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# ADVISORY BODIES HANDBOOK

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## **SECTION I**

### **WELCOME!**

Thank you for your interest in serving on one of our citizen advisory bodies, and congratulations for volunteering your time and skills to help us improve your community.

Serving on one of the Town commissions, committees, boards, or groups can be a fascinating and rewarding experience. These advisory bodies are charged with formulating new ideas, information gathering, receiving public testimony and comments, analyzing complex issues, and making recommendations on specific projects and broad policy – all toward helping the Town Council make better-informed decisions.

The members of the Town Council and staff look forward to your contributions as we work in partnership to provide efficient municipal services responsive to local needs. The Town Council hopes your experience will be stimulating, enjoyable, and fulfilling.

This handbook is designed to provide the basic protocols that apply generally to all Town commissions and committees, such as the open meeting law commonly known as the “Brown Act.” Orientation is an active process and includes initial meetings with a staff liaison who will assist you in identifying the scope and parameters of your duties and responsibilities, brief you on current business items, and provide you with foundational documentation to help you quickly adapt to your new role. Learning your role and developing an effective voice takes time and familiarity. We hope this handbook will assist you towards a satisfying and productive experience.

Again, thank you for participating in our democratic process. The volunteer spirit and community participation of Mammoth Lakes’ citizens make this a wonderful place to live, work, and play.

## SECTION II

### YOUR GOVERNMENT

The Town of Mammoth Lakes is a general law city operating under a Council/Manager form of government with the Town Council acting as the legislative body of the Town. The Town Council is comprised of five elected positions. Elections are staggered every two years with each Councilmember serving a four-year term. Each year, typically at the second meeting in June, the Council selects two of its members to serve one-year terms as Mayor and Mayor Pro Tem.

#### OPERATIONAL DEPARTMENTS

The Town Council appoints the **Town Manager**, who is responsible for the day-to-day operations of the Town. The Town Manager's duties include appointing Department Heads, who are responsible for the day-to-day operations of their departments. The Town Manager also oversees the finance, personnel, and risk management departments.

The Town Council also appoints a **Town Attorney**, responsible for ensuring that Town business is conducted in conformance with appropriate laws and statutes.

The **Town Clerk** prepares Council agendas and records the minutes, conducts Town elections, maintains Town records, administers the advisory body appointment process, codifies ordinances, receives claims against the Town, coordinates the posting and advertising of legal publications, administers oaths, and serves as secretary to the Town Council.

The **Finance Department**, under the direction of the Town Manager, collects money, pays bills, controls assets and financial operations, supervises cash management, provides centralized accounting, and provides for the framework for financial planning. The department is responsible for administering business licenses and the Transient Occupancy Tax levied on transient rentals. The department also oversees the Town's Information Systems.

The **Personnel and Risk Manager**, under the direction of the Town Manager, supervises the recruitment, testing, classifying, evaluating, and training of employees and handles insurance and liability issues for the Town.

The **Airport and Transportation Director** is charged with managing two departments:

The **Airport Department** is responsible for overseeing the planning, construction, and development of Mammoth Yosemite Airport facilities capable of supporting commercial air service by regional-type aircraft, and executing the Airport's business plan to ensure the long-term financial success of the Airport and the economic sustainability of the Town.

The **Transportation Department** is responsible for planning, developing, and operating year-round, public transportation for visitors and residents of the Town of Mammoth Lakes.

The **Community Development Director** is charged with managing two divisions:

The **Building Division** provides plan checking, permitting, and inspection services for new construction, additions, and remodels within the Town of Mammoth Lakes. The Division is also responsible for enforcement of zoning and municipal codes, conditions of approval, and initiation of procedures to abate violations of a wide range of local ordinances and State and local regulations.

The **Planning Division** is responsible for the creation and implementation of long-range plans for the Town's growth and development, consistent with approved planning principles and State law. The division reviews development projects to ensure consistency with Town policies and local, State, and federal law, including environmental review.

The **Police Chief** directs a department which is responsible for public safety within the Town boundaries, including Mammoth Yosemite Airport.

The **Public Works Director/Town Engineer** is charged with managing four divisions:

The **Engineering Services Division** is responsible for reviewing development-related applications; designing and building major projects supported by development impact fees, grants, and assessment districts; and handling special projects such as special use permits and master plans.

The **Maintenance Division** operations include snow removal, street repair, traffic signal and street light maintenance, and maintenance responsibilities for all Town facilities.

The **Garage Services Division** is tasked with vehicle repair, vehicle replacement, and the sale of decommissioned vehicles. The division services all Town-owned equipment as well as vehicles of the Fire District, Mono County Schools, and Mammoth Unified School District.

The **Parks Division** is responsible for the day-to-day maintenance of all of the Town's parks and recreational facilities, including the trails system, overseeing the landscaping maintenance for Main Street and Old Mammoth Road, and overseeing the snow removal for Town sidewalks.

The **Recreation Manager** is responsible for developing adult and youth recreation programming, producing the activities guide, overseeing the youth funding program, pursuing grants, and coordinating the use of the Town's parks and recreation facilities and equipment.

## **SECTION III**

### **ADVISORY BODY 101**

#### **TOWN COUNCIL PHILOSOPHY ON CITIZEN ADVISORY BODIES**

Policy for the Town is determined by the Town Council; however, Town decision making benefits from the advice and counsel of its citizens. For these reasons, the Town Council has established a number of ongoing boards and commissions, as well as issue-specific committees and task forces to provide input and recommendations to the Town Council. Because of the nature of these advisory bodies, they can serve as the eyes and ears of the Council for issues and matters that otherwise might not receive the attention they deserve.

These advisory bodies have been created by either the adoption of minute orders or Resolutions (policy) or Ordinance (law). Some bodies are considered permanent and others may be temporary, remaining in effect until their particular task is completed. These bodies are also considered “legislative bodies” as that term is defined in the State’s open meeting law, the Ralph M. Brown Act.

For the purposes of this document, the term “advisory body” will be used to represent Town boards, commissions, committees, or task forces whether permanent or temporary, decision-making or advisory, created by Town Ordinance, Resolution, or action of the Council.

#### **OPPORTUNITIES FOR SERVICE**

Interested individuals may apply for appointment to any of the following Town advisory bodies:

- Airport Commission
- Board of Appeals/Building Advisory Committee
- Mobility Commission
- Planning Commission
- Public Arts Commission
- Recreation Commission

#### **ELIGIBILITY REQUIREMENTS/QUALIFICATIONS**

The Town of Mammoth Lakes encourages participation of a wide variety of its citizens through service on advisory bodies. Unless specified, there is no special education, training, or background required for appointment. With the exception of the Recreation Commission, which has stricter requirements, a majority plus one member of all advisory body members must be residents and registered voters of the Town of Mammoth Lakes. Applicants must be at least 18 years of age at the time of appointment. Applicants shall commit to meet the minimum attendance requirements.

## **APPOINTMENT PROCESS**

Each person seeking appointment or re-appointment to an advisory body must obtain and file the “Application for Public Service Appointment” with the Office of the Town Clerk. Applications are only accepted during the recruitment process for existing or imminent vacancies.

Applicants should become familiar with the area of responsibility of the advisory body and attend at least one meeting thereof prior to interviewing with the Council.

The Town Council, or a subcommittee thereof, typically interviews applicants for appointment or re-appointment during a study session, regular, or special meeting. At the same or subsequent meeting, the Town Council makes appointments by publicly ranking the persons favored for membership. Those applicants with the highest overall rankings are appointed by action of the Town Council.

Applicants not appointed will be so advised.

As a general policy, an applicant shall not be appointed to serve on more than one advisory body, except that a member may also serve on technical, special purpose, or ad hoc committees at the same time. If appointed to another “permanent” advisory body, the member is understood to have vacated his/her seat on the first permanent body upon being appointed to the second. An exception to this rule would be when the membership of an advisory body is specified to include representatives from other advisory bodies.

## **ORIENTATION**

After the Town Council makes the appointments, the department serving as staff support to a particular advisory body will coordinate and conduct an orientation with new appointees. Before or during that orientation, support staff will provide relevant documentation and background information about the specific advisory body upon which the new appointee shall serve.

## **OATH OF OFFICE**

Following appointment, the Town Clerk will administer the Oath of Office, either at a meeting of the body or in the Office of the Town Clerk. The Oath is attached as Appendix C.

## **TERMS OF OFFICE**

Terms of office are for four years and expire on July 31<sup>st</sup> of even numbered years. The terms are staggered to encourage a mix of policy continuity and history while allowing time for new members, with new and different points of view, to be integrated into the activities of the Board or Commission.

A mid-term appointment to a vacant seat on an advisory body will fill that seat until the expiration of the seat's term.

### **REMOVAL FROM OFFICE**

Any member of a Board or Commission may be removed from office at any time, with or without cause, by a majority of the Town Council in open session.

If a Board or Commission member absents himself/herself, without advance permission of the Board or Commission, from three consecutive regular meetings or from twenty-five percent of the duly scheduled meetings of the Board or Commission within any fiscal year, his/her office shall thereupon become vacant and shall be filled as any other vacancy.

### **VACANCIES**

Seats become vacant in two ways:

1. Expiration of term.
2. Resignation or removal prior to end of term.

The Town Clerk's office will post and publish a notice of vacancy and the appointment shall be made consistent with the appointment process.

### **COMPENSATION**

A stipend for members of some advisory bodies has been established by Resolution of the Town Council.

Planning Commission	\$200/meeting, 2 meetings per month/maximum
Recreation Commission	\$75/meeting, 2 meetings per month/maximum

## SECTION IV

### ADVISORY BODIES

#### PLANNING COMMISSION

**Purpose.** The Planning Commission was created by Ordinance No. 84-04 in 1984 to advise the Town's Planning Department (now Community Development Department) and the Town Council concerning planning, proposed development, and other matters relating to land use. The Planning Commission is staffed by and works closely with the Community Development Department.

**Members – Terms.** The Planning Commission consists of five members. Members serve a term of four years. Members are eligible for re-appointment. No term limits apply to the Planning Commission. The Chair and Vice Chair are selected in July of each year and serve a one-year term in their respective roles.

**Functions, powers, and duties.** The Planning Commission performs the following functions as stipulated by the Planning and Zoning Law of the State of California (commencing with Government Code Section 65000), said duties include:

1. Prepare, periodically review, and revise as necessary, the general plan.
2. Implement the general plan through actions including, but not limited to, the administration of specific plans and zoning and subdivision ordinances.
3. Annually review the capital improvement program of the Town and the local public works projects of other local agencies for their consistency with the general plan.
4. Endeavor to promote public interest in, comment on, and understanding of the general plan, and regulations relating to it.
5. Consult and advise public officials and agencies, public utility companies, civic, educational, professional, and other organizations and citizens generally concerning implementation of the general plan.
6. Promote the coordination of local plans and programs with the plans and programs of other public agencies.
7. Provide other functions as the Town Council provides, including conducting studies and preparing plans other than those required or authorized by the Planning and Zoning Law.

**Meetings.** Regular meetings are held on the second and fourth Wednesday of the month at 2:00 p.m. in the Council Chambers/Suite Z, 437 Old Mammoth Road.

## **RECREATION COMMISSION**

**Purpose.** The Recreation Commission was created by Ordinance No. 10-11 in 2010 as a body of citizens appointed to advise the Town Council on all matters pertaining to parks, public recreation, and recreation facilities. The Commission is staffed by and works closely with the Recreation Department.

**Members - Terms.** The Recreation Commission consists of seven members, as determined by the Town Council. At least six members must be Town residents and registered voters. One member may reside outside of the Town but between June Lake and Tom's Place. In addition to the regular members of the Commission, the Town Manager and a member of the Town Council shall be ex officio members of the Commission. The Town Council may, in its discretion, appoint a representative of the United States Forest Service to serve as an ex officio member. Members serve a term of four years. Members are eligible for re-appointment. No term limits apply to the Recreation Commission.

**Functions, powers, and duties.** The Recreation Commission performs the following functions as stipulated by Municipal Code Section 2.40.040, including:

1. Make recommendations to the Department Director (or designee) on funding priorities related to the department budget.
2. Serve as a liaison between recreation service providers and users, and the Town.
3. Advise the Town Council and the Town Manager in all matters pertaining to parks, recreation, facilities, trails, special events, and other associated activities as prescribed by ordinances or by Town Council action.
4. Aid and participate in the advancement and coordination of recreation services with other governmental agencies, non-governmental organizations, civic groups, volunteer organizations, and the private sector.
5. Formulate rules and regulations with respect to use and conduct in parks and other recreation areas.
6. Regularly review surveys provided by the Department Director (or designee) of the population of Mammoth Lakes, to ensure that parks, recreation, facilities, trails, and special event needs are being met.

7. Determine the recreational capital needs of the community, after review of recommendations by the Department Director (or designee), for consideration in the Town's Master Facility and Capital Improvement Program process.
8. Conduct public hearings related to land acquisition for recreation purposes, subject to Town Council approval.
9. Conduct public hearings and make decisions, subject to appeal to the Town Council, relating to park and facility design and development.
10. Provide input to contract professionals, in conjunction with the Department Director (or designee), to assist in the design of facilities approved for construction through the budget process, subject to appeal to the Town Council.
11. Review and provide recommendations to the Town Council regarding Measure R applications pursuant to the adopted regulations pertaining to the measure.
12. Receive donations, contributions, and other gifts to be used for parks and recreation purposes, but all money so received by it shall be deposited in a special parks and recreation account. Moneys in such an account shall be expended only for parks and recreation purposes, including capital expenditures as well as current operating expenses.

**Meeting.** Regular meetings are held on the first Tuesday after the first Monday of the month at 5:00 p.m. in the Council Chambers/Suite Z, 437 Old Mammoth Road.

## **PUBLIC ARTS COMMISSION**

**Purpose.** The Public Arts Commission was created by Ordinance No. 04-07 in 2004 as a body of citizens appointed to advise the Town Council on all matters pertaining to public art and the use of funds generated by the Public Art Fee, established the same year. The Commission is staffed by and works closely with the Community Development Department.

**Members – Terms.** The Public Arts Commission consists of five members. Members serve a term of four years. Members are eligible for re-appointment. No term limits apply to the Public Arts Commission.

**Functions, powers, and duties.** The Public Arts Commission performs the following functions as stipulated by Municipal Code Section 2.42.050, including:

1. Be responsible for a Town of Mammoth Lakes (TOML) public art program including policies and guidelines, oversight of development of arts projects, and maintenance of art collection.

2. All expenditures shall require Town Council approval or consent. Town Manager approval is required for all contracts for commission of, and maintenance for, works of art in any amount.
3. Identify and resolve fundamental issues for successful implementation of the arts program such as, but not limited to: selection process for artworks; handling of public controversy; public involvement; economic impact; on-going maintenance of artwork; removal of public art; and relationship of program to other TOML programs.
4. Establish a review mechanism for acquisitions by commission, purchase, gift, or extended loan.
5. Approve all art acquired through the public art fund, either on TOML or private property, whether on loan, as a gift, or purchase.
6. Designate proposed or eligible public art locations and sites on either publicly or privately owned property.
7. Determine the type of artwork or medium desired for a particular site.
8. Encourage collaboration with artists, architects, and planners and developers in the early design phase of a project to ensure a totally integrated solution where public art is proposed for a new project.
9. Develop a public information program.
10. Recommend to the Town Council grants or loans to fund public education concerning art, but funded solely through private donations or endowments, and not from any funds collected pursuant to Chapter 15.18 of the Municipal Code.
11. Act in an advisory capacity to the Planning Commission for review of works of art that are privately funded on private property that can be seen from the public right-of-way.

**Meetings.** Regular meetings are held on the fourth Thursday of the month at 2:00 p.m. in the Council Chambers/Suite Z, 437 Old Mammoth Road.

## **AIRPORT COMMISSION**

**Purpose.** The Airport Commission was created by Ordinance No. 04-05 in 2004 as a body of citizens appointed to advise the Town Council on selected matters pertaining to Mammoth Yosemite Airport. The Commission is staffed by and works closely with the Airport and Transportation Department.

**Members – Terms.** The Airport Commission consists of five, seven, or nine members, as determined by the Town Council. The composition of the Commission, to the extent possible and at the discretion of the Town Council, is a balanced representation of community interests, to include, possibly, visitor service providers, business people, and residents. Members serve a term of four years. Members are eligible for re-appointment. No term limits apply to the Airport Commission.

**Functions, powers, and duties.** The Airport Commission performs the following functions as stipulated by Municipal Code Section 2.38.040, including:

1. Advise the Town Council and staff regarding how best to utilize the airport to contribute to the economic vitality of the community.
2. Provide a public forum for discussion of airport issues.
3. Provide a public forum for addressing airport user concerns.
4. Involve the community in outcomes at the airport.

**Meetings.** Regular meeting are held on the fourth Tuesday of the month at 3:00 p.m. in the Council Chambers/Suite Z, 437 Old Mammoth Road.

#### **BOARD OF APPEALS/BUILDING ADVISORY COMMITTEE (BOA/BAC)**

**Purpose.** The Board of Appeals and the Building Advisory Committee were initially formed as separate bodies by minute action of the Town Council in 1984. The two bodies were subsequently merged by the Town Council into a single body in 1985 by minute action of the Town Council. Rules of procedure for the group were adopted by the Town Council in 1987. The BOA/BAC serves primarily as an advisory body to the Building Official, who also staffs the group. When needed, the group provides advice on specific building issues to the Town Council. The group also functions as an appeal board for those appealing orders, decisions, or determinations made by the Building Official in particular subject areas.

**Members – Terms.** The Board of Appeals/Building Advisory Committee consists of seven members who are “qualified by knowledge, experience, and training regarding construction and code compliance and shall pass judgment upon matters pertaining to same.” Members serve a term of four years. Members are eligible for re-appointment. No term limits apply to the Board of Appeals/Building Advisory Committee.

**Functions, powers, and duties.** The Board of Appeals/Building Advisory Committee performs the following functions as stipulated by its Rules of Procedure adopted by the Town Council in 1987, said duties include:

1. Hear and decide appeals of orders, decisions, or determinations made by the Building Official relative to the application and interpretation of codes

and/or related Town ordinances. The Board shall have no authority relative to interpretation of the administrative provisions of the Uniform Building Code nor shall the Board be empowered to waive requirements of this code.

2. Act in an advisory capacity to the Town Council and/or Mammoth Lakes Building (Division). The Board shall provide in writing interpretations and opinions on building code items not specifically addressed in the Uniform Building Code and issue interpretations and opinions based on conditions (geographical or climatic) unique to the Mammoth Lakes area.

**Meetings.** Regular meetings are held quarterly, usually on the second Wednesday of the months of February, May, August, and November at 2:00 p.m. in the Council Chambers/Suite Z, 437 Old Mammoth Road. At their first meeting of each year, the group establishes their schedule of meetings.

## **MOBILITY COMMISSION**

**Purpose.** In 2003, the Town Council adopted Resolution No. 03-15, which authorized the formation of a Transportation Advisory Group. During the summer of 2006, the Town Council updated the resolution and undertook appointments to the Group. In the fall of 2007, the Council adopted Ordinance No. 07-06, which was codified as Municipal Code Chapter 2.43 and created the Mobility Commission as a replacement body for the Transportation Advisory Group. The Mobility Commission is staffed by and works closely with the Public Works and Community Development Departments.

**Members – Terms.** The Mobility Commission consists of five members appointed by the Town Council. Members serve terms of four years. Members are eligible for re-appointment and no term limits apply to the Mobility Commission.

**Functions, powers, and duties.** The Mobility Commission performs the following functions as stipulated in Municipal Code Chapter 2.43, including:

1. Provide policy recommendations to the Town Council regarding such programs as parking management, pedestrian improvements, connectivity, transit services, bicycle improvements, way-finding, movement of goods, traffic management and improvements, regional transportation, and alternate transportation strategies (hereinafter referred to as mobility) to implement the goals and policies of the General Plan.
2. Advise the Planning Commission, Recreation Commission, and Town Council regarding mobility opportunities, constraints, and the needs of the community and prioritization of such needs, after review and consideration of staff recommendations.

3. Evaluate the successes and problems of mobility improvements as presented by staff and make recommendations to the Town Council accordingly.
4. Serve as a liaison between the business community, residents, visitors and users, and the Town on the subject of mobility.
5. Make recommendations to the Town Council regarding mobility-related capital improvements for consideration in the Town's Master Facility Plan and recommend funding priorities and resources for implementation of the Capital Improvement Program after review and consideration of staff recommendations.
6. Aid and participate in the advancement and coordination of mobility elements with other governmental agencies, civic groups, and volunteer organizations.
7. Review and recommend policies related to operations, maintenance, routing, locations, engineering design standards, snow management, signage, rules and regulations with respect to the use and conduct of elements of the mobility system consistent with General Plan goals, Town policies, and any adopted mobility plan(s) after review and consideration of staff recommendations.
8. Regularly review surveys and assessments, conducted by Town staff or consultants, to ensure that mobility goals and policies are being met.
9. Provide comment on transportation and transit policies, issues, and programs which involve Caltrans, federal agencies, and/or the Mono County Local Transportation Commission.
10. Provide recommendations on the General Plan Circulation Element and development plans which involve implementation of the Town's circulation and transportation policies.
11. The chair, or his/her designee, may attend other Town commission or Town Council meetings and Mono County Local Transportation Commission meetings, as needed, to represent the recommendations of the Mobility Commission and to inform the Mobility Commission of actions and discussions affecting mobility made by other commissions and Council.
12. Provide opportunities for public involvement and make recommendations on mobility issues and policies as directed by the Town Council.

**Meetings.** The Mobility Commission meets on the third Tuesday of the month at 4:00 p.m. in the Council Chambers/Suite Z, 437 Old Mammoth Road.

## **SECTION V**

### **GUIDELINES**

#### **RESPONSIBILITY OF BOARD, COMMISSION, AND COMMITTEE MEMBERS**

One of the first and most important responsibilities of a board, commission, or committee member is to learn about the group's scope of responsibility and general operating procedures. This knowledge base provides each individual board, commission, and committee member with the ability to understand the issues at hand and exercise good judgment in giving advice to the Town Council. New board, commission, and committee members are encouraged to schedule an appointment with the appropriate Town staff member so that they can learn some of the basic information and ask questions prior to attending their first meeting.

Each board, commission, and committee member is responsible for considering the issues as they relate to and impact the Mammoth Lakes community as a whole. It is important that members be able to set aside personal biases in an effort to understand how policies will affect all segments of the Town.

#### **CONFLICT OF INTEREST PROHIBITIONS**

Members of Mammoth Lakes' boards, commissions, and committees should be aware of the need to avoid conflicts of interest. Conflict of interest standards, as included in common law, statute, and local policy, are generally applicable to all boards, commissions, and committees. Additionally, members of certain bodies are subject to filing requirements regarding economic interests.

The Political Reform Act of 1974 (California Government Code Section 87100 et. seq.), which was enacted by the voters of California by initiative, prohibits financial conflicts of interest on the part of public officials. The Act provides that no local official, including board, commission, and committee members, shall make, participate in making, or in any way attempt to use his or her official position to influence a Town decision if the official knows, or has reason to know, that the decision will have a material financial effect on his or her interests or those of his or her family. The State Fair Political Practices Commission (FPPC) enforces the State conflict of interest regulations. Mammoth Lakes' board, commission, and committee members may seek the advice of the FPPC regarding conflict of interest issues and concerns; however, only a formal advice letter from the FPPC will insulate individuals from FPPC enforcement actions.

The Political Reform Act of 1974 includes requirements for filing of periodic statements of economic interests for members of the Planning Commission. Members of the Board of Appeals/Building Advisory Committee, Airport Commission, Mobility Commission, Public Arts Commission, and Recreation Commission are subject to Town filing requirements. The Town Clerk routinely advises the members of Boards and

Commissions of filing requirements and deadlines and will inform other advisory body members of any changes that would affect them.

Government Code Section 1090, which is a separate law from the Political Reform Act provisions, states that any Town officer or employee (which includes appointees of the Town) shall not be financially interested in any contract made by any body or board of which they are a member.

A conflict of interest may also exist under common law doctrines. The common law doctrine against conflict of interest prohibits public officials from placing themselves in a position where their private/personal interest may conflict with their official duties. While the Political Reform Act focuses on financial conflicts of interest, the common law conflict of interest doctrine extends to non-economic conflicts of interest. Decisions which your committee, commission, or body makes are expected to be the result of disinterested and unbiased decision-makers.

In the event a member of a body has a conflict of interest, the member should generally recuse him or herself from considering the issue. However, as there are exceptions to this general rule and special procedures that apply, please notify Town staff as soon as possible of a potential conflict. In addition, Town staff can help answer questions regarding if a particular situation is actually a conflict.

## **ETHICS**

The Mammoth Lakes Town Council encourages the embracing of this code to guide board, commission, and committee members regarding the Town Council's expectations of conduct.

1. **Town Policies.** Stand behind the board, commission, or committee's spokesperson and leadership. Diversity of viewpoints and backgrounds should be respected. Individuals may speak or write individually, but should note that they are speaking or writing on their own behalf.
2. **Build Teamwork.** Be open with ideas, feelings, and attitudes. Seek and gain an honest evaluation of your ideas and recruit assistance in implementing them.
3. **Show Respect, Effective Communication, and Leadership.** Respect your colleagues. For criticism to be effective, it is best to be constructive. Embarrassing a colleague or staff in public will likely be counter-productive. Follow legitimate channels of communication with staff. Remember that staff performance is a reflection of your leadership abilities; work together. Treat staff with respect. Do not criticize staff at public meetings.

4. **Try to Reach Decisions by Consensus.** Better decisions can be made by a level of consensus. Openly voice your individual goals and work to draft a solution to meet the largest number of goals.
5. **Value Your Vote.** You were appointed to express your opinions by voting on matters. Vote with the Mammoth Lakes community and your conscience in mind. If there are conflicting goals, vote for the higher purpose. If you have a conflict of interest, abstain from voting. Because of the value of your vote, abstentions in the absence of a conflict of interest are discouraged. Except where an abstention is due to a declared conflict of interest, failure of a board, commission, or committee member to vote shall be recorded with the prevailing vote on the matter.
6. **Give Political Assent: Do Not Misrepresent the Group.** Accept the results of a board, commission, or committee vote. Respect the decision of the group. Do not use your official capacity, unless specifically designated and authorized by your advisory board to represent yourself speaking or writing on behalf of the board, commission, or committee. Do not suggest you represent the group (for example, by using the name of the board, commission, or committee) or use your appointed status as a means of attempting to create an impression or influence others.
  - a. If you are a member of the Planning Commission, do not take an advocacy position before the Town Council or before any other public body on development projects that have or will come before the Commission. Planning Commission members must refrain from such action because 1) the matter may be referred by the Town Council back to the Commission for comment, recommendation, and/or action, and such advocacy creates a serious procedural due process conflict; and 2) it is not recommended that a Town Council appointee take a public advocacy position contrary to the decision of the Town Council.
7. **Respect Non-Partisanship.** The strength of local government in California is that it is non-partisan; be dedicated to the preservation of this system.
8. **Brown Act.** Be forthright in support and adherence to the Brown Act.
9. **Conflict of Interest.** If disqualified by reason of any conflict of interest in any matter, do not, in your official capacity, participate in any discussion in any way or comment on any matter in any way to any person, including any other commission member, councilmember or staff, and do not vote on such a matter.

## **REPRESENTING THE BOARD, COMMISSION, OR COMMITTEE**

When commenting on matters relating to your official capacity as a board, commission, or committee member, you should make every effort to interpret and represent the view of the whole group. You should not represent your personal views or recommendations as those of the entire group unless a majority of the board, commission, or committee has voted to approve the recommendation. As noted above, if you express views that have not been approved by a majority of the group, you should make it clear that you are representing yourself as an individual and not the board, commission, or committee on which you serve.

As an individual board, commission, or committee member, you have the right to speak and write publicly on issues unrelated to your official appointment. However, you should recognize that, as an appointee, you are in a highly visible position in the community. You should avoid referring to your official position when addressing the public as a citizen on an unrelated issue. If a question is raised, you should clarify that your comments are made as an individual citizen and not as a board, commission, or committee member.

## **RELATIONS WITH TOWN COUNCIL, STAFF, AND OTHERS**

As volunteer participants in Mammoth Lakes' municipal government, board, commission, and committee members interact with a variety of people, including elected officials, Town staff, the media, and the general public. Following are some guidelines regarding relationships with these different groups of people.

1. **Relationships with the Town Council.** The Town Council is the elected legislative body of the Town and is responsible for making all policy decisions. The Town Council relies on the input of boards, commissions, and committees to increase the variety of viewpoints and talents brought to bear on Town issues. However, it is the Town Council's role to consider the broader context and weigh the trade-offs involved in a particular policy decision. Consequently, the Town Council may accept, reject, or modify recommendations made by Town advisory bodies. As a board, commission, or committee member, you should remember that your role is advisory only and that, even in situations where your recommendations are not followed, your participation and input into the process is valuable. The role of the advisory body in providing additional public input to the Town Council is especially important.
2. **Relationships with Town staff.** The staff liaisons to Town boards, commissions, and committees assist the advisory body in accomplishing its functions. Staff representatives conduct research and provide relevant information that enhances the work products and recommendations of the particular advisory body. Town staff members are eager to work with Town advisory body members in exploring issues and evaluating solutions to Town

problems, as advisory bodies provide staff with excellent resources for obtaining community input and ideas. As an advisory board member, you should be aware of staff time involved in preparing reports and studies and should make sure that all requests made of staff are consistent with the charge of your particular board, commission, or committee. Advisory body members should not ask staff for individual reports, favors, or special consideration. It is also important to remember that while the staff is charged with assisting advisory bodies in accomplishing their functions, Town staff members are responsible to the Town Manager and the Town Council, and are tasked with carrying out the workplan established by the Town Council and staff as part of the annual budget process. They are not employees of the particular board, commission, or committee. There may be occasions when staff recommendations will vary from the recommendation of the board, commission, or committee.

**3. Relationships with Fellow Board, Commission, or Committee Members.**

Cooperation among members plays an important role in the success of Town boards, commissions, and committees. To build consensus around common goals and objectives, members should define the issues and work to reconcile differing viewpoints. When advisory body members interact positively, the group as a whole will be more effective. Important points to keep in mind when working with other group members are as follows:

- Always respect the other individual's viewpoint, even though it may be different from your own.
- Be courteous by allowing other members adequate time to present their views fully before making comments.
- Build integrity in all decisions by being open and honest at all times.
- Welcome new members and help them to become acquainted with the board, commission, or committee.
- Accept responsibility, voice opinions, and be fair and factual.
- Don't allow differences of opinion on prior decisions bias decisions on current issues.

**4. Relationships with the General Public.** The fundamental purpose of advisory body meetings are to provide a forum for open discussion on specific issues in a setting that is more informal than a Town Council meeting and to inform the public of what the group is doing. Good relations with the public are vital to accomplishing these goals. Boards, commissions, and committees should welcome citizen input as a valuable resource to the group, to understanding community concerns, and to gauge community reaction to

alternative courses of action under consideration. This builds public trust and credibility.

5. **Relationships with the Media.** In most situations, the board, commission, or committee chair is designated as the group's official spokesperson. However, reporters may seek out other advisory board members for comment. If you are contacted, please remember the important role the press plays in informing the public and remember that most reporters do want to write accurate, balanced stories and that they usually face rigid deadlines. When making statements to the press, you should remember the following:

- Indicate if the board, commission, or committee actions are recommendations, and if so, that final action will be taken by the Town Council.
- Keep your comments factual and try to avoid giving "opinions." If given, you should identify them as such.
- Never volunteer or release information affecting the Town Council before the Town Council hears the information first from Town staff.
- If you cannot answer a question, say so and refer the reporter to another group member or to staff for an answer. There is nothing wrong with not knowing something; however, real damage can be done by giving inaccurate information.
- Be honest.
- Be positive in your comments and keep in mind your group's goals.
- Go over your comments with reporters to ensure an accurate story. If the article is printed with serious errors, call the reporter so that a correction can be printed. If the article is fair and accurate, make a special effort to thank the reporter.
- Remember that you do not have to talk if you do not want to and that there is no such thing as "off the record."

## **ATTENDANCE**

Attendance at scheduled meetings is critical to the overall performance of the board, commission, and/or committee. Excessive absenteeism becomes an impediment to the overall success of the Town in serving the community.

## **FIVE GOLDEN RULES TO HELP YOU BECOME AN EFFECTIVE BOARD, COMMISSION, OR COMMITTEE MEMBER**

1. **Represent the Whole Town.** As a board, commission, or committee member, you have been appointed to represent the public interest and not a special group or interest. The question, “What is best for the entire Mammoth Lakes Community” should take precedence over, “What is best for my special interest group?”
2. **Keep the Lines of Communication Open.** As a board, commission, or committee member, you are in the unique position of serving as a liaison between the Town and its citizens. You are encouraged to explain and promote policies and programs established by the Town Council within the scope of interest of your group. It is equally important for you to transmit back to the Town Council the reactions and opinions of the citizens as they relate to these policies and programs. In doing so, it is very important that you do not substitute your own opinions for those of the general public.
3. **Do Your Homework and Be Thorough in Making Recommendations.** As a board, commission, or committee member, you should be prepared to discuss the issues that are on the meeting agenda. In addition to reading the agenda packet and materials, your preparation may include discussions with staff, visiting the location of a proposed project, or reviewing prior Town Council actions. You should make every effort to remain objective during the fact-finding phase and to thoroughly evaluate all aspects of an issue before making a recommendation.
4. **Be Conscious of the Relationship with the Town Council and Staff.** Successful relationships with the Town Council and staff are basic for the successful operation of an advisory body. It is important that you respect the authority of those who, in the end, will be charged with the responsibility for actions taken by the Town. Further guidance on these relationships is provided in detail earlier in this Section.
5. **Establish a Good Working Relationship with Other Commission Members.** As described in detail earlier in this Section, a positive relationship among all of the members of a board, commission, or committee will help to ensure the success of the group.

## SECTION VI

### MEETING PROTOCOL

#### AGENDA PREPARATION AND POSTING

Agendas and staff reports for board, commission, and committee meetings are prepared by staff in accordance with the Town's agenda preparation guidelines and the Ralph M. Brown Act, which is explained in detail in the next chapter.

Agendas for regular meetings must be posted no later than 72 hours prior to the meeting date/time. Agendas for special meetings must be posted no later than 24 hours prior to the meeting date/time. Your staff liaison will ensure that you are provided an agenda packet in a timely fashion prior to each board, commission, or committee meeting. The agenda packet will include the posted meeting agenda notice, staff reports and recommended actions, and general information. Once the agenda is posted and distributed to a majority of board, commission, or committee members, it becomes a public record.

#### PREPARATION FOR MEETINGS

Be prepared. Thoroughly review the agenda packet, including agenda reports and recommended actions, and any other materials *before* the meeting. The issues that come before boards, commission, and committees are important to the community as a whole and demand your consistent attention.

Some questions to ask yourself may include:

- What is the history behind this item?
- What are some public concerns and what are the long-term interests of the community?
- What are we trying to accomplish and what are the benefits/drawbacks?
- What guidance can be found in our foundational documents?

If you have additional questions regarding the agenda or agenda report, contact your staff liaison before the meeting for clarification or additional information.

Keep an open mind. An objective, balanced, and receptive approach will help you assess the facets of a given issue, and evaluate new ideas. When receiving written and oral public testimony, it will be necessary to discern between fact and opinion, as well as between those concerns that are relevant and those that are secondary to the issue at hand. Keeping an open mind will make it easier for you to understand all sides of an issue before you make a judgment or take a position.

Strive to appreciate the differences in approach and points of view. Diversity of ideas sustains a thoughtful dialogue and a vibrant community. Likewise, take care to articulate

your own ideas. Remember that your individual voice is a critical part of the whole dialogue. Again, furthering common goals takes cooperation, flexibility, and a broad-based view of the public interest. If in doubt, return to the foundational documents to guide your understanding of the complexities of an issue.

Ask for clarification if you are unsure about something *during* the meeting. Your understanding of issues is important. Each board, commission, or committee has a Town staff liaison to provide information to assist the members throughout the decision-making process.

## **RULES OF DEBATE**

Unless otherwise provided by law, Rosenberg’s Rules of Order (Appendix A) govern the general conduct of board, commission, and committee meetings.

## **CHAIR**

The Chair (presiding officer) may move or second a motion, and debate as Chair. The Chair is subject to the limitations of debate that are imposed on all members and shall not be deprived of any of the rights and privileges of a member.

## **BOARD, COMMISSION, COMMITTEE MEMBERS**

Every board, commission, or committee member desiring to speak shall address the Chair, and upon recognition by the Chair, shall limit comments to the question under debate, avoiding any indecorous language and references to personalities. A member, once recognized, shall not be interrupted except in accordance with rules of parliamentary procedure (for example, point of order, parliamentary inquiry, question of privilege, or appeal of Chair’s procedural ruling).

## **ADDRESSING THE BOARD, COMMISSION, OR COMMITTEE FROM THE FLOOR**

### **Securing permission to speak.**

Members of the public desiring to address a board, commission, or committee shall first secure permission from the Chair. Any board, commission, or committee member may also request of the Chair that a member of the public be recognized to speak. Remarks should be directed to the matter being considered.

### **Individuals**

So that their identities are accurately reported in the record, persons addressing the board, commission, or committee are requested to give their name in an audible tone of voice. However, persons shall not be denied the opportunity to address the board, commission,

or committee because they decline to identify themselves. The time limit for public testimony shall be stated in the agenda, which is typically five minutes.

All remarks shall be addressed to the board, commission, or committee as a whole and not to any individual member or to members of the audience. No person, other than a member of the board, commission, or committee, and the person having the floor, shall be permitted to enter into any discussion without the permission of the Chair.

While board, commission, or committee members may ask questions of a speaker, they should not debate matters with a speaker. All remarks shall be delivered in a respectful manner.

## **DECORUM IN MEETINGS**

- Arrive promptly to ensure the meeting is called to order on time.
- Be fair, impartial, and respectful of the public, staff, and each other. Give your full attention when others speak.
- Conclude public testimony before board, commission, or committee members begin serious deliberation on an issue.
- Balance multiple views, neither favoring nor ignoring one individual or group over another. Your obligation is to represent a broad-based view of the community's long-range interests.
- Remember that your board, commission, or committee exists to take actions and/or develop recommendations to the Town Council in the interest of advancing Town Council policies and addressing community issues. It is not simply a discussion group.

## **ROLE OF CHAIR**

The Chair shall preserve order and decorum at all meetings of the board, commission, or committee, announce the decisions taken, and decide questions of order. The Chair is responsible for ensuring the effectiveness of the group process. A good Chair balances moving the discussion forward while involving all of the board, commission, or committee members and allowing for adequate public participation. The Chair will also endeavor to end meetings at a reasonable hour. In the absence of the Chair, the Vice Chair shall act as presiding officer.

The Chair will:

- Start meetings on time and keep the agenda in mind in order to give each item sufficient time for consideration.

- Announce at the start of the meeting if the order of agenda items is to be re-arranged for convenience, for response to those attending only for certain items, or for better pacing of the agenda.
- Ensure that the public understands the nature of the issue being discussed (for example, reason for discussion, process to be followed, opportunities for public input, timeline for decision).
- Keep discussion focused on the issue at hand.
- Solicit opinions from board, commission, or committee members and encourage evaluation of new, tentative, or incomplete ideas.
- If the body's bylaws or policies impose time limits upon board members or the public, the rule may be enforced at the discretion of the Chair.
- Protect board, commission, or committee members, staff, and the public from personal attacks.
- Provide structure for addressing complicated issues.
- Refer to staff or legal counsel when technical guidance is required.
- Attempt to reach decisions expeditiously on action items. At those times when action would be premature and additional analysis is needed, the Chair will guide discussion toward a timeline or framework for responsible action.

## **PREPARING MOTIONS**

Board, commission, and committee meetings are conducted according to parliamentary procedure. As the presiding officer, the Chair's rulings must be followed unless he/she is overruled by a majority vote of the body upon an appeal of a ruling.

When a board, commission, or committee member wishes to propose an action on a particular item on the posted agenda for the board, commission, or committee to consider, the member makes a motion.

### Examples of Common Motions:

- **Delay consideration:** *"I move to continue the item until..."* (Date specific or date uncertain).
- **Close debate:** *"I call for the question."* This ends debate immediately in order to call for a motion.
- **Request more study:** *"I move to refer this to staff or (committee) for further study."*
- **Adopt a staff recommendation:** *"I move to adopt option ..."*
- **Modify staff recommendation:** *"I move to adopt the option with the following modifications..."*

Properly phrasing a motion can be difficult and corrections may be necessary before it is acted upon. Until the Chair states the motion, the member making the motion may rephrase or withdraw it.

Members may wish to write out difficult motions. If a motion gets too complicated, call a recess and have staff assist with the wording.

It is best to avoid including more than one proposal in the same motion. This is especially important when board, commission, or committee members are likely to disagree.

Any member may make a motion to bifurcate or divide a motion in order to treat each proposal as a separate motion.

A motion goes through the following steps:

1. The member asks to be recognized by the Chair.
2. The member makes the motion: *"I move that we..."*
3. Another member seconds the motion: *"I second the motion."*
4. The Chair restates the motion, or asks the recording secretary to do so, and asks for discussion on the motion.
5. When the Chair determines that there has been enough discussion, the debate may be closed with: *"I call the question."* or *"Is there any further discussion?"*
6. If no one asks for permission to speak, the Chair then puts the motion to a vote.
7. The Chair should restate the motion prior to the vote to ensure the motion is clearly understood by all. Any member may request a roll call vote on a motion.
8. After the vote, the Chair announces one of the following:
  - a. *"The motion carries unanimously."*
  - b. *"The motion carries \_\_\_ to \_\_\_ (identifying the number of yes and no votes)."*
  - c. *"The motion has failed."*

## SECTION VII

### LEGAL MATTERS

#### **BROWN ACT**

The State Legislature has declared that the actions of public bodies be taken openly and that their deliberations be conducted openly. California's Ralph M. Brown Act (found in Government Code Sections 54950 through 54961), also known as the "open meeting law," applies to all advisory bodies and requires that they:

1. Meet within the jurisdictional limits of the Town (with very limited exceptions).
2. Post the agenda 72 hours before a regular meeting, said agenda to contain a brief general description of each item of business to be transacted or discussed.
3. Hold open and public meetings.
4. Give notice of the meeting to any requesting party at least 24 hours prior to the meeting.
5. Provide in bylaws or rules for time and place of regular meetings, if regular meetings are to be held.

A meeting is defined as a gathering of a majority (quorum) of the advisory body for the purpose of discussing items before the body or conducting other business of the body. It is important to understand that the Brown Act generally prohibits any action or discussion of items not posted on the agenda.

There are special requirements for advisory body agendas:

- Regular Meetings – 72 hours in advance.
- Special Meetings – 24 hours in advance.
- Adjourned Meetings – a regular or special meeting may be adjourned to a specific time and place (usually to continue consideration of some item of business). A special notice is required and should be posted within 24 hours of adjournment.

#### **BROWN ACT PROVIDES FOR PUBLIC COMMENTS**

The Brown Act mandates that regular meeting agendas allow for two types of public comment periods. The first is a general audience comment period, where the public can comment on any item of interest that is within subject matter jurisdiction of the local agency and that is not listed on the posted agenda. In Mammoth Lakes, the "public comment" period is typically placed towards the beginning of the meeting agenda. In

addition, the public may request the opportunity to comment on individual items on the agenda, at the time the agenda item is considered by the advisory body.

The Brown Act allows for a legislative body to adopt reasonable regulations limiting total amount of time allocated for public testimony. In Mammoth Lakes, the typical time limit for speakers is five (5) minutes.

It is not permissible to prohibit public criticism of policies, procedures, programs, or services of the Town or acts or omissions of the Town. This does not mean that a member of the public may speak on “anything.” If the topic is not within the subject matter jurisdiction of the advisory body, the Chair should remind the speaker to direct his/her comments to only those subjects within the advisory body’s purview.

## **COMMON QUESTIONS ABOUT THE BROWN ACT**

The following is intended to give advisory body members a basic understanding of the Brown Act. Please consult with staff liaison, the Town Clerk, or the Town Attorney for more specifics.

1. **What are serial meetings?** A serial meeting is a series of communications amongst a majority of members, outside of a meeting, to develop a collective concurrence as to action to be taken on an item by the members. The Brown Act strictly prohibits serial meetings. Even though a majority of members never gathers in a room at the same time, a Brown Act violation may occur if ideas are exchanged among the majority by going through any person acting as an intermediary (including staff), and/or the use of technology devices such as a telephone, answering machine, computer email, or voice mail.
2. **What are some examples of serial meetings?** The most common example of a serial meeting is a “daisy chain” where “Member A” calls or emails “Member B” and then “Member A” or “Member B” calls or emails “Member C”, and so on. Another example is the “Hubs and Spokes” situation, where some member of the public or staff (the “hub”) contacts individual body members (the “spokes”) and in the course of conversations or emails shares the views of the body members with other body members so as to establish a collective concurrence.
3. **What’s a Quorum?** A quorum is a majority (more than half) of the total number of established members of the group. A quorum must be present for any business discussion or action to take place. A quorum must be present for the duration of the meeting. If a member leaves during the meeting, resulting in the lack of a quorum, no further business may be conducted and the meeting must be adjourned. If vacancies exist on the advisory body, those vacant positions still count towards the quorum. For example, if one seat is vacant on a five-member body and two members are absent, there is not a quorum.

4. **If a member is absent, can he/she still vote?** Generally, no. Votes by proxy are not allowed. Under certain conditions, members may participate via teleconferencing. For more information on teleconferencing options and requirements, contact the staff liaison or Town Clerk.
  
5. **What are some exceptions to the Brown Act?** Advisory body members may attend and/or participate in the following as long as a majority of the members do not discuss amongst themselves matters that are within the subject matter jurisdiction of the advisory body:
  - Informational or educational workshops or conferences.
  - Community meetings, such as town hall meetings, workshops, forums, etc. not sponsored by the advisory body.
  - A meeting of another body of the local agency.
  - Social or ceremonial events.
  
6. **Can an advisory body conduct a retreat?** “Team Building” or “Goal Setting” retreats may be held, but they must be held within the Town, be properly noticed, and be open to the public.

The Legislature amends provisions in the Brown Act periodically, rendering the law increasingly complicated. It is recommended that you familiarize yourself with the provisions of the Brown Act by reviewing “Open and Public IV: A Guide to the Ralph M. Brown Act,” a publication of the League of California Cities, which is included in Appendix B.

## **CONFLICT OF INTEREST/STATEMENTS OF ECONOMIC INTERESTS FORM 700**

The Political Reform Act (PRA) was adopted by voters of California as an initiative (Proposition 9) in 1974. The Fair Political Practices Commission (FPPC) is the enforcement agency for the Political Reform Act. One of the PRA’s main purposes is to prevent financial conflicts of interest on the part of public officials. The Act requires public officials to disclose all financial interests, such as investments, interests in real estate, or sources of income, which the official may possibly affect by the exercise of his or her official duties. If a public official has a conflict of interest, the PRA may require the official to disqualify himself or herself from making or participating in a governmental decision, or using his or her official position to influence a government decision.

### What is a Conflict of Interest?

The Political Reform Act of 1974, which is codified as Government Code Section 87100 et seq., provides that no public official at any level of State or local government shall make, participate in making, or in any way attempt to use his/her official position to influence a governmental decision in which he/she knows or has reason to know he/she has a financial interest.

### **ETHICS TRAINING**

Assembly Bill 1234 (Government Code Section 53235) which became effective in 2006, requires the Town to provide ethics training for all members of a legislative body that receive compensation, salary or stipend, or reimbursement of expenses related to his/her official duties. The following legislative bodies are required to receive training: Town Council, Planning Commission, and Recreation Commission. Applicable officials must receive two hours of ethics training within one year of the first day of service, and subsequently at least once every two years. Ethics Training is provided by the Town every two years in even numbered years, and all board, commission, and committee members are invited and encouraged to attend the training.

## SECTION VIII

### POLICY FOR ADVISORY COMMITTEES AND COMMISSIONS

1. **Purpose.** The purpose of Town Council-appointed advisory committees and commissions is to review and make policy recommendations to the Town Council within the scope of responsibility defined by the Town Council, and to promote increased public awareness and citizen participation in the determination of Town policies.
2. **Values:**
  - a. **Accountability:** Committees/commissions will exhibit a sense of ownership of the policy matters within their assigned scope of responsibility.
  - b. **Openness:** Committees/commissions will consider a range of views and policy options before making recommendations.
  - c. **Transparency:** Committees/commissions will share all information completely and take all actions openly.
3. **Roles:**
  - a. **Town Council Role:**
    - i. Establishes a clear purpose and scope of responsibility for the committee/commission.
    - ii. Establishes the structure, composition, and duration of the committee/commission.
    - iii. Appoints members or establishes membership criteria for the committee/commission.
    - iv. Provides staff, funding, or other resources to the committee/commission.
    - v. Receives and considers reports and recommendations from the committee/commission.
  - b. **Committee/Commission Role:**
    - i. Understands and takes ownership of the policy matters within the scope of responsibility established by the Town Council.
    - ii. Develops goals, mission statements, and a workplan consistent with the scope of responsibility of the committee/commission.
    - iii. Requests information, conducts meetings and hearings, makes field visits, and uses subcommittees to gather

adequate information in order to make informed recommendations.

- iv. Encourages public participation in the committee/commission process.
- v. Considers all points of view.
- vi. Conducts all activities in an open and transparent way.
- vii. Makes advisory reports and recommendations to the Town Council.
- viii. Attends meetings regularly and engages issues in a positive, contributory manner.

c. Staff Role:

- i. Facilitates meetings and hearings.
- ii. Provides necessary documents and information.
- iii. Prepares and presents reports.
- iv. Responds to questions and requests for information.
- v. Provides for notices, agendas, and minutes.
- vi. Helps orient and train new members.

# APPENDICES

**Appendix A**

# **Rosenberg's Rules of Order**

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# Rosenberg's Rules of Order

REVISED 2011

*Simple Rules of Parliamentary  
Procedure for the 21st Century*

*By Judge Dave Rosenberg*



## **MISSION**

To expand and protect local control for cities through education and advocacy to enhance the quality of life for all Californians.

## **VISION**

To be recognized and respected as the leading advocate for the common interests of California's cities.

## **About the League of California Cities**

Established in 1898, the League of California Cities is a member organization that represents California's incorporated cities.

The League strives to protect the local authority and autonomy of city government and help California's cities effectively serve their residents. In addition to advocating on cities' behalf at the state capitol, the League provides its members with professional development programs and information resources, conducts education conferences and research, and publishes *Western City* magazine.

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## **About the Author**

Dave Rosenberg is a Superior Court Judge in Yolo County. He has served as presiding judge of his court, and as presiding judge of the Superior Court Appellate Division. He also has served as chair of the Trial Court Presiding Judges Advisory Committee (the committee composed of all 58 California presiding judges) and as an advisory member of the California Judicial Council. Prior to his appointment to the bench, Rosenberg was member of the Yolo County Board of Supervisors, where he served two terms as chair. Rosenberg also served on the Davis City Council, including two terms as mayor. He has served on the senior staff of two governors, and worked for 19 years in private law practice. Rosenberg has served as a member and chair of numerous state, regional and local boards. Rosenberg chaired the California State Lottery Commission, the California Victim Compensation and Government Claims Board, the Yolo-Solano Air Quality Management District, the Yolo County Economic Development Commission, and the Yolo County Criminal Justice Cabinet. For many years, he has taught classes on parliamentary procedure and has served as parliamentarian for large and small bodies.

## INTRODUCTION

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The rules of procedure at meetings should be simple enough for most people to understand. Unfortunately, that has not always been the case. Virtually all clubs, associations, boards, councils and bodies follow a set of rules — *Robert's Rules of Order* — which are embodied in a small, but complex, book. Virtually no one I know has actually read this book cover to cover. Worse yet, the book was written for another time and for another purpose. If one is chairing or running a parliament, then *Robert's Rules of Order* is a dandy and quite useful handbook for procedure in that complex setting. On the other hand, if one is running a meeting of say, a five-member body with a few members of the public in attendance, a simplified version of the rules of parliamentary procedure is in order.

Hence, the birth of *Rosenberg's Rules of Order*.

What follows is my version of the rules of parliamentary procedure, based on my decades of experience chairing meetings in state and local government. These rules have been simplified for the smaller bodies we chair or in which we participate, slimmed down for the 21st Century, yet retaining the basic tenets of order to which we have grown accustomed. Interestingly enough, *Rosenberg's Rules* has found a welcoming audience. Hundreds of cities, counties, special districts, committees, boards, commissions, neighborhood associations and private corporations and companies have adopted *Rosenberg's Rules* in lieu of *Robert's Rules* because they have found them practical, logical, simple, easy to learn and user friendly.

This treatise on modern parliamentary procedure is built on a foundation supported by the following four pillars:

1. **Rules should establish order.** The first purpose of rules of parliamentary procedure is to establish a framework for the orderly conduct of meetings.
2. **Rules should be clear.** Simple rules lead to wider understanding and participation. Complex rules create two classes: those who understand and participate; and those who do not fully understand and do not fully participate.
3. **Rules should be user friendly.** That is, the rules must be simple enough that the public is invited into the body and feels that it has participated in the process.
4. **Rules should enforce the will of the majority while protecting the rights of the minority.** The ultimate purpose of rules of procedure is to encourage discussion and to facilitate decision making by the body. In a democracy, majority rules. The rules must enable the majority to express itself and fashion a result, while permitting the minority to also express itself, but not dominate, while fully participating in the process.

### **Establishing a Quorum**

The starting point for a meeting is the establishment of a quorum. A quorum is defined as the minimum number of members of the body who must be present at a meeting for business to be legally transacted. The default rule is that a quorum is one more than half the body. For example, in a five-member body a quorum

is three. When the body has three members present, it can legally transact business. If the body has less than a quorum of members present, it cannot legally transact business. And even if the body has a quorum to begin the meeting, the body can lose the quorum during the meeting when a member departs (or even when a member leaves the dais). When that occurs, the body loses its ability to transact business until and unless a quorum is reestablished.

The default rule, identified above, however, gives way to a specific rule of the body that establishes a quorum. For example, the rules of a particular five-member body may indicate that a quorum is four members for that particular body. The body must follow the rules it has established for its quorum. In the absence of such a specific rule, the quorum is one more than half the members of the body.

## **The Role of the Chair**

While all members of the body should know and understand the rules of parliamentary procedure, it is the chair of the body who is charged with applying the rules of conduct of the meeting. The chair should be well versed in those rules. For all intents and purposes the chair makes the final ruling on the rules every time the chair states an action. In fact, all decisions by the chair are final unless overruled by the body itself.

Since the chair runs the conduct of the meeting, it is usual courtesy for the chair to play a less active role in the debate and discussion than other members of the body. This does not mean that the chair should not participate

in the debate or discussion. To the contrary, as a member of the body, the chair has the full right to participate in the debate, discussion and decision making of the body. What the chair should do, however, is strive to be the last to speak at the discussion and debate stage. The chair should not make or second a motion unless the chair is convinced that no other member of the body will do so at that point in time.

### **The Basic Format for an Agenda Item Discussion**

Formal meetings normally have a written, often published agenda. Informal meetings may have only an oral or understood agenda. In either case, the meeting is governed by the agenda and the agenda constitutes the body's agreed-upon roadmap for the meeting. Each agenda item can be handled by the chair in the following basic format:

*First*, the chair should clearly announce the agenda item number and should clearly state what the agenda item subject is. The chair should then announce the format (which follows) that will be followed in considering the agenda item.

*Second*, following that agenda format, the chair should invite the appropriate person or persons to report on the item, including any recommendation that they might have. The appropriate person or persons may be the chair, a member of the body, a staff person, or a committee chair charged with providing input on the agenda item.

*Third*, the chair should ask members of the body if they have any technical questions of clarification. At this point, members of the body may ask clarifying questions to the person or persons who reported on the item, and that person or persons should be given time to respond.

*Fourth*, the chair should invite public comments, or if appropriate at a formal meeting, should open the public meeting for public input. If numerous members of the public indicate a desire to speak to the subject, the chair may limit the time of public speakers. At the conclusion of the public comments, the chair should announce that public input has concluded (or the public hearing, as the case may be, is closed).

*Fifth*, the chair should invite a motion. The chair should announce the name of the member of the body who makes the motion.

*Sixth*, the chair should determine if any member of the body wishes to second the motion. The chair should announce the name of the member of the body who seconds the motion. It is normally good practice for a motion to require a second before proceeding to ensure that it is not just one member of the body who is interested in a particular approach. However, a second is not an absolute requirement, and the chair can proceed with consideration and vote on a motion even when there is no second. This is a matter left to the discretion of the chair.

*Seventh*, if the motion is made and seconded, the chair should make sure everyone understands the motion.

This is done in one of three ways:

1. The chair can ask the maker of the motion to repeat it;
2. The chair can repeat the motion; or
3. The chair can ask the secretary or the clerk of the body to repeat the motion.

*Eighth*, the chair should now invite discussion of the motion by the body. If there is no desired discussion, or after the discussion has ended, the chair should announce that the body will vote on the motion. If there has been no discussion or very brief discussion, then the vote on the motion should proceed immediately and there is no need to repeat the motion. If there has been substantial discussion, then it is normally best to make sure everyone understands the motion by repeating it.

*Ninth*, the chair takes a vote. Simply asking for the “ayes” and then asking for the “nays” normally does this. If members of the body do not vote, then they “abstain.” Unless the rules of the body provide otherwise (or unless a super majority is required as delineated later in these rules), then a simple majority (as defined in law or the rules of the body as delineated later in these rules) determines whether the motion passes or is defeated.

*Tenth*, the chair should announce the result of the vote and what action (if any) the body has taken. In announcing the result, the chair should indicate the names of the members of the body, if any, who voted in the minority on the motion. This announcement might take the following form: “The motion passes by a vote of 3-2, with Smith and Jones dissenting. We have passed the

motion requiring a 10-day notice for all future meetings of this body.”

## **Motions in General**

Motions are the vehicles for decision making by a body. It is usually best to have a motion before the body prior to commencing discussion of an agenda item. This helps the body focus.

Motions are made in a simple two-step process. First, the chair should recognize the member of the body. Second, the member of the body makes a motion by preceding the member’s desired approach with the words “I move ... ”

A typical motion might be: “I move that we give a 10-day notice in the future for all our meetings.”

The chair usually initiates the motion in one of three ways:

- 1. Inviting the members of the body to make a motion**, for example, “A motion at this time would be in order.”
- 2. Suggesting a motion to the members of the body**, “A motion would be in order that we give a 10-day notice in the future for all our meetings.”
- 3. Making the motion.** As noted, the chair has every right as a member of the body to make a motion, but should normally do so only if the chair wishes to make a motion on an item but is convinced that no other member of the body is willing to step forward to do so at a particular time.

## The Three Substantive Motions

There are three motions that are the most common and recur often at meetings:

**The basic motion.** The basic motion is the one that puts forward a decision for the body's consideration. A basic motion might be: "I move that we create a five-member committee to plan and put on our annual fundraiser."

**The motion to amend.** If a member wants to change a basic motion that is before the body, they would move to amend it. A motion to amend might be: "I move that we amend the motion to have a 10-member committee." A motion to amend takes the basic motion that is before the body and seeks to change it in some way.

**The substitute motion.** If a member wants to completely do away with the basic motion that is before the body and put a new motion before the body, they would move a substitute motion. A substitute motion might be: "I move a substitute motion that we cancel the annual fundraiser this year."

"Motions to amend" and "substitute motions" are often confused, but they are quite different, and their effect (if passed) is quite different. A motion to amend seeks to retain the basic motion on the floor, but modify it in some way. A substitute motion seeks to throw out the basic motion on the floor, and substitute a new and different motion for it. The decision as to whether a motion is really a "motion to amend" or a "substitute motion" is left to the chair. So if a member makes what that member calls a "motion to amend," but the chair determines that it is really a "substitute motion," then the chair's designation governs.

A “friendly amendment” is a practical parliamentary tool that is simple, informal, saves time and avoids bogging a meeting down with numerous formal motions. It works in the following way: In the discussion on a pending motion, it may appear that a change to the motion is desirable or may win support for the motion from some members. When that happens, a member who has the floor may simply say, “I want to suggest a friendly amendment to the motion.” The member suggests the friendly amendment, and if the maker and the person who seconded the motion pending on the floor accepts the friendly amendment, that now becomes the pending motion on the floor. If either the maker or the person who seconded rejects the proposed friendly amendment, then the proposer can formally move to amend.

### **Multiple Motions Before the Body**

There can be up to three motions on the floor at the same time. The chair can reject a fourth motion until the chair has dealt with the three that are on the floor and has resolved them. This rule has practical value. More than three motions on the floor at any given time is confusing and unwieldy for almost everyone, including the chair.

When there are two or three motions on the floor (after motions and seconds) at the same time, the vote should proceed *first* on the *last* motion that is made. For example, assume the first motion is a basic “motion to have a five-member committee to plan and put on our annual fundraiser.” During the discussion of this motion, a member might make a second motion to “amend the main motion to have a 10-member committee, not a five-member committee to plan and put on our annual

fundraiser.” And perhaps, during that discussion, a member makes yet a third motion as a “substitute motion that we not have an annual fundraiser this year.” The proper procedure would be as follows:

**First**, the chair would deal with the *third* (the last) motion on the floor, the substitute motion. After discussion and debate, a vote would be taken first on the third motion. If the substitute motion *passed*, it would be a substitute for the basic motion and would eliminate it. The first motion would be moot, as would the second motion (which sought to amend the first motion), and the action on the agenda item would be completed on the passage by the body of the third motion (the substitute motion). No vote would be taken on the first or second motions.

**Second**, if the substitute motion *failed*, the chair would then deal with the second (now the last) motion on the floor, the motion to amend. The discussion and debate would focus strictly on the amendment (should the committee be five or 10 members). If the motion to amend *passed*, the chair would then move to consider the main motion (the first motion) as *amended*. If the motion to amend *failed*, the chair would then move to consider the main motion (the first motion) in its original format, not amended.

**Third**, the chair would now deal with the first motion that was placed on the floor. The original motion would either be in its original format (five-member committee), or if *amended*, would be in its amended format (10-member committee). The question on the

floor for discussion and decision would be whether a committee should plan and put on the annual fundraiser.

## **To Debate or Not to Debate**

The basic rule of motions is that they are subject to discussion and debate. Accordingly, basic motions, motions to amend, and substitute motions are all eligible, each in their turn, for full discussion before and by the body. The debate can continue as long as members of the body wish to discuss an item, subject to the decision of the chair that it is time to move on and take action.

There are exceptions to the general rule of free and open debate on motions. The exceptions all apply when there is a desire of the body to move on. The following motions are not debatable (that is, when the following motions are made and seconded, the chair must immediately call for a vote of the body without debate on the motion):

**Motion to adjourn.** This motion, if passed, requires the body to immediately adjourn to its next regularly scheduled meeting. It requires a simple majority vote.

**Motion to recess.** This motion, if passed, requires the body to immediately take a recess. Normally, the chair determines the length of the recess which may be a few minutes or an hour. It requires a simple majority vote.

**Motion to fix the time to adjourn.** This motion, if passed, requires the body to adjourn the meeting at the specific time set in the motion. For example, the motion might be: "I move we adjourn this meeting at midnight." It requires a simple majority vote.

**Motion to table.** This motion, if passed, requires discussion of the agenda item to be halted and the agenda item to be placed on “hold.” The motion can contain a specific time in which the item can come back to the body. “I move we table this item until our regular meeting in October.” Or the motion can contain no specific time for the return of the item, in which case a motion to take the item off the table and bring it back to the body will have to be taken at a future meeting. A motion to table an item (or to bring it back to the body) requires a simple majority vote.

**Motion to limit debate.** The most common form of this motion is to say, “I move the previous question” or “I move the question” or “I call the question” or sometimes someone simply shouts out “question.” As a practical matter, when a member calls out one of these phrases, the chair can expedite matters by treating it as a “request” rather than as a formal motion. The chair can simply inquire of the body, “any further discussion?” If no one wishes to have further discussion, then the chair can go right to the pending motion that is on the floor. However, if even one person wishes to discuss the pending motion further, then at that point, the chair should treat the call for the “question” as a formal motion, and proceed to it.

When a member of the body makes such a motion (“I move the previous question”), the member is really saying: “I’ve had enough debate. Let’s get on with the vote.” When such a motion is made, the chair should ask for a second, stop debate, and vote on the motion to limit debate. The motion to limit debate requires a two-thirds vote of the body.

**NOTE:** A motion to limit debate could include a time limit. For example: “I move we limit debate on this agenda item to 15 minutes.” Even in this format the motion to limit debate requires a two-thirds vote of the body. A similar motion is a *motion to object to consideration of an item*. This motion is not debatable, and if passed, precludes the body from even considering an item on the agenda. It also requires a two-thirds vote.

### **Majority and Super Majority Votes**

In a democracy, a simple majority vote determines a question. A tie vote means the motion fails. So in a seven-member body, a vote of 4-3 passes the motion. A vote of 3-3 with one abstention means the motion fails. If one member is absent and the vote is 3-3, the motion still fails.

All motions require a simple majority, but there are a few exceptions. The exceptions come up when the body is taking an action which effectively cuts off the ability of a minority of the body to take an action or discuss an item. These extraordinary motions require a two-thirds majority (a super majority) to pass:

**Motion to limit debate.** Whether a member says, “I move the previous question,” or “I move the question,” or “I call the question,” or “I move to limit debate,” it all amounts to an attempt to cut off the ability of the minority to discuss an item, and it requires a two-thirds vote to pass.

**Motion to close nominations.** When choosing officers of the body (such as the chair), nominations are in order either from a nominating committee or from the floor of the body. A motion to close nominations effectively cuts off the right of the minority to nominate officers and it requires a two-thirds vote to pass.

**Motion to object to the consideration of a question.** Normally, such a motion is unnecessary since the objectionable item can be tabled or defeated straight up. However, when members of a body do not even want an item on the agenda to be considered, then such a motion is in order. It is not debatable and requires a two-thirds vote to pass.

**Motion to suspend the rules.** This motion is debatable, but requires a two-thirds vote to pass. If the body has its own rules of order, conduct or procedure, this motion allows the body to suspend the rules for a particular purpose. For example, the body (a private club) might have a rule prohibiting the attendance at meetings by non-club members. A motion to suspend the rules would be in order to allow a non-club member to attend a meeting of the club on a particular date or on a particular agenda item.

## **Counting Votes**

The matter of counting votes starts simple, but can become complicated.

Usually, it's pretty easy to determine whether a particular motion passed or whether it was defeated. If a simple majority vote is needed to pass a motion, then

one vote more than 50 percent of the body is required. For example, in a five-member body, if the vote is three in favor and two opposed, the motion passes. If it is two in favor and three opposed, the motion is defeated.

If a two-thirds majority vote is needed to pass a motion, then how many affirmative votes are required? The simple rule of thumb is to count the “no” votes and double that count to determine how many “yes” votes are needed to pass a particular motion. For example, in a seven-member body, if two members vote “no” then the “yes” vote of at least four members is required to achieve a two-thirds majority vote to pass the motion.

What about tie votes? In the event of a tie, the motion always fails since an affirmative vote is required to pass any motion. For example, in a five-member body, if the vote is two in favor and two opposed, with one member absent, the motion is defeated.

Vote counting starts to become complicated when members vote “abstain” or in the case of a written ballot, cast a blank (or unreadable) ballot. Do these votes count, and if so, how does one count them? The starting point is always to check the statutes.

In California, for example, for an action of a board of supervisors to be valid and binding, the action must be approved by a majority of the board. (California Government Code Section 25005.) Typically, this means three of the five members of the board must vote affirmatively in favor of the action. A vote of 2-1 would not be sufficient. A vote of 3-0 with two abstentions would be sufficient. In general law cities in California, as another example, resolutions or orders for the payment of money

and all ordinances require a recorded vote of the total members of the city council. (California Government Code Section 36936.) Cities with charters may prescribe their own vote requirements. Local elected officials are always well-advised to consult with their local agency counsel on how state law may affect the vote count.

After consulting state statutes, step number two is to check the rules of the body. If the rules of the body say that you count votes of “those present” then you treat abstentions one way. However, if the rules of the body say that you count the votes of those “present and voting,” then you treat abstentions a different way. And if the rules of the body are silent on the subject, then the general rule of thumb (and default rule) is that you count all votes that are “present and voting.”

Accordingly, under the “present and voting” system, you would **NOT** count abstention votes on the motion. Members who abstain are counted for purposes of determining quorum (they are “present”), but you treat the abstention votes on the motion as if they did not exist (they are not “voting”). On the other hand, if the rules of the body specifically say that you count votes of those “present” then you **DO** count abstention votes both in establishing the quorum and on the motion. In this event, the abstention votes act just like “no” votes.

*How does this work in practice?  
Here are a few examples.*

Assume that a five-member city council is voting on a motion that requires a simple majority vote to pass, and assume further that the body has no specific rule on counting votes. Accordingly, the default rule kicks in

and all votes of members that are “present and voting” are counted. If the vote on the motion is 3-2, the motion passes. If the motion is 2-2 with one abstention, the motion fails.

Assume a five-member city council voting on a motion that requires a two-thirds majority vote to pass, and further assume that the body has no specific rule on counting votes. Again, the default rule applies. If the vote is 3-2, the motion fails for lack of a two-thirds majority. If the vote is 4-1, the motion passes with a clear two-thirds majority. A vote of three “yes,” one “no” and one “abstain” also results in passage of the motion. Once again, the abstention is counted only for the purpose of determining quorum, but on the actual vote on the motion, it is as if the abstention vote never existed — so an effective 3-1 vote is clearly a two-thirds majority vote.

Now, change the scenario slightly. Assume the same five-member city council voting on a motion that requires a two-thirds majority vote to pass, but now assume that the body **DOES** have a specific rule requiring a two-thirds vote of members “present.” Under this specific rule, the members present not only for quorum but also for the motion must be counted. In this scenario, any abstention has the same force and effect as if it were a “no” vote. Accordingly, if the votes were three “yes,” one “no” and one “abstain,” then the motion fails. The abstention in this case is treated like a “no” vote and effective vote of 3-2 is not enough to pass two-thirds majority muster.

Now, exactly how does a member cast an “abstention” vote? Any time a member votes “abstain” or says, “I abstain,” that is an abstention. However, if a member

votes “present” that is also treated as an abstention (the member is essentially saying, “Count me for purposes of a quorum, but my vote on the issue is abstain.”). In fact, any manifestation of intention to vote either “yes” or “no” on the pending motion may be treated by the chair as an abstention. If written ballots are cast, a blank or unreadable ballot is counted as an abstention as well.

Can a member vote “absent” or “count me as absent?” Interesting question. The ruling on this is up to the chair. The better approach is for the chair to count this as if the member had left his/her chair and is actually “absent.” That, of course, affects the quorum. However, the chair may also treat this as a vote to abstain, particularly if the person does not actually leave the dais.

### **The Motion to Reconsider**

There is a special and unique motion that requires a bit of explanation all by itself; the motion to reconsider. A tenet of parliamentary procedure is finality. After vigorous discussion, debate and a vote, there must be some closure to the issue. And so, after a vote is taken, the matter is deemed closed, subject only to reopening if a proper motion to consider is made and passed.

A motion to reconsider requires a majority vote to pass like other garden-variety motions, but there are two special rules that apply only to the motion to reconsider.

First, is the matter of timing. A motion to reconsider must be made at the meeting where the item was first voted upon. A motion to reconsider made at a later time is untimely. (The body, however, can always vote to

suspend the rules and, by a two-thirds majority, allow a motion to reconsider to be made at another time.)

Second, a motion to reconsider may be made only by certain members of the body. Accordingly, a motion to reconsider may be made only by a member who voted in the majority on the original motion. If such a member has a change of heart, he or she may make the motion to reconsider (any other member of the body — including a member who voted in the minority on the original motion — may second the motion). If a member who voted in the minority seeks to make the motion to reconsider, it must be ruled out of order. The purpose of this rule is finality. If a member of minority could make a motion to reconsider, then the item could be brought back to the body again and again, which would defeat the purpose of finality.

If the motion to reconsider passes, then the original matter is back before the body, and a new original motion is in order. The matter may be discussed and debated as if it were on the floor for the first time.

## **Courtesy and Decorum**

The rules of order are meant to create an atmosphere where the members of the body and the members of the public can attend to business efficiently, fairly and with full participation. At the same time, it is up to the chair and the members of the body to maintain common courtesy and decorum. Unless the setting is very informal, it is always best for only one person at a time to have the floor, and it is always best for every speaker to be first recognized by the chair before proceeding to speak.

The chair should always ensure that debate and discussion of an agenda item focuses on the item and the policy in question, not the personalities of the members of the body. Debate on policy is healthy, debate on personalities is not. The chair has the right to cut off discussion that is too personal, is too loud, or is too crude.

Debate and discussion should be focused, but free and open. In the interest of time, the chair may, however, limit the time allotted to speakers, including members of the body.

Can a member of the body interrupt the speaker? The general rule is “no.” There are, however, exceptions. A speaker may be interrupted for the following reasons:

**Privilege.** The proper interruption would be, “point of privilege.” The chair would then ask the interrupter to “state your point.” Appropriate points of privilege relate to anything that would interfere with the normal comfort of the meeting. For example, the room may be too hot or too cold, or a blowing fan might interfere with a person’s ability to hear.

**Order.** The proper interruption would be, “point of order.” Again, the chair would ask the interrupter to “state your point.” Appropriate points of order relate to anything that would not be considered appropriate conduct of the meeting. For example, if the chair moved on to a vote on a motion that permits debate without allowing that discussion or debate.

**Appeal.** If the chair makes a ruling that a member of the body disagrees with, that member may appeal the ruling of the chair. If the motion is seconded, and after debate, if

it passes by a simple majority vote, then the ruling of the chair is deemed reversed.

**Call for orders of the day.** This is simply another way of saying, “return to the agenda.” If a member believes that the body has drifted from the agreed-upon agenda, such a call may be made. It does not require a vote, and when the chair discovers that the agenda has not been followed, the chair simply reminds the body to return to the agenda item properly before them. If the chair fails to do so, the chair’s determination may be appealed.

**Withdraw a motion.** During debate and discussion of a motion, the maker of the motion on the floor, at any time, may interrupt a speaker to withdraw his or her motion from the floor. The motion is immediately deemed withdrawn, although the chair may ask the person who seconded the motion if he or she wishes to make the motion, and any other member may make the motion if properly recognized.

### **Special Notes About Public Input**

The rules outlined above will help make meetings very public-friendly. But in addition, and particularly for the chair, it is wise to remember three special rules that apply to each agenda item:

**Rule One:** Tell the public what the body will be doing.

**Rule Two:** Keep the public informed while the body is doing it.

**Rule Three:** When the body has acted, tell the public what the body did.



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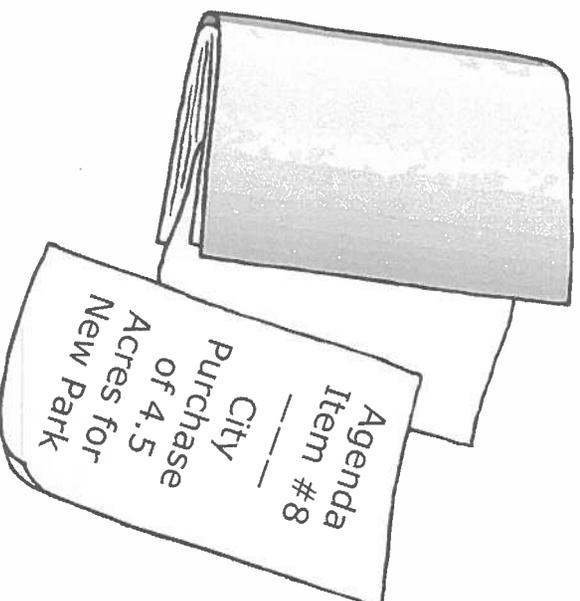
**Appendix B**

# **Can I Vote?**

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# Can I vote?

**A Basic Overview  
Of Public Officials'  
Obligations Under the  
Political Reform Act's  
Conflict-of-Interest Rules**



**California  
Fair Political  
Practices  
Commission**

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***“My home is near the proposed new shopping mall. Can I vote on the issue at next month’s Planning Commission meeting?”***

Many of you may have been confronted with such questions. This booklet is offered by the FPPC as a general overview of your obligations under the Political Reform Act’s conflict-of-interest rules. Using non-technical terms, the booklet is aimed at helping you understand your obligations at the “big picture” level and to help guide you to more detailed resources.

Stripped of legal jargon:

➤ You have a conflict of interest with regard to a particular government decision if it is sufficiently likely that



**Fair  
Political  
Practices  
Commission**

**Toll-free Advice Line: 1-866-ASK-FPPC**

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the outcome of the decision will have an important impact on your economic interests, **and**

➤ a significant portion of your jurisdiction does not also feel the important impact on their economic interests.

The voters who enacted the Political Reform Act by ballot measure in 1974 judged such circumstances to be enough to influence, or to appear to others to influence, your judgment with regard to that decision.

The most important thing you can do to comply with this law is to learn to recognize the economic interests from which a conflict of interest can arise. No one ever has a conflict of interest under the Act “on general principles” or because of personal bias regarding a person or subject. A conflict of interest can only arise from particular kinds of economic interests, which are explained in non-technical terms later in this booklet.

### ***An important note...***

You should not rely solely on this booklet to ensure compliance with the Political Reform Act, but should also consult the Act and Commission regulations. The Political Reform Act is set forth at Cal. Gov. Code §§81000-91014, and the Fair Political Practices Commission regulations are contained in Title 2, Division 6 of the California Code of Regulations. Both the Act and regulations are available on the FPPC’s web site, <http://www.fppc.ca.gov>. Persons with obligations under the Act or their authorized representatives are also encouraged to call the FPPC toll-free advice line — **1-866-ASK-FPPC** — as far in advance as possible.

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If you learn to understand these interests and to spot potential problems, the battle is mostly won because you can then seek help on the more technical details of the law from your agency's legal counsel or from the California Fair Political Practices Commission. **The Commission's toll-free advice line is 1-866-ASK-FPPC (1-866-275-3772).**

Under rules adopted by the FPPC, deciding whether you have a financial conflict of interest under the Political Reform Act is an eight-step process. If you methodically think through the steps whenever there may be a problem, you can avoid most — if not all — mistakes. These steps are spelled out and explained in general terms in this booklet.

**If you learn nothing else from this booklet, remember these things:**

- **This law applies only to financial conflicts of interest; that is, conflicts of interest arising from economic interests.**
- **Whether you have a conflict of interest that disqualifies you depends heavily on the facts of each governmental decision.**
- **The most important proactive step you can take to avoid conflict of interest problems is learning to recognize the economic interests from which conflicts of interest can arise.**

On the next page are the eight steps:

## *Eight steps to help you decide*



**Step One:** Are you a “public official” within the meaning of the rules?

**Step Two:** Are you making, participating in making, or influencing a governmental decision?

**Step Three:** What are your economic interests? That is, what are the possible sources of a financial conflict of interest?

**Step Four:** Are your economic interests directly or indirectly involved in the governmental decision?

**Step Five:** What kinds of financial impacts on your economic interests are considered important enough to trigger a conflict of interest?

**Step Six:** The important question: Is it substantially likely that the governmental decision will result in one or more of the materiality standards being met for one or more of your economic interests?

**Step Seven:** If you have a conflict of interest, does the “public generally” exception apply?

**Step Eight:** Even if you have a disqualifying conflict of interest, is your participation legally required?

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Next, here is a non-technical explanation of each:

## **Public Official**

### **Step One — Are you a “public official,” within the meaning of the rules?**

The Act’s conflict-of-interest rules apply to “public officials” as defined in the law. This first step in the analysis is usually a formality — you are probably a public official covered by the rules. If you are an elected official or an employee of a state or local government agency who is designated in your agency’s conflict-of-interest code, you are a “public official.” If you file a Statement of Economic Interests (Form 700) each year, you are a “public official” under the Act (even if you are not required to file a Form 700, in some cases you may still be considered a public official because the definition covers more than specifically designated employees). The cases that are tougher to determine typically involve consultants, investment managers and advisers, and public-private partnerships. If you have any doubts, contact your agency’s legal counsel or the FPPC.

## **Governmental Decision**

### **Step Two — Are you making, participating in making, or influencing a governmental decision?**

The second step in the process is deciding if you are engaging in the kind of conduct regulated by the

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conflict-of-interest rules. The Act's conflict-of-interest rules apply when you:

- **Make** a governmental decision (for example, by voting or making an appointment).
- **Participate** in making a governmental decision (for example, by giving advice or making recommendations to the decision-maker).
- **Influence** a governmental decision (for example, by communicating with the decision-maker).

A good rule of thumb for deciding whether your actions constitute making, participating in making, or influencing a governmental decision is to ask yourself if you are exercising *discretion* or *judgment* with regard to the decision. If the answer is “yes,” then your conduct with regard to the decision is very probably covered.

### **When you have a conflict — Regulation 18702.5 (special rule for section 87200 public officials)**

Government Code section 87105 and regulation 18702.5 outline a procedure that public officials specified in section 87200 must follow for disclosure of economic interests when they have a conflict of interest at a public meeting. The full text of this law and regulation may be viewed in the Library and Publications section of the FPPC's website at <http://www.fppc.ca.gov>.

Public officials specified in section 87200 of the Government Code, such as council members, planning commissioners, and boards of supervisors, must pub-

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licly identify in detail the economic interest that creates the conflict, step down from the dais **and must then leave the room**. This identification must be following the announcement of the agenda item to be discussed or voted upon, but before either the discussion or vote commences.

Additionally, the disqualified official may not be counted toward achieving a quorum while the item is being discussed.

The identification of the conflict and economic interest must be made orally and shall be made part of the public record.

***Exceptions:***

- If the decision is to take place during a closed session, the identification of the economic interest must be made during the public meeting prior to the closed session but is limited to a declaration that the official has a conflict of interest. The economic interest that is the basis for the conflict need not be disclosed. The official may not be present during consideration of the closed session item and may not obtain or review any non-public information regarding the decision.
- A public official is not required to leave the room for an agenda item on the consent calendar provided that the official recuses himself or herself and publicly discloses the economic interest as described above.

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- A public official may speak as a member of the general public only when the economic interest that is the basis for the conflict is a personal economic interest, for example, his or her personal residence or wholly owned business. The official must leave the dais to speak from the same area as the members of the public and may listen to the public discussion of the matter.

***Examples:***

— *The Arroyo City Council is considering widening the street in front of council member Smith’s personal residence, which he solely owns. Council member Smith must disclose on the record that his home creates a conflict of interest preventing him from participating in the vote. He must leave the dais but can sit in the public area, speak on the matter as it applies to him and listen to the public discussion.*

— *Planning Commissioner Garcia is a greater than 10% partner in an engineering firm. The firm represents a client who is an applicant on a project pending before the planning commission. Commissioner Garcia must publicly disclose that the applicant is a source of income to her requiring her recusal. Commissioner Garcia must step down from the dais and leave the room. Since this is not a personal interest that is the basis for the conflict, she **may not** sit in the public area and listen to the discussion.*

— *Supervisor Robertson rents a home to a county employee. The county employee is the sub-*

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*ject of a disciplinary matter in a closed session of the Board of Supervisors. During the open session prior to adjourning to closed session, Supervisor Robertson announces that he must recuse himself from participating in the closed session **but does not disclose that the reason for his recusal is a source of income nor does he name the county employee that is the source of income to him.** He may not attend the closed session or obtain any non-public information from the closed session.*

## Economic Interests

### **Step Three — What are your economic interests? That is, what are the possible sources of a financial conflict of interest?**

From a practical point of view, this third step is the most important part of the law for you. The Act's conflict-of-interest provisions apply only to conflicts of interest arising from economic interests. There are six kinds of such economic interests from which conflicts of interest can arise:

- **Business Investment.** You have an economic interest in a business entity in which you, your spouse, your registered domestic partner, or your dependent children or anyone acting on your behalf has invested \$2,000 or more.
- **Business Employment or Management.** You have an economic interest in a business entity for which you are a director, officer, partner, trustee, employee, or hold any position of management.

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- **Real Property.** You have an economic interest in real property in which you, your spouse, your registered domestic partner, or your dependent children or anyone acting on your behalf has invested \$2,000 or more, and also in certain leasehold interests.

*“The most important thing you can do to comply with this law is to learn to recognize the economic interests from which a conflict of interest can arise.”*

- **Sources of Income.** You have an economic interest in anyone, whether an individual or an organization, from whom you have received (or from whom you have been promised) \$500 or more in income within 12 months prior to the decision about which you are concerned. When thinking about sources of income, keep in mind that you have a community property interest in your spouse’s or registered domestic partner’s income — a person from whom your spouse or registered domestic partner receives income may also be a source of a conflict of interest to you. Also keep in mind that if you, your spouse, your registered domestic partner or your dependent children own 10 percent or more of a business, you are considered to be receiving “pass-through” income from the business’s clients. In other words, the business’s clients may be considered sources of income to you.
- **Gifts.** You have an economic interest in anyone, whether an individual or an organization, who has

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given you gifts which total \$390 or more within 12 months prior to the decision about which you are concerned.

- **Personal Financial Effect.** You have an economic interest in your personal expenses, income, assets, or liabilities, as well as those of your immediate family. This is known as the “personal financial effects” rule. If these expenses, income, assets or liabilities are likely to go up or down by \$250 or more in a 12-month period as a result of the governmental decision, then the decision has a “personal financial effect” on you.

On the Statement of Economic Interests (Form 700) you file each year, you disclose many of the economic interests that could cause a conflict of interest for you. However, be aware that not all of the economic interests that may cause a conflict of interest are listed on the Form 700. A good example is your home. It is common for a personal residence to be the economic interest that triggers a conflict of interest even though you are not required to disclose your home on the Form 700.



**FPPC**  
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(1-866-275-3772)

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## **Directly or Indirectly Involved?**

### **Step Four — Are your economic interests directly or indirectly involved in the governmental decision?**

An economic interest which is directly involved in — and therefore directly affected by — a governmental decision creates a bigger risk of a conflict of interest than does an economic interest which is only indirectly involved in the decision. As a result, the FPPC's conflict-of-interest regulations distinguish between economic interests that are directly involved and interests that are indirectly involved.

Once you have identified your economic interests, you must next decide if they are directly involved in the governmental decision about which you are concerned. The FPPC has established specific rules for determining whether each kind of economic interest is directly or indirectly involved in a governmental decision.

The details of these rules are beyond the scope of this guide. In general, however, an economic interest is directly involved if it is the subject of the governmental decision. For example, if the interest is real property, and the decision is about building a donut shop down the block from the property, then the interest is directly involved. If the interest is a business, and the decision is whether to grant a license for which the business has applied, the interest is directly involved.

These are just examples; you should contact your agency counsel, the FPPC and the specific regulations

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if you have questions as each case arises. Note also that the next step in the analysis — applying the right standard to determine whether an impact is material — depends in part on whether the interest is directly or indirectly involved. The regulations — Sections 18704 through 18704.5 — and other helpful information can be found on the FPPC’s web site, <http://www.fppc.ca.gov>.

## **Materiality (Importance)**

### **Step Five — What kinds of financial impacts on your economic interests are considered important enough to trigger a conflict of interest?**

At the heart of deciding whether you have a conflict of interest is a prediction: Is it sufficiently likely that the governmental decision will have a material financial effect on your economic interests? As used here, the word “material” is akin to the term “important.” You will have a conflict of interest only if it is reasonably foreseeable that the governmental decision will have an important impact on your economic interests.

The FPPC has adopted rules for deciding what kinds of financial effects are important enough to trigger a conflict of interest. These rules are called “materiality standards,” that is, they are the standards that should be used for judging what kinds of financial impacts resulting from governmental decisions are considered material or important.

There are too many of these rules to review in detail in this booklet. Again, you can seek advice for your

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*“Public officials, whether elected or appointed, should perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of persons who have supported them.”*

*-- California Political Reform Act of 1974*

agency counsel or the FPPC. However, to understand the rules at a “big picture” level, remember these facts:

- If the economic interest is directly involved in the governmental decision, the standard or threshold for deeming a financial impact to be material is stricter (i.e. lower). This is because an economic interest that is directly involved in a governmental decision presents a bigger conflict-of-interest risk for the public official who holds the interest.
- On the other hand, if the economic interest is not directly involved, the materiality standard is more lenient because the indirectly involved interest presents a lesser danger of a conflict of interest.
- There are different sets of standards for the different types of economic interests. That is, there is one set of materiality standards for business entities, another set for real property interests, and so on.
- The rules vary by the size and situation of the economic interest. For example, a moment’s thought will tell you that a \$20,000 impact resulting from a governmental decision may be crucial to a small business, but may be a drop in the bucket for a big corporation. For example, the materiality standards

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distinguish between large and small businesses, between real property which is close or far from property which is the subject of the decision.

## **Does a Conflict of Interest Result?**

**Step Six — Is it substantially likely that the governmental decision will result in one or more of the materiality standards being met for one or more of your economic interests?**

As already mentioned in the introduction, the heart of the matter is deciding whether it is sufficiently likely that the outcome of the decision will have an important impact on your economic interests.

What does “sufficiently likely” mean? Put another way, how “likely” is “likely enough?” The Political Reform Act uses the words “reasonably foreseeable.” The FPPC has interpreted these words to mean “substantially likely.” Generally speaking, the likelihood need not be a certainty, but it must be more than merely possible.

A concrete way to think about this is to ask yourself the following question: Is it substantially likely that one of the materiality standards I identified in step five will be met as a result of the government decision? Step six calls for a factual determination, not necessarily a legal one. Also, an agency may sometimes segment (break down into separate decisions) a decision to allow participation by an official if certain conditions are

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met. Therefore, you should always look at your economic interest and how it fits into the entire factual picture surrounding the decision.

## **“Public Generally” Exception**

### **Step Seven — If you have a conflict of interest, does the “public generally” exception apply?**

Now that you have determined that you will have a conflict of interest for a particular decision, you should see if the exceptions in Step 7 and Step 8 permit you to participate anyway. Not all conflicts of interest prevent you from lawfully taking part in the government decision at hand. Even if you otherwise have a conflict of interest, you are not disqualified from the decision if the “public generally” exception applies.

This exception exists because you are less likely to be biased by a financial impact when a significant part of the community has economic interests that are substantially likely to feel essentially the same impact from a governmental decision that your economic interests are likely to feel. If you can show that a significant segment of your jurisdiction has an economic interest that feels a financial impact which is substantially similar to the impact on your economic interest, then the exception applies.

The “public generally” exception must be considered with care. You may not just assume that it applies. There are specific rules for identifying the specific seg-

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ments of the general population with which you may compare your economic interest, and specific rules for deciding whether the financial impact is substantially similar. Again, contact your agency counsel, the FPPC and the specific rules for advice and details. The regulations outlining the steps to apply the “public generally” exception can be found on the FPPC website at <http://www.fppc.ca.gov> under regulations 18707-18707.9.

## **Are you required to participate?**

### **Step Eight — Even if you have a disqualifying conflict of interest, is your participation legally required?**

In certain rare circumstances, you may be called upon to take part in a decision despite the fact that you have a disqualifying conflict of interest. This “legally required participation” rule applies only in certain very specific circumstances in which your government agency would be paralyzed, unable to act. You are most strongly encouraged to seek advice from your agency legal counsel or the FPPC before you act under this rule.

## **Conclusion**

Generally speaking, here are the keys to meeting your obligations under the Political Reform Act’s conflict-of-interest laws:

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- Know the purpose of the law, which is to prevent biases, actual and apparent, which result from the financial interests of the decision-makers.
  - Learn to spot potential trouble early. Understand which of your economic interests could give rise to a conflict of interest.
  - Understand the “big picture” of the rules. For example, know why the rules distinguish between directly and indirectly involved interests, and why the public generally exception exists.
  - Realize the importance of the facts. Deciding whether you have a disqualifying conflict of interest depends just as much — if not more — on the facts of your particular situation as it does on the law.
  - Don't try to memorize all of the specific conflict-of-interest rules. The rules are complex, and the penalties for violating them are significant. Learn to understand the “big picture.” You'll then be able to look up or ask about the particular rules you need to apply to any given case.
  - Don't be afraid to ask for advice. It is available from your agency's legal counsel and from the FPPC.



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