

post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. A brief general description of an item generally need not exceed 20 words. The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 ([42 U.S.C. Sec. 12132](#)), and the federal rules and regulations adopted in implementation thereof. The agenda shall include information regarding how, to whom, and when a request for disability related modification or accommodation, including auxiliary aids or services may be made by a person with a disability who requires a modification or accommodation in order to participate in the public meeting.

(2) No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a legislative body or its staff may briefly respond to statements made or questions posed by persons exercising their public testimony rights under [Section 54954.3](#). In addition, on their own initiative or in response to questions posed by the public, a member of a legislative body or its staff may ask a question for clarification, make a brief announcement, or make a brief report on his or her own activities. Furthermore, a member of a legislative body, or the body itself, subject to rules or procedures of the legislative body, may provide a reference to staff or other resources for factual information, request staff to report back to the body at a subsequent meeting concerning any matter, or take action to direct staff to place a matter of business on a future agenda.

(b) Notwithstanding subdivision (a), the legislative body may take action on items of business not appearing on the posted agenda under any of the conditions stated below. Prior to discussing any item pursuant to this subdivision, the legislative body shall publicly identify the item.

(1) Upon a determination by a majority vote of the legislative body that an emergency situation exists, as defined in [Section 54956.5](#).

(2) Upon a determination by a two-thirds vote of the members of the legislative body present at the meeting, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there is a need to take immediate action and that the need for action came to the attention of the local agency subsequent to the agenda being posted as specified in subdivision (a).

(3) The item was posted pursuant to subdivision (a) for a prior meeting of the legislative body occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.

(c) This section is necessary to implement and reasonably within the scope of paragraph (1) of [subdivision \(b\) of Section 3 of Article I of the California Constitution](#).

### **§ 54954.3. Opportunity for public to address legislative body; adoption of regulations; public criticism of policies**

(a) Every agenda for regular meetings shall provide an opportunity for members of the public to directly address the legislative body on any item of interest to the public, before or during the legislative body's consideration of the item, that is within the subject matter jurisdiction of the legislative body, provided that no action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by [subdivision \(b\) of Section 54954.2](#). However, the agenda need not provide an opportunity for members of the public to address the legislative body on any item that has already been considered by a committee, composed exclusively of members of the legislative body, at a public meeting wherein all interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the legislative body. Every notice for a special meeting shall provide an opportunity for members of the public to directly address the legislative body concerning any item that has been described in the notice for the meeting before or during consideration of that item.

(b) The legislative body of a local agency may adopt reasonable regulations to ensure that the intent of subdivision (a) is carried out, including, but not limited to, regulations limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker.

(c) The legislative body of a local agency shall not prohibit public criticism of the policies, procedures, programs, or services of the agency, or of the acts or omissions of the legislative body. Nothing in this subdivision shall confer any privilege or protection for expression beyond that otherwise provided by law.

#### **§ 54954.4. Reimbursements to local agencies and school districts for costs**

(a) The Legislature hereby finds and declares that Section 12 of Chapter 641 of the Statutes of 1986, authorizing reimbursement to local agencies and school districts for costs mandated by the state pursuant to that act, shall be interpreted strictly. The intent of the Legislature is to provide reimbursement for only those costs which are clearly and unequivocally incurred as the direct and necessary result of compliance with Chapter 641 of the Statutes of 1986.

(b) In this regard, the Legislature directs all state employees and officials involved in reviewing or authorizing claims for reimbursement, or otherwise participating in the reimbursement process, to rigorously review each claim and authorize only those claims, or parts thereof, which represent costs which are clearly and unequivocally incurred as the direct and necessary result of compliance with Chapter 641 of the Statutes of 1986 and for which complete documentation exists. For purposes of [Section 54954.2](#), costs eligible for reimbursement shall only include the actual cost to post a single agenda for any one meeting.

(c) The Legislature hereby finds and declares that complete, faithful, and uninterrupted compliance with the Ralph M. Brown Act (Chapter 9 (commencing with [Section 54950](#)) of [Part 1 of Division 2 of Title 5 of the Government Code](#)) is a matter of overriding public importance. Unless specifically stated, no future Budget Act, or related budget enactments, shall, in any manner, be interpreted to suspend, eliminate, or otherwise modify the legal obligation and duty of local agencies to fully comply with Chapter 641 of the Statutes of 1986 in a complete, faithful, and uninterrupted manner.

#### **§ 54954.5. Closed session item descriptions**

For purposes of describing closed session items pursuant to [Section 54954.2](#), the agenda may describe closed sessions as provided below. No legislative body or elected official shall be in violation of [Section 54954.2](#) or [54956](#) if the closed session items were described in substantial compliance with this section. Substantial compliance is satisfied by including the information provided below, irrespective of its format.

(a) With respect to a closed session held pursuant to [Section 54956.7](#):

##### **LICENSE/PERMIT DETERMINATION**

Applicant(s): (Specify number of applicants)

(b) With respect to every item of business to be discussed in closed session pursuant to [Section 54956.8](#):

##### **CONFERENCE WITH REAL PROPERTY NEGOTIATORS**

Property: (Specify street address, or if no street address, the parcel number or other unique reference, of the real property under negotiation)

Agency negotiator: (Specify names of negotiators attending the closed session)(If circumstances necessitate the

absence of a specified negotiator, an agent or designee may participate in place of the absent negotiator so long as the name of the agent or designee is announced at an open session held prior to the closed session.)

Negotiating parties: (Specify name of party (not agent))

Under negotiation: (Specify whether instruction to negotiator will concern price, terms of payment, or both)

(c) With respect to every item of business to be discussed in closed session pursuant to [Section 54956.9](#):

#### CONFERENCE WITH LEGAL COUNSEL--EXISTING LITIGATION

([Subdivision \(a\) of Section 54956.9](#))

Name of case: (Specify by reference to claimant's name, names of parties, case or claim numbers)

or

Case name unspecified: (Specify whether disclosure would jeopardize service of process or existing settlement negotiations)

#### CONFERENCE WITH LEGAL COUNSEL--ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to [subdivision \(b\) of Section 54956.9](#): (Specify number of potential cases)

(In addition to the information noticed above, the agency may be required to provide additional information on the agenda or in an oral statement prior to the closed session pursuant to [subparagraphs \(B\) to \(E\), inclusive, of paragraph \(3\) of subdivision \(b\) of Section 54956.9](#).)

Initiation of litigation pursuant to [subdivision \(c\) of Section 54956.9](#): (Specify number of potential cases)

(d) With respect to every item of business to be discussed in closed session pursuant to [Section 54956.95](#):

#### LIABILITY CLAIMS

Claimant: (Specify name unless unspecified pursuant to [Section 54961](#))

Agency claimed against: (Specify name)

(e) With respect to every item of business to be discussed in closed session pursuant to [Section 54957](#):

#### THREAT TO PUBLIC SERVICES OR FACILITIES

Consultation with: (Specify name of law enforcement agency and title of officer, or name of applicable agency representative and title)

#### PUBLIC EMPLOYEE APPOINTMENT

Title: (Specify description of position to be filled)

## PUBLIC EMPLOYMENT

Title: (Specify description of position to be filled)

## PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Title: (Specify position title of employee being reviewed)

## PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE

(No additional information is required in connection with a closed session to consider discipline, dismissal, or release of a public employee. Discipline includes potential reduction of compensation.)

(f) With respect to every item of business to be discussed in closed session pursuant to [Section 54957.6](#):

## CONFERENCE WITH LABOR NEGOTIATORS

Agency designated representatives: (Specify names of designated representatives attending the closed session)(If circumstances necessitate the absence of a specified designated representative, an agent or designee may participate in place of the absent representative so long as the name of the agent or designee is announced at an open session held prior to the closed session.)

Employee organization: (Specify name of organization representing employee or employees in question)

or

Unrepresented employee: (Specify position title of unrepresented employee who is the subject of the negotiations)

(g) With respect to closed sessions called pursuant to [Section 54957.8](#):

## CASE REVIEW/PLANNING

(No additional information is required in connection with a closed session to consider case review or planning.)

(h) With respect to every item of business to be discussed in closed session pursuant to [Sections 1461](#), [32106](#), and [32155 of the Health and Safety Code](#) or [Sections 37606](#) and [37624.3 of the Government Code](#):

## REPORT INVOLVING TRADE SECRET

Discussion will concern: (Specify whether discussion will concern proposed new service, program, or facility)

Estimated date of public disclosure: (Specify month and year)

## HEARINGS

Subject matter: (Specify whether testimony/deliberation will concern staff privileges, report of medical audit committee, or report of quality assurance committee)

(i) With respect to every item of business to be discussed in closed session pursuant to [Section 54956.86](#):

## CHARGE OR COMPLAINT INVOLVING INFORMATION PROTECTED BY FEDERAL LAW

(No additional information is required in connection with a closed session to discuss a charge or complaint pursuant to [Section 54956.86](#).)

(j) With respect to every item of business to be discussed in closed session pursuant to [Section 54956.96](#):

CONFERENCE INVOLVING A JOINT POWERS AGENCY (Specify by name)

Discussion will concern: (Specify closed session description used by the joint powers agency)

Name of local agency representative on joint powers agency board: (Specify name)

(Additional information listing the names of agencies or titles of representatives attending the closed session as consultants or other representatives.)

(k) With respect to every item of business to be discussed in closed session pursuant to [Section 54956.75](#):

## AUDIT BY BUREAU OF STATE AUDITS

### **§ 54954.6. New or increased taxes or assessments; public meetings and public hearings; joint notice requirements**

(a)(1) Before adopting any new or increased general tax or any new or increased assessment, the legislative body of a local agency shall conduct at least one public meeting at which local officials shall allow public testimony regarding the proposed new or increased general tax or new or increased assessment in addition to the noticed public hearing at which the legislative body proposes to enact or increase the general tax or assessment.

For purposes of this section, the term “new or increased assessment” does not include any of the following:

(A) A fee that does not exceed the reasonable cost of providing the services, facilities, or regulatory activity for which the fee is charged.

(B) A service charge, rate, or charge, unless a special district's principal act requires the service charge, rate, or charge to conform to the requirements of this section.

(C) An ongoing annual assessment if it is imposed at the same or lower amount as any previous year.

(D) An assessment that does not exceed an assessment formula or range of assessments previously specified in the notice given to the public pursuant to subparagraph (G) of paragraph (2) of subdivision (c) and that was previously adopted by the agency or approved by the voters in the area where the assessment is imposed.

(E) Standby or immediate availability charges.

(2) The legislative body shall provide at least 45 days' public notice of the public hearing at which the legislative body proposes to enact or increase the general tax or assessment. The legislative body shall provide notice for the public meeting at the same time and in the same document as the notice for the public hearing, but the meeting shall occur prior to the hearing.

(b)(1) The joint notice of both the public meeting and the public hearing required by subdivision (a) with respect to a proposal for a new or increased general tax shall be accomplished by placing a display advertisement of at

least one-eighth page in a newspaper of general circulation for three weeks pursuant to [Section 6063](#) and by a first-class mailing to those interested parties who have filed a written request with the local agency for mailed notice of public meetings or hearings on new or increased general taxes. The public meeting pursuant to subdivision (a) shall take place no earlier than 10 days after the first publication of the joint notice pursuant to this subdivision. The public hearing shall take place no earlier than seven days after the public meeting pursuant to this subdivision. Notwithstanding paragraph (2) of subdivision (a), the joint notice need not include notice of the public meeting after the meeting has taken place. The public hearing pursuant to subdivision (a) shall take place no earlier than 45 days after the first publication of the joint notice pursuant to this subdivision. Any written request for mailed notices shall be effective for one year from the date on which it is filed unless a renewal request is filed. Renewal requests for mailed notices shall be filed on or before April 1 of each year. The legislative body may establish a reasonable annual charge for sending notices based on the estimated cost of providing the service.

(2) The notice required by paragraph (1) of this subdivision shall include, but not be limited to, the following:

(A) The amount or rate of the tax. If the tax is proposed to be increased from any previous year, the joint notice shall separately state both the existing tax rate and the proposed tax rate increase.

(B) The activity to be taxed.

(C) The estimated amount of revenue to be raised by the tax annually.

(D) The method and frequency for collecting the tax.

(E) The dates, times, and locations of the public meeting and hearing described in subdivision (a).

(F) The phone number and address of an individual, office, or organization that interested persons may contact to receive additional information about the tax.

(c)(1) The joint notice of both the public meeting and the public hearing required by subdivision (a) with respect to a proposal for a new or increased assessment on real property shall be accomplished through a mailing, postage prepaid, in the United States mail and shall be deemed given when so deposited. The public meeting pursuant to subdivision (a) shall take place no earlier than 10 days after the joint mailing pursuant to this subdivision. The public hearing shall take place no earlier than seven days after the public meeting pursuant to this subdivision. The envelope or the cover of the mailing shall include the name of the local agency and the return address of the sender. This mailed notice shall be in at least 10-point type and shall be given to all property owners proposed to be subject to the new or increased assessment by a mailing by name to those persons whose names and addresses appear on the last equalized county assessment roll or the State Board of Equalization assessment roll, as the case may be.

(2) The joint notice required by paragraph (1) of this subdivision shall include, but not be limited to, the following:

(A) The estimated amount of the assessment per parcel. If the assessment is proposed to be increased from any previous year, the joint notice shall separately state both the amount of the existing assessment and the proposed assessment increase.

(B) A general description of the purpose or improvements that the assessment will fund.

(C) The address to which property owners may mail a protest against the assessment.

(D) The phone number and address of an individual, office, or organization that interested persons may contact to receive additional information about the assessment.

(E) A statement that a majority protest will cause the assessment to be abandoned if the assessment act used to levy the assessment so provides. Notice shall also state the percentage of protests required to trigger an election, if applicable.

(F) The dates, times, and locations of the public meeting and hearing described in subdivision (a).

(G) A proposed assessment formula or range as described in subparagraph (D) of paragraph (1) of subdivision (a) if applicable and that is noticed pursuant to this section.

(3) Notwithstanding paragraph (1), in the case of an assessment that is proposed exclusively for operation and maintenance expenses imposed throughout the entire local agency, or exclusively for operation and maintenance assessments proposed to be levied on 50,000 parcels or more, notice may be provided pursuant to this subdivision or pursuant to paragraph (1) of subdivision (b) and shall include the estimated amount of the assessment of various types, amounts, or uses of property and the information required by subparagraphs (B) to (G), inclusive, of paragraph (2) of subdivision (c).

(4) Notwithstanding paragraph (1), in the case of an assessment proposed to be levied pursuant to Part 2 (commencing with [Section 22500](#)) of [Division 2 of the Streets and Highways Code](#) by a regional park district, regional park and open-space district, or regional open-space district formed pursuant to Article 3 (commencing with [Section 5500](#)) of Chapter 3 of Division 5 of, or pursuant to Division 26 (commencing with [Section 35100](#)) of, [the Public Resources Code](#), notice may be provided pursuant to paragraph (1) of subdivision (b).

(d) The notice requirements imposed by this section shall be construed as additional to, and not to supersede, existing provisions of law, and shall be applied concurrently with the existing provisions so as to not delay or prolong the governmental decisionmaking process.

(e) This section shall not apply to any new or increased general tax or any new or increased assessment that requires an election of either of the following:

(1) The property owners subject to the assessment.

(2) The voters within the local agency imposing the tax or assessment.

(f) Nothing in this section shall prohibit a local agency from holding a consolidated meeting or hearing at which the legislative body discusses multiple tax or assessment proposals.

(g) The local agency may recover the reasonable costs of public meetings, public hearings, and notice required by this section from the proceeds of the tax or assessment. The costs recovered for these purposes, whether recovered pursuant to this subdivision or any other provision of law, shall not exceed the reasonable costs of the public meetings, public hearings, and notice.

(h) Any new or increased assessment that is subject to the notice and hearing provisions of Article XIII C or XIII D of the California Constitution is not subject to the notice and hearing requirements of this section.

#### **§ 54955. Adjournment; adjourned meetings**

The legislative body of a local agency may adjourn any regular, adjourned regular, special or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time. If all members are absent from any regular or adjourned regular meeting the clerk or secretary of the legislative body may declare the meeting adjourned to a stated time and place and he shall cause a written notice of the adjournment to be given in the same manner as provided in [Section 54956](#) for special meetings, unless such

notice is waived as provided for special meetings. A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the regular, adjourned regular, special or adjourned special meeting was held within 24 hours after the time of the adjournment. When a regular or adjourned regular meeting is adjourned as provided in this section, the resulting adjourned regular meeting is a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings by ordinance, resolution, by law, or other rule.

#### **§ 54955.1. Continuance**

Any hearing being held, or noticed or ordered to be held, by a legislative body of a local agency at any meeting may by order or notice of continuance be continued or recontinued to any subsequent meeting of the legislative body in the same manner and to the same extent set forth in [Section 54955](#) for the adjournment of meetings; provided, that if the hearing is continued to a time less than 24 hours after the time specified in the order or notice of hearing, a copy of the order or notice of continuance of hearing shall be posted immediately following the meeting at which the order or declaration of continuance was adopted or made.

#### **§ 54956. Special meetings; call; notice**

A special meeting may be called at any time by the presiding officer of the legislative body of a local agency, or by a majority of the members of the legislative body, by delivering written notice to each member of the legislative body and to each local newspaper of general circulation and radio or television station requesting notice in writing. The notice shall be delivered personally or by any other means and shall be received at least 24 hours before the time of the meeting as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted or discussed. No other business shall be considered at these meetings by the legislative body. The written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the clerk or secretary of the legislative body a written waiver of notice. The waiver may be given by telegram. The written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes.

The call and notice shall be posted at least 24 hours prior to the special meeting in a location that is freely accessible to members of the public.

#### **§ 54956.5. Emergency meetings in emergency situations**

(a) For purposes of this section, “emergency situation” means both of the following:

(1) An emergency, which shall be defined as a work stoppage, crippling activity, or other activity that severely impairs public health, safety, or both, as determined by a majority of the members of the legislative body.

(2) A dire emergency, which shall be defined as a crippling disaster, mass destruction, terrorist act, or threatened terrorist activity that poses peril so immediate and significant that requiring a legislative body to provide one-hour notice before holding an emergency meeting under this section may endanger the public health, safety, or both, as determined by a majority of the members of the legislative body.

(b)(1) Subject to paragraph (2), in the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities, a legislative body may hold an emergency meeting without complying with either the 24-hour notice requirement or the 24-hour posting requirement of [Section 54956](#) or both of the notice and posting requirements.

(2) Each local newspaper of general circulation and radio or television station that has requested notice of special meetings pursuant to [Section 54956](#) shall be notified by the presiding officer of the legislative body, or designee thereof, one hour prior to the emergency meeting, or, in the case of a dire emergency, at or near the time that the

presiding officer or designee notifies the members of the legislative body of the emergency meeting. This notice shall be given by telephone and all telephone numbers provided in the most recent request of a newspaper or station for notification of special meetings shall be exhausted. In the event that telephone services are not functioning, the notice requirements of this section shall be deemed waived, and the legislative body, or designee of the legislative body, shall notify those newspapers, radio stations, or television stations of the fact of the holding of the emergency meeting, the purpose of the meeting, and any action taken at the meeting as soon after the meeting as possible.

(c) During a meeting held pursuant to this section, the legislative body may meet in closed session pursuant to [Section 54957](#) if agreed to by a two-thirds vote of the members of the legislative body present, or, if less than two-thirds of the members are present, by a unanimous vote of the members present.

(d) All special meeting requirements, as prescribed in [Section 54956](#) shall be applicable to a meeting called pursuant to this section, with the exception of the 24-hour notice requirement.

(e) The minutes of a meeting called pursuant to this section, a list of persons who the presiding officer of the legislative body, or designee of the legislative body, notified or attempted to notify, a copy of the rollcall vote, and any actions taken at the meeting shall be posted for a minimum of 10 days in a public place as soon after the meeting as possible.

#### **§ 54956.6. Fees**

No fees may be charged by the legislative body of a local agency for carrying out any provision of this chapter, except as specifically authorized by this chapter.

#### **§ 54956.7. Closed sessions, license applications; rehabilitated criminals**

Whenever a legislative body of a local agency determines that it is necessary to discuss and determine whether an applicant for a license or license renewal, who has a criminal record, is sufficiently rehabilitated to obtain the license, the legislative body may hold a closed session with the applicant and the applicant's attorney, if any, for the purpose of holding the discussion and making the determination. If the legislative body determines, as a result of the closed session, that the issuance or renewal of the license should be denied, the applicant shall be offered the opportunity to withdraw the application. If the applicant withdraws the application, no record shall be kept of the discussions or decisions made at the closed session and all matters relating to the closed session shall be confidential. If the applicant does not withdraw the application, the legislative body shall take action at the public meeting during which the closed session is held or at its next public meeting denying the application for the license but all matters relating to the closed session are confidential and shall not be disclosed without the consent of the applicant, except in an action by an applicant who has been denied a license challenging the denial of the license.

#### **§ 54956.75. Closed session; response to confidential final draft audit report; public release of report**

(a) Nothing contained in this chapter shall be construed to prevent the legislative body of a local agency that has received a confidential final draft audit report from the Bureau of State Audits from holding closed sessions to discuss its response to that report.

(b) After the public release of an audit report by the Bureau of State Audits, if a legislative body of a local agency meets to discuss the audit report, it shall do so in an open session unless exempted from that requirement by some other provision of law.

#### **§ 54956.8. Real property transactions; closed meeting with negotiator**

Notwithstanding any other provision of this chapter, a legislative body of a local agency may hold a closed

session with its negotiator prior to the purchase, sale, exchange, or lease of real property by or for the local agency to grant authority to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease.

However, prior to the closed session, the legislative body of the local agency shall hold an open and public session in which it identifies its negotiators, the real property or real properties which the negotiations may concern, and the person or persons with whom its negotiators may negotiate.

For purposes of this section, negotiators may be members of the legislative body of the local agency.

For purposes of this section, “lease” includes renewal or renegotiation of a lease.

Nothing in this section shall preclude a local agency from holding a closed session for discussions regarding eminent domain proceedings pursuant to [Section 54956.9](#).

#### **§ 54956.81. Investment of pension funds; closed session**

Notwithstanding any other provision of this chapter, a legislative body of a local agency that invests pension funds may hold a closed session to consider the purchase or sale of particular, specific pension fund investments. All investment transaction decisions made during the closed session shall be made by rollcall vote entered into the minutes of the closed session as provided in [subdivision \(a\) of Section 54957.2](#).

#### **§ 54956.86. Charges or complaints from members of local agency health plans; closed hearings; members' rights**

Notwithstanding any other provision of this chapter, a legislative body of a local agency which provides services pursuant to [Section 14087.3 of the Welfare and Institutions Code](#) may hold a closed session to hear a charge or complaint from a member enrolled in its health plan if the member does not wish to have his or her name, medical status, or other information that is protected by federal law publicly disclosed. Prior to holding a closed session pursuant to this section, the legislative body shall inform the member, in writing, of his or her right to have the charge or complaint heard in an open session rather than a closed session.

#### **§ 54956.87. Records of certain health plans; meetings on health plan trade secrets**

(a) Notwithstanding any other provision of this chapter, the records of a health plan that is licensed pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with [Section 1340](#)) of Division 2 of the Health and Safety Code) and that is governed by a county board of supervisors, whether paper records, records maintained in the management information system, or records in any other form, that relate to provider rate or payment determinations, allocation or distribution methodologies for provider payments, formulas or calculations for these payments, and contract negotiations with providers of health care for alternative rates are exempt from disclosure for a period of three years after the contract is fully executed. The transmission of the records, or the information contained therein in an alternative form, to the board of supervisors shall not constitute a waiver of exemption from disclosure, and the records and information once transmitted to the board of supervisors shall be subject to this same exemption.

(b) Notwithstanding any other provision of law, the governing board of a health plan that is licensed pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with [Section 1340](#)) of Division 2 of the Health and Safety Code) and that is governed by a county board of supervisors may order that a meeting held solely for the purpose of discussion or taking action on health plan trade secrets, as defined in subdivision (f), shall be held in closed session. The requirements of making a public report of action taken in closed session, and the vote or abstention of every member present, may be limited to a brief general description without the information constituting the trade secret.

(c) Notwithstanding any other provision of law, the governing board of a health plan may meet in closed session to consider and take action on matters pertaining to contracts and contract negotiations by the health plan with providers of health care services concerning all matters related to rates of payment. The governing board may delete the portion or portions containing trade secrets from any documents that were finally approved in the closed session held pursuant to subdivision (b) that are provided to persons who have made the timely or standing request.

(d) Nothing in this section shall be construed as preventing the governing board from meeting in closed session as otherwise provided by law.

(e) The provisions of this section shall not prevent access to any records by the Joint Legislative Audit Committee in the exercise of its powers pursuant to Article 1 (commencing with [Section 10500](#)) of Chapter 4 of Part 2 of Division 2 of Title 2. The provisions of this section also shall not prevent access to any records by the Department of Corporations in the exercise of its powers pursuant to Article 1 (commencing with [Section 1340](#)) of Chapter 2.2 of Division 2 of the Health and Safety Code.

(f) For purposes of this section, “health plan trade secret” means a trade secret, as defined in [subdivision \(d\) of Section 3426.1 of the Civil Code](#), that also meets both of the following criteria:

(1) The secrecy of the information is necessary for the health plan to initiate a new service, program, marketing strategy, business plan, or technology, or to add a benefit or product.

(2) Premature disclosure of the trade secret would create a substantial probability of depriving the health plan of a substantial economic benefit or opportunity.

**§ 54956.9. Pending litigation; closed session; lawyer-client privilege; notice; memorandum**

Nothing in this chapter shall be construed to prevent a legislative body of a local agency, based on advice of its legal counsel, from holding a closed session to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the local agency in the litigation.

For purposes of this chapter, all expressions of the lawyer-client privilege other than those provided in this section are hereby abrogated. This section is the exclusive expression of the lawyer-client privilege for purposes of conducting closed-session meetings pursuant to this chapter.

For purposes of this section, “litigation” includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator.

For purposes of this section, litigation shall be considered pending when any of the following circumstances exist:

(a) Litigation, to which the local agency is a party, has been initiated formally.

(b)(1) A point has been reached where, in the opinion of the legislative body of the local agency on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the local agency.

(2) Based on existing facts and circumstances, the legislative body of the local agency is meeting only to decide whether a closed session is authorized pursuant to paragraph (1) of this subdivision.

(3) For purposes of paragraphs (1) and (2), “existing facts and circumstances” shall consist only of one of the

following:

(A) Facts and circumstances that might result in litigation against the local agency but which the local agency believes are not yet known to a potential plaintiff or plaintiffs, which facts and circumstances need not be disclosed.

(B) Facts and circumstances, including, but not limited to, an accident, disaster, incident, or transactional occurrence that might result in litigation against the agency and that are known to a potential plaintiff or plaintiffs, which facts or circumstances shall be publicly stated on the agenda or announced.

(C) The receipt of a claim pursuant to the Tort Claims Act or some other written communication from a potential plaintiff threatening litigation, which claim or communication shall be available for public inspection pursuant to [Section 54957.5](#).

(D) A statement made by a person in an open and public meeting threatening litigation on a specific matter within the responsibility of the legislative body.

(E) A statement threatening litigation made by a person outside an open and public meeting on a specific matter within the responsibility of the legislative body so long as the official or employee of the local agency receiving knowledge of the threat makes a contemporaneous or other record of the statement prior to the meeting, which record shall be available for public inspection pursuant to [Section 54957.5](#). The records so created need not identify the alleged victim of unlawful or tortious sexual conduct or anyone making the threat on their behalf, or identify a public employee who is the alleged perpetrator of any unlawful or tortious conduct upon which a threat of litigation is based, unless the identity of the person has been publicly disclosed.

(F) Nothing in this section shall require disclosure of written communications that are privileged and not subject to disclosure pursuant to the California Public Records Act (Chapter 3.5 (commencing with [Section 6250](#)) of Division 7 of Title 1).

(c) Based on existing facts and circumstances, the legislative body of the local agency has decided to initiate or is deciding whether to initiate litigation.

Prior to holding a closed session pursuant to this section, the legislative body of the local agency shall state on the agenda or publicly announce the subdivision of this section that authorizes the closed session. If the session is closed pursuant to subdivision (a), the body shall state the title of or otherwise specifically identify the litigation to be discussed, unless the body states that to do so would jeopardize the agency's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

A local agency shall be considered to be a "party" or to have a "significant exposure to litigation" if an officer or employee of the local agency is a party or has significant exposure to litigation concerning prior or prospective activities or alleged activities during the course and scope of that office or employment, including litigation in which it is an issue whether an activity is outside the course and scope of the office or employment.

**§ 54956.95. Closed sessions; insurance pooling; tort liability losses; public liability losses; workers' compensation liability**

(a) Nothing in this chapter shall be construed to prevent a joint powers agency formed pursuant to Article 1 (commencing with [Section 6500](#)) of Chapter 5 of Division 7 of Title 1, for purposes of insurance pooling, or a local agency member of the joint powers agency, from holding a closed session to discuss a claim for the payment of tort liability losses, public liability losses, or workers' compensation liability incurred by the joint powers agency or a local agency member of the joint powers agency.

(b) Nothing in this chapter shall be construed to prevent the Local Agency Self-Insurance Authority formed pursuant to Chapter 5.5 (commencing with [Section 6599.01](#)) of Division 7 of Title 1, or a local agency member of the authority, from holding a closed session to discuss a claim for the payment of tort liability losses, public liability losses, or workers' compensation liability incurred by the authority or a local agency member of the authority.

(c) Nothing in this section shall be construed to affect [Section 54956.9](#) with respect to any other local agency.

**§ 54956.96. Joint powers agency; legislative body; closed session; confidential information**

(a) Nothing in this chapter shall be construed to prevent the legislative body of a joint powers agency formed pursuant to Article 1 (commencing with [Section 6500](#)) of Chapter 5 of Division 7 of Title 1, from adopting a policy or a bylaw or including in its joint powers agreement provisions that authorize either or both of the following:

(1) All information received by the legislative body of the local agency member in a closed session related to the information presented to the joint powers agency in closed session shall be confidential. However, a member of the legislative body of a member local agency may disclose information obtained in a closed session that has direct financial or liability implications for that local agency to the following individuals:

(A) Legal counsel of that member local agency for purposes of obtaining advice on whether the matter has direct financial or liability implications for that member local agency.

(B) Other members of the legislative body of the local agency present in a closed session of that member local agency.

(2) Any designated alternate member of the legislative body of the joint powers agency who is also a member of the legislative body of a local agency member and who is attending a properly noticed meeting of the joint powers agency in lieu of a local agency member's regularly appointed member to attend closed sessions of the joint powers agency.

(b) If the legislative body of a joint powers agency adopts a policy or a bylaw or includes provisions in its joint powers agreement pursuant to subdivision (a), then the legislative body of the local agency member, upon the advice of its legal counsel, may conduct a closed session in order to receive, discuss, and take action concerning information obtained in a closed session of the joint powers agency pursuant to paragraph (1) of subdivision (a).

**§ 54957. Closed sessions; personnel matters; exclusion of witnesses**

(a) Nothing contained in this chapter shall be construed to prevent the legislative body of a local agency from holding closed sessions with the Attorney General, district attorney, agency counsel, sheriff, or chief of police, or their respective deputies, or a security consultant or a security operations manager, on matters posing a threat to the security of public buildings, a threat to the security of essential public services, including water, drinking water, wastewater treatment, natural gas service, and electric service, or a threat to the public's right of access to public services or public facilities.

(b)(1) Subject to paragraph (2), nothing contained in this chapter shall be construed to prevent the legislative body of a local agency from holding closed sessions during a regular or special meeting to consider the appointment, employment, evaluation of performance, discipline, or dismissal of a public employee or to hear complaints or charges brought against the employee by another person or employee unless the employee requests a public session.

(2) As a condition to holding a closed session on specific complaints or charges brought against an employee by another person or employee, the employee shall be given written notice of his or her right to have the complaints or charges heard in an open session rather than a closed session, which notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding the session. If notice is not given, any disciplinary or other action taken by the legislative body against the employee based on the specific complaints or charges in the closed session shall be null and void.

(3) The legislative body also may exclude from the public or closed meeting, during the examination of a witness, any or all other witnesses in the matter being investigated by the legislative body.

(4) For the purposes of this subdivision, the term “employee” shall include an officer or an independent contractor who functions as an officer or an employee but shall not include any elected official, member of a legislative body or other independent contractors. Nothing in this subdivision shall limit local officials' ability to hold closed session meetings pursuant to [Sections 1461, 32106, and 32155 of the Health and Safety Code](#) or [Sections 37606 and 37624.3 of the Government Code](#). Closed sessions held pursuant to this subdivision shall not include discussion or action on proposed compensation except for a reduction of compensation that results from the imposition of discipline.

#### **§ 54957.1. Closed sessions; public report of action taken**

(a) The legislative body of any local agency shall publicly report any action taken in closed session and the vote or abstention on that action of every member present, as follows:

(1) Approval of an agreement concluding real estate negotiations pursuant to [Section 54956.8](#) shall be reported after the agreement is final, as follows:

(A) If its own approval renders the agreement final, the body shall report that approval and the substance of the agreement in open session at the public meeting during which the closed session is held.

(B) If final approval rests with the other party to the negotiations, the local agency shall disclose the fact of that approval and the substance of the agreement upon inquiry by any person, as soon as the other party or its agent has informed the local agency of its approval.

(2) Approval given to its legal counsel to defend, or seek or refrain from seeking appellate review or relief, or to enter as an amicus curiae in any form of litigation as the result of a consultation under [Section 54956.9](#) shall be reported in open session at the public meeting during which the closed session is held. The report shall identify, if known, the adverse party or parties and the substance of the litigation. In the case of approval given to initiate or intervene in an action, the announcement need not identify the action, the defendants, or other particulars, but shall specify that the direction to initiate or intervene in an action has been given and that the action, the defendants, and the other particulars shall, once formally commenced, be disclosed to any person upon inquiry, unless to do so would jeopardize the agency's ability to effectuate service of process on one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

(3) Approval given to its legal counsel of a settlement of pending litigation, as defined in [Section 54956.9](#), at any stage prior to or during a judicial or quasi-judicial proceeding shall be reported after the settlement is final, as follows:

(A) If the legislative body accepts a settlement offer signed by the opposing party, the body shall report its acceptance and identify the substance of the agreement in open session at the public meeting during which the closed session is held.

(B) If final approval rests with some other party to the litigation or with the court, then as soon as the settlement becomes final, and upon inquiry by any person, the local agency shall disclose the fact of that approval, and

identify the substance of the agreement.

(4) Disposition reached as to claims discussed in closed session pursuant to [Section 54956.95](#) shall be reported as soon as reached in a manner that identifies the name of the claimant, the name of the local agency claimed against, the substance of the claim, and any monetary amount approved for payment and agreed upon by the claimant.

(5) Action taken to appoint, employ, dismiss, accept the resignation of, or otherwise affect the employment status of a public employee in closed session pursuant to [Section 54957](#) shall be reported at the public meeting during which the closed session is held. Any report required by this paragraph shall identify the title of the position. The general requirement of this paragraph notwithstanding, the report of a dismissal or of the nonrenewal of an employment contract shall be deferred until the first public meeting following the exhaustion of administrative remedies, if any.

(6) Approval of an agreement concluding labor negotiations with represented employees pursuant to [Section 54957.6](#) shall be reported after the agreement is final and has been accepted or ratified by the other party. The report shall identify the item approved and the other party or parties to the negotiation.

(7) Pension fund investment transaction decisions made pursuant to [Section 54956.81](#) shall be disclosed at the first open meeting of the legislative body held after the earlier of the close of the investment transaction or the transfer of pension fund assets for the investment transaction.

(b) Reports that are required to be made pursuant to this section may be made orally or in writing. The legislative body shall provide to any person who has submitted a written request to the legislative body within 24 hours of the posting of the agenda, or to any person who has made a standing request for all documentation as part of a request for notice of meetings pursuant to [Section 54954.1](#) or [54956](#), if the requester is present at the time the closed session ends, copies of any contracts, settlement agreements, or other documents that were finally approved or adopted in the closed session. If the action taken results in one or more substantive amendments to the related documents requiring retyping, the documents need not be released until the retyping is completed during normal business hours, provided that the presiding officer of the legislative body or his or her designee orally summarizes the substance of the amendments for the benefit of the document requester or any other person present and requesting the information.

(c) The documentation referred to in subdivision (b) shall be available to any person on the next business day following the meeting in which the action referred to is taken or, in the case of substantial amendments, when any necessary retyping is complete.

(d) Nothing in this section shall be construed to require that the legislative body approve actions not otherwise subject to legislative body approval.

(e) No action for injury to a reputational, liberty, or other personal interest may be commenced by or on behalf of any employee or former employee with respect to whom a disclosure is made by a legislative body in an effort to comply with this section.

(f) This section is necessary to implement, and reasonably within the scope of, paragraph (1) of [subdivision \(b\) of Section 3 of Article I of the California Constitution](#).

#### **§ 54957.2. Minute book record of closed sessions; inspection**

(a) The legislative body of a local agency may, by ordinance or resolution, designate a clerk or other officer or employee of the local agency who shall then attend each closed session of the legislative body and keep and enter in a minute book a record of topics discussed and decisions made at the meeting. The minute book made pursuant to this section is not a public record subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with [Section 6250](#)) of Division 7 of Title 1), and shall be kept confidential. The minute book

shall be available only to members of the legislative body or, if a violation of this chapter is alleged to have occurred at a closed session, to a court of general jurisdiction wherein the local agency lies. Such minute book may, but need not, consist of a recording of the closed session.

(b) An elected legislative body of a local agency may require that each legislative body all or a majority of whose members are appointed by or under the authority of the elected legislative body keep a minute book as prescribed under subdivision (a).

**§ 54957.5. Agendas and other writings distributed for discussion or consideration at public meetings; writings distributed less than 72 hours prior to meeting; public records; inspection; closed sessions**

(a) Notwithstanding [Section 6255](#) or any other provisions of law, agendas of public meetings and any other writings, when distributed to all, or a majority of all, of the members of a legislative body of a local agency by any person in connection with a matter subject to discussion or consideration at an open meeting of the body, are disclosable public records under the California Public Records Act (Chapter 3.5 (commencing with [Section 6250](#)) of Division 7 of Title 1), and shall be made available upon request without delay. However, this section shall not include any writing exempt from public disclosure under [Section 6253.5](#), [6254](#), [6254.3](#), [6254.7](#), [6254.15](#), [6254.16](#), or [6254.22](#).

(b)(1) If a writing that is a public record under subdivision (a), and that relates to an agenda item for an open session of a regular meeting of the legislative body of a local agency, is distributed less than 72 hours prior to that meeting, the writing shall be made available for public inspection pursuant to paragraph (2) at the time the writing is distributed to all, or a majority of all, of the members of the body.

(2) A local agency shall make any writing described in paragraph (1) available for public inspection at a public office or location that the agency shall designate for this purpose. Each local agency shall list the address of this office or location on the agendas for all meetings of the legislative body of that agency. The local agency also may post the writing on the local agency's Internet Web site in a position and manner that makes it clear that the writing relates to an agenda item for an upcoming meeting.

(3) This subdivision shall become operative on July 1, 2008.

(c) Writings that are public records under subdivision (a) and that are distributed during a public meeting shall be made available for public inspection at the meeting if prepared by the local agency or a member of its legislative body, or after the meeting if prepared by some other person. These writings shall be made available in appropriate alternative formats upon request by a person with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 ([42 U.S.C. Sec. 12132](#)), and the federal rules and regulations adopted in implementation thereof.

(d) Nothing in this chapter shall be construed to prevent the legislative body of a local agency from charging a fee or deposit for a copy of a public record pursuant to [Section 6253](#), except that no surcharge shall be imposed on persons with disabilities in violation of Section 202 of the Americans with Disabilities Act of 1990 ([42 U.S.C. Sec. 12132](#)), and the federal rules and regulations adopted in implementation thereof.

(e) This section shall not be construed to limit or delay the public's right to inspect or obtain a copy of any record required to be disclosed under the requirements of the California Public Records Act (Chapter 3.5 (commencing with [Section 6250](#)) of Division 7 of Title 1). Nothing in this chapter shall be construed to require a legislative body of a local agency to place any paid advertisement or any other paid notice in any publication.

**§ 54957.6. Closed sessions; salaries, salary schedules or fringe benefits**

(a) Notwithstanding any other provision of law, a legislative body of a local agency may hold closed sessions with the local agency's designated representatives regarding the salaries, salary schedules, or compensation paid in the

form of fringe benefits of its represented and unrepresented employees, and, for represented employees, any other matter within the statutorily provided scope of representation.

However, prior to the closed session, the legislative body of the local agency shall hold an open and public session in which it identifies its designated representatives.

Closed sessions of a legislative body of a local agency, as permitted in this section, shall be for the purpose of reviewing its position and instructing the local agency's designated representatives.

Closed sessions, as permitted in this section, may take place prior to and during consultations and discussions with representatives of employee organizations and unrepresented employees.

Closed sessions with the local agency's designated representative regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits may include discussion of an agency's available funds and funding priorities, but only insofar as these discussions relate to providing instructions to the local agency's designated representative.

Closed sessions held pursuant to this section shall not include final action on the proposed compensation of one or more unrepresented employees.

For the purposes enumerated in this section, a legislative body of a local agency may also meet with a state conciliator who has intervened in the proceedings.

(b) For the purposes of this section, the term "employee" shall include an officer or an independent contractor who functions as an officer or an employee, but shall not include any elected official, member of a legislative body, or other independent contractors.

#### **§ 54957.7. Disclosure of items to be discussed in closed sessions**

(a) Prior to holding any closed session, the legislative body of the local agency shall disclose, in an open meeting, the item or items to be discussed in the closed session. The disclosure may take the form of a reference to the item or items as they are listed by number or letter on the agenda. In the closed session, the legislative body may consider only those matters covered in its statement. Nothing in this section shall require or authorize a disclosure of information prohibited by state or federal law.

(b) After any closed session, the legislative body shall reconvene into open session prior to adjournment and shall make any disclosures required by [Section 54957.1](#) of action taken in the closed session.

(c) The announcements required to be made in open session pursuant to this section may be made at the location announced in the agenda for the closed session, as long as the public is allowed to be present at that location for the purpose of hearing the announcements.

#### **§ 54957.8. Multijurisdictional law enforcement agency; closed sessions by legislative or advisory body of agency**

(a) For purposes of this section, "multijurisdictional law enforcement agency" means a joint powers entity formed pursuant to Article 1 (commencing with [Section 6500](#)) of Chapter 5 of Division 7 of Title 1 that provides law enforcement services for the parties to the joint powers agreement for the purpose of investigating criminal activity involving drugs; gangs; sex crimes; firearms trafficking or felony possession of a firearm; high technology, computer, or identity theft; human trafficking; or vehicle theft.

(b) Nothing contained in this chapter shall be construed to prevent the legislative body of a multijurisdictional law

enforcement agency, or an advisory body of a multijurisdictional law enforcement agency, from holding closed sessions to discuss the case records of any ongoing criminal investigation of the multijurisdictional law enforcement agency or of any party to the joint powers agreement, to hear testimony from persons involved in the investigation, and to discuss courses of action in particular cases.

**§ 54957.9. Disorderly conduct of general public during meeting; clearing of room**

In the event that any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are willfully interrupting the meeting, the members of the legislative body conducting the meeting may order the meeting room cleared and continue in session. Only matters appearing on the agenda may be considered in such a session. Representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section. Nothing in this section shall prohibit the legislative body from establishing a procedure for readmitting an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting.

**§ 54957.10. Closed sessions; local agency employee application for early withdrawal of funds in deferred compensation plan; financial hardship**

Notwithstanding any other provision of law, a legislative body of a local agency may hold closed sessions to discuss a local agency employee's application for early withdrawal of funds in a deferred compensation plan when the application is based on financial hardship arising from an unforeseeable emergency due to illness, accident, casualty, or other extraordinary event, as specified in the deferred compensation plan.

**§ 54958. Application of chapter**

The provisions of this chapter shall apply to the legislative body of every local agency notwithstanding the conflicting provisions of any other state law.

**§ 54959. Penalty for unlawful meeting**

Each member of a legislative body who attends a meeting of that legislative body where action is taken in violation of any provision of this chapter, and where the member intends to deprive the public of information to which the member knows or has reason to know the public is entitled under this chapter, is guilty of a misdemeanor.

**§ 54960. Actions to stop or prevent violations of meeting provisions; applicability of meeting provisions; validity of rules or actions on recording closed sessions**

(a) The district attorney or any interested person may commence an action by mandamus, injunction, or declaratory relief for the purpose of stopping or preventing violations or threatened violations of this chapter by members of the legislative body of a local agency or to determine the applicability of this chapter to actions or threatened future action of the legislative body, or to determine whether any rule or action by the legislative body to penalize or otherwise discourage the expression of one or more of its members is valid or invalid under the laws of this state or of the United States, or to compel the legislative body to audio record its closed sessions as hereinafter provided.

(b) The court in its discretion may, upon a judgment of a violation of [Section 54956.7](#), [54956.8](#), [54956.9](#), [54956.95](#), [54957](#), or [54957.6](#), order the legislative body to audio record its closed sessions and preserve the audio recordings for the period and under the terms of security and confidentiality the court deems appropriate.

(c)(1) Each recording so kept shall be immediately labeled with the date of the closed session recorded and the title of the clerk or other officer who shall be custodian of the recording.

(2) The audio recordings shall be subject to the following discovery procedures:

(A) In any case in which discovery or disclosure of the audio recording is sought by either the district attorney or the plaintiff in a civil action pursuant to [Section 54959](#), 54960, or [54960.1](#) alleging that a violation of this chapter has occurred in a closed session that has been recorded pursuant to this section, the party seeking discovery or disclosure shall file a written notice of motion with the appropriate court with notice to the governmental agency that has custody and control of the audio recording. The notice shall be given pursuant to [subdivision \(b\) of Section 1005 of the Code of Civil Procedure](#).

(B) The notice shall include, in addition to the items required by [Section 1010 of the Code of Civil Procedure](#), all of the following:

(i) Identification of the proceeding in which discovery or disclosure is sought, the party seeking discovery or disclosure, the date and time of the meeting recorded, and the governmental agency that has custody and control of the recording.

(ii) An affidavit that contains specific facts indicating that a violation of the act occurred in the closed session.

(3) If the court, following a review of the motion, finds that there is good cause to believe that a violation has occurred, the court may review, in camera, the recording of that portion of the closed session alleged to have violated the act.

(4) If, following the in camera review, the court concludes that disclosure of a portion of the recording would be likely to materially assist in the resolution of the litigation alleging violation of this chapter, the court shall, in its discretion, make a certified transcript of the portion of the recording a public exhibit in the proceeding.

(5) Nothing in this section shall permit discovery of communications that are protected by the attorney-client privilege.

#### **§ 54960.1. Unlawful action by legislative body; action for mandamus or injunction; prerequisites**

(a) The district attorney or any interested person may commence an action by mandamus or injunction for the purpose of obtaining a judicial determination that an action taken by a legislative body of a local agency in violation of [Section 54953](#), [54954.2](#), [54954.5](#), [54954.6](#), [54956](#), or [54956.5](#) is null and void under this section. Nothing in this chapter shall be construed to prevent a legislative body from curing or correcting an action challenged pursuant to this section.

(b) Prior to any action being commenced pursuant to subdivision (a), the district attorney or interested person shall make a demand of the legislative body to cure or correct the action alleged to have been taken in violation of [Section 54953](#), [54954.2](#), [54954.5](#), [54954.6](#), [54956](#), or [54956.5](#). The demand shall be in writing and clearly describe the challenged action of the legislative body and nature of the alleged violation.

(c)(1) The written demand shall be made within 90 days from the date the action was taken unless the action was taken in an open session but in violation of [Section 54954.2](#), in which case the written demand shall be made within 30 days from the date the action was taken.

(2) Within 30 days of receipt of the demand, the legislative body shall cure or correct the challenged action and inform the demanding party in writing of its actions to cure or correct or inform the demanding party in writing of its decision not to cure or correct the challenged action.

(3) If the legislative body takes no action within the 30-day period, the inaction shall be deemed a decision not to

cure or correct the challenged action, and the 15-day period to commence the action described in subdivision (a) shall commence to run the day after the 30-day period to cure or correct expires.

(4) Within 15 days of receipt of the written notice of the legislative body's decision to cure or correct, or not to cure or correct, or within 15 days of the expiration of the 30-day period to cure or correct, whichever is earlier, the demanding party shall be required to commence the action pursuant to subdivision (a) or thereafter be barred from commencing the action.

(d) An action taken that is alleged to have been taken in violation of [Section 54953](#), [54954.2](#), [54954.5](#), [54954.6](#), [54956](#), or [54956.5](#) shall not be determined to be null and void if any of the following conditions exist:

(1) The action taken was in substantial compliance with [Sections 54953](#), [54954.2](#), [54954.5](#), [54954.6](#), [54956](#), and [54956.5](#).

(2) The action taken was in connection with the sale or issuance of notes, bonds, or other evidences of indebtedness or any contract, instrument, or agreement thereto.

(3) The action taken gave rise to a contractual obligation, including a contract let by competitive bid other than compensation for services in the form of salary or fees for professional services, upon which a party has, in good faith and without notice of a challenge to the validity of the action, detrimentally relied.

(4) The action taken was in connection with the collection of any tax.

(5) Any person, city, city and county, county, district, or any agency or subdivision of the state alleging noncompliance with [subdivision \(a\) of Section 54954.2](#), [Section 54956](#), or [Section 54956.5](#), because of any defect, error, irregularity, or omission in the notice given pursuant to those provisions, had actual notice of the item of business at least 72 hours prior to the meeting at which the action was taken, if the meeting was noticed pursuant to [Section 54954.2](#), or 24 hours prior to the meeting at which the action was taken if the meeting was noticed pursuant to [Section 54956](#), or prior to the meeting at which the action was taken if the meeting is held pursuant to [Section 54956.5](#).

(e) During any action seeking a judicial determination pursuant to subdivision (a) if the court determines, pursuant to a showing by the legislative body that an action alleged to have been taken in violation of [Section 54953](#), [54954.2](#), [54954.5](#), [54954.6](#), [54956](#), or [54956.5](#) has been cured or corrected by a subsequent action of the legislative body, the action filed pursuant to subdivision (a) shall be dismissed with prejudice.

(f) The fact that a legislative body takes a subsequent action to cure or correct an action taken pursuant to this section shall not be construed or admissible as evidence of a violation of this chapter.

#### **§ 54960.5. Costs and attorney fees**

A court may award court costs and reasonable attorney fees to the plaintiff in an action brought pursuant to [Section 54960](#) or [54960.1](#) where it is found that a legislative body of the local agency has violated this chapter. The costs and fees shall be paid by the local agency and shall not become a personal liability of any public officer or employee of the local agency.

A court may award court costs and reasonable attorney fees to a defendant in any action brought pursuant to [Section 54960](#) or [54960.1](#) where the defendant has prevailed in a final determination of such action and the court finds that the action was clearly frivolous and totally lacking in merit.

**§ 54961. Meetings prohibited in facilities; grounds; identity of victims of tortious sexual conduct or child abuse**

(a) No legislative body of a local agency shall conduct any meeting in any facility that prohibits the admittance of any person, or persons, on the basis of ancestry or any characteristic listed or defined in [Section 11135](#), or which is inaccessible to disabled persons, or where members of the public may not be present without making a payment or purchase. This section shall apply to every local agency as defined in [Section 54951](#).

(b) No notice, agenda, announcement, or report required under this chapter need identify any victim or alleged victim of tortious sexual conduct or child abuse unless the identity of the person has been publicly disclosed.

**§ 54962. Closed session by legislative body prohibited**

Except as expressly authorized by this chapter, or by [Sections 1461, 1462, 32106, and 32155 of the Health and Safety Code](#), or by [Sections 37606, 37606.1, and 37624.3 of the Government Code](#) as they apply to hospitals, or by any provision of the Education Code pertaining to school districts and community college districts, no closed session may be held by any legislative body of any local agency.

**§ 54963. Confidential information acquired during an authorized closed legislative session; authorization by legislative body; remedies for violation; exceptions**

(a) A person may not disclose confidential information that has been acquired by being present in a closed session authorized by [Section 54956.7, 54956.8, 54956.86, 54956.87, 54956.9, 54957, 54957.6, 54957.8, or 54957.10](#) to a person not entitled to receive it, unless the legislative body authorizes disclosure of that confidential information.

(b) For purposes of this section, “confidential information” means a communication made in a closed session that is specifically related to the basis for the legislative body of a local agency to meet lawfully in closed session under this chapter.

(c) Violation of this section may be addressed by the use of such remedies as are currently available by law, including, but not limited to:

(1) Injunctive relief to prevent the disclosure of confidential information prohibited by this section.

(2) Disciplinary action against an employee who has willfully disclosed confidential information in violation of this section.

(3) Referral of a member of a legislative body who has willfully disclosed confidential information in violation of this section to the grandjury. [\[FN1\]](#)

(d) Disciplinary action pursuant to paragraph (2) of subdivision (c) shall require that the employee in question has either received training as to the requirements of this section or otherwise has been given notice of the requirements of this section.

(e) A local agency may not take any action authorized by subdivision (c) against a person, nor shall it be deemed a violation of this section, for doing any of the following:

(1) Making a confidential inquiry or complaint to a district attorney or grand jury concerning a perceived violation of law, including disclosing facts to a district attorney or grand jury that are necessary to establish the illegality of an action taken by a legislative body of a local agency or the potential illegality of an action that has been the subject of deliberation at a closed session if that action were to be taken by a legislative body of a local agency.

(2) Expressing an opinion concerning the propriety or legality of actions taken by a legislative body of a local agency in closed session, including disclosure of the nature and extent of the illegal or potentially illegal action.

(3) Disclosing information acquired by being present in a closed session under this chapter that is not confidential information.

(f) Nothing in this section shall be construed to prohibit disclosures under the whistleblower statutes contained in [Section 1102.5 of the Labor Code](#) or Article 4.5 (commencing with [Section 53296](#)) of Chapter 2 of this code.

[\[FN1\]](#) So in enrolled bill.

## **APPENDIX TWO**

## PARLIAMENTARY PROCEDURE ... simplified

|                  | To:                                      | You Say:  | May You Interrupt the Speaker? | Do You Need A Second ? | Is It Debatable ? | Can It Be Amended ? | What Vote Is Needed? | Can It Be Reconsidered ? |
|------------------|--|---|--------------------------------|------------------------|-------------------|---------------------|----------------------|--------------------------|
| <b>BASICS</b>    | Introduce Business                       | "I move that..."  | No                             | Yes                    | Yes               | Yes                 | Majority             | Yes                      |
|                  | Continue Discussion                      | "I move to continue this item until (date)"                 | No                             | Yes                    | Yes               | Yes                 | Majority             | Yes                      |
|                  | Amend a Motion                           | "I move to amend the motion by ..."                         | No                             | Yes                    | Yes               | Yes                 | Majority             | Yes                      |
|                  | Adjourn Meeting                          | "I move that we adjourn"                                    | No                             | Yes                    | No                | No                  | Majority             | No                       |
| <b>PRACTICAL</b> | Give Closer Study of An Item             | "I move to refer the matter to a subcommittee"              | No                             | Yes                    | Yes               | Yes                 | Majority             | Yes                      |
|                  | Request Information                      | "Point of information"                                      | Yes                            | No                     | No                | No                  | No Vote              | No                       |
|                  | End Debate & Amendment                   | "I call for the question"<br>"I move the previous question" | No                             | Yes                    | No                | No                  | 2/3                  | No                       |
|                  | Reconsider a Hasty Action                | "I move to reconsider the vote on ..."                      | Yes                            | Yes                    |                   | No                  | Majority             | No                       |
| <b>ADVANCED</b>  | Temporarily Suspend Considering an Issue | "I move to table the motion"                                | No                             | Yes                    | No                | No                  | Majority             | No                       |
|                  | Take up a Matter Previously Tabled       | "I move to take from the table..."                          | No                             | Yes                    | No                | No                  | Majority             | No                       |
|                  | Avoid Considering an Improper Matter     | "I object to consideration of this motion"                  | Yes                            | No                     | No                | No                  | 2/3                  |                          |
|                  | Protest Breach of Rules or Conduct       | "I rise to a point of order"                                | Yes                            | No                     | No                | No                  | No Vote              | No                       |

|               |  |
|---------------|--|
| <b>VOTING</b> | Chair restates the motion (Council policy: City Clerk or maker of motion)    |
|               | VOICE: "All those in favor...; those opposed...; motion carries/is rejected" |
|               | ROLL CALL: "Council Member...; motion carries/is rejected"                   |
|               | GENERAL CONSENT: "Any objections?"   |

## **APPENDIX THREE**