

## COMMISSION WELCOME DIGITAL BINDER (DRAFT)

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WELCOME LETTER

City Council Liaison, Staff Liaison and Commission Chair

## Our Organization. Our Values.

# CARING



We are caring by questioning everything and working to find innovative solutions for improving our work and the lives of our residents



We are caring for one another by being supportive, compassionate, kind, connected, and respecting of other's diverse perspectives



We are caring for ourselves by maintaining and respecting a healthy work-life balance

# OPENNESS



We are open to trying new things, working together and asking tough questions



We are open in our communication with one another by providing and receiving honest and constructive feedback and praise



We are open to asking for what we need as individuals

# INTEGRITY



We have integrity by ensuring high standards and accountability to the organization and to the community



We have integrity in our interactions with each other by remaining honest and transparent in our communication and decisions



We have integrity by taking ownership and accountability for our work and its impact on others



## **CITY CHARTER**

### **SECTION 702. - PARTICIPATION IN COUNCIL ACTION.**

The City Manager shall be accorded a seat at the Council table and at all meetings of boards and commissions and shall be entitled to participate in their deliberations, but shall not have a vote. The City Manager shall receive notice of all special meetings of the Council, boards and commissions.

(Amended on [November 3, 2020](#).)

### **ARTICLE IX. - APPOINTIVE BOARDS AND COMMISSIONS.**

#### **SECTION 900. - IN GENERAL.**

There shall be the boards and commissions enumerated in this Article which shall have the powers and duties stated herein. The number of members to comprise any board or commission shall be determined by ordinance or resolution of the Council. No member of any board or commission shall be a member of any other board or commission or hold any paid office or employment, in the City Government. An applicant for any appointment to any board or commission shall be a resident of the City but need not be a qualified elector.

In addition, the Council may create by ordinance or resolution such boards or commissions as in its judgment are required and may grant to them such powers and duties as are consistent with the provisions of this Charter.

(AMENDED: STATS. 1959 CH. 82; Amended on [November 3, 2020](#).)

#### **SECTION 901. - APPROPRIATIONS.**

The Council shall include in the annual budget such appropriations of funds as in its opinion shall be sufficient for the efficient and proper functioning of the boards and commissions.

#### **SECTION 902. - APPOINTMENTS. TERMS.**

The members of each of such boards or commissions shall be appointed by the Council. They shall be subject to removal by motion of the Council adopted by at least four affirmative votes. Unless otherwise provided by this Charter, the members thereof shall serve for a term of four years and until their respective successors are appointed and qualified. No member thereof shall serve more than two consecutive full terms on any one board or commission.

The members first appointed to such boards and commissions shall so classify themselves by lot that each succeeding July 1st the term of one of their number shall expire. If the total number of members of a board or commission to be appointed exceeds four, the classification by lot shall provide for the grouping of terms to such an extent as is necessary in order that the term of at least one member shall expire on each succeeding July 1st, and that the number of terms expiring in any year does not exceed by more than one the number expiring in any other year.

#### **SECTION 903. - EXISTING BOARDS AND COMMISSIONS.**

The members of the boards and commissions holding office when this Charter takes effect shall continue to hold office thereafter until their respective terms of office shall expire and until their successors shall be appointed and qualified. The successors of each such member shall be appointed for terms of such duration, not exceeding four years, as will carry into effect the plan for staggered terms prescribed in the preceding section.

SECTION 904. - MEETINGS. PRESIDING OFFICER.

As soon as practicable, following the adoption of this Charter and following the first day of July of every year thereafter, each of such boards and commissions as exist shall organize by electing one of its members to serve as presiding officer at the pleasure of such board or commission. Each board or commission shall hold such regular and special meetings as such board or commission may require. All proceedings shall be open to the public.

The affirmative or negative vote of a majority of the entire membership of such board or commission shall be necessary for it to take any action, except to adjourn.

The City Clerk shall be responsible for the recording of the minutes for each of such boards and commissions and shall keep a record of its proceedings and transactions. Each board or commission may prescribe its own rules and regulations which shall be consistent with this Charter. Copies of such rules and regulations and the minutes of each board and commission shall be kept on file in the office of the City Clerk where they shall be available for public inspection. Each board or commission shall have the same power as the Council to compel the attendance of witnesses, to examine them under oath and to compel the production of evidence before it.

(Amended on [November 3, 2020](#).)

SECTION 905. - COMPENSATION. VACANCIES.

The members of boards and commissions shall serve without compensation, but may receive reimbursement for necessary traveling and other expenses incurred on official duty when such expenditures have received authorization by the Council.

Any vacancies in any board or commission, from whatever cause arising, shall be filled by appointment by the Council. Upon a vacancy occurring, leaving an unexpired portion of a term, any appointment to fill such vacancy shall be for the unexpired portion of such term. If a member of a board or commission absents himself from three consecutive regular meetings of such board or commission, unless by permission of such board or commission expressed in its official minutes, or is convicted of a crime involving moral turpitude, or ceases to be a qualified elector of the City, the member's office shall become vacant and shall be so declared by the Council.

(Amended on [November 3, 2020](#).)

SECTION 906. - PLANNING COMMISSION. POWERS AND DUTIES.

There shall be a Planning Commission which shall have the power and be required to:

1. Recommend to the Council, after a public hearing thereon, the adoption, amendment or repeal of a Master Plan or any part thereof for the physical development of the City.
2. Exercise such functions with respect to land subdivisions, planning and zoning as may be prescribed by ordinance or resolution, not inconsistent with the Charter.

SECTION 907. - PERSONNEL BOARD. POWERS AND DUTIES.

There shall be a Personnel Board none of whom while a member of the board nor for a period of one year after the Board member has ceased for any reason to be a member, shall be eligible for appointment to any salaried office or employment in the service of the City nor to any City elective office.

The Personnel Board shall have power and be required to:

1. Act in an advisory capacity to the Council and the City Manager on personnel administration.
2. Recommend to the Council after a public hearing thereon, the adoption, amendment or repeal of personnel rules and regulations.
3. Hear appeals of any person in the classified service, relative to any suspension, demotion or dismissal.
4. Make any investigation which it may consider desirable concerning the administration of personnel in the municipal service and report its findings to the City Council and City Manager.
5. Perform such other duties with reference to personnel administration not inconsistent with this Charter as the Council may require by ordinance or resolution.

(Amended on [November 3, 2020](#))

SECTION 908. - PUBLIC SERVICES COMMISSION.

**Note**— (REPEALED: STATS. 1964 CH. 41)

SECTION 909. - AIRPORT COMMISSION.

**Note**— (REPEALED: STATS. 1964 CH. 41)

SECTION 910. - PARKS COMMISSION.

**Note**— (REPEALED: STATS. 1964 CH. 41)

SECTION 911. - LIBRARY COMMISSION.

**Note**— (REPEALED: STATS. 1964 CH. 41)

SECTION 912. - INDUSTRIAL COMMISSION.

**Note**— (REPEALED: STATS. 1964 CH. 41)

## **ARTICLE 3 BOARDS AND COMMISSIONS**

### **PLANNING COMMISSION**

#### **SEC. 2-3.00 PLANNING COMMISSION. MEMBERS.**

The Planning Commission shall consist of seven (7) members, one (1) of whom shall be designated Chairman in the manner provided in Section 904 of the Charter.

The Chairman shall preside at all meetings and shall report to the Council on all recommendations of the Commission.

#### **SEC. 2-3.01 PLANNING DEPARTMENT.**

The Planning Director or his authorized representative shall attend all meetings of the Commission, furnish necessary information, data, maps and records, submit proposals and recommendations, and provide technical assistance and advise as required.

The Planning Department shall provide clerical help and maintain files and records for the Commission.

#### **SEC. 2-3.02 POWERS AND DUTIES.**

The Commission shall have the general powers and duties specified in Section 906 of the Charter and pursuant thereto shall have the power and duty to:

1. Perform all of the functions assigned to a City planning commission by the Conservation and Planning Act and other statutes of the State of California relating to planning and zoning, insofar as they are not inconsistent with the provisions of the Charter of the City of Hayward.
2. Perform all the functions assigned to said Commission by the Zoning Ordinance and other ordinances of the City of Hayward relating to planning and zoning.
3. Prepare and recommend the adoption by the City Council of plans based on the master plan or any portions thereof and regulations and programs as may in its judgment be required for the systematic execution of the master plan or such other plan or plans as it or the City Council may deem appropriate.
4. Advise and recommend to the proper officials of the City the approval, disapproval or modification of all maps or plats of land subdivision in accordance with the Subdivision Map Act of the State of California, or as may be provided by ordinance.
5. Hold hearings on planning and zoning matters as prescribed in the Conservation and Planning Act of the State of California, or by ordinance.
6. Advise and recommend to the proper officials of the City regarding the acquisition, use, or disposition of City-owned real property.
7. Hear and decide original applications and appeals on land use matters as may be provided by ordinance.

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8. Hear and decide referrals regarding the interpretation or administration of the Zoning Ordinance or the Sign and Parking Regulations as submitted by the Planning Director or as may be provided by ordinance.
  9. Review and submit annually a report of its activities to the City Council.
  10. Perform such other duties relating to planning and zoning as may be directed by the City Council.

(Amended by Ordinance 93-23, adopted October 12, 1993)

## *BOARD OF ADJUSTMENTS*

Note(s)—(Repealed by Ordinance 93-23, adopted October 12, 1993)

## *PERSONNEL COMMISSION*

### **SEC. 2-3.10 PERSONNEL COMMISSION. MEMBERS.**

The Personnel Commission shall consist of seven (7) members whose regular term shall be four (4) years, terminating on June 30. Successors shall be appointed and qualified in accordance with the provisions of Section 902 of the Charter.

One (1) of the appointees shall be designated Chairperson in the manner provided in Section 904 of the Charter. The Chairperson shall preside at all meetings and shall report directly to the City Council and City Manager on all recommendations of the commission.

(Amended by Ordinance No. 11-05, adopted May 31, 2011.)

### **SEC. 2-3.11 HUMAN RESOURCES DEPARTMENT.**

The Human Resources Director, or his or her authorized representative, shall attend all meetings of the Personnel Commission; furnish necessary information, data, and records; submit proposals and recommendations; and provide technical assistance and advice as required. The Human Resources Department shall provide clerical assistance and maintain files and records for the commission.

(Amended by Ordinance 97-07, adopted May 20, 1997; amended by Ordinance No. 11-05, adopted May 31, 2011.)

### **SEC. 2-3.12 POWERS AND DUTIES.**

High morale and efficiency of employees will be fostered by cooperative efforts with regular consultation between the Personnel Commission, the City Manager and the Human Resources Director, and representatives of employee associations. Therefore, as an advisory agency to the City Council and the City Manager, the Personnel Commission shall have the power and duty to:

- (a) Advise the Council, City Manager, and Human Resources Director on matters of personnel administration.
- (b) Ensure the City's employment and personnel practices comply with all applicable Federal and State anti-discrimination laws.
- (c) Recommend to the City Council, after a public hearing thereon, the adoption, amendment, or repeal of personnel rules and regulations.



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- (d) Review and adopt, after a public hearing thereon, a classification plan for each position in the City's classified service.
  - (e) Review and recommend to the City Council for adoption, after a public hearing thereon, a salary plan for the City's classified service.
  - (f) Review appeals regarding employment register and report its findings and recommendations to the City Manager. Review class specifications to ensure that employment standards are job-related.
  - (g) Review recruitment and selection equal employment opportunity data and make recommendations related to the outreach program to support a program which includes communication to a diverse pool of qualified candidates.
  - (h) Hear appeals of any person in the classified service relative to any suspension, demotion, or dismissal consistent with the provisions of his/her respective Memorandum of Understanding and report its findings and recommendations to the City Manager.
  - (i) Make any investigation which it may consider desirable concerning the administration of personnel in City service and report its findings to the City Council and City Manager.
  - (j) Review the training programs provided to City employees regarding the intent and content of the Administrative Rule Against Harassment and Retaliation to ensure City employees are aware of and comply with the provisions of the program.
  - (k) Perform other related duties as directed by Council.

(Amended by Ordinance 97-07, adopted May 20, 1997; amended by Ordinance No. 11-05, adopted May 31, 2011.)

### *PUBLIC SERVICES/INDUSTRIAL COMMISSION*

Note(s)—(Repealed by Ordinance No. 87-032 C.S., adopted November 10, 1987)

### *AIRPORT COMMISSION*

Note(s)—(Repealed by Ordinance No. 81-037 C.S., adopted October 27, 1981)

### *ENVIRONMENTAL QUALITY COMMISSION*

Note(s)—(Repealed by Ordinance No. 87-032 C.S., adopted November 10, 1987)

### *LIBRARY COMMISSION*

#### **SEC. 2-3.50 LIBRARY COMMISSION. MEMBERS.**

The Library Commission shall consist of nine (9) members, one (1) of whom shall be designated Chairperson in the manner provided in Section 904 of the Charter. Members of the Library Commission shall serve to the expiration of their present terms of office and the appointment and qualifications of their successors.

(Amended by Ordinance No. 74-028 C.S., adopted Oct. 15, 1974; amended by Ordinance 17-12, adopted Sept. 26, 2017)

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**SEC. 2-3.51 LIBRARY DEPARTMENT.**

The Librarian or his authorized representative shall attend all meetings of the Commission, furnish necessary information, data and records, submit proposals and recommendations, and provide technical and professional assistance and advice to the Commission, as required.

The Library Department shall provide clerical help and maintain files and records for the Commission.

**SEC. 2-3.52 POWERS AND DUTIES.**

As an advisory agency to the City Council, the Library Commission shall have the power and duty to:

1. Study, consider, and develop long-range plans for municipal library service in the City of Hayward, giving due consideration to the Master Plan for the City of Hayward.
2. Review and study library policy and operation and make recommendations from time to time to the City Manager concerning rules and regulations for operation of the Library, and also to the City Council when it deems it proper.
3. At regular intervals, and at least annually, report on its activities and give recommendations on library policies and plans for development of library service to the City Council.
4. Coordinate its activities and planning with other agencies concerned with library services in the Hayward area which are not under jurisdiction of the City of Hayward.
5. Perform other related duties as directed by Council.

*INDUSTRIAL COMMISSION*

Note(s)—(Repealed by Ordinance No. 81-036 C.S., adopted October 27, 1981)

*HUMAN SERVICES COMMISSION*

Note(s)—(Repealed by Ordinance No. 11-10, adopted September 20, 2011)

*CITIZENS ADVISORY COMMISSION*

Note(s)—(Repealed by Ordinance No. 11-10, adopted September 20, 2011)

*COMMUNITY SERVICES COMMISSION*

Note(s)—(Added by Ordinance No. 11-10, adopted September 20, 2011)

**SEC. 2-3.90 POLICY.**

It is the public policy of the City of Hayward to: (1) encourage the development of a planned and orderly approach to the development of community services in the City; (2) identify the needs for community services, to plan for the coordinated delivery of such services to residents in need through both private and public resources so as to avoid duplication and conflict of effort; and (3) create and sustain an environment which will encourage and bring about mutual understanding and respect among all groups of the City, eliminate prejudice, discrimination, and disorder, and guarantee equal rights and opportunities for all.

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The City Council of the City of Hayward finds that there is a need on the part of the City and the community to institute an official, responsible, community-oriented body within the City government in order to identify the needs for community services, to plan for the coordinated delivery of such services to citizens in need through both private and public resources so as to avoid duplication and conflict of effort, to evaluate the effectiveness of the services provided and to advise the City Council in regard to these functions, to support community improvement goals, to help solve community problems, and to serve as the Citizens Review mechanism of federally financed or aided projects.

### **SEC. 2-3.91 COMMUNITY SERVICES COMMISSION MEMBERS.**

The Community Services Commission shall consist of no fewer than seventeen (17) members, one (1) of whom shall be designated Chairperson in the manner provided in section 904 of the Charter. Members of the former Human Services Commission or the Citizens Advisory Commission, who hold office as of the date effective date of this Article, shall serve as the initial members of the Community Services Commission until their terms of office, which terms shall be deemed to have begun at the time of their original appointment or subsequent reappointment to the former commissions, shall expire and their successors are appointed or qualified in accordance with the provisions of Section 902 of the Charter.

The Chairperson shall preside at all meetings and shall report directly to the City Council on all recommendations of the Commission.

The Commission shall adopt rules and regulations for the conduct of its business, for the time and place of its meetings, and any such rules and regulations shall be printed and made available to the public.

### **SEC. 2-3.92 LIBRARY AND COMMUNITY SERVICES DEPARTMENT.**

The Director of Library and Community Services, or his/her authorized representative, shall attend all meetings of the Commission, furnish necessary information, data and records, submit proposals and recommendations and provide technical assistance and advice as required. The Library and Community Services Department shall provide clerical help and maintain files and records of the Commission.

### **SEC. 2-3.93 POWERS AND DUTIES.**

As an advisory agency to the City Council, the Community Services Commission shall have the power and duty to:

1. Advise the City of Hayward as to the most effective means of allocating available resources for community services.
2. Promote interagency and intergroup coordination in the development of community social resources.
3. Review and study problems and needs of the community programs and develop effective support needed to secure additional resources either through private channels or through the City or other instrumentalities of the government.
4. Monitor relationship/balance of funding patterns by public and private agencies ensuring fair distribution for the local jurisdiction.
5. Work together with other governmental agencies in keeping abreast of new and current developments in the field of social services in order to maximize the beneficial impact of social programs on the City.
6. By persuasion and conference seek to arrive at voluntary solutions designed to discourage and prevent any and all recognized discriminations based upon race, sex, religion, national origin, age, handicap,

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sexual orientation, and all other protected categories of persons, if any, under federal and state law, and particularly those discriminations in the areas of housing, employment, and education.

7. Hold hearings and take testimony of any person relating to any matter under investigation or in question before the Commission.
8. Make recommendations which will help to develop a sense of community among those concerned with people serving efforts in Hayward and to create awareness and cooperation between the City and those groups doing social service work in the area.
9. Make and issue reports respecting its studies, research, investigations and other activities, and make information available to other commissions and staff as required.
10. Recommend to the City Council legislation or other remedial steps which the Commission should find to be necessary and desirable.

Perform other related duties as directed by the City Council.



**CITY COUNCIL'S**  
**APPOINTED OFFICIALS HANDBOOK**

**COMMISSIONS, COMMITTEES AND  
KEEP HAYWARD CLEAN AND GREEN TASK FORCE**

**NOVEMBER 2023**



## WELCOME

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On behalf of the City Council, we want to express our appreciation for your interest in serving the City of Hayward. We have developed this Handbook to help you understand the requirements for service on the City's Commissions/Committees/Task Forces. In addition to the Handbook, the City's website [www.hayward-ca.gov](http://www.hayward-ca.gov) provides useful information.

Welcome to the City! We look forward to working with you.

**Office of the City Clerk**

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## INTRODUCTION TO CITY GOVERNMENT

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The City of Hayward operates within a Council-Manager form of government. ([City Charter Section 300](#))

The City of Hayward Council is composed of six Council Members and a Mayor who are elected by the qualified voters of the city at large. The Mayor is the official head of the city for all ceremonial purposes, presides at the meetings of the Council, and signs official documents of the Council. The powers of the Council are subject to the provisions of the City Charter and the Constitution of the State of California. The City Manager is the head of the administrative branch of the city government.

City commissions are established by the City Charter, the Municipal Code, and the City Council. The Planning Commission is established by the City Charter. All other commissions are established by ordinances. The City Council may also establish committees and task forces by resolution.

Special purpose Advisory Committees are formed at the discretion of the City Council to provide greater public participation in the development of plans and recommendations in relation to a committee's specific assignment. ([City Charter 900](#))



## CITY OF HAYWARD ORGANIZATION

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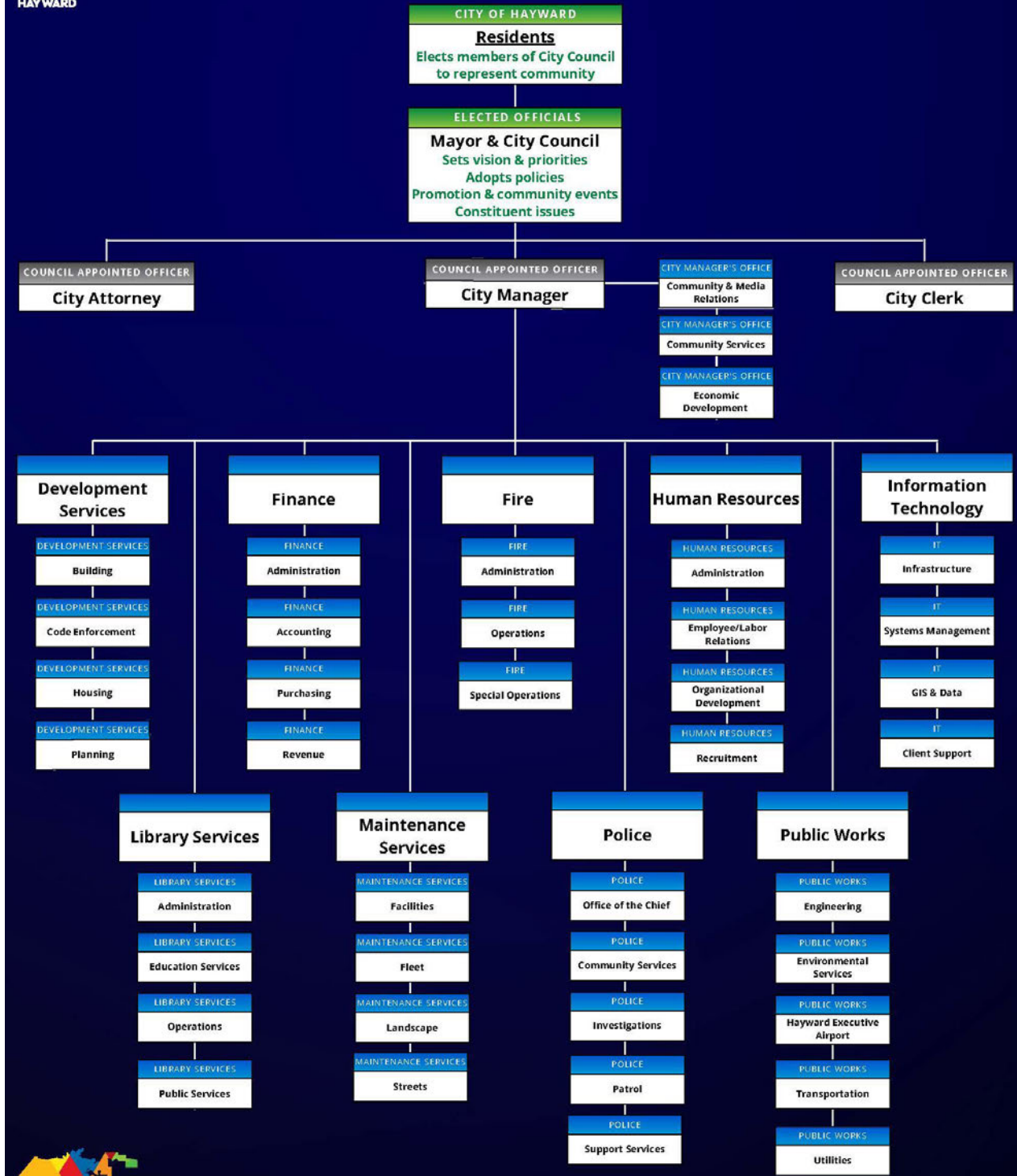
City Council members are elected directly by Hayward residents. The City Council is made up of one Mayor and six Council Members.

The Mayor and City Council adopt and implement legislation and policy, as well as appoint the City Manager, City Attorney, City Clerk, and members of various commissions and task forces.

The City Manager is the City's chief executive officer and appoints all other City staff including department heads. The City Manager is responsible for the daily administration of the City government and provides direction and leadership to the departments in implementing the policies of City Council.



# ORGANIZATIONAL CHART



UPDATED OCTOBER 2023

## CITY OF HAYWARD CHARTER

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The City of Hayward Charter was adopted on March 7, 1956. The Charter defines the form of government and its functions and regulations.

Follow the link below for the City of Hayward Charter.

<https://www.hayward-ca.gov/your-government/codes-regulations>

## HAYWARD STRATEGIC PRIORITIES

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In approving the annual budget for the City, the Council establishes priorities. In June 2023, the City Council adopted an updated the City’s Strategic Roadmap, created with input from the community, the City Council, and City staff, which defines a shared vision for the city and identifies the top priorities and projects that need to happen in the coming years to address current gaps in achieving that vision.



[FY24-Strategic-Roadmap.pdf \(hayward-ca.gov\)](https://www.hayward-ca.gov/files/2024/01/FY24-Strategic-Roadmap.pdf)

## CITY OF HAYWARD BUDGET

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The City Council adopts an annual City budget for all services. The Council holds budget work sessions in May and June, which are open to the public. The draft budget is also scheduled for a public hearing and adoption in June at a City Council meeting.

For comprehensive information regarding the city budget, follow the link below.

<http://www.hayward-ca.gov/your-government/documents/budget-documents>

## GENERAL INFORMATION

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### ***Application Procedure and Membership:***

Volunteer service provides a way for residents who have special experience or interest to participate in the City's decision-making process by advising the City Council and staff on numerous topics.

Applications for service on any Commission, Committee, or Task Force (Council's Appointed Officials) are valid for one year from the date of receipt and are public record. Applicants for service on the Community Services Commission are required to complete supplemental forms, which are also public documents.

State and local law require that selected members abstain from participation in decisions that may affect financial interests, including sources of income, interests in real property or investments. If appointed, certain members may be required to fill out a disclosure statement which identifies certain financial interests beginning with the immediate twelve-month period prior to the appointment.

The Community Services Commission supplemental forms will require applicants to identify any organizations, associations, or entities by which they are employed or associated that might be affected by decisions of these bodies.

Planning Commission and Community Services Commission applicants will be required to file the Fair Political Practices Commission Statement of Economic Interests (Form 700), which is a public record.

It is the City Council's desire for applicants for the Planning Commission to have applicable experience on other elected/appointed legislative bodies.

Application forms and information that describe duties and time commitments are available from the Office of the City Clerk. Information about the number of vacancies is available from the Office of the City Clerk or on the [City's Commissions & Task Forces webpage](#).

The City Clerk conducts recruitments for the Council's appointed bodies from April to July annually, with interviews in July and appointments each September. Recruitment for the Hayward Youth Commission is conducted each April and May, with interviews and appointments annually in June.

Passage of Measure OO in the November 2020 municipal election amended the Hayward City Charter to remove language restricting appointment to City commissions and other bodies to registered voters. The change opens service on City Council-appointed advisory bodies to City residents who are not registered or who are ineligible to be registered to vote.

To be eligible for appointment to any Commission, Committee or Task Force (Council's Appointed Officials) a person shall be a resident of the incorporated area of the City of Hayward. (City Charter Section 900)

The City Council will interview eligible applicants at a special Council meeting and will confirm the selections made at a regular Council meeting which will be followed by the administration of Oath of Office by the City Clerk.

No member of any commission shall be a member of any other commission or hold any paid office or employment in the City government, ([City Charter Section 900](#))

The Council's appointed officials serve without compensation but may receive reimbursement for necessary traveling and other expenses incurred on official duty when such expenditures have received authorization by the Council. ([City Charter Section 905](#))

Before members can participate as voting members of their respective bodies, they must take the Oath of Office as required by law. The City Clerk or her designee administers the Oath of Office to appointed members.

### ***Term of Office:***

All members are appointed by the City Council, and they could be subject to removal by a motion of at least four affirmative votes of the Council. The Council's appointed officials shall serve for no more than two and one-half consecutive full terms of four years on any one commission. ([Resolution 73-235](#))

Section 902 of the Charter of the City of Hayward does not apply to the term of office for members of the Keep Hayward Clean and Green Task Force because the Task Force is not a board, commission, or committee as contemplated by the Charter. Its purpose is focused on improving the quality of life in the many diverse neighborhoods in the City through Saturday and other clean-up activities. The Task Force is not delegated with legal or jurisdictional responsibilities as are other boards, commissions, or committees created by the Council.

The term of office for the City's appointed officials shall terminate when successors are appointed.

Members who have successfully completed one term on one of the Council's appointed bodies may be eligible to be re-appointed to a second term. According to Resolution 87-323, the City Council will remove or not reappoint any commission or task force member who has failed to attend at least seventy-five percent of all regular meetings held during the period September to June. Special meetings held in lieu of regular meetings will be taken into account when preparing the attendance record. Members eligible for reappointment and who have failed to meet the required performance criteria will be required to submit an application to be considered at the same time applications for new candidates are received. The performance criteria consist of the following: attending no less than seventy-five percent of all regular meetings held; complying with training and statutory requirements; being an active and focused participant; and being prepared for meetings, e.g., reviewing the materials in the agenda packet. The Council /Staff Liaison, in concert with the Chair, will provide performance data to the City Clerk, who in turn will forward it to the Council as part of the re-appointment process at the same time applications for new candidates are received.

Current commission members who have served a minimum of two full consecutive terms on the same body will be eligible to request consideration of appointment to a different body. Their request will be considered by City Council during the annual interviews.

### ***Attendance and Vacancies***

If a member of a commission absents themselves from three consecutive regular meetings of such commission, unless by permission of such commission expressed in its official minutes, or is convicted of a crime involving moral turpitude, or ceases to be a qualified resident of the City, their office shall become vacant and shall be so declared by the Council. ([City Charter Section 905](#))

Members shall be required to attend no less than seventy-five percent of all regular meetings held. If a member misses two consecutive meetings, the staff liaison designated to the Council's appointed body will notify the City Clerk of said absences. The City Clerk will notify the member in writing that failure by a member to attend three consecutive regular meetings of a commission will be cause for Council to declare the member's position vacant. After three consecutive absences or in the event attendance at seventy-five percent of meetings is not maintained, the City Clerk will notify the City Council and the City Council will consider next steps for removing a member. Attendance records will be reviewed by the City Clerk and will issue notices to members with attendance issues. The City Clerk will present an attendance record to the Council during the annual interview process for the Council's appointed bodies.

The Keep Hayward Clean and Green Task Force considers its "Clean-Up Events" as an invaluable function and therefore equally important of its attendance policy; therefore, the attendance policy in [City Resolution 87-323 C.S.](#) related to regular meetings will be extended to clean-up and other events.



A member wishing to resign shall submit a letter of resignation to the City Clerk. Once the letter is submitted, the City Clerk will prepare a recommendation for Council to accept the resignation.

Any vacancies in any commission shall be filled by appointment by the Council during the annual appointment process for the City's Appointed Officials.

As the City Council finds more qualified candidates than available seats to appoint every year, the Council will establish an alternate list when selecting new members. The alternate list will be valid for one year and expire at the beginning of the new recruitment process in April. The process for appointing from the alternate list will involve two separate Council actions: adoption of a resolution accepting the resignation of a member; and adoption of a resolution recommending an alternate from the alternate list to fulfill the vacated position for the remainder of the unexpired term. The City Clerk will ensure the alternate continues to be interested in serving and will confirm the alternate's eligibility status prior to recommending an alternate.

Government [Code Section 54974](#) provides that whenever an unscheduled vacancy occurs, a special vacancy notice shall be posted in the office of the City Clerk, and as may be directed by the City Council, the City Clerk will conduct a special recruitment for the purpose of filling the unexpected vacancy.

The City Clerk shall, pursuant to Government [Code Section 54972](#), prepare an appointments list of all regular and ongoing commissions which are appointed by the City Council, which shall contain the information required in said section. All efforts will be made to provide public information relative to vacancies prior to such appointments.

The Brown Act provides that all meetings of a legislative body (commission/task force) of a local agency be open and public, and all public members be permitted to attend and participate, see Government Code section 54953(a). The Act requires posting an agenda, at least 72 hours before a regular meeting, containing a brief description of each item of business to be transacted or discussed at the meeting, and prohibits any action or discussion from being undertaken on any item not appearing Page 13 of 16 on the agenda, see Government Code section 54954.2. Government Code section 54953(b) allows for meetings to occur via teleconference as follows:

- 1) all teleconference locations must be identified in the notice and agenda of the meeting;
- 2) each teleconference location must be accessible to the public;
- 3) members of the public must be allowed to address the legislative body at each teleconference location;
- 4) the agenda must be posted at each teleconference location; and

5) at least a quorum of the legislative body must be present within the boundaries of the local agency.

Pursuant to AB 361, until January 1, 2024 the Brown Act allows legislative bodies to meet by teleconference without following the requirements of Government Code section 54953(b) as follows:

- 1) The meeting occurs during a state of emergency declared by the governor;
- 2) The posted agenda for the meeting must include the means by which the public can participate via a call-in option or internet-based option;
- 3) If the public's ability to view/participate remotely is interrupted, the legislative body can take no action on items until the public's remote access is restored;
- 4) The legislative body adopts a resolution every 30 days confirming the continued existence of the state of emergency and the need to continue appearing via teleconference.

Pursuant to AB 2449, until January 1, 2026 the Brown Act allows legislative bodies to meet by teleconference without following the requirements of Government Code section 54953(b) as follows:

1) At least a quorum of the body participates in person at a single physical location that is identified on the agenda, open to the public, and within the boundaries of the agency.

2). The public shall be provided notice of the means to remotely observe the meeting and address the legislative body.

3) A member of the legislative body may participate remotely only in one of two circumstances:

A. With "just cause", the member can participate remotely after giving notice as soon as possible. AB 2449 defines "just cause" as (a) a family childcare or caregiving need; (b) a contagious illness; (c) a need related to a physical or mental disability that is not otherwise accommodated; or (d) travel while on official business. AB 2449 limits a member to Page 14 of 16 participating remotely under this provision to two (2) meetings per calendar year.

B. In "emergency circumstances," defined as a physical or family emergency that prevents the member from attending in person, the member can participate remotely by requesting approval to do so from the legislative body. The legislative body may take action on the request as soon as possible, including at the beginning of the meeting, even if there was not sufficient time to place the request formally on the agenda.

C. Under either circumstance, the member in question must give a general description of the circumstances relating to their need to appear remotely, but need not disclose any medical diagnosis, disability, or other confidential medical information.

D. The member must disclose if anyone 18 years or older is present in the room with them during the meeting and describe the general nature of their relationship to that person.

E. A member cannot participate solely by teleconference under the new teleconference framework for more than three (3) consecutive months or more than twenty (20) percent of the agency's regular meetings (or more than two meetings if the agency meets fewer than ten (10) times per year).

Also until January 1, 2026, the Brown Act requires the legislative body to have a procedure for receiving and resolving requests for accommodation pursuant to the Americans with Disabilities Act, and to resolve any doubts in favor of accessibility.

Outside of the limited circumstances authorized by AB 361 and AB 2449, public meetings can still occur via teleconference if the legislative body complies with the general (pre-pandemic) agenda, notice, and quorum requirements of the Brown Act contained in Government Code section 54953(b).

The City Council has expressed a strong preference for commissioners and task force members to attend meetings in person.

### ***Election of Officers:***

The Council's appointed officials shall organize by electing one of its members to serve as the presiding officer at the pleasure of such commission. Each commission shall hold such regular and special meetings as such commission may require. All proceedings shall be open to the public. ([City Charter Section 904](#))

### ***Staff Liaison Role:***

Staff support is available to commissions via staff members assigned as liaisons to each appointed body. The staff liaison is responsible for creating meeting schedules, preparing meeting agendas and reports, and notifying the City Clerk of attendance problems, resignations, and members' change of contact information. The staff liaison is responsible for ensuring that appointed members are oriented about policies and procedures as they relate to the body.

The staff liaison is also responsible for updating bylaws by working with members and the City Attorney and sending the original to the City Clerk after formal adoption by the commission.

All communications addressed to a specific appointed body are received by the staff liaison or their designee and relayed to the appointed body. In 2021, members of the Planning Commission were issued City email addresses to receive correspondence in their capacity as members of the Planning Commission. The roster of appointed officials is a public document available in the office of the City Clerk. The roster includes the name, residence or mailing address, and either a home or business telephone number for each member. Commissioners may interact with the public; however, if they are contacted by the public outside of a meeting, commissioners should encourage public members to send their comments to the staff liaison or their designee for distribution to all commissioners or come to a meeting and speak during public comment.

### ***Council Liaison Role:***

Every year, the Mayor will appoint Council Members to serve as liaisons to the Council's appointed bodies. It shall be the responsibility of a Council liaison to attend as many commission meetings as possible in order to be aware of current issues, to listen and observe, and to bring back to the Council any needs, requests, or information from a commission. A Council liaison shall not take part in the deliberations of the commission.

### ***Budget:***

Budget allocations are not established for commissions; however, funds necessary for the routine business of commissions are included in the departmental budget for each City department which provides staff support to a commission.

The use of the City logo is restricted to communications generated from a City department. The City of Hayward does not provide business cards for members of appointed commissions.

### ***Bylaws:***

The Council's appointed officials may adopt bylaws which are not inconsistent with the City Charter, or other policies that may be established by the Council. Bylaws and bylaw amendments must be reviewed by the Council via a Consent item. Council appointed members should not oversee subject matter already overseen by other commissions, task force, or committees. Bylaws must be filed with the City Clerk.

## ***Orientation:***

City staff provides annual trainings regarding the structure and the operation of City government and the legal and ethical duties and responsibilities of members of the Council's appointed bodies. All members of City commissions are required to attend Ethics and Harassment Prevention trainings either in person/virtual or by completing online training.

This requirement must be fulfilled within six months of the appointment of any member. Record and compliance with this requirement will be maintained in the Office of the City Clerk.

Staff liaisons provide new members with pertinent materials which will assist new members in becoming fully functioning members of the body. Chairpersons are required to become familiar with parliamentary procedure of conducting and presiding over meetings.

## ***Ethics Training:***

Assembly Bill 1234, now California Government [Code Section 53234](#), was signed into law on October 7, 2005. This law requires, among other things, that all local agencies that provide compensation, salary, or a stipend to, or reimburses the expenses of members of a legislative body must provide Ethics Training to local agency officials by January 1, 2007, and every two years thereafter. The Council has determined such training shall be extended to and include all employees and members of advisory bodies, such as commissions, and task forces.

Assembly Bill 1234 requires local officials who are compensated for their service or reimbursed for their expenses to complete ethics training on a biennial basis.

On September 16, 2008, the City Council adopted [Resolution 08-130](#) which amended the Hayward Council Member Handbook by expanding the Ethics Training requirement to members of commissions, task forces, and committees established by Council.

## ***Harassment Prevention Training:***

AB 1825 and SB 1343, now [California Government Code Section 12950.1](#), require immediate and continual Sexual Harassment Prevention Training for supervisors. This law increases the training obligations of all employers with employees within the State of California and extends their obligations beyond the training requirements discussed by the U.S. Supreme Court, the Equal Employment Opportunity Commission ("EEOC"), and other federal and state courts and legislative bodies. While AB 1825 and SB 1343 do not specifically define "supervisor," the definition contained in the California Fair Employment and Housing Act ("FEHA") will presumably apply. Under the FEHA, a supervisor is any individual having the authority "to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or the responsibility to direct them, or to adjust their grievances, or effectively to recommend that action be taken if the exercise

of that authority is not merely routine or clerical in nature, but requires the use of independent judgment. Training is mandatory for all employees who become supervisors after January 1, 2006, within six months of assumption of a supervisory position and once every two years thereafter.

Members of commissions, task forces and committees established by Council are also required to obtain the above-described training.

On October 12, 2010, the City Council adopted [Resolution 10-159](#), which updated the City's Harassment Policy by extending the policy against harassment and retaliation to City Council and all appointees.

Assembly Bill 1661, now [California Government Code Section 53237](#), was signed into law on September 29, 2016. This law requires local agency officials to receive sexual harassment prevention training and education if the local agency provides any type of compensation to those officials. The law also requires an entity that develops curricula to satisfy this requirement to consult with the city attorney regarding its sufficiency and accuracy.

Notwithstanding the foregoing limitations, the Council requires such training for all employees and members of advisory bodies including commissions, committees, and task forces.

## MEETING RESPONSIBILITIES

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### ***Public Meetings:***

The Brown Act or “Open Meeting Law” is officially known as the Ralph M. Brown Act and is found in the California Government Code § 54950 et seq. The Brown Act was enacted in 1953 to guarantee the public’s right to attend and participate in meetings of local legislative bodies. A legislative body is defined as “A commission, committee, board, or other body of a local agency, whether permanent or temporary, decision-making or advisory, created by charter, ordinance, resolution, or formal action of a legislative body.” ([Government Code § 54950 \(b\)](#))

All meetings must be properly noticed under the Brown Act. Meetings include retreats, workshops, and similar types of events. A meeting can be in person, via telephone, or video conference.

According to the Brown Act, the agenda for a regular meeting must be posted in “a location that is freely accessible to members of the public” at least 72 hours before the meeting. Any meeting not on the regular meeting schedule is a special meeting. Notice of a special meeting must be posted at least 24 hours prior to a meeting. Agendas are posted on the bulletin board in front of City Hall, on the bulletin board in the Office of the City Clerk, and on the City’s website.

Meetings that are not noticed are considered serial meetings, which are illegal. “A majority of the members of a legislative body shall not, outside a meeting authorized by the Act, use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the legislative body.” ([Government Code § 54952.2 \(b\)](#))

A type of unintentional serial meeting could result from improper use of email. To avoid this, members of legislative bodies should never use the “reply to all” function to an email that may be addressed to a quorum of the legislative body. The Brown Act’s 2021 amendments (via [AB 992](#)) include messaging via social media as a form of communications that could constitute serial meetings.

Attendance at a public conference is permissible as long as a quorum of the body do not discuss among themselves specific business that is within the subject matter of the jurisdiction. Purely social events are not considered meetings as long as the members do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the local agency. ([Government Code § 54952.2 \(c\) \(5\)](#))

[Government Code 54954](#) requires that each legislative body of a local agency, except for advisory committees or standing committees, provide the time and place for holding regular meetings.

[Government Code 54953](#) allows meetings to be conducted by teleconferencing under procedures including the requirement that each location be identified in the agenda and made accessible to the public, that all votes must be by roll call, and public comment may be made at any of the noticed locations.

[Government Code 54954.3](#) requires that public comment for regular meetings be allowed on any item of interest to the public that is within the subject matter jurisdiction of the city. At special meetings the public comments can be restricted to the subject matter to be considered at the special meeting.

[Government Code 54954.2](#) allows members of the legislative body or its staff to make brief responses to comments made at public comment but cannot be used to start a discussion between commissioners or to take action in response to comments.

When a meeting is canceled a notice of cancellation shall be posted at all the locations where the notice and the agenda are regularly posted. Interested members of the public shall be noticed as soon as possible.

It is recommended that the Council's appointed officials follow the procedures for the conduct of meetings as established in the Parliamentary Procedure and Robert's Rules of Order. In instances where Robert's Rules of Order are inconsistent with the provisions of the City Charter, the Charter shall take precedence.

While the appointed body is in session, the members should not interrupt the proceedings, any commissioners, or any member of the public who has the floor. Persons attending the meeting should observe the rules and procedures of the legislative body. Members who do not follow the rules for decorum may be asked to leave the meeting.

Council liaison and members of the Council's appointed bodies have a mutual obligation to accord the utmost courtesy to one another and shall refrain from rude and derogatory remarks, abusive comments, or other chastising, particularly in public.

If a Council liaison has a specific concern about the behavior and/or statements of an individual commission member, they should bring it first to the attention of the commission Chairperson in private. If no resolution is affected, then the matter should be brought to the attention of the Mayor for their action.

Conversely, commission members should discuss a concern about a Council liaison with their respective Chairperson and not go directly to the Mayor or to other Council Members.

Decorum among commission members shall be the same as applicable to the Council.

Copies of rules, bylaws, and meeting minutes of each one of the Council's appointed bodies shall be kept on file in the Office of the City Clerk where they shall be available for public inspection.



## CONFLICT OF INTEREST GUIDELINES

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### ***Conflict of Interest:***

According to [Government Code 81000](#), also known as the “Political Reform Act,” public officials should perform their duties in an impartial manner, free from bias, caused by their own financial interest. The regulation prohibits a commissioner from making, participating in making, or influencing a governmental decision, if the commissioner knows that the decision will have a material financial effect on interests of the Appointed official.

[The State Fair Political Practices Commission \(FPPC\)](#) enforces these prohibitions. Members are encouraged to consult with the City Attorney or the FPPC before participating in a matter that would create a possible conflict of interest. Public officials specified in [Government Code 87200](#), such as planning commissioners, must publicly identify the economic interest that creates the conflict, step down from the dais, and must then leave the room. The identification of the conflict of interest must be made orally and as part of the official record.

The State of California requires that designated individuals who make or participate in making governmental decisions that could affect their personal economic interests file Statements of Economic Interests, Form 700s [The Hayward Conflict of Interest Code, Administrative Rule 9.1](#) specifies the Council’s appointed bodies that are subject to the disclosure requirement. Designated members have 30 days after the date of appointment to file an Assuming Office Statement of Economic Interests with the City Clerk. If a member resigns or is terminated, a Leaving Office Statement of Economic Interests must be filed within 30 days of termination. All designated members are required to file annual statements and will be routinely advised of the deadlines by the City Clerk.

The City of Hayward has a free filing system, NetFile, that allows individuals to create and electronically file their Statements of Economic Interests disclosure reports mandated by the FPPC.

### ***Incompatible Public Offices:***

The common law doctrine of incompatible public offices prohibits a public official from occupying two public offices which are incompatible in terms of their duties.

## RESOURCES

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Commissions, Committees, and Task Forces

[Appointed Bodies | City of Hayward - Official website \(hayward-ca.gov\)](#)

Council Standing Committees

<https://www.hayward-ca.gov/your-government/council-standing-committees>

California Law

<http://leginfo.legislature.ca.gov/faces/codes.xhtml>

Conflict of Interest Code – Admin Rule 9.1

<http://static.netfile.com/agency/hwd/AdministrativeRule9.1ConflictofInterestCode.pdf>

Current Council’s Appointed Officials

<https://www.hayward-ca.gov/your-government/boards-commissions>

NetFile

[Statement of Economic Interests \(SEI\) | City of Hayward - Official website \(hayward-ca.gov\)](#)

Robert’s Rule of Order

<http://www.robertsrules.org/>

Statement of Economic Interest – Form 700

<http://www.fppc.ca.gov/Form700.html>

## **UNIFORM GUIDANCE FOR THE OPERATIONS OF CITY COMMISSIONS**

The City Council of the City of Hayward hereby establishes the following protocols and guidelines to govern all City commissions, pursuant to Resolution 25-xxx. In addition to the protocols and guidelines set forth herein, all City commissions are governed by the Brown Act, the Public Records Act and applicable sections of the Hayward Municipal Code. The within protocols and guidelines supersede all bylaws or similar protocols previously adopted by individual commissions. Commissions are authorized to create subcommittees of their members as may be necessary or desirable in order to allocate duties and responsibilities consistent with their mandate.

### **MEMBERSHIP**

Commissions shall consist of members appointed by the City Council in accordance with established ordinances and/or resolutions.

### **OFFICERS**

Each commission shall elect a Chair and a Vice Chair annually in October of each calendar year. These officers shall assume their roles at the first commission meeting following their selection and serve for a term of one year. No other officers are authorized. A Chair may serve a second term if re-elected but may not serve more than two consecutive terms. If no commissioner volunteers to serve as Chair, the position shall default to the most senior commissioner who has not recently served as Chair. Commission members are eligible to serve as Chair only after completing at least one year on the commission.

The duties of the officers shall be as follows:

**Chair:** The Chair shall preside over all commission meetings, following established rules of procedure to allow for the orderly flow of business in consultation with the staff liaison.

**Vice Chair:** The Vice Chair shall act in the Chair's absence and shall assist the Chair in the execution of their office.

### **TERM OF OFFICE**

Commission members are appointed by the City Council and may be removed by a motion supported by at least four affirmative votes of the City Council. Commissioners may serve a maximum of two and one-half consecutive full terms of four years on any one commission.

Commissions serve in an advisory role to the City Council, consistent with their originating ordinances and/or resolutions. Commission members are responsible for reviewing issues within their commission's purview and making recommendations to the City Council. Commissioners shall operate within their designated scope, and any expansion of responsibilities requires City Council approval to ensure alignment with the commission's mandate.

### **ATTENDANCE AND VACANCIES**

Commission members are required to attend at least seventy-five (75) percent of all regular meetings held in a calendar year. A commission member's office shall be declared vacant by the City Council

if they meet any of the following criteria: absence from three (3) consecutive regular meetings of the commission without permission noted in the official minutes; failure to maintain the required 75% attendance requirement; conviction of a crime involving moral turpitude; and/or loss of status as a qualified resident of the City.

## **MEETINGS**

All commission meetings shall operate under the Brown Act, which is the California Open Meeting Law. (California Government Code § 54950 et seq.). All meetings must be properly noticed under the Brown Act and in accordance with established resolutions. Each commission shall ratify its meeting schedule for the entire calendar year during its December meeting. Agendas for regular meetings must be posted at least seventy-two (72) hours before each regular meeting in accordance with the Brown Act. Special meetings may be called as needed, with members notified at least forty-eight (48) hours prior to the special meeting. Teleconference participation is governed by the Brown Act and any modified legislation.

## **QUORUM**

The quorum for any regular or special meeting shall consist of a majority of the currently seated members of the commission.

## **AGENDA**

The agenda shall include the meeting's location, date, and time, as well as items to be discussed, in compliance with the Brown Act.

## **ORDER OF BUSINESS**

The following order of business shall be observed in conducting regular commission meetings. Variations for public hearings and work session items are noted in parentheses.

- Call to Order
- Pledge of Allegiance
- AB 2449 Teleconference Notifications and Consideration
- Roll Call
- Public Comments  
(Work Session)
- (Public Hearing)
- Approval of Minutes
- Report Item
- Action Item
- Commission Reports and Announcements
- Staff Announcements
- Adjournment
- Next Meeting Date

## **ORDER OF PROCEDURE**

The following guidelines apply to general agenda items. Variations for public hearing items are noted in parentheses.

- Staff report
- Clarifying questions to staff  
(Applicant presentation)
- (Clarifying questions from Commissioners to Applicant)
- Public Comment
- Commissioners deliberate, discuss the item
- Commissioners vote

## **MEETING MINUTES**

The staff liaison or their designee shall maintain minutes of all commission proceedings, provide a copy to the City Clerk's office, and upload a copy to the City's website – Meeting & Agenda Center. Meeting minutes are a permanent record and must reflect the name of the commission member making a motion, the name of the commissioner member seconding it, and the vote of each commission member for all actions taken.

## **ORIENTATION**

All commission members shall receive annual trainings on the structure and the operations of City government, as well as the legal and ethical duties and responsibilities of the City Council's appointed bodies.

## **TRAININGS**

Commission members appointed by the City Council are required to complete the Ethics training and Harassment Prevention training within six (6) months of appointment and every two (2) years thereafter.

## **CONFLICT OF INTEREST/CODE OF ETHICS**

Any commission member who has a conflict of interest related to an agenda item shall disclose on the record the nature of the conflict, and then excuse themselves prior to the introduction of the agenda item, as required by law.

Each commission member should work towards maintaining the highest actual and perceived integrity level while sitting on a commission.

# **Council Appointments List (effective 1/21/25)**

Appointed by Mayor Every Two Years or as Needed

**COUNCIL'S APPOINTED OFFICER'S COMMITTEE** - As Needed, City Hall, Conference Room 4A

- Mark Salinas
- Julie Roche
- Dan Goldstein
- Staff: Regina Youngblood, Assistant City Manager 510-583-4304

**COUNCIL'S BUDGET & FINANCE COMMITTEE** - Monthly, 3<sup>rd</sup> Wednesday of the month @ 5:30pm, City Hall, Conference Room 2A

- Mark Salinas
- Ray Bonilla, Jr.
- George Syrop
- Staff: Nicole Gonzales, Director of Finance 510-583-4012

**COUNCIL ECONOMIC DEVELOPMENT COMMITTEE** - Monthly on the 1<sup>st</sup> Monday of the month @ 5:30PM, City Hall, Conference Room 2A

- Mark Salinas
- Ray Bonilla, Jr.
- Angela Andrews
- Staff: Paul Nguyen, Chief Economic Development Officer 510-583-5546 & Ana Alvarez,, City Manager 510-583-4300

**COUNCIL'S HOUSING POLICY & RESOURCE COMMITTEE** - Quarterly on the 3<sup>rd</sup> Thursday (March, June, September, December) @ 6:00PM., City Hall, Conference Room 2A

- Mark Salinas
- George Syrop
- Dan Goldstein
- Staff: Christina Morales, Deputy Director of Development Services 510-583-4243 & Dustin Claussen, Assistant City Manager, 510-583-4302

**COUNCIL'S INFRASTRUCTURE & AIRPORT COMMITTEE** - Bi-Monthly on the 4<sup>th</sup> Wednesday (February, April, June, August, October, December) @ 5:30PM, City Hall, Conference Room 2A or Hayward Airport

- Mark Salinas
- Angela Andrews
- George Syrop
- Staff: Alex Ameri, Director of Public Works, 510-583-4720

**Delegates to Oakland Airport-Community Noise Management Forum:**

- Elected Member: Mayor Mark Salinas      Citizen Member: Edward Bogue

**COUNCIL'S PUBLIC SAFETY COMMITTEE** - Bi-Monthly on the 4<sup>th</sup> Wednesdays (January, March, May, July, September, November) @ 5:30PM, Conference Room 2A

- Mark Salinas
- Julie Roche
- Ray Bonilla, Jr.
- Staff: Ana Alvarez /Dustin Claussen, 510-583-4300

**COUNCIL'S SUSTAINABILITY COMMITTEE** - Typically meets the 2<sup>nd</sup> Monday (January, March, May, July, September, and November) @ 5:00PM, City Hall, Conference Room 2A

- Francisco Zermeño
- Dan Goldstein
- Julie Roche
- Staff: Alex Ameri, Director of Public Works, 510-583-4720

**COUNCIL LIAISON TO**  
**BOARDS, COMMISSIONS AND COMMITTEES (EFFECTIVE 1/21/25)**

Appointed by Mayor Every Two Years or as Needed

**COMMUNITY SERVICES COMMISSION**

Ray Bonilla, Jr.

3<sup>rd</sup> Wednesday of the month @ 7:00PM – City Hall, Conference Room 2A  
Staff: Amy Cole-Boom, Community Services Manager, 510-583-4201

**LIBRARY COMMISSION**

Julie Roche

3<sup>rd</sup> Monday of the month @ 6:30PM – Main Library – Main Meeting Room  
Staff: Jayanti Addleman, Library Director, 510-881-7956

**PERSONNEL COMMISSION**

George Syrop

2<sup>nd</sup> Thursday quarterly of the month March, June, September, December  
@ 5:30PM – City Hall, Conference Room 2A  
Staff: Brittney Frye, Director of Human Resources, 510-583-4544

**YOUTH COMMISSION**

Mark Salinas

2<sup>nd</sup> Mondays of the month (Sept – May) @ 6:30pm, City Hall, Conference Room 2A  
No meetings July – August  
Staff: Ivan Padilla, Lead Program Assistant, Office: 510-583-5382 Cell: 510-427-1649

**KEEP HAYWARD CLEAN & GREEN TASK FORCE**

Angela Andrews

4<sup>th</sup> Thursday of the month @ 7:00PM – City Hall, Conference Room 2A  
Staff: Todd Rullman, Director of Maintenance Services, 510-881-7746

## **COUNCIL LIAISON COMMITTEES**

### **ALAMEDA COUNTY AGENCIES AND OTHER ORGANIZATIONS (EFFECTIVE 1/21/25)**

Appointed by Mayor Every Two Years or as Needed

#### **AC TRANSIT INTER-AGENCY LIAISON COMMITTEE** – QUARTERLY

- Francisco Zermeño - Delegate
- George Syrop – Delegate

#### **ALAMEDA COUNTY MOSQUITO ABATEMENT DISTRICT** – Monthly on the 2<sup>nd</sup> Wednesday @ 5:00 PM - Hayward

- George Syrop – Delegate

#### **ALAMEDA COUNTY TRANSPORTATION COMMISSION** – Monthly on the 4<sup>th</sup> Thursday @ 2:00 PM - Oakland

- Mark Salinas – Delegate
- Julie Roche – Alternate

#### **ALAMEDA COUNTY WASTE MANAGEMENT AUTHORITY** – Monthly on the 4<sup>th</sup> Wednesday @ 3:00 PM - Oakland

- Francisco Zermeño – Delegate
- Dan Goldstein – Alternate

#### **ASSOCIATION OF BAY AREA GOVERNMENTS - General Assembly** – Biannual; usually in April and October - SFO

- Francisco Zermeño – Delegate
- Julie Roche – Alternate

#### **AVA COMMUNITY ENERGY JOINT POWERS AUTHORITY (ACE JPA)** – Monthly on the 3<sup>rd</sup> Wednesday @ 6:00 PM – Hybrid or Lake Merritt Room, CSUEB, The Oakland Center in Transpacific Centre

- Julie Roche – Delegate
- Dan Goldstein – Alternate

#### **BAY AREA AIR QUALITY MANAGEMENT DISTRICT (BAAQMD)** -

- Mark Salinas

#### **BAY AREA WATER SUPPLY & CONSERVATION AGENCY** - Bi-monthly on the 3<sup>rd</sup> Thursday beginning in January @ 6:30 PM – at a location central to the three-county district, and not necessarily the same location each month.

- Angela Andrews – Delegate (4 Year Term: July 1, 2021 – June 30, 2025)

#### **EAST BAY DISCHARGERS JOINT POWERS AUTHORITY** - Monthly on the 3<sup>rd</sup> Thursday @ 4:00 PM – San Lorenzo

- Angela Andrews – Delegate
- Julie Roche – Alternate

#### **HAYWARD AREA SHORELINE PLANNING AGENCY (HASPA)** – Quarterly on the 2<sup>nd</sup> Thursday (Jan, Apr, July, Oct) @ 3:00 PM Hayward Shoreline Interpretive Center, 4901 Breakwater Ave., Hayward, CA 94545.

- Francisco Zermeño – Delegate
- Ray Bonilla, Jr. – Alternate

#### **HAYWARD LOCAL AGENCIES COMMITTEE** – Quarterly on the 2<sup>nd</sup> Thursday @ 4:30 PM - Hayward City Hall, Conference Room 2A (February, April, July and October)

- Mark Salinas – Delegate
- Julie Roche – Delegate



## **COUNCIL LIAISON COMMITTEES**

### **ALAMEDA COUNTY AGENCIES AND OTHER ORGANIZATIONS CONT. (EFFECTIVE 1/21/25)**

Appointed by Mayor Every Two Years or as Needed

**HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA** – Monthly on the 2<sup>nd</sup> Wednesday @ 8:00 AM - Hayward

- Dan Goldstein– Delegate
- Mark Salinas – Alternate

**LEAGUE OF CALIFORNIA CITIES EAST BAY DIVISION** – Monthly on the 4<sup>th</sup> Thursday @ 6:30 PM Various Locations in Alameda County

- Mark Salinas - Delegate
- George Syrop – Alternate

**SAN FRANCISCO BAY AREA REGIONAL WATER SYSTEM FINANCING AUTHORITY**– Biannual in January & July - during the BAWSCA meeting – Foster City

- Angela Andrews – Delegate

**SOUTH HAYWARD FAMILY CENTER PROJECT GOVERNANCE GROUP** – As needed

- Mark Salinas – Delegate

**VOLUNTEER COMMITTEE (NON-OFFICIAL)**– As needed

- Mark Salinas – Delegate

**MARTIN LUTHER KING JR. COMMITTEE (NON-OFFICIAL)** – As needed

- Mark Salinas – Delegate

# Open & Public VI

A GUIDE TO THE RALPH M. BROWN ACT

REVISED JANUARY 2024



LEAGUE OF  
CALIFORNIA  
CITIES

*Photo credit: Courtesy of the City of West Hollywood. Photo by Jon Viscott.*

## ACKNOWLEDGMENTS

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# Open & Public VI

A GUIDE TO THE RALPH M. BROWN ACT  
 REVISED JANUARY 2024

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# Chapter 1

## IT IS THE PEOPLE’S BUSINESS

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# Chapter 1

## IT IS THE PEOPLE'S BUSINESS



### The right of access

Two key parts of the Brown Act have not changed since its adoption in 1953. One is the act's initial section, declaring the Legislature's intent:

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

*"The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created."<sup>1</sup>*

The people reconfirmed that intent 50 years later in the November 2004 election by adopting Proposition 59, amending the California Constitution to include a public right of access to government information:

*"The people have the right of access to information concerning the conduct of the people's business, and, therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny."<sup>2</sup>*

The Brown Act's other unchanged provision is a single sentence:

*"All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter."<sup>3</sup>*

That one sentence is by far the most important of the entire Brown Act. If the opening is the soul, that sentence is the heart of the Brown Act.

### Broad coverage

The Brown Act covers members of virtually every type of local government body, elected or appointed, decision-making or advisory. Some types of private organizations are covered, as are newly elected members of a legislative body, even before they take office.

Similarly, meetings subject to the Brown Act are not limited to face-to-face gatherings. They also include any communication medium or device through which a majority of a legislative body discusses, deliberates, or takes action on an item of business outside of a noticed meeting. They include meetings held from remote locations by teleconference or videoconference.

**PRACTICE TIP:** The key to the Brown Act is a single sentence. In summary, all meetings shall be **open and public** except when the Brown Act authorizes otherwise.

New communication technologies present new Brown Act challenges. For example, common email practices of forwarding or replying to messages can easily lead to a serial meeting prohibited by the Brown Act, as can participation by members of a legislative body in an internet chatroom or blog dialogue. Social Media posts, comments, and “likes” can result in a Brown Act violation. Communicating during meetings using electronic technology (such as laptop computers, tablets, or smart phones) may create the perception that private communications are influencing the outcome of decisions, and some state legislatures have banned the practice. On the other hand, widespread video streaming and videoconferencing of meetings has greatly expanded public access to the decision-making process.

### Narrow exemptions

The express purpose of the Brown Act is to ensure that local government agencies conduct the public’s business openly and publicly. Courts and the California Attorney General usually broadly construe the Brown Act in favor of greater public access and narrowly construe exemptions to its general rules.<sup>4</sup>

Generally, public officials should think of themselves as living in glass houses, and that they may only draw the curtains when it is in the public interest to preserve confidentiality. Closed sessions may be held only as specifically authorized by the provisions of the Brown Act itself.

The Brown Act, however, is limited to meetings among a majority of the members of multimember government bodies when the subject relates to local agency business. It does not apply to independent conduct of individual decision-makers. It does not apply to social, ceremonial, educational, and other gatherings as long as a majority of the members of a body do not discuss issues related to their local agency’s business. Meetings of temporary advisory committees — as distinguished from standing committees — made up solely of less than a quorum of a legislative body are not subject to the Brown Act.

The law does not apply to local agency staff or employees, but they may facilitate a violation by acting as a conduit for discussion, deliberation, or action by the legislative body.<sup>5</sup>

The law, on the one hand, recognizes the need of individual local officials to meet and discuss matters with their constituents and staff. On the other hand, it requires — with certain specific exceptions to protect the community and preserve individual rights — that the decision-making process be public. Sometimes the boundary between the two is not easy to draw.

### Public participation in meetings

In addition to requiring the public’s business to be conducted in open, noticed meetings, the Brown Act also extends to the public the right to participate in meetings. Individuals, lobbyists, and members of the news media possess the right to attend, record, broadcast, and participate in public meetings. The public’s participation is further enhanced by the Brown Act’s requirement that a meaningful agenda be posted in advance of meetings, by limiting discussion and action to matters listed on the agenda, and by requiring that meeting materials be made available.

Legislative bodies may, however, adopt reasonable regulations on public testimony and the conduct of public meetings, including measures to address disruptive conduct and limits on the time allotted to each speaker. For more information, see chapter 4.

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**PRACTICE TIP:** Think of the government’s house as being made of glass. The curtains may be drawn only to further the public’s interest. A local policy on the use of laptop computers, tablets, and smart phones during Brown Act meetings may help avoid problems.

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## Controversy

Not surprisingly, the Brown Act has been a source of confusion and controversy since its inception. News media and government watchdogs often argue the law is toothless, pointing out that there has never been a single criminal conviction for a violation. They often suspect that closed sessions are being misused.

Some public officials complain that the Brown Act makes it difficult to respond to constituents and requires public discussions of items better discussed privately, such as why a particular person should not be appointed to a board or commission. Many elected officials find the Brown Act inconsistent with their private business experiences. Closed meetings can be more efficient; they eliminate grandstanding and promote candor. The techniques that serve well in business — the working lunch, the sharing of information through a series of phone calls or emails, the backroom conversations and compromises — are often not possible under the Brown Act.

As a matter of public policy, California (along with many other states) has concluded that there is more to be gained than lost by conducting public business in the open. Government behind closed doors may well be efficient and businesslike, but it may be perceived as unresponsive and untrustworthy.

**PRACTICE TIP:** Transparency is a foundational value for ethical government practices. The Brown Act is a floor, not a ceiling, for conduct.

## Beyond the law — good business practices

Violations of the Brown Act can lead to invalidation of an agency's action, payment of a challenger's attorney fees, public embarrassment, even criminal prosecution. But the Brown Act is a floor, not a ceiling, for conduct of public officials. This guide is focused not only on the Brown Act as a minimum standard, but also on meeting practices or activities that, legal or not, are likely to create controversy. Problems may crop up, for example, when agenda descriptions are too brief or vague, when an informal get-together takes on the appearance of a meeting, when an agency conducts too much of its business in closed session or discusses matters in closed session that are beyond the authorized scope, or when controversial issues arise that are not on the agenda.

The Brown Act allows a legislative body to adopt practices and requirements for greater access to meetings for itself and its subordinate committees and bodies that are more stringent than the law itself requires.<sup>6</sup> Rather than simply restate the basic requirements of the Brown Act, local open meeting policies should strive to anticipate and prevent problems in areas where the Brown Act does not provide full guidance. As with the adoption of any other significant policy, public comment should be solicited.

A local policy could build on these basic Brown Act goals:

- A legislative body's need to get its business done smoothly.
- The public's right to participate meaningfully in meetings, and to review documents used in decision-making at a relevant point in time.



- A local agency's right to confidentially address certain negotiations, personnel matters, claims, and litigation.
- The right of the press to fully understand and communicate public agency decision-making.

A detailed and comprehensive public meeting and information policy, especially if reviewed periodically, can be an important element in maintaining or improving public relations. Such a policy exceeds the absolute requirements of the law — but if the law were enough, this guide would be unnecessary. A narrow legalistic approach will not avoid or resolve potential controversies. An agency should consider going beyond the law and look at its unique circumstances to determine if there is a better way to prevent potential problems and promote public trust. At the very least, local agencies need to think about how their agendas are structured in order to make Brown Act compliance easier. They need to plan carefully to make sure public participation fits smoothly into the process.

### Achieving balance

The Brown Act should be neither an excuse for hiding the ball nor a mechanism for hindering efficient and orderly meetings. The Brown Act represents a balance among the interests of constituencies whose interests do not always coincide. It calls for openness in local government, yet should allow government to function responsively and productively.

There must be both adequate notice of what discussion and action are to occur during a meeting as well as a normal degree of spontaneity in the dialogue between elected officials and their constituents.

The ability of an elected official to confer with constituents or colleagues must be balanced against the important public policy prohibiting decision-making outside of public meetings.

In the end, implementation of the Brown Act must ensure full participation of the public and preserve the integrity of the decision-making process, yet not stifle government officials and impede the effective and natural operation of government.

### Historical note

In late 1951, *San Francisco Chronicle* reporter Mike Harris spent six weeks looking into the way local agencies conducted meetings. State law had long required that business be done in public, but Harris discovered secret meetings or caucuses were common. He wrote a 10-part series titled "Your Secret Government" that ran in May and June 1952.

Out of the series came a decision to push for a new state open-meeting law. Harris and Richard (Bud) Carpenter, legal counsel for the League of California Cities, drafted such a bill and Assembly Member Ralph M. Brown agreed to carry it. The Legislature passed the bill, and Governor Earl Warren signed it into law in 1953.

The Ralph M. Brown Act, known as the Brown Act, has evolved under a series of amendments and court decisions, and has been the model for other open-meeting laws, such as the Bagley-Keene Act, enacted in 1967 to cover state agencies.

Assembly Member Brown is best known for the open-meeting law that carries his name. He was elected to the Assembly in 1942 and served 19 years, including the last three years as Speaker. He then became an appellate court justice.

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**PRACTICE TIP:** The Brown Act should be viewed as a tool to facilitate the business of local government agencies. Local policies that go beyond the minimum requirements of law may help instill public confidence and avoid problems.

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Updates to this publication responding to changes in the Brown Act or new court interpretations are available at <https://www.calcities.org/home/resources/open-government2>. A current version of the Brown Act may be found at <https://leginfo.ca.gov>.

### ENDNOTES

- 1 Cal. Gov. Code, § 54950.
- 2 Cal. Const., Art. 1, § 3, subd. (b)(1).
- 3 Cal. Gov. Code, § 54953, subd. (a).
- 4 This principle of broad construction when it furthers public access and narrow construction if a provision limits public access is also stated in the amendment to the State's Constitution adopted by Proposition 59 in 2004. California Const., Art. 1, § 3, subd. (b)(2).
- 5 Cal. Gov. Code, § 54952.2, subds. (b)(2) and (c)(1); *Wolfe v. City of Fremont* (2006) 144 Cal.App.4th 533.
- 6 Cal. Gov. Code, § 54953.7.



# Chapter 2

## LEGISLATIVE BODIES

What is a “legislative body” of a local agency? ..... 12

What is not a “legislative body” for purposes of the Brown Act? ..... 14

# Chapter 2

## LEGISLATIVE BODIES

*The Brown Act applies to the legislative bodies of local agencies. It defines “legislative body” broadly to include just about every type of decision-making body of a local agency.<sup>1</sup>*



### What is a “legislative body” of a local agency?

A “legislative body” includes the following:

- The “**governing body** of a local agency” and certain of its subsidiary bodies; “or any other local body created by state or federal statute.”<sup>2</sup> This includes city councils, boards of supervisors, school boards, and boards of trustees of special districts. A “local agency” is any city, county, city and county, school district, municipal corporation, successor agency to a redevelopment agency, district, political subdivision, or other local public agency.<sup>3</sup> A housing authority is a local agency under the Brown Act even though it is created by and is an agent of the state.<sup>4</sup> The California Attorney General has opined that air pollution control districts and regional open space districts are also covered.<sup>5</sup> Entities created pursuant to joint powers agreements are also local agencies within the meaning of the Brown Act.<sup>6</sup>

- **Newly elected members** of a legislative body who have not yet assumed office must conform to the requirements of the Brown Act as if already in office.<sup>7</sup> Thus, meetings between incumbents and newly elected members of a legislative body, such as a meeting between two outgoing members and a member-elect of a five-member body, could violate the Brown Act.

**Q.** On the morning following the election to a five-member legislative body of a local agency, two successful candidates, neither an incumbent, meet with an incumbent member of the legislative body for a celebratory breakfast. Does this violate the Brown Act?

**A.** *It might, and absolutely would if the conversation turns to agency business. Even though the candidates-elect have not officially been sworn in, the Brown Act applies. If purely a social event, there is no violation, but it would be preferable if others were invited to attend to avoid the appearance of impropriety.*

**PRACTICE TIP:** The prudent presumption is that an advisory committee or task force is subject to the Brown Act. Even if one clearly is not, it may want to comply with the Brown Act. Public meetings may reduce the possibility of misunderstandings and controversy.

- **Appointed bodies** — whether permanent or temporary, decision-making or advisory — including planning commissions, civil service commissions, and other subsidiary committees, boards, and bodies. Volunteer groups, executive search committees, task forces, and blue ribbon committees created by formal action of the governing body are legislative bodies. When the members of two or more legislative bodies are appointed to serve on an entirely separate advisory group, the resulting body may be subject to the Brown Act. In one reported case, a city council created a committee of two members of the city council and two members of the city planning commission to review qualifications of prospective planning commissioners and make recommendations to the council. The court held that their joint mission made them a legislative body subject to the Brown Act. Had the two committees remained separate and met only to exchange information and report back to their respective boards, they would have been exempt from the Brown Act.<sup>8</sup>
- **Standing committees** of a legislative body, irrespective of their composition, which have either (1) a continuing subject matter jurisdiction or (2) a meeting schedule fixed by charter, ordinance, resolution, or formal action of a legislative body.<sup>9</sup> Even if it comprises less than a quorum of the governing body, a standing committee is subject to the Brown Act. For example, if a governing body creates committees on budget and finance or on public safety that are not limited in duration or scope, those are standing committees subject to the Brown Act. Further, according to the California Attorney General, function over form controls. For example, a statement by the legislative body that the advisory committee “shall not exercise continuing subject matter jurisdiction” or the fact that the committee does not have a fixed meeting schedule is not determinative.<sup>10</sup> “Formal action” by a legislative body includes authorization given to the agency’s executive officer to appoint an advisory committee pursuant to agency-adopted policy.<sup>11</sup> A majority of the members of a legislative body may attend an open and public meeting of a standing committee of that body, provided the members who are not part of the standing committee only observe.<sup>12</sup> For more information, see chapter 3.
- The governing body of any **private organization** either (1) created by the legislative body in order to exercise authority that may lawfully be delegated by such body to a private corporation, limited liability company, or other entity or (2) that receives agency funding and whose governing board includes a member of the legislative body of the local agency appointed by the legislative body as a full voting member of the private entity’s governing board.<sup>13</sup> These include some nonprofit corporations created by local agencies.<sup>14</sup> If a local agency contracts with a private firm for a service (for example, payroll, janitorial, or food services), the private firm is not covered by the Brown Act.<sup>15</sup> When a member of a legislative body sits on a board of a private organization as a private person and is not appointed by the legislative body, the board will not be subject to the Brown Act. Similarly, when the legislative body appoints someone other than one of its own members to such boards, the Brown Act does not apply. Nor does it apply when a private organization merely receives agency funding.<sup>16</sup>

**PRACTICE TIP:** It can be difficult to determine whether a subcommittee of a body falls into the category of a standing committee or an exempt temporary committee. Suppose a committee is created to explore the renewal of a franchise or a topic of similarly limited scope and duration. Is it an exempt temporary committee or a nonexempt standing committee? The answer may depend on factors such as how meeting schedules are determined, the scope of the committee’s charge, or whether the committee exists long enough to have “continuing jurisdiction.”



- Q.** The local chamber of commerce is funded in part by the city. The mayor sits on the chamber's board of directors. Is the chamber board a legislative body subject to the Brown Act?
- A.** *Maybe. If the chamber's governing documents require the mayor to be on the board and the city council appoints the mayor to that position, the board is a legislative body. If, however, the chamber board independently appoints the mayor to its board, or the mayor attends chamber board meetings in a purely advisory capacity, it is not.*
- Q.** If a community college district board creates an auxiliary organization to operate a campus bookstore or cafeteria, is the board of the organization a legislative body?
- A.** *Yes. But if the district instead contracts with a private firm to operate the bookstore or cafeteria, the Brown Act would not apply to the private firm.*

- **Certain types of hospital operators.** A lessee of a hospital (or portion of a hospital) first leased under Health and Safety Code subsection 32121(p) after Jan. 1, 1994, which exercises "material authority" delegated to it by a local agency, whether or not such lessee is organized and operated by the agency or by a delegated authority.<sup>17</sup>

### What is not a "legislative body" for purposes of the Brown Act?

- A temporary advisory committee composed **solely of less than a quorum** of the legislative body that serves a limited or single purpose, that is not perpetual, and that will be dissolved once its specific task is completed is not subject to the Brown Act.<sup>18</sup> Temporary committees are sometimes called *ad hoc* committees, a term not used in the Brown Act. Examples include an advisory committee composed of less than a quorum created to interview candidates for a vacant position or to meet with representatives of other entities to exchange information on a matter of concern to the agency, such as traffic congestion.<sup>19</sup>
- Groups advisory to a single decision-maker or appointed by staff are not covered. The Brown Act applies only to committees created by formal action of the legislative body and not to committees created by others. A committee advising a superintendent of schools would not be covered by the Brown Act. However, the same committee, if created by formal action of the school board, would be covered.<sup>20</sup>

- Q.** A member of the legislative body of a local agency informally establishes an advisory committee of five residents to advise her on issues as they arise. Does the Brown Act apply to this committee?
- A.** *No, because the committee has not been established by formal action of the legislative body.*
- Q.** During a meeting of the city council, the council directs the city manager to form an advisory committee of residents to develop recommendations for a new ordinance. The city manager forms the committee and appoints its members; the committee is instructed to direct its recommendations to the city manager. Does the Brown Act apply to this committee?
- A.** *Possibly, because the direction from the city council might be regarded as a formal action of the body, notwithstanding that the city manager controls the committee.*

- Individual decision-makers who are not elected or appointed members of a legislative body are not covered by the Brown Act. For example, a disciplinary hearing presided over by a department head or a meeting of agency department heads is not subject to the Brown Act since such assemblies are not those of a legislative body.<sup>21</sup>
- Public employees, each acting individually and not engaging in collective deliberation on a specific issue, such as the drafting and review of an agreement, do not constitute a legislative body under the Brown Act, even if the drafting and review process was established by a legislative body.<sup>22</sup>
- County central committees of political parties are also not Brown Act bodies.<sup>23</sup>

Legal counsel for a governing body is not a member of the governing body, therefore, the Brown Act does not apply to them. But counsel should take care not to facilitate Brown Act violations by members of the governing body.<sup>24</sup>

## ENDNOTES

- 1 *Taxpayers for Livable Communities v. City of Malibu* (2005) 126 Cal.App.4th 1123, 1127.
- 2 Cal. Gov. Code, § 54952, subs. (a) and (b).
- 3 Cal. Gov. Code, § 54951; Cal. Health & Saf. Code, § 34173, subd. (g) (successor agencies to former redevelopment agencies subject to the Brown Act). But see Cal. Ed. Code § 35147, which exempts certain school councils and school site advisory committees from the Brown Act and imposes upon them a separate set of rules.
- 4 *Torres v. Board of Commissioners of Housing Authority of Tulare County* (1979) 89 Cal.App.3d 545, 549-550.
- 5 71 Ops.Cal.Atty.Gen. 96 (1988); 73 Ops.Cal.Atty.Gen. 1 (1990).
- 6 *McKee v. Los Angeles Interagency Metropolitan Police Apprehension Crime Task Force* (2005) 134 Cal. App.4th 354, 362.
- 7 Cal. Gov. Code, § 54952.1.
- 8 *Joiner v. City of Sebastopol* (1981) 125 Cal.App.3d 799, 804-805.
- 9 Cal. Gov. Code, § 54952, subd. (b)
- 10 79 Ops.Cal.Atty.Gen. 69 (1996).
- 11 *Frazer v. Dixon Unified School District* (1993) 18 Cal.App.4th 781, 793.
- 12 Cal. Gov. Code § 54952, subd. (c)(6).
- 13 Cal. Gov. Code, § 54952, subd. (c)(1). Regarding private organizations that receive local agency funding, the same rule applies to a full voting member appointed prior to February 9, 1996, who, after that date, is made a nonvoting board member by the legislative body. Cal. Gov. Code § 54952, subd. (c)(2).
- 14 Cal. Gov. Code, § 54952(c)(1)(A); *International Longshoremen's and Warehousemen's Union v. Los Angeles Export Terminal, Inc.* (1999) 69 Cal.App.4th 287, 300; *Epstein v. Hollywood Entertainment Dist. II Business Improvement District* (2001) 87 Cal.App.4th 862, 876; see also 85 Ops.Cal.Atty.Gen. 55 (2002).
- 15 *International Longshoremen's and Warehousemen's Union v. Los Angeles Export Terminal, Inc.* (1999) 69 Cal.App.4th 287, 300 fn. 5.
- 16 "The Brown Act, Open Meetings for Local Legislative Bodies," California Attorney General's Office (2003), p. 7.

- 17 Cal. Gov. Code, § 54952, subd. (d).
- 18 Cal. Gov. Code, § 54952, subd. (b); see also *Freedom Newspapers, Inc. v. Orange County Employees Retirement System Board of Directors* (1993) 6 Cal.4th 821, 832.
- 19 *Taxpayers for Livable Communities v. City of Malibu* (2005) 126 Cal.App.4th 1123, 1129.
- 20 56 Ops.Cal.Atty.Gen. 14, 16-17 (1973).
- 21 *Wilson v. San Francisco Municipal Railway* (1973) 29 Cal.App.3d 870, 878-879.
- 22 *Golightly v. Molina* (2014) 229 Cal.App.4th 1501, 1513.
- 23 59 Ops.Cal.Atty.Gen. 162, 164 (1976).
- 24 *GFRCO, Inc. v. Superior Court of Riverside County* (2023) 89 Cal.App.5th 1295, 1323; *Stockton Newspapers, Inc. v. Redevelopment Agency of the City of Stockton* (1985) 171 Cal.App.3d 95, 105 (a series of individual telephone calls between the agency attorney and the members of the body constituted a meeting).



# Chapter 3

## MEETINGS

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# Chapter 3

## MEETINGS



The Brown Act only applies to meetings of local legislative bodies. It defines a meeting as “any congregation of a majority of the members of a legislative body at the same time and location, including teleconference location as permitted by Section 54953, to hear, discuss, deliberate, or take any action on any item that is within the subject matter jurisdiction of the legislative body.”<sup>1</sup> The term *meeting* is not limited to gatherings at which action is taken but includes deliberative gatherings as well. A hearing before an individual hearing officer is not a meeting under the Brown Act because it is not a hearing before a legislative body.<sup>2</sup>

### Brown Act meetings

Brown Act meetings include a legislative body’s regular meetings, special meetings, emergency meetings, and adjourned meetings.

- **“Regular meetings”** are meetings occurring at the dates, times, and location set by resolution, ordinance, or other formal action by the legislative body and are subject to 72-hour posting requirements.<sup>3</sup>
- **“Special meetings”** are meetings called by the presiding officer or majority of the legislative body to discuss only discrete items on the agenda under the Brown Act’s notice requirements for special meetings and are subject to 24-hour posting requirements.<sup>4</sup>
- **“Emergency meetings”** are a limited class of meetings held when prompt action is needed due to actual or threatened disruption of public facilities and are held on little notice.<sup>5</sup>
- **“Adjourned meetings”** are regular or special meetings that have been adjourned or re-adjourned to a time and place specified in the order of adjournment, with no agenda required for regular meetings adjourned for less than five calendar days as long as no additional business is transacted.<sup>6</sup>

### Six exceptions to the meeting definition

The Brown Act creates six exceptions to the meeting definition:<sup>7</sup>

#### *Individual contacts*

The first exception involves individual contacts between a member of the legislative body and any other person. The Brown Act does not limit a legislative body member acting on their own. This exception recognizes the right to confer with constituents, advocates, consultants, news reporters, local agency staff, or a colleague.

Individual contacts, however, cannot be used to do in stages what would be prohibited in one step. For example, a series of individual contacts that leads to discussion, deliberation, or action among a majority of the members of a legislative body is prohibited. Such serial meetings are discussed below.

## Conferences

The second exception allows a legislative body majority to attend a conference or similar gathering open to the public that addresses issues of general interest to the public or to public agencies of the type represented by the legislative body.

Among other things, this exception permits legislative body members to attend annual association conferences of city, county, school, community college, and other local agency officials, as long as those meetings are open to the public. However, a majority of members cannot discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within their local agency's subject matter jurisdiction.

## Community meetings

The third exception allows a legislative body majority to attend an open and publicized meeting held by another organization to address a topic of local community concern. A majority cannot discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within the legislative body's subject matter jurisdiction. Under this exception, a legislative body majority may attend a local service club meeting or a local candidates' night if the meetings are open to the public.

**"I see we have four distinguished members of the city council at our meeting tonight," said the chair of the Environmental Action Coalition. "I wonder if they have anything to say about the controversy over enacting a slow growth ordinance?"**

*The Brown Act permits a majority of a legislative body to attend and speak at an open and publicized meeting conducted by another organization. The Brown Act may nevertheless be violated if a majority discusses, deliberates, or takes action on an item during the meeting of the other organization. There is a fine line between what is permitted and what is not; hence, members should exercise caution when participating in these types of events.*

- Q.** The local chamber of commerce sponsors an open and public candidate debate during an election campaign. Three of the five agency members are up for reelection and all three participate. All of the candidates are asked their views on a controversial project scheduled for a meeting to occur just after the election. May the three incumbents answer the question?
- A.** Yes, because the chamber of commerce, not the city, is organizing the debate. The city should not sponsor the event or assign city staff to help organize or run the event. Also, the Brown Act does not constrain the incumbents from expressing their views regarding important matters facing the local agency as part of the political process the same as any other candidates. Finally, incumbents participating in the event should take care to limit their remarks to the program set by the chamber and safeguard due process by indicating they will keep an open mind regarding specific applications that might come before the council.
- Q.** May the three incumbents accept an invitation from the editorial board of a local paper to all candidates to meet as a group and answer questions about and/or debate city issues?
- A.** No, unlike the chamber of commerce event, this would not be allowed under the Brown Act because it is not an open and publicized meeting.

### Other legislative bodies

The fourth exception allows a majority of a legislative body to attend an open and publicized meeting of (1) another body of the local agency and (2) a legislative body of another local agency.<sup>8</sup> Again, the majority cannot discuss among themselves, other than as part of the scheduled meeting, business of a specific nature that is within their subject matter jurisdiction. This exception allows, for example, a city council or a majority of a board of supervisors to attend a controversial meeting of the planning commission.

Nothing in the Brown Act prevents the majority of a legislative body from sitting together at such a meeting. They may choose not to, however, to preclude any possibility of improperly discussing local agency business and to avoid the appearance of a Brown Act violation. Further, aside from the Brown Act, there may be other reasons, such as due process considerations, why the members should avoid giving public testimony, trying to influence the outcome of proceedings before a subordinate body, or discussing the merits with interested parties.

**Q.** The entire legislative body intends to testify against a bill before the Senate Local Government Committee in Sacramento. Must this activity be noticed as a meeting of the body?

**A.** *No, because the members are attending and participating in an open meeting of another governmental body that the public may attend.*

**Q.** The members then proceed upstairs to the office of their local assembly member to discuss issues of local interest. Must this session be noticed as a meeting and be open to the public?

**A.** *Yes, because the entire body may not meet behind closed doors except for proper closed sessions. The same answer applies to a private lunch or dinner with the assembly member.*

### Standing committees

The fifth exception authorizes the attendance of a majority at an open and noticed meeting of a standing committee of the legislative body, provided that the legislative body members who are not members of the standing committee attend only as observers (meaning that they cannot speak or otherwise participate in the meeting, and they must sit where members of the public sit).<sup>9</sup>

**Q.** The legislative body establishes a standing committee of two of its five members that meets monthly. A third member of the legislative body wants to attend these meetings and participate. May she?

**A.** *She may attend, but only as an observer; she may not participate.*

**Q.** Can the legislative body establish multiple standing committees with partially overlapping jurisdiction?

**A.** *Yes. One result of this overlap in jurisdiction may be that three or more of the members of the legislative body ultimately end up discussing an issue as part of a standing committee meeting. This is allowed under the Brown Act provided each standing committee meeting is publicly noticed and no more than two of the five members discuss the issue at any given standing committee meeting.*

### **Social or ceremonial events**

The final exception permits a majority of a legislative body to attend a purely social or ceremonial occasion. Once again, a majority cannot discuss business among themselves of a specific nature that is within the subject matter jurisdiction of the legislative body.

Nothing in the Brown Act prevents a majority of members from attending the same football game, party, wedding, funeral, reception, or farewell. The test is not whether a majority of a legislative body attend the function, but whether business of a specific nature within the subject matter jurisdiction of the body is discussed. As long as no such business is discussed, there is no violation of the Brown Act.

### **Grand Jury Testimony**

In addition, members of a legislative body, either individually or collectively, may give testimony in private before a grand jury.<sup>10</sup> This is the equivalent of a seventh exception to the Brown Act's definition of a "meeting."

### **Collective briefings**

None of these exceptions permits a majority of a legislative body to meet together with staff in advance of a meeting for a collective briefing. Any such briefings that involve a majority of the body in the same place and time must be open to the public and satisfy Brown Act meeting notice and agenda requirements. Staff may provide written briefings (e.g., staff updates, emails from the city manager, confidential memos from the city attorney) to the full legislative body, but apart from privileged memos, the written materials may be subject to disclosure as public records as discussed in chapter 4.

### **Retreats, trainings, and workshops of legislative bodies**

Gatherings by a majority of legislative body members at the legislative body's retreats, study sessions, trainings, or workshops are subject to the requirements of the Brown Act. This is the case whether the gathering focuses on long-range agency planning, discussion of critical local issues, satisfying state-mandated ethics training requirements, or team building and group dynamics.<sup>11</sup>





- Q.** The legislative body wants to hold a team-building session to improve relations among its members. May such a session be conducted behind closed doors?
- A.** *No, this is not a proper subject for a closed session, and there is no other basis to exclude the public. Council relations are a matter of public business.*

### Serial meetings

One of the most frequently asked questions about the Brown Act involves serial meetings. At any one time, such meetings include only a portion of a legislative body, but eventually they comprise a majority. The Brown Act provides that “[a] majority of the members of a legislative body shall not, outside a meeting ... use a series of communications of any kind, directly or through

intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the legislative body.”<sup>12</sup> The problem with serial meetings is the process, which deprives the public of an opportunity for meaningful observation of and participation in legislative body decision-making.

The serial meeting may occur by either a “daisy chain” or a “hub and spoke” sequence. In the daisy chain scenario, Member A contacts Member B, Member B contacts Member C, Member C contacts Member D, and so on until a quorum has discussed, deliberated, or taken action on an item within the legislative body’s subject matter jurisdiction. The hub and spoke process involves at least two scenarios. In the first scenario, Member A (the hub) sequentially contacts Members B, C, D, and so on (the spokes) until a quorum has been contacted. In the second scenario, a staff member (the hub), functioning as an intermediary for the legislative body

or one of its members, communicates with a majority of members (the spokes) one by one for discussion, deliberation, or a decision on a proposed action.<sup>13</sup> Another example of a serial meeting is when a chief executive officer (the hub) briefs a majority of members (the spokes) prior to a formal meeting and, in the process, information about the members’ respective views is revealed. Each of these scenarios violates the Brown Act.

A legislative body member has the right, if not the duty, to meet with constituents to address their concerns. That member also has the right to confer with a colleague (but not with a majority of the body, counting the member) or appropriate staff about local agency business. An employee or official of a local agency may engage in separate conversations or communications outside of an open and noticed meeting “with members of a legislative body in order to answer questions or provide information regarding a matter that is within the subject matter jurisdiction of the local agency if that person does not communicate to members of the legislative body the comments or position of any other member or members of the legislative body.”<sup>14</sup>

The Brown Act is violated, however, if several one-on-one meetings or conferences lead to a discussion, deliberation, or action by a majority. In one case, a violation occurred when a quorum



Photo credit: Courtesy of the City of West Hollywood. Photo by Jon Viscott.

of a city council, by a letter that had been circulated among members outside of a formal meeting, directed staff to take action in an eminent domain proceeding.<sup>15</sup>

A unilateral written communication to the legislative body, such as an informational or advisory memorandum, does not violate the Brown Act.<sup>16</sup> Such a memo, however, may be a public record.<sup>17</sup>

**The phone call was from a lobbyist. “Say, I need your vote for that project in the south area. How about it?”**

**“Well, I don’t know,” replied Board Member Aletto. “That’s kind of a sticky proposition. You sure you need my vote?”**

**“Well, I’ve got Bradley and Cohen lined up and another vote leaning. With you, I’d be over the top.”**

**Moments later, the phone rings again. “Hey, I’ve been hearing some rumbles on that south area project,” said the newspaper reporter. “I’m counting noses. How are you voting on it?”**

*The lobbyist and the reporter are facilitating a violation of the Brown Act. The board member may have violated the Brown Act by hearing about the positions of other board members and indeed coaxing the lobbyist to reveal the other board members’ positions by asking, “You sure you need my vote?” The prudent course is to avoid such leading conversations and to caution lobbyists, staff, and news media against revealing such positions of others.*

**The mayor sat down across from the city manager. “From now on,” he declared, “I want you to provide individual briefings on upcoming agenda items. Some of this material is very technical, and the council members don’t want to sound like idiots asking about it in public. Besides that, briefings will speed up the meeting.”**

*Agency employees or officials may have separate conversations or communications outside of an open and noticed meeting “with members of a legislative body in order to answer questions or provide information regarding a matter that is within the subject matter jurisdiction of the local agency if that person does not communicate to members of the legislative body the comments or position of any other member or members of the legislative body.”<sup>18</sup> Members should always be vigilant when discussing local agency business with anyone to avoid conversations that could lead to a discussion, deliberation, or action taken among the majority of the legislative body.*

**“Thanks for the information,” said Council Member Kim. “These zoning changes can be tricky, and now I think I’m better equipped to make the right decision.”**

**“Glad to be of assistance,” replied the planning director. “I’m sure Council Member Jones is OK with these changes. How are you leaning?”**

**“Well,” said Council Member Kim, “I’m leaning toward approval. I know that two of my colleagues definitely favor approval.”**

**PRACTICE TIP:** When briefing legislative body members, staff must exercise care not to disclose other members’ views and positions.

*The planning director should not disclose Jones' prospective vote, and Kim should not disclose the prospective votes of two colleagues. Under these facts, there likely has been a serial meeting in violation of the Brown Act.*

- Q.** Various social media platforms and websites include forums where agency employees and officials can discuss issues of local agency business. Members of the legislative body participate regularly. Does this scenario present a potential for violation of the Brown Act?
- A.** *Yes, because it is a technological device that may serve to allow for a majority of members to discuss, deliberate, or take action on matters of agency business.*
- Q.** A member of a legislative body contacts two other members on a five-member body relative to scheduling a special meeting. Is this an illegal serial meeting?
- A.** *No, the Brown Act expressly allows a majority of a body to call a special meeting, though the members should avoid discussing the merits of what is to be taken up at the meeting.*

Particular care should be exercised when staff briefings of legislative body members occur by email because of the ease of using the “reply all” option that may inadvertently result in a Brown Act violation. Staff should consider using the “bcc” (blind carbon copy) option when addressing an email to multiple members of the legislative body and remind recipients not to “reply all.”

Social media should also be used with care. A member of the legislative body cannot respond directly to any communication on an internet-based social media platform that is made, posted, or shared by any other member of the legislative body. This applies to matters within the subject matter jurisdiction of the legislative body. For example, if one member of a legislative body “likes” a social media post of one other member of the same body, that could violate the Brown Act, depending on the nature of the post.<sup>19</sup>

Finally, electronic communications (such as text messaging) among members of a legislative body during a public meeting should be discouraged. If such communications are sent to a majority of members of the body, either directly or through an intermediary, on a matter on the meeting agenda, that could violate the Brown Act. Electronic communications sent to less than a majority of members of the body during a quasi-judicial proceeding could potentially raise due process concerns, even if not per se prohibited by the Brown Act. Additionally, some legislative bodies have rules governing electronic communications during meetings of the legislative body and how their members should proceed if they receive a communication on an agenda item that is not part of the record or not part of an agenda packet.

### **Informal gatherings**

Members of legislative bodies are often tempted to mix business with pleasure — for example, by holding a post-meeting gathering. Informal gatherings at which local agency business is discussed or transacted violate the law if they are not conducted in conformance with the Brown Act.<sup>20</sup> A gathering at which a quorum of the legislative body discusses matters within their jurisdiction violates the Brown Act even if that gathering occurs in a public place. The Brown Act is not satisfied by public visibility alone. It also requires public notice and an opportunity to attend, hear, and participate.

Thursday at 11:30 a.m., as they did every week, the board of directors of the Dry Gulch Irrigation District trooped into Pop’s Donut Shoppe for an hour of talk and fellowship. They sat at the corner window, fronting on Main and Broadway, to show they had nothing to hide. Whenever he could, the managing editor of the weekly newspaper down the street hurried over to join the board.

*A gathering like this would not violate the Brown Act if board members scrupulously avoided talking about irrigation district issues — which might be difficult. This kind of situation should be avoided. The public is unlikely to believe the board members could meet regularly without discussing public business. A newspaper executive’s presence does not lessen the potential for a violation of the Brown Act.*

### Technological conferencing

Except for certain non-substantive purposes, such as scheduling a special meeting, a conference call including a majority of the members of a legislative body is an unlawful meeting. But in an effort to keep up with modern technologies, the Brown Act specifically allows a legislative body to use any type of teleconferencing to meet, receive public comment and testimony, deliberate, or conduct a closed session.<sup>21</sup> While the Brown Act contains specific requirements for conducting a teleconference, the decision to use teleconferencing is entirely discretionary with the body. No person has a right under the Brown Act to have a meeting by teleconference.

Teleconference is defined as “a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both.”<sup>22</sup> In addition to the specific requirements relating to teleconferencing, the meeting must comply with all provisions of the Brown Act otherwise applicable. The Brown Act contains the following teleconferencing requirements:<sup>23</sup>

- Teleconferencing may be used for all purposes during any meeting.
- At least a quorum of the legislative body must participate from locations within the local agency’s jurisdiction.
- Additional teleconference locations may be made available for the public.
- Each teleconference location must be specifically identified in the notice and agenda of the meeting, including a full address and room number, as may be applicable.
- Agendas must be posted at each teleconference location, even if a hotel room or a residence.
- Each teleconference location, including a hotel room or residence, must be accessible to the public and have technology, such as a speakerphone, to enable the public to participate
- The agenda must provide the opportunity for the public to address the legislative body directly at each teleconference location.
- All votes must be by roll call.



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**Q.** A member on vacation wants to participate in a meeting of the legislative body and vote by cellular phone from her car while driving from Washington, D.C., to New York. May she?

**A.** *She may not participate or vote because she is not in an open, noticed, and posted teleconference location.*

Until Jan. 1, 2026, teleconferencing may also be used on a limited basis where a member indicates their need to participate remotely for “just cause” (e.g., childcare or a contagious illness) or due to

“emergency circumstances” (e.g., a physical or family medical emergency). This teleconferencing option has extremely detailed requirements, and careful review is needed. If the City experiences a technical issue that prevents members of the public from viewing the meeting and/or offering comments virtually, then no further action can be taken until the technical issue is resolved.<sup>24</sup>

The use of teleconferencing to conduct a legislative body meeting presents a variety of issues beyond the scope of this guide to discuss in detail. Therefore, before teleconferencing a meeting, legal counsel for the local agency should be consulted.

### Location of meetings

The Brown Act generally requires all regular and special meetings of a legislative body, including retreats and workshops, to be held within the boundaries of the territory over which the local agency exercises jurisdiction.<sup>25</sup>

An open and publicized meeting of a legislative body may be held outside of agency boundaries if the purpose of the meeting is one of the following:<sup>26</sup>

- Comply with state or federal law or a court order, or attend a judicial conference or administrative proceeding in which the local agency is a party.
- Inspect real or personal property that cannot be conveniently brought into the local agency’s territory, provided the meeting is limited to items relating to that real or personal property.

**Q.** The agency is considering approving a major retail mall. The developer has built other similar malls and invites the entire legislative body to visit a mall outside the jurisdiction. May the entire body go?

**A.** *Yes, the Brown Act permits meetings outside the boundaries of the agency for specified reasons and inspection of property is one such reason. The field trip must be treated as a meeting and the public must be allowed to attend.*

- Participate in multiagency meetings or discussions; however, such meetings must be held within the boundaries of one of the participating agencies, and all of those agencies must give proper notice.
- Meet in the closest meeting facility if the local agency has no meeting facility within its boundaries, or meet at its principal office if that office is located outside the territory over which the agency has jurisdiction.



- Meet with elected or appointed federal or California officials when a local meeting would be impractical, solely to discuss a legislative or regulatory issue affecting the local agency and over which the federal or state officials have jurisdiction.
- Meet in or nearby a facility owned by the agency, provided that the topic of the meeting is limited to items directly related to the facility.
- Visit the office of its legal counsel for a closed session on pending litigation when to do so would reduce legal fees or costs.<sup>27</sup>

In addition, the governing board of a school or community college district may hold meetings outside of its boundaries to attend a conference on nonadversarial collective bargaining techniques, interview candidates for school district superintendent, or interview a potential employee from another district.<sup>28</sup> A school board may also interview members of the public residing in another district if the board is considering employing that district's superintendent.

Similarly, meetings of a joint powers authority can occur within the territory of at least one of its member agencies, and a joint powers authority with members throughout the state may meet anywhere in the state.<sup>29</sup>

Finally, if a fire, flood, earthquake, or other emergency makes the usual meeting place unsafe, the presiding officer can designate another meeting place for the duration of the emergency. News media that have requested notice of meetings must be notified of the designation by the most rapid means of communication available.<sup>30</sup> State law has also allowed for virtual meetings under certain emergency situations.<sup>31</sup>

## ENDNOTES

- 1 Cal. Gov. Code, § 54952.2, subd. (a).
- 2 *Wilson v. San Francisco Municipal Railway* (1973) 29 Cal.App.3d 870.
- 3 Cal. Gov. Code, § 54954, subd. (a).
- 4 Cal. Gov. Code, § 54956.
- 5 Cal. Gov. Code, § 54956.5.
- 6 Cal. Gov. Code, § 54955.
- 7 Cal. Gov. Code, § 54952.2, subd. (c).
- 8 Cal. Gov. Code, § 54952.2, subd. (c)(4).
- 9 Cal. Gov. Code, § 54952.2, subd. (c)(6). See 81 Ops.Cal.Atty.Gen. 156 (1998).
- 10 Cal. Gov. Code, § 54953.1.
- 11 "The Brown Act," California Attorney General (2003), p. 10.
- 12 Cal. Gov. Code, § 54952.2, subd. (b)(1).
- 13 *Stockton Newspapers, Inc. v. Redevelopment Agency of the City of Stockton* (1985) 171 Cal.App.3d 95.
- 14 Cal. Gov. Code, § 54952.2, subd. (b)(2).
- 15 *Common Cause v. Stirling* (1983) 147 Cal.App.3d 518.
- 16 *Roberts v. City of Palmdale* (1993) 5 Cal.4th 363.
- 17 Cal. Gov. Code, § 54957.5, subd. (a).
- 18 Cal. Gov. Code, § 54952.2, subd. (b)(2).
- 19 Cal. Gov. Code, § 54952.2, subd. (b)(3).

- 20 Cal. Gov. Code, § 54952.2; 43 Ops.Cal.Atty.Gen. 36 (1964).
- 21 Cal. Gov. Code, § 54953, subd. (b)(1).
- 22 Cal. Gov. Code, § 54953, subd. (b)(4).
- 23 Cal. Gov. Code, § 54953. Until Jan. 1, 2024, the legislative body could use teleconferencing “during a proclaimed state of emergency” by the Governor in specified circumstances, and teleconference locations were exempt from certain requirements, such as identification in and posting of the agenda.
- 24 Cal Gov. Code, § 54953, subd. (f) (which will become Govt. §54953(e) as of Jan. 1, 2024).
- 25 Cal. Gov. Code, § 54954, subd. (b).
- 26 Cal. Gov. Code, § 54954, subd. (b)(1)-(7).
- 27 94 Ops.Cal.Atty.Gen. 15 (2011).
- 28 Cal. Gov. Code, § 54954, subd. (c).
- 29 Cal. Gov. Code, § 54954, subd. (d).
- 30 Cal. Gov. Code, § 54954, subd. (e).
- 31 Cal. Gov. Code, § 54953, subd. (e) (exp. January 1, 2026).



# Chapter 4

## AGENDAS, NOTICES, AND PUBLIC PARTICIPATION

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# Chapter 4

## AGENDAS, NOTICES, AND PUBLIC PARTICIPATION



Effective notice is essential for an open and public meeting. Whether a meeting is open or how the public may participate in that meeting is academic if nobody knows about the meeting.

### Agendas for regular meetings

Every regular meeting of a legislative body of a local agency — including advisory committees, commissions, or boards, as well as standing committees of legislative bodies — must be preceded by a posted agenda that advises the public of the meeting and the matters to be transacted or discussed.

The agenda must be posted at least 72 hours before the regular meeting in a location “freely accessible to members of the public.”<sup>1</sup> The courts have not definitively interpreted the “freely accessible” requirement. The California Attorney General has interpreted this

provision to require posting in a location open and accessible to the public 24 hours a day during the 72-hour period, but any of the 72 hours may fall on a weekend.<sup>2</sup> This provision may be satisfied by posting on a touch screen electronic kiosk accessible without charge to the public 24 hours a day during the 72-hour period.<sup>3</sup> While posting an agenda on an agency’s internet website will not, by itself, satisfy the “freely accessible” requirement since there is no universal access to the internet, an agency has a supplemental obligation to post the agenda on its website if (1) the local agency has a website and (2) the legislative body whose meeting is the subject of the agenda is either (a) a governing body or (b) has members that are compensated, with one or more members that are also members of a governing body.<sup>4</sup>

- Q.** May the meeting of a governing body go forward if its agenda was either inadvertently not posted on the city’s website or if the website was not operational during part or all of the 72-hour period preceding the meeting?
- A.** *At a minimum, the Brown Act calls for “substantial compliance” with all agenda posting requirements, including posting to the agency website.<sup>5</sup> Should website technical difficulties arise, seek a legal opinion from your agency attorney. The California Attorney General has opined that technical difficulties that cause the website agenda to become inaccessible for a portion of the 72 hours preceding a meeting do not automatically or inevitably lead to a Brown Act violation, provided the agency can demonstrate substantial compliance.<sup>6</sup> This inquiry requires a fact-specific examination of whether the agency or its legislative body made “reasonably effective efforts to notify interested persons of a public meeting” through online posting and other available means.<sup>7</sup> The Attorney General’s opinion suggests that this examination would include an evaluation of how long a technical problem persisted, the efforts made to correct the problem or otherwise ensure that the public was informed, and the actual effect the problem had on public*

*awareness, among other factors.<sup>8</sup> For these reasons, obvious website technical difficulties might not require cancellation of a meeting, provided that the agency meets all other Brown Act posting requirements and the agenda is available on the website once the technical difficulties are resolved.*

The agenda must state the meeting time and place and must contain “a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session.”<sup>9</sup> For a discussion of descriptions for open and closed-session agenda items, see chapter 5. Special care should be made to describe on the agenda each distinct action to be taken by the legislative body, while an overbroad description of a “project” must be avoided if the “project” is actually a set of distinct actions, in which case each action must be listed separately on the agenda.<sup>10</sup> For example, the listing of an “initiative measure” alone on an agenda was found insufficient where the agency was also deciding whether to accept a gift from the measure proponent to pay for the election.<sup>11</sup>

**PRACTICE TIP:** Putting together a meeting agenda requires careful thought.

**Q.** The agenda for a regular meeting contains the following items of business:

- Consideration of a report regarding traffic on Eighth Street.
- Consideration of a contract with ABC Consulting.

Are these descriptions adequate?

**A.** *If the first is, it is barely adequate. A better description would provide the reader with some idea of what the report is about and what is being recommended. The second is not adequate. A better description might read, “Consideration of a contract with ABC Consulting in the amount of \$50,000 for traffic engineering services regarding traffic on Eighth Street.”*

**Q.** The agenda includes an item entitled City Manager’s Report, during which time the city manager provides a brief report on notable topics of interest, none of which is listed on the agenda.

Is this permissible?

**A.** *Yes, as long as it does not result in extended discussion or action by the body.*

A brief general description may not be sufficient for closed-session agenda items. The Brown Act provides safe harbor language for the various types of permissible closed sessions.<sup>12</sup> Substantial compliance with the safe harbor language is recommended to protect legislative bodies and elected officials from legal challenges.

### **Mailed agenda upon written request**

The legislative body, or its designee, must mail a copy of the agenda or, if requested, the entire agenda packet, to any person who has filed a written request for such materials. These copies shall be mailed at the time the agenda is posted or upon distribution to all, or a majority of all, of the members of the legislative body, whichever occurs first. If the local agency has an internet website, this requirement can be satisfied by emailing a copy of, or website link to, the agenda or agenda packet if the person making the request asks for it to be emailed. Further, if requested, these materials must be made available in appropriate alternative formats to persons with disabilities.

A request for notice is valid for one calendar year and renewal requests must be filed following January 1 of each year. The legislative body may establish a fee to recover the cost of providing the service. Failure of the requesting person to receive the agenda does not constitute grounds for invalidation of actions taken at the meeting.<sup>13</sup>



### Notice requirements for special meetings

There is no express agenda requirement for special meetings, but the notice of the special meeting effectively serves as the agenda and limits the business that may be transacted or discussed. Written notice must be sent to each member of the legislative body (unless waived in writing by that member) and to each local newspaper of general circulation and each radio and television station that has requested such notice in writing. This notice must be delivered at least 24 hours before the time of the meeting by personal delivery or any other means that ensures receipt.

The notice must state the time and place of the meeting as well as all business to be transacted or discussed. It is recommended that the business to be transacted or discussed be described in the same manner that an item for a regular meeting would be described on the agenda, that is, with a brief general description. Some items must appear on a regular, not special, meeting agenda (e.g., general law city adoption of an ordinance or consideration of local agency executive compensation).<sup>14</sup>

As noted above, closed session items should be described in accordance with the Brown Act's safe harbor provisions to protect legislative bodies and elected officials from challenges of noncompliance with notice requirements.

The special meeting notice must also be posted at least 24 hours prior to the special meeting using the same methods as posting an agenda for a regular meeting: at a site that is freely accessible to the public, and on the agency's website if (1) the local agency has a website and (2) the legislative body whose meeting is the subject of the agenda is either (a) a governing body or (b) has members that are compensated, with one or more

members that are also members of a governing body.<sup>15</sup>

### Notices and agendas for adjourned and continued meetings and hearings

A regular or special meeting can be adjourned and re-adjourned to a time and place specified in the order of adjournment.<sup>16</sup> If no time is stated, the meeting is continued to the hour for regular meetings. Whoever is present (even if they are less than a quorum) may so adjourn a meeting; if no member of the legislative body is present, the clerk or secretary may adjourn the meeting. If a meeting is adjourned for less than five calendar days, no new agenda need be posted so long as a new item of business is not introduced.<sup>17</sup> A copy of the order of adjournment must be posted within 24 hours after the adjournment, at or near the door of the place where the meeting was held.

A hearing can be continued to a subsequent meeting. The process is the same as for continuing adjourned meetings, except that if the hearing is continued to a time less than 24 hours away, a copy of the order or notice of continuance must be posted immediately following the meeting.<sup>18</sup>

## Notice requirements for emergency meetings

The special meeting notice provisions apply to emergency meetings, except for the 24-hour notice.<sup>19</sup> News media that have requested written notice of special meetings must be notified by telephone at least one hour in advance of an emergency meeting, and all telephone numbers provided in that written request must be tried. If telephones are not working, the notice requirements are deemed waived. However, the news media must be notified as soon as possible of the meeting and any action taken.

News media may make a practice of having written requests on file for notification of special or emergency meetings. Absent such a request, a local agency has no legal obligation to notify news media of special or emergency meetings — although notification may be advisable in any event to avoid controversy.

## Notice of compensation for simultaneous or serial meetings

A legislative body that has convened a meeting and whose membership constitutes a quorum of another legislative body, may convene a simultaneous or serial meeting of the other legislative body only after a clerk or member of the convened legislative body orally announces (1) the amount of compensation or stipend, if any, that each member will be entitled to receive as a result of convening the meeting of the other legislative body; and (2) that the compensation or stipend is provided as a result of convening the meeting of that body.<sup>20</sup>

No oral disclosure of the amount of the compensation is required if the entire amount of such compensation is prescribed by statute and no additional compensation has been authorized by the local agency. Further, no disclosure is required with respect to reimbursements for actual and necessary expenses incurred in the performance of the member's official duties, such as for travel, meals, and lodging.

## Educational agency meetings

The Education Code contains some special agenda and special meeting provisions.<sup>21</sup> However, they are generally consistent with the Brown Act. An item is probably void if not posted.<sup>22</sup> A school district board must also adopt regulations to make sure the public can place matters affecting the district's business on meeting agendas and can address the board on those items.<sup>23</sup>

## Notice requirements for tax or assessment meetings and hearings

The Brown Act prescribes specific procedures for adoption by a city, county, special district, or joint powers authority of any new or increased tax or assessment imposed on businesses.<sup>24</sup> Although written broadly, these Brown Act provisions do not apply to new or increased real property taxes or assessments, as those are governed by the California Constitution, Article XIII C or XIII D, enacted by Proposition 218. At least one public meeting must be held to allow public testimony on the tax or assessment. In addition, there must also be at least 45 days notice of a public hearing at which the legislative body proposes to enact or increase the tax or assessment. Notice of the public meeting and public hearing must be provided at the same time and in the same document. The public notice relating to general taxes must be provided by newspaper publication. The public notice relating to new or increased business assessments must be provided through a



mailing to all business owners proposed to be subject to the new or increased assessment. The agency may recover the reasonable costs of the public meetings, hearings, and notice.

The Brown Act exempts certain fees, standby or availability charges, recurring assessments, and new or increased assessments that are subject to the notice and hearing requirements of the Constitution.<sup>25</sup> As a practical matter, the Constitution's notice requirements have preempted this section of the Brown Act.

### Non-agenda items

The Brown Act generally prohibits any action or discussion of items not on the posted agenda. However, there are three specific situations in which a legislative body can act on an item not on the agenda:<sup>26</sup>

- When a majority decides there is an “emergency situation” (as defined for emergency meetings).
- When two-thirds of the members present (or all members if less than two-thirds are present) determine there is a need for immediate action, and the need to take action “came to the attention of the local agency subsequent to the agenda being posted.” This exception requires a degree of urgency. Further, an item cannot be considered under this provision if the legislative body or the staff knew about the need to take immediate action before the agenda was posted. A new need does not arise because staff forgot to put an item on the agenda or because an applicant missed a deadline.
- When an item appeared on the agenda of, and was continued from, a meeting held not more than five days earlier.

The exceptions are narrow, as indicated by this list. The first two require a specific determination by the legislative body. That determination can be challenged in court and, if unsubstantiated, can lead to invalidation of an action.

**“I’d like a two-thirds vote of the board so we can go ahead and authorize commencement of phase two of the East Area Project,” said Chair Lopez.**

**“It’s not on the agenda. But we learned two days ago that we finished phase one ahead of schedule — believe it or not — and I’d like to keep it that way. Do I hear a motion?”**

*The desire to stay ahead of schedule generally would not satisfy “a need for immediate action.” Too casual an action could invite a court challenge by a disgruntled resident. The prudent course is to place an item on the agenda for the next meeting and not risk invalidation.*

**“We learned this morning of an opportunity for a state grant,” said the chief engineer at the regular board meeting, “but our application has to be submitted in two days. We’d like the board to give us the go-ahead tonight, even though it’s not on the agenda.”**

*A legitimate immediate need can be acted upon even though not on the posted agenda by following a two-step process:*

**PRACTICE TIP:** Subject to very limited exceptions, the Brown Act prohibits any action or discussion of an item not on the posted agenda.

- First, make two determinations: (1) that there is an immediate need to take action and (2) that the need arose after the posting of the agenda. The matter is then placed on the agenda.
- Second, discuss and act on the added agenda item.

## Responding to the public

The public can talk about anything within the jurisdiction of the legislative body, but the legislative body generally cannot act on or discuss an item not on the agenda. What happens when a member of the public raises a subject not on the agenda?

While the Brown Act does not allow discussion or action on items not on the agenda, it does allow members of the legislative body, or its staff, to “briefly respond” to comments or questions from members of the public, provide a reference to staff or other resources for factual information, or direct staff to place the issue on a future agenda. In addition, even without a comment from the public, a legislative body member or a staff member may ask for information, request a report back, request to place a matter on the agenda for a subsequent meeting (subject to the body’s rules or procedures), ask a question for clarification, make a brief announcement, or briefly report on their own activities.<sup>27</sup> However, caution should be used to avoid any discussion or action on such items.



**Council Member Jefferson: I would like staff to respond to Resident Joe’s complaints during public comment about the repaving project on Elm Street. Are there problems with this project?**

**City Manager Frank: The public works director has prepared a 45-minute PowerPoint presentation for you on the status of this project and will give it right now.**

**Council Member Brown: Take all the time you need; we need to get to the bottom of this. Our residents are unhappy.**

*It is clear from this dialogue that the Elm Street project was not on the council’s agenda but was raised during the public comment period for items not on the agenda. Council Member Jefferson properly asked staff to respond; the city manager should have given at most a brief response. If a lengthy report from the public works director was warranted, the city manager should have stated that it would be placed on the agenda for the next meeting. Otherwise, both the long report and the likely discussion afterward will improperly embroil the council in a matter that is not listed on the agenda.*

### The right to attend and observe meetings

A number of Brown Act provisions protect the public's right to attend, observe, and participate in meetings.

Members of the public cannot be required to register their names, provide other information, complete a questionnaire, or otherwise "fulfill any condition precedent" to attending a meeting. Any attendance list, questionnaire, or similar document posted at or near the entrance to the meeting room or circulated at a meeting must clearly state that its completion is voluntary and that all persons may attend whether or not they fill it out.<sup>28</sup>

No meeting can be held in a facility that prohibits attendance based on race, religion, color, national origin, ethnic group identification, age, sex, sexual orientation, or disability, or that is inaccessible to the disabled. Nor can a meeting be held where the public must make a payment or purchase in order to be present.<sup>29</sup> This does not mean, however, that the public is entitled to free entry to a conference attended by a majority of the legislative body.<sup>30</sup>

While a legislative body may use teleconferencing in connection with a meeting, the public must be given notice of and access to the teleconference location. Members of the public must be able to address the legislative body from the teleconference location.<sup>31</sup>

Action by secret ballot, whether preliminary or final, is flatly prohibited.<sup>32</sup>

All actions taken by the legislative body in open session, and the vote of each member thereon, must be disclosed to the public at the time the action is taken.<sup>33</sup>

**Q.** The agenda calls for election of the legislative body's officers. Members of the legislative body want to cast unsigned written ballots that would be tallied by the clerk, who would announce the results. Is this voting process permissible?

**A.** *No. The possibility that a public vote might cause hurt feelings among members of the legislative body or might be awkward — or even counterproductive — does not justify a secret ballot.*

The legislative body may remove persons from a meeting who willfully interrupt or disrupt proceedings.<sup>34</sup> Ejection is justified only when audience members actually disrupt the proceedings,<sup>35</sup> or, alternatively, if the presiding member of the legislative body warns a person that their behavior is disruptive and that continued disruption may result in their removal (but no prior warning is required if there is a use of force or true threat of force).<sup>36</sup> If order cannot be restored after ejecting disruptive persons, the meeting room may be cleared. Members of the news media who have not participated in the disturbance must be allowed to continue to attend the meeting. The legislative body may establish a procedure to readmit an individual or individuals not responsible for the disturbance.<sup>37</sup>

## Records and recordings

The public has the right to review agendas and other writings distributed by any person to a majority of the legislative body in connection with a matter subject to discussion or consideration at a meeting. Except for privileged documents, those materials are public records and must be made available upon request without delay.<sup>38</sup> A fee or deposit as permitted by the California Public Records Act may be charged for a copy of a public record.<sup>39</sup>

- Q.** In connection with an upcoming hearing on a discretionary use permit, counsel for the legislative body transmits a memorandum to all members of the body outlining the litigation risks in granting or denying the permit. Must this memorandum be included in the packet of agenda materials available to the public?
- A.** *No. The memorandum is a privileged attorney-client communication.*
- Q.** In connection with an agenda item calling for the legislative body to approve a contract, staff submits to all members of the body a financial analysis explaining why the terms of the contract favor the local agency. Must this memorandum be included in the packet of agenda materials available to the public?
- A.** *Yes. The memorandum has been distributed to the majority of the legislative body, relates to the subject matter of a meeting, and is not a privileged communication.*

A legislative body may discuss or act on some matters without considering written materials. But if writings are distributed to a majority of a legislative body in connection with an agenda item, they must also be available to the public. A nonexempt or otherwise non-privileged writing distributed to a majority of the legislative body less than 72 hours before the meeting must be made available for inspection at the time of distribution at a public office or location designated for that purpose, and the agendas for all meetings of the legislative body must include the address of this office or location.<sup>40</sup> The location designated for public inspection must be open to the public, not a locked or closed office. Alternatively, the documents can be posted on the city's website for public review if statutory requirements are met.<sup>41</sup>

A writing distributed during a meeting must be made public:

- At the meeting if prepared by the local agency or a member of its legislative body.
- After the meeting if prepared by some other person.<sup>42</sup>

This requirement does not prevent assessing a fee or deposit for providing a copy of a public record pursuant to the California Public Records Act except where required to accommodate persons with disabilities.<sup>43</sup>

Any tape or film record of an open and public meeting made for whatever purpose by or at the direction of the local agency is subject to the California Public Records Act; however, it may be erased or destroyed 30 days after the taping or recording. Any inspection of a video or tape recording is to be provided without charge on a video or tape player made available by the local agency.<sup>44</sup> The agency may impose its ordinary charge for copies that is consistent with the California Public Records Act.<sup>45</sup>

In addition, the public is specifically allowed to use audio or videotape recorders or still or motion picture cameras at a meeting to record meetings of legislative bodies, absent a reasonable finding by the body that noise, illumination, or obstruction of view caused by recorders or cameras would persistently disrupt the proceedings.<sup>46</sup>



**PRACTICE TIP:** Public speakers cannot be compelled to give their name or address as a condition of speaking. The clerk or presiding officer may request speakers to complete a speaker card or identify themselves for the record but must respect a speaker's desire for anonymity.

Similarly, a legislative body cannot prohibit or restrict the public broadcast of its open and public meetings without making a reasonable finding that the noise, illumination, or obstruction of view would persistently disrupt the proceedings.<sup>47</sup>

### The public's right to speak during a meeting

Every agenda for a regular meeting must allow members of the public to speak on any item of interest, as long as the item is within the subject matter jurisdiction of the legislative body. Further, the public must be allowed to speak on a specific item of business before or during the legislative body's consideration of it.<sup>48</sup>

- Q.** Must the legislative body allow members of the public to show videos or make a PowerPoint presentation during the public comment part of the agenda, as long as the subject matter is relevant to the agency and is within the established time limit?
- A.** *Probably, although the agency is under no obligation to provide equipment.*

Moreover, the Brown Act, as well as case law, prevents legislative bodies from prohibiting public criticism of policies, procedures, programs, or services of the agency or the acts or omissions of the legislative body itself.<sup>49</sup> However, this prohibition does not provide immunity for defamatory statements.<sup>50</sup>

- Q.** May the presiding officer prohibit a member of the audience from publicly criticizing an agency employee by name during public comments?
- A.** *No, as long as the criticism pertains to job performance.*
- Q.** During the public comment period of a regular meeting of the legislative body, a resident urges the public to support and vote for a candidate vying for election to the body. May the presiding officer gavel the speaker out of order for engaging in political campaign speech?
- A.** *There is no case law on this subject. Some would argue that purely campaign issues are outside the subject matter jurisdiction of the body within the meaning of Section 54954.3(a). Others take the view that the speech must be allowed under paragraph (c) of that section where relevant to the governing of the agency and an implicit criticism of the incumbents' performance of city business.*

The legislative body may adopt reasonable regulations, including a limit on the total time permitted for public comment and a limit on the time permitted per speaker.<sup>51</sup> Such regulations should be enforced fairly and without regard to speakers' viewpoints. The legislative body has discretion to modify its regulations regarding time limits on public comment if necessary. For example, the time limit could be shortened to accommodate a lengthy agenda or lengthened to allow additional time for discussion on a complicated matter.<sup>52</sup>

The public does not need to be given an opportunity to speak on an item that has already been considered by a committee made up exclusively of members of the legislative body at a regular (but not special) public meeting if all interested members of the public had the opportunity to

speak on the item before or during its consideration, and if the item has not been substantially changed.<sup>53</sup>

Notices and agendas for special meetings must also give members of the public the opportunity to speak before or during consideration of an item on the agenda but need not allow members of the public an opportunity to speak on other matters within the jurisdiction of the legislative body.<sup>54</sup>

## ENDNOTES

- 1 Cal. Gov. Code, § 54954.2, subd. (a)(1).
- 2 78 Ops.Cal.Atty.Gen. 327 (1995).
- 3 88 Ops.Cal.Atty.Gen. 218 (2005).
- 4 Cal. Gov. Code, §§ 54954.2, subd. (a)(1) and 54954.2, subd. (d).
- 5 Cal. Gov. Code, § 54960.1, subd. (d)(1).
- 6 99 Ops.Cal.Atty.Gen. 11 (2016).
- 7 *North Pacifica LLC v. California Coastal Commission* (2008) 166 Cal.App.4th 1416, 1432.
- 8 99 Ops.Cal.Atty.Gen. 11 (2016).
- 9 Cal. Gov. Code, § 54954.2, subd. (a)(1).
- 10 *San Joaquin Raptor Rescue v. County of Merced* (2013) 216 Cal.App.4th 1167 (legislative body's approval of California Environmental Quality Act [CEQA] action [mitigated negative declaration] without specifically listing it on the agenda violates the Brown Act, even if the agenda generally describes the development project that is the subject of the CEQA analysis). See also *GI Industries v. City of Thousand Oaks* (2022) 84 Cal.App.5th 814 (depublished) (Brown Act requires CEQA finding of exemption to be listed on agenda items that are projects under CEQA).
- 11 *Hernandez v. Town of Apple Valley* (2017) 7 Cal.App.5th 194.
- 12 Cal. Gov. Code, § 54954.5.
- 13 Cal. Gov. Code, § 54954.1.
- 14 Cal. Gov. Code, §§ 36934; 54956, subd. (b).
- 15 Cal. Gov. Code, § 54956, subds. (a) and (c).
- 16 Cal. Gov. Code, § 54955.
- 17 Cal. Gov. Code, § 54954.2, subd. (b)(3).
- 18 Cal. Gov. Code, § 54955.1.
- 19 Cal. Gov. Code, § 54956.5.
- 20 Cal. Gov. Code, § 54952.3.
- 21 Cal. Edu. Code, §§ 35144, 35145, and 72129.
- 22 *Carlson v. Paradise Unified School District* (1971) 18 Cal.App.3d 196.
- 23 Cal. Edu. Code, § 35145.5
- 24 Cal. Edu. Code, § 54954.6
- 25 See Cal. Const. Art. XIII C, XIII D; Cal. Gov. Code, § 54954.6, subd. (h).
- 26 Cal. Gov. Code, § 54954.2, subd. (b).
- 27 Cal. Gov. Code, § 54954.2, subd. (a)(2); *Cruz v. City of Culver City* (2016) 2 Cal.App.5th 239 (six-minute colloquy on non-agenda item with staff answering questions and advising that matter could be placed on future agenda fell within exceptions to discussing or acting upon non-agenda items).



- 28 Cal. Gov. Code, § 54953.3.
- 29 Cal. Gov. Code, § 54961, subd. (a); Cal. Gov. Code, § 11135, subd. (a).
- 30 Cal. Gov. Code, § 54952.2, subd. (c)(2).
- 31 Cal. Gov. Code, § 54953, subd. (b).
- 32 Cal. Gov. Code, § 54953, subd. (c).
- 33 Cal. Gov. Code, § 54953, subd. (c)(2).
- 34 Cal. Gov. Code, §§ 54957.9, 54957.95.
- 35 *Norse v. City of Santa Cruz* (9th Cir. 2010) 629 F.3d 966 (silent and momentary Nazi salute directed toward mayor is not a disruption); *Acosta v. City of Costa Mesa* (9th Cir. 2013) 718 F.3d 800 (city council may not prohibit “insolent” remarks by members of the public absent actual disruption); but see *Kirkland v. Luken* (S.D. Ohio 2008) 536 F.Supp.2d 857 (finding no First Amendment violation by mayor for turning off microphone and removing speaker who used foul and inflammatory language that was deemed as “likely to incite the members of the audience during the meeting, cause disorder, and disrupt the meeting”).
- 36 Cal. Gov. Code, § 54957.95.
- 37 Cal. Gov. Code, § 54957.9.
- 38 Cal. Gov. Code, § 54957.5.
- 39 Cal. Gov. Code, § 54957.5, subd. (d).
- 40 Cal. Gov. Code, § 54957.5(b); see also *Sierra Watch v. Placer County* (2021) 69 Cal.App.5th 1.
- 41 Cal. Gov. Code § 54957.5.
- 42 Cal. Gov. Code, § 54957.5, subd. (c).
- 43 Cal. Gov. Code, § 54957.5, subd. (d).
- 44 Cal. Gov. Code, § 54953.5, subd. (b).
- 45 Cal. Gov. Code, § 54957.5, subd. (d).
- 46 Cal. Gov. Code, § 54953.5, subd. (a).
- 47 Cal. Gov. Code, § 54953.6.
- 48 Cal. Gov. Code, § 54954.3, subd. (a).
- 49 Cal. Gov. Code, § 54954.3, subd. (c); *Acosta v. City of Costa Mesa* (9th Cir. 2013) 718 F.3d 800.
- 50 Cal. Gov. Code, § 54954.3, subd. (c).
- 51 *Ribakoff v. City of Long Beach* (2018) 27 Cal.App.5th 150 (public comment time limit of three minutes for each speaker did not violate First Amendment).
- 52 Cal. Gov. Code, § 54954.3, subd. (b); *Chaffee v. San Francisco Public Library Commission* (2005) 134 Cal.App.4th 109; 75 Ops.Cal.Atty.Gen. 89 (1992).
- 53 Cal. Gov. Code, § 54954.3, subd. (a); *Preven v. City of Los Angeles* (2019) 32 Cal.App.5th 925.
- 54 Cal. Gov. Code, § 54954.3, subd. (a).



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# Chapter 5

## CLOSED SESSIONS

A closed session is a meeting of a legislative body conducted in private without the attendance of the public or press. A legislative body is authorized to meet in closed session only to the extent expressly authorized by the Brown Act.<sup>1</sup>



As summarized in chapter 1 of this guide, it is clear that the Brown Act must be interpreted liberally in favor of open meetings, and exceptions that limit public access (including the exceptions for closed session meetings) must be narrowly construed.<sup>2</sup> The most common purposes of the closed session provisions in the Brown Act are to avoid revealing confidential information (e.g., prejudicing the city's position in litigation or compromising the privacy interests of employees). Closed sessions should be conducted keeping those narrow purposes in mind. It is not enough that a subject is sensitive, embarrassing, or controversial. Without specific authority in the Brown Act for a closed session, a matter to be considered by a legislative body must be discussed in public. However, there is no prohibition in putting overlapping exceptions on an agenda in order to provide an opportunity for more robust closed session discussions. As an example, a city council cannot give direction to the city manager about a property

negotiation during a performance evaluation exception. However, if both real property negotiation and performance evaluation exceptions are on the agenda, those discussions might be conducted. Similarly, a board of police commissioners cannot meet in closed session to provide general policy guidance to a police chief, even though some matters are sensitive and the commission considers their disclosure contrary to the public interest.<sup>3</sup>

In this chapter, the grounds for convening a closed session are called "exceptions" because they are exceptions to the general rule that meetings must be conducted openly. In some circumstances, none of the closed session exceptions applies to an issue or information the legislative body wishes to discuss privately. In these cases, it is not proper to convene a closed session, even to protect confidential information. For example, although the Brown Act does authorize closed sessions related to specified types of contracts (e.g., specified provisions of real property agreements, employee labor agreements, and litigation settlement agreements),<sup>4</sup> the Brown Act does not authorize closed sessions for other contract negotiations.

### Agendas and reports

Closed session items must be briefly described on the posted agenda, and the description must state the specific statutory exemption.<sup>5</sup> An item that appears on the open meeting portion of the agenda may not be taken into closed session until it has been properly put on the agenda as a

**PRACTICE TIP:** Some problems over closed sessions arise because secrecy itself breeds distrust. The Brown Act does not require closed sessions and legislative bodies may do well to resist the tendency to call a closed session simply because it may be permitted. A better practice is to go into closed session only when necessary.

closed session item or unless it is properly added as a closed-session item by a two-thirds vote of the body after making the appropriate urgency findings.<sup>6</sup>

The Brown Act supplies a series of fill-in-the-blank sample agenda descriptions for various types of authorized closed sessions that provide a “safe harbor” from legal attacks. These sample agenda descriptions cover license and permit determinations, real property negotiations, existing or anticipated litigation, liability claims, threats to security, public employee appointments, evaluations and discipline, labor negotiations, multijurisdictional law enforcement cases, hospital boards of directors, medical quality assurance committees, joint powers agencies, and audits by the California State Auditor’s Office.<sup>7</sup>

If the legislative body intends to convene in closed session, it must include the section of the Brown Act authorizing the closed session in advance on the agenda, and it must make a public announcement prior to the closed session discussion. In most cases, the announcement may simply be a reference to the agenda item.<sup>8</sup> The legislative body must take public comment on the closed session item before convening in a closed session.

Following a closed session, the legislative body must provide an oral or written report on certain actions taken and the vote of every elected member present. The timing and content of the report vary according to the reason for the closed session and the action taken.<sup>9</sup> The announcements may be made at the site of the closed session, as long as the public is allowed to be present to hear them.

If there is a standing or written request for documentation, any copies of contracts, settlement agreements, or other documents finally approved or adopted in closed session must be provided to the requestor(s) after the closed session if final approval of such documents does not rest with any other party to the contract or settlement. If substantive amendments to a contract or settlement agreement approved by all parties requires retyping, such documents may be held until retyping is completed during normal business hours, but the substance of the changes must be summarized for any person inquiring about them.<sup>10</sup>

The Brown Act does not require minutes, including minutes of closed sessions. However, a legislative body may adopt an ordinance or resolution to authorize a confidential “minute book” be kept to record actions taken at closed sessions.<sup>11</sup> If one is kept, it must be made available to members of the legislative body, provided that the member asking to review minutes of a particular meeting was not disqualified from attending the meeting due to a conflict of interest.<sup>12</sup> A court may order the disclosure of minute books for the court’s review if a lawsuit makes sufficient claims of an open meeting violation.

## Litigation

The Brown Act expressly authorizes closed sessions to discuss what is considered pending litigation.<sup>13</sup> The rules that apply to holding a litigation closed session involve complex, technical definitions and procedures. Essentially, a closed session can be held by the body to confer with, or receive advice from, its legal counsel when open discussion would prejudice the position of the local agency in litigation in which the agency is, or could become, a party.<sup>14</sup> The litigation exception under the Brown Act is narrowly construed and does not permit activities beyond a legislative body’s conferring with its own legal counsel and required support staff.<sup>15</sup> For example, it is not permissible to hold a closed session in which settlement negotiations take place between a legislative body, a representative of an adverse party, and a mediator.<sup>16</sup>

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**PRACTICE TIP:** Pay close attention to closed session agenda descriptions. Using the wrong label can lead to invalidation of an action taken in closed session if not substantially compliant.

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The California Attorney General has opined that if the agency's attorney is not a participant, a litigation closed session cannot be held.<sup>17</sup> In any event, local agency officials should always consult the agency's attorney before placing this type of closed session on the agenda in order to be certain that it is being done properly.

Before holding a closed session under the pending litigation exception, the legislative body must publicly state the basis for the closed session by identifying one of the following three types of matters: existing litigation, anticipated exposure to litigation, or anticipated initiation of litigation.<sup>18</sup>

### *Existing litigation*

- Q.** May the legislative body agree to settle a lawsuit in a properly noticed closed session without placing the settlement agreement on an open session agenda for public approval?
- A.** *Yes, but the settlement agreement is a public document and must be disclosed on request. Furthermore, a settlement agreement cannot commit the agency to matters that are required to have public hearings.*<sup>19</sup>

Existing litigation includes any adjudicatory proceedings before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator. The clearest situation in which a closed session is authorized is when the local agency meets with its legal counsel to discuss a pending matter that has been filed in a court or with an administrative agency and names the local

agency as a party. The legislative body may meet under these circumstances to receive updates on the case from attorneys, participate in developing strategy as the case develops, or consider alternatives for resolution of the case. Generally, an agreement to settle litigation may be approved in closed session. However, an agreement to settle litigation cannot be approved in closed session if it commits the city to take an action that is required to have a public hearing.<sup>20</sup>

### *Anticipated exposure to litigation against the local agency*

Closed sessions are authorized for legal counsel to inform the legislative body of a significant exposure to litigation against the local agency, but only if based on "existing facts and circumstances" as defined by the Brown Act.<sup>21</sup> The legislative body may also meet under this exception to determine whether a closed session is authorized based on information provided by legal counsel or staff. In general, the "existing facts and

circumstances" must be publicly disclosed unless they are privileged written communications or not yet known to a potential plaintiff. If an agency receives a documented threat of litigation, and intends to discuss that matter in closed session, the record of a litigation threat must be included in the body's agenda packet.<sup>22</sup>



### **Anticipated initiation of litigation by the local agency**

A closed session may be held under the exception for the anticipated initiation of litigation when the legislative body seeks legal advice on whether to protect the agency's rights and interests by initiating litigation.

Certain actions must be reported in open session at the same meeting following the closed session. Other actions, such as when final approval rests with another party or the court, may be announced when they become final and upon inquiry of any person.<sup>23</sup> Each agency attorney should be aware of and make the disclosures that are required by the particular circumstances.

### **Real estate negotiations**

A legislative body may meet in closed session with its negotiator to discuss the purchase, sale, exchange, or lease of real property by or for the local agency. A "lease" includes a lease renewal or renegotiation. The purpose is to grant authority to the legislative body's negotiator on price and terms of payment.<sup>24</sup> Caution should be exercised to limit discussion to price and terms of payment without straying to other related issues, such as site design, architecture, or other aspects of the project for which the transaction is contemplated.<sup>25</sup>

**Q.** May other terms of a real estate transaction, aside from price and terms of payment, be addressed in closed session?

**A.** *No. However, there are differing opinions over the scope of the phrase "price and terms of payment" in connection with real estate closed sessions. Many agency attorneys argue that any term that directly affects the economic value of the transaction falls within the ambit of "price and terms of payment." Others take a narrower, more literal view of the phrase.*

The agency's negotiator may be a member of the legislative body itself. Prior to the closed session, or on the agenda, the legislative body must identify its negotiators, the real property that the negotiations may concern,<sup>26</sup> and the names of the parties with whom its negotiator may negotiate.<sup>27</sup>

After real estate negotiations are concluded, the approval and substance of the agreement must be publicly reported. If its own approval makes the agreement final, the body must report in open session at the public meeting during which the closed session is held. If final approval rests with another party, the local agency must report the approval and the substance of the agreement upon inquiry by any person as soon as the agency is informed of it.<sup>28</sup>

**"Our population is exploding, and we have to think about new school sites," said Board Member Jefferson.**

**"Not only that," interjected Board Member Tanaka, "we need to get rid of a couple of our older facilities."**

**"Well, obviously the place to do that is in a closed session," said Board Member O'Reilly. "Otherwise we're going to set off land speculation. And if we even mention closing a school, parents are going to be in an uproar."**



*A closed session to discuss potential sites is not authorized by the Brown Act. The exception is limited to meeting with its negotiator over specific sites — which must be identified at an open and public meeting.*

**PRACTICE TIP:** Discussions of who to appoint to an advisory body and whether or not to censure a fellow member of the legislative body must be held in the open.

## Public employment

The Brown Act authorizes a closed session “to consider the appointment, employment, evaluation of performance, discipline, or dismissal of a public employee or to hear complaints or charges brought against the employee.”<sup>29</sup> The purpose of this exception — commonly referred to as the “personnel exception” — is to avoid undue publicity or embarrassment for an employee or applicant for employment and to allow full and candid discussion by the legislative body; thus, it is restricted to discussing individuals, not general personnel policies.<sup>30</sup> The body must possess the power to appoint, evaluate, or dismiss the employee to hold a closed session under this exception.<sup>31</sup> That authority may be delegated to a subsidiary appointed body.<sup>32</sup>

An employee must be given at least 24 hours’ notice of any closed session convened to hear specific complaints or charges against them. This occurs when the legislative body is reviewing evidence, which could include live testimony, and adjudicating conflicting testimony offered as evidence. A legislative body may examine (or exclude) witnesses,<sup>33</sup> and the California Attorney General has opined that, when an affected employee and advocate have an official or essential role to play, they may be permitted to participate in the closed session.<sup>34</sup> The employee has the right to have the specific complaints and charges discussed in a public session rather than closed session.<sup>35</sup> If the employee is not given the 24-hour prior notice, any disciplinary action is null and void.<sup>36</sup>

However, an employee is not entitled to notice and a hearing where the purpose of the closed session is to consider a performance evaluation. The Attorney General and the courts have determined that personnel performance evaluations do not constitute complaints and charges, which are more akin to accusations made against a person.<sup>37</sup>

- Q.** Must 24 hours’ notice be given to an employee whose negative performance evaluation is to be considered by the legislative body in closed session?
- A.** *No, the notice is reserved for situations where the body is to hear complaints and charges from witnesses.*

Correct labeling of the closed session on the agenda is critical. A closed session agenda that identified discussion of an employment contract was not sufficient to allow dismissal of an employee.<sup>38</sup> An incorrect agenda description can result in invalidation of an action and much embarrassment.

For purposes of the personnel exception, “employee” specifically includes an officer or an independent contractor who functions as an officer or an employee. Examples of the former include a city manager, district general manager, or superintendent. Examples of the latter include a legal counsel or engineer hired on contract to act as local agency attorney or chief engineer.

Elected officials, appointees to the governing body or subsidiary bodies, and independent contractors other than those discussed above are not employees for purposes of the personnel exception.<sup>39</sup> Action on individuals who are not “employees” must also be public — including discussing and voting on appointees to committees, debating the merits of independent contractors, or considering a complaint against a member of the legislative body itself.

The personnel exception specifically prohibits discussion or action on proposed compensation in closed session except for a disciplinary reduction in pay. That means, among other things, there can be no personnel closed sessions on a salary change (other than a disciplinary reduction) between any unrepresented individual and the legislative body. However, a legislative body may address the compensation of an unrepresented individual, such as a city manager, in a closed session as part of a labor negotiation (discussed later in this chapter), yet another example of the importance of using correct agenda descriptions.

Reclassification of a job must be public, but an employee’s ability to fill that job may be considered in closed session.

Any closed session action to appoint, employ, dismiss, accept the resignation of, or otherwise affect the employment status of a public employee must be reported at the public meeting during which the closed session is held. That report must identify the title of the position, but not the names of all persons considered for an employment position.<sup>40</sup> However, a report on a dismissal or non-renewal of an employment contract must be deferred until administrative remedies, if any, are exhausted.<sup>41</sup>

**“I have some important news to announce,” said Mayor Garcia. “We’ve decided to terminate the contract of the city manager effective immediately. The council has met in closed session, and we’ve negotiated six months’ severance pay.”**

**“Unfortunately, that has some serious budget consequences, so we’ve had to delay phase two of the East Area Project.”**

*This may be an improper use of the personnel closed session if the council agenda described the item as the city manager’s evaluation. In addition, other than labor negotiations, any action on individual compensation must be taken in open session. Caution must be exercised not to discuss in closed session issues, such as budget impacts in this hypothetical, beyond the scope of the posted closed session notice.*

## Labor negotiations

The Brown Act allows closed sessions for some aspects of labor negotiations. Different provisions (discussed below) apply to school and community college districts.

A legislative body may meet in closed session to instruct its bargaining representatives, which may be one or more of its members,<sup>42</sup> on employee salaries and fringe benefits for both represented (“union”) and unrepresented employees. For represented employees, it may also consider working conditions that by law require negotiation. For the purpose of labor negotiation closed sessions, an “employee” includes an officer or an independent contractor who functions as an officer or an employee, but independent contractors who do not serve in the capacity of an officer or employee are not covered by this closed session exception.<sup>43</sup>

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**PRACTICE TIP:** The personnel exception specifically prohibits discussion or action on proposed compensation in closed session except for a disciplinary reduction in pay.

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**PRACTICE TIP:** Prior to the closed session, the legislative body must hold an open and public session in which it identifies its designated representatives.

These closed sessions may take place before or during negotiations with employee representatives. Prior to the closed session, the legislative body must hold an open and public session in which it identifies its designated representatives.

During its discussions with representatives on salaries and fringe benefits, the legislative body may discuss available funds and funding priorities, but only to instruct its representative. The body may also meet in closed session with a conciliator who has intervened in negotiations.<sup>44</sup>

The approval of an agreement concluding labor negotiations with represented employees must be reported after the agreement is final and has been accepted or ratified by the other party. The report must identify the item approved and the other party or parties to the negotiation.<sup>45</sup> The labor closed sessions specifically cannot include final action on proposed compensation of one or more unrepresented employees.

### Labor negotiations – school and community college districts

Employee relations for school districts and community college districts are governed by the Rodda Act, where different meeting and special notice provisions apply. The entire board, for example, may negotiate in closed sessions.

Four types of meetings are exempted from compliance with the Rodda Act:

1. A negotiating session with a recognized or certified employee organization.
2. A meeting of a mediator with either side.
3. A hearing or meeting held by a fact finder or arbitrator.
4. A session between the board and its bargaining agent, or the board alone, to discuss its position regarding employee working conditions and instruct its agent.<sup>46</sup>

Public participation under the Rodda Act also takes another form.<sup>47</sup> All initial proposals of both sides must be presented at public meetings and are public records. The public must be given reasonable time to inform itself and to express its views before the district may adopt its initial proposal. In addition, new topics of negotiations must be made public within 24 hours. Any votes on such a topic must be followed within 24 hours by public disclosure of the vote of each member.<sup>48</sup> The final vote must be in public.

### Other Education Code exceptions

The Education Code governs student disciplinary meetings by boards of school districts and community college districts. District boards may hold a closed session to consider the suspension or discipline of a student if a public hearing would reveal personal, disciplinary, or academic information about the student contrary to state and federal pupil privacy law. The student's parent or guardian may request an open meeting.<sup>49</sup>

Community college districts may also hold closed sessions to discuss some student disciplinary matters, awarding of honorary degrees, or gifts from donors who prefer to remain anonymous.<sup>50</sup> Kindergarten through 12th grade districts may also meet in closed session to review the contents of the statewide assessment instrument.<sup>51</sup>

**PRACTICE TIP:** Attendance by the entire legislative body before a grand jury would not constitute a closed session meeting under the Brown Act.

## Joint powers authorities

The legislative body of a joint powers authority may adopt a policy regarding limitations on disclosure of confidential information obtained in closed session, and may meet in closed session to discuss information that is subject to the policy.<sup>52</sup>

## License applicants with criminal records

A closed session is permitted when an applicant who has a criminal record applies for a license or license renewal and the legislative body wishes to discuss whether the applicant is sufficiently rehabilitated to receive the license. The applicant and the applicant's attorney are authorized to attend the closed session meeting. If the body decides to deny the license, the applicant may withdraw the application. If the applicant does not withdraw it, the body must deny the license in public, either immediately or at its next meeting. No information from the closed session can be revealed without consent of the applicant, unless the applicant takes action to challenge the denial.<sup>53</sup>

## Public security

Legislative bodies may meet in closed session to discuss matters posing a threat to the security of public buildings; essential public services, including water, sewer, gas, or electric service; or to the public's right of access to public services or facilities over which the legislative body has jurisdiction. Closed session meetings for these purposes must be held with designated security or law enforcement officials, including the Governor, Attorney General, district attorney, agency attorney, sheriff or chief of police, or their deputies or agency security consultant or security operations manager.<sup>54</sup> Action taken in closed session with respect to such public security issues is not reportable action.

## Multijurisdictional law enforcement agency

A joint powers agency formed to provide law enforcement services (involving drugs; gangs; sex crimes; firearms trafficking; felony possession of a firearm; high technology, computer, or identity theft; human trafficking; or vehicle theft) to multiple jurisdictions may hold closed sessions to discuss case records of an ongoing criminal investigation, to hear testimony from persons involved in the investigation, and to discuss courses of action in particular cases.<sup>55</sup>

The exception applies to the legislative body of the joint powers agency and to any body advisory to it. The purpose is to prevent impairment of investigations, to protect witnesses and informants, and to permit discussion of effective courses of action.<sup>56</sup>

## Hospital peer review and trade secrets

Two specific kinds of closed sessions are allowed for district hospitals and municipal hospitals under other provisions of law:<sup>57</sup>

1. A meeting to hear reports of hospital medical audit or quality assurance committees or for related deliberations. However, an applicant or medical staff member whose staff privileges are the direct subject of a hearing may request a public hearing.
2. A meeting to discuss "reports involving trade secrets" — provided no action is taken.



A “trade secret” is defined as information that is not generally known to the public or competitors and that (1) “derives independent economic value, actual or potential” by virtue of its restricted knowledge; (2) is necessary to initiate a new hospital service or program or facility; and (3) would, if prematurely disclosed, create a substantial probability of depriving the hospital of a substantial economic benefit.

The provision prohibits use of closed sessions to discuss transitions in ownership or management, or the district’s dissolution.<sup>58</sup>

### Other legislative bases for closed session

Since any closed session meeting of a legislative body must be authorized by the Legislature, it is important to review the Brown Act carefully to determine if there is a provision that authorizes a closed session for a particular subject matter. There are some less frequently

encountered topics that are authorized to be discussed by a legislative body in closed session under the Brown Act, including a response to a confidential final draft audit report from the Bureau of State Audits,<sup>59</sup> consideration of the purchase or sale of particular pension fund investments by a legislative body of a local agency that invests pension funds,<sup>60</sup> hearing a charge or complaint from a member enrolled in a health plan by a legislative body of a local agency that provides Medical services,<sup>61</sup> discussions by a county board of supervisors that governs a health plan licensed pursuant to the Knox-Keene Health Care Services Plan Act related to trade secrets or contract negotiations concerning rates of payment,<sup>62</sup> and discussions by an insurance pooling joint powers agency related to a claim filed against, or liability of, the agency or a member of the agency.<sup>63</sup>

**PRACTICE TIP:** Meetings are either open or closed. There is nothing “in between.”<sup>64</sup>

### Who may attend closed sessions

Meetings of a legislative body are either fully open or fully closed; there is nothing in between. Therefore, local agency officials and employees must pay particular attention to the authorized attendees for the particular type of closed session. As summarized above, the authorized attendees may differ based on the topic of the closed session. Closed sessions may involve only the members of the legislative body and only agency counsel, management and support staff, and consultants necessary for consideration of the matter that is the subject of closed session, with very limited exceptions for adversaries or witnesses with official roles in particular types of hearings (e.g., personnel disciplinary hearings and license hearings). In any case, individuals who do not have an official or essential role in the closed session subject matters must be excluded from closed sessions.<sup>65</sup>

**Q.** May the lawyer for someone suing the agency attend a closed session in order to explain to the legislative body why it should accept a settlement offer?

**A.** *No, attendance in closed sessions is reserved exclusively for the agency’s advisors.*

## The confidentiality of closed session discussions

The Brown Act explicitly prohibits the unauthorized disclosure of confidential information acquired in a closed session by any person present, and offers various remedies to address breaches of confidentiality.<sup>66</sup> It is incumbent upon all those attending lawful closed sessions to protect the confidentiality of those discussions. One court has held that members of a legislative body cannot be compelled to divulge the content of closed session discussions through the discovery process.<sup>67</sup> Only the legislative body acting as a body may agree to divulge confidential closed session information. With regard to attorney-client privileged communications, the entire body is the holder of the privilege, and only the entire body can decide to waive the privilege.<sup>68</sup>

Before adoption of the Brown Act provision specifically prohibiting disclosure of closed session communications, agency attorneys and the Attorney General long opined that officials have a fiduciary duty to protect the confidentiality of closed session discussions. The Attorney General issued an opinion that it is “improper” for officials to disclose information regarding pending litigation that was received during a closed session,<sup>69</sup> though the Attorney General has also concluded that a local agency is preempted from adopting an ordinance criminalizing public disclosure of closed session discussions.<sup>70</sup> In any event, in 2002, the Brown Act was amended to prescribe particular remedies for breaches of confidentiality. These remedies include injunctive relief and, if the breach is a willful disclosure of confidential information, disciplinary action against an employee and referral of a member of the legislative body to the grand jury.<sup>71</sup>

The duty of maintaining confidentiality, of course, must give way to the responsibility to disclose improper matters or discussions that may come up in closed sessions. In recognition of this public policy, under the Brown Act, a local agency may not penalize a disclosure of information learned during a closed session if the disclosure (1) is made in confidence to the district attorney or the grand jury due to a perceived violation of law; (2) is an expression of opinion concerning the propriety or legality of actions taken in closed session, including disclosure of the nature and extent of the illegal action; or (3) is information that is not confidential.<sup>72</sup>

The interplay between these possible sanctions and an official’s First Amendment rights is complex and beyond the scope of this guide. Suffice it to say that this is a matter of great sensitivity and controversy.

**“I want the press to know that I voted in closed session against filing the eminent domain action,” said Council Member Chang.**

**“Don’t settle too soon,” reveals Council Member Watson to the property owner, over coffee. “The city’s offer coming your way is not our bottom line.”**

*The first comment to the press may be appropriate if it is a part of an action taken by the city council in closed session that must be reported publicly.<sup>73</sup> The second comment to the property owner is not. Disclosure of confidential information acquired in closed session is expressly prohibited and harmful to the agency.*

**PRACTICE TIP:** There is a strong interest in protecting the confidentiality of proper and lawful closed sessions.

## ENDNOTES

- 1 Cal. Gov. Code, § 54962.
- 2 Cal. Const. , Art. 1, § 3.
- 3 61 Ops.Cal.Atty.Gen. 220 (1978); but see Cal. Gov. Code, § 54957.8 (multijurisdictional law enforcement agencies are authorized to meet in closed session to discuss the case records of ongoing criminal investigations and other related matters).
- 4 Cal. Gov. Code, § 54957.1.
- 5 Cal. Gov. Code, § 54954.5.
- 6 Cal. Gov. Code, § 54954.2.
- 7 Cal. Gov. Code, § 54954.5.
- 8 Cal. Gov. Code, §§ 54956.9, 54957.7.
- 9 Cal. Gov. Code, § 54957.1, subd. (a).
- 10 Cal. Gov. Code, § 54957.1, subd. (b).
- 11 Cal. Gov. Code, § 54957.2.
- 12 *Hamilton v. Town of Los Gatos* (1989) 213 Cal.App.3d 1050; 2 Cal. Code Regs. § 18707.
- 13 But see *Roberts v. City of Palmdale* (1993) 5 Cal.4th 363 (protection of the attorney-client privilege alone cannot by itself be the reason for a closed session).
- 14 Cal. Gov. Code, § 54956.9; *Shapiro v. Board of Directors of Center City Development Corp.* (2005) 134 Cal.App.4th 170 (agency must be a party to the litigation).
- 15 82 Ops.Cal.Atty.Gen. 29 (1999).
- 16 *Page v. Miracosta Community College District* (2009) 180 Cal.App.4th 471.
- 17 “*The Brown Act*,” California Attorney General (2003), p. 40.
- 18 Cal. Gov. Code, § 54956.9, subd. (g).
- 19 See e.g., *Avco Community Developers, Inc. v. South Coast Regional Com.* (1976) 17 Cal.3d 785; *Trancas Property Owners Assn. v. City of Malibu* (2006) 138 Cal.App.4th 172.
- 20 *Trancas Property Owners Assn. v. City of Malibu* (2006) 138 Cal.App.4th 172.
- 21 Cal. Gov. Code, § 54956.9, subd. (e).
- 22 *Fowler v. City of Lafayette* (2020) 46 Cal.App.5th 360.
- 23 Cal. Gov. Code, § 54957.1.
- 24 Cal. Gov. Code, § 54956.8.
- 25 *Shapiro v. San Diego City Council* (2002) 96 Cal.App.4th 904. See also 93 Ops.Cal.Atty.Gen. 51 (2010) (redevelopment agency may not convene a closed session to discuss rehabilitation loan for a property already subleased to a loan recipient, even if the loan incorporates some of the sublease terms and includes an operating covenant governing the property); 94 Ops.Cal.Atty.Gen. 82 (2011) (real estate closed session may address form, manner, and timing of consideration and other items that cannot be disclosed without revealing price and terms).
- 26 73 Ops.Cal.Atty.Gen. 1 (1990).
- 27 Cal. Gov. Code, §§ 54956.8, 54954.5, subd. (b).
- 28 Cal. Gov. Code, § 54957.1, subd. (a)(1).
- 29 Cal. Gov. Code, § 54957, subd. (b).
- 30 63 Ops.Cal.Atty.Gen. 153 (1980); but see *Duwall v. Board of Trustees* (2000) 93 Cal.App.4th 902 (board may discuss personnel evaluation criteria, process and other preliminary matters in closed session but only if related to the evaluation of a particular employee).

- 31 *Gillespie v. San Francisco Public Library Commission* (1998) 67 Cal.App.4th 1165; 85 Ops.Cal.Atty.Gen. 77 (2002).
- 32 *Gillespie v. San Francisco Public Library Commission* (1998) 67 Cal.App.4th 1165; 80 Ops.Cal.Atty.Gen. 308 (1997). Interviews of candidates to fill a vacant staff position conducted by a temporary committee appointed by the governing body may be done in closed session.
- 33 Cal. Gov. Code, § 54957, subd. (b)(3).
- 34 88 Ops.Cal.Atty.Gen. 16 (2005).
- 35 *Morrison v. Housing Authority of the City of Los Angeles* (2003) 107 Cal.App.4th 860.
- 36 Cal. Gov. Code, § 54957, subd. (b); but see *Bollinger v. San Diego Civil Service Commission* (1999) 71 Cal.App.4th 568 (notice not required for closed session deliberations regarding complaints or charges when there was a public evidentiary hearing prior to closed session).
- 37 78 Ops.Cal.Atty.Gen. 218 (1995); *Bell v. Vista Unified School District* (2000) 82 Cal.App.4th 672; *Furtado v. Sierra Community College* (1998) 68 Cal.App.4th 876; *Fischer v. Los Angeles Unified School District* (1999) 70 Cal.App.4th 87.
- 38 *Moreno v. City of King* (2005) 127 Cal.App.4th 17.
- 39 Cal. Gov. Code, § 54957.
- 40 *Gillespie v. San Francisco Public Library Commission* (1998) 67 Cal.App.4th 1165.
- 41 Cal. Gov. Code, § 54957.1, subd. (a)(5).
- 42 Cal. Gov. Code, § 54957.6.
- 43 Cal. Gov. Code, § 54957.6, subd. (b); see also 98 Ops.Cal.Atty.Gen. 41 (2015) (a project labor agreement between a community college district and workers hired by contractors or subcontractors is not a proper subject of closed session for labor negotiations because the workers are not “employees” of the district).
- 44 Cal. Gov. Code, § 54957.6; 51 Ops.Cal.Atty.Gen. 201 (1968).
- 45 Cal. Gov. Code, § 54957.1, subd. (a)(6).
- 46 Cal. Gov. Code, § 3549.1.
- 47 Cal. Gov. Code, § 3540.
- 48 Cal. Gov. Code, § 3547.
- 49 Cal. Edu. Code, § 48918; but see *Rim of the World Unified School District v. Superior Court* (2003) 104 Cal.App.4th 1393 (Section 48918 preempted by the Federal Family Educational Right and Privacy Act in regard to expulsion proceedings).
- 50 Cal. Edu. Code, § 72122.
- 51 Cal. Edu. Code, § 60617.
- 52 Cal. Gov. Code, § 54956.96.
- 53 Cal. Gov. Code, § 54956.7.
- 54 Cal. Gov. Code, § 54957.
- 55 *McKee v. Los Angeles Interagency Metropolitan Police Apprehension Crime Task Force* (2005) 134 Cal. App.4th 354.
- 56 Cal. Gov. Code, § 54957.8.
- 57 Cal. Gov. Code, § 54962.
- 58 Cal. Health and Saf. Code, § 32106.
- 59 Cal. Gov. Code, § 54956.75.
- 60 Cal. Gov. Code, § 54956.81.



- 61 Cal. Gov. Code, § 54956.86.
- 62 Cal. Gov. Code, § 54956.87.
- 63 Cal. Gov. Code, § 54956.95.
- 64 Ops.Cal.Atty.Gen. 34 (1965)
- 65 82 Ops.Cal.Atty.Gen. 29 (1999); 2022 WL 1814322, 105 Ops. Cal.Atty.Gen. 89 (2022).
- 66 Cal. Gov. Code, § 54963.
- 67 *Kleitman v. Superior Court* (1999) 74 Cal.App.4th 324, 327. See also Cal. Gov. Code, § 54963.
- 68 *Roberts v. City of Palmdale* (1993) 5 Cal.4th 363.
- 69 80 Ops.Cal.Atty.Gen. 231 (1997).
- 70 76 Ops.Cal.Atty.Gen. 289 (1993).
- 71 Cal. Gov. Code, § 54963.
- 72 Cal. Gov. Code, § 54963.
- 73 Cal. Gov. Code, § 54957.1.



# Chapter 6

## REMEDIES

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# Chapter 6

## REMEDIES



A violation of the Brown Act can lead to invalidation of the agency's action, payment of a challenger's attorney fees, public embarrassment, and even criminal prosecution. As explained below, a legislative body often has an opportunity to correct a violation prior to the filing of a lawsuit. Compliance ultimately results from regular training and a good measure of self-regulation on the part of public officials. This chapter discusses the remedies available to the public when that self-regulation is ineffective.

### Invalidation of action taken

Any interested person, including the district attorney, may seek to invalidate certain actions of a legislative body on the grounds that they violate the Brown Act.<sup>1</sup> The following actions cannot be invalidated:

- Those taken in substantial compliance with the law. No Brown Act violation is found when the given notice substantially complies with the Brown Act, even when the notice erroneously cites the wrong Brown Act section but adequately advises the public that the legislative body will meet with legal counsel to discuss potential litigation in closed session.<sup>2</sup>
- Those involving the sale or issuance of notes, bonds, or other indebtedness, or any related contracts or agreements.<sup>3</sup>
- Those creating a contractual obligation, including a contract awarded by competitive bid for other than compensation for professional services, upon which a party has in good faith relied to its detriment.<sup>4</sup>
- Those connected with the collection of any tax.<sup>5</sup>
- Those in which the complaining party had actual notice at least 72 hours prior to the regular meeting or 24 hours prior to the special meeting, as the case may be, at which the action is taken.<sup>6</sup>

Before filing a court action seeking invalidation, a person who believes that a violation has occurred must send a written "cure or correct" demand to the legislative body. This demand must clearly describe the challenged action and the nature of the claimed violation. This demand must be sent within 90 days of the alleged violation, or within 30 days if the action was taken in open session but in violation of Section 54954.2, which requires (subject to specific exceptions) that a legislative body may act only on items posted on the agenda.<sup>7</sup> The legislative body then has up to 30 days to cure and correct its action.<sup>8</sup> The purpose of this requirement is to offer the body an opportunity to consider whether a violation has occurred and, if so, consider correcting the action to avoid the costs of litigation. If the legislative body does not act, any lawsuit must be filed within the next 15 days.<sup>9</sup>

Although just about anyone has standing to bring an action for invalidation,<sup>10</sup> the challenger must show prejudice as a result of the alleged violation.<sup>11</sup> An action to invalidate fails to state a cause of action against the agency if the body deliberated but did not take an action.<sup>12</sup>

### **Declaratory relief to determine whether past action violated the act**

Any interested person, including the district attorney, may file a civil action to determine whether a past action of a legislative body constitutes a violation of the Brown Act and is subject to a mandamus, injunction, or declaratory relief action.<sup>13</sup> Before filing an action, the interested person must, within nine months of the alleged violation of the Brown Act, submit a “cease and desist” letter to the legislative body clearly describing the past action and the nature of the alleged violation.<sup>14</sup> The legislative body has 30 days after receipt of the letter to provide an unconditional commitment to cease and desist from the past action.<sup>15</sup> If the body fails to take any action within the 30-day period or takes an action other than an unconditional commitment, the interested person has 60 days to file an action.<sup>16</sup>

The legislative body’s unconditional commitment must be approved at a regular or special meeting as a separate item of business and not on the consent calendar.<sup>17</sup> The unconditional commitment must be substantially in the form set forth in the Brown Act.<sup>18</sup> No legal action may thereafter be commenced regarding the past action.<sup>19</sup> However, an action of the legislative body in violation of its unconditional commitment constitutes an independent violation of the Brown Act, and a legal action consequently may be commenced without following the procedural requirements for challenging past actions.<sup>20</sup>

The legislative body may rescind its prior unconditional commitment by a majority vote of its membership at a regular meeting as a separate item of business not on the consent calendar. At least 30 days written notice of the intended rescission must be given to each person to whom the unconditional commitment was made and to the district attorney. Upon rescission, any interested person may commence a legal action regarding the past actions without following the procedural requirements for challenging past actions.<sup>21</sup>

### **Civil action to prevent future violations**

The district attorney or any interested person can file a civil action asking the court to do the following:

- Stop or prevent violations or threatened violations of the Brown Act by members of the legislative body.
- Determine the applicability of the Brown Act to actions or threatened future action of the legislative body.
- Determine whether any rule or action by the legislative body to penalize or otherwise discourage the expression of one or more of its members is valid under state or federal law.
- Compel the legislative body to audio-record its closed sessions.<sup>22</sup>

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**PRACTICE TIP:** A lawsuit to invalidate must be preceded by a demand to cure and correct the challenged action in order to give the legislative body an opportunity to consider its options. The Brown Act does not specify how to cure or correct a violation; the best method is to rescind the action being complained of and start over, or reaffirm the action if the local agency relied on the action and rescinding the action would prejudice the local agency.

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It is not necessary for a challenger to prove a past pattern or practice of violations by the local agency in order to obtain injunctive relief. A court may presume when issuing an injunction that a single violation will continue in the future when the public agency refuses to admit to the alleged violation or to renounce or curtail the practice.<sup>23</sup> A court may not compel elected officials to disclose their recollections of what transpired in a closed session.<sup>24</sup>

Upon finding a violation of the Brown Act pertaining to closed sessions, a court may compel the legislative body to audio record its future closed sessions.<sup>25</sup> In a subsequent lawsuit to enforce the Brown Act alleging a violation occurring in closed session, a court may upon motion of the plaintiff review the audio recording if it finds there is good cause to think the Brown Act has been violated and make public a certified transcript of the relevant portion of the closed session recording.<sup>26</sup>

### Costs and attorney's fees

A plaintiff who successfully invalidates an action taken in violation of the Brown Act or who successfully enforces one of the Brown Act's civil remedies may seek court costs and reasonable attorney's fees. Courts have held that attorney's fees must be awarded to a successful plaintiff unless special circumstances exist that would make a fee award against the public agency unjust.<sup>27</sup> When evaluating how to respond to assertions that the Brown Act has been violated, elected officials and their lawyers should assume that attorney's fees will be awarded against the agency if a violation of the Brown Act is proven.

An attorney's fee award may only be directed against the local agency and not the individual members of the legislative body. If the local agency prevails, it may be awarded court costs and attorney's fees if the court finds the lawsuit was clearly frivolous and lacking in merit.<sup>28</sup>

### Misdemeanor penalties

A violation of the Brown Act is a misdemeanor if (1) a member of the legislative body attends a meeting where action is taken in violation of the Brown Act, and (2) the member intends to deprive the public of information that the member knows or has reason to know the public is entitled to.<sup>29</sup>

"Action taken" is not only an actual vote but also a collective decision, commitment, or promise by a majority of the legislative body to make a positive or negative decision.<sup>30</sup> If the meeting involves mere deliberation without the taking of action, there can be no misdemeanor penalty.

A violation occurs for a tentative as well as final decision.<sup>31</sup> In fact, criminal liability is triggered by a member's participation in a meeting in violation of the Brown Act — not whether that member has voted with the majority or minority, or has voted at all.

As with other misdemeanors, the filing of a complaint is up to the district attorney. Although criminal prosecutions of the Brown Act are uncommon, district attorneys in some counties aggressively monitor public agencies' adherence to the requirements of the law.

Some attorneys and district attorneys take the position that a Brown Act violation may be pursued criminally under Government Code section 1222.<sup>32</sup> There is no case law to support this view. If anything, the existence of an express criminal remedy within the Brown Act would suggest otherwise.<sup>33</sup>

**PRACTICE TIP:** Attorney's fees will likely be awarded if a violation of the Brown Act is proven.

## Voluntary resolution

Successful enforcement actions for violations of the Brown Act can be costly to local agencies. The district attorney or even the grand jury occasionally becomes involved. Publicity surrounding alleged violations of the Brown Act can result in a loss of confidence by constituents in the legislative body and its members. It is in the agency's interest to consider re-noticing and rehearing, rather than litigating, an item of significant public interest, particularly when there is any doubt about whether the open meeting requirements were satisfied.

Overall, agencies that regularly train their officials and pay close attention to the requirements of the Brown Act will have little reason to worry about enforcement.



Photo credit: Courtesy of the City of West Hollywood. Photo by Jon Viscott.

## ENDNOTES

- 1 Cal. Gov. Code, § 54960.1. Invalidation is limited to actions that violate the following sections of the Brown Act: section 54953 (the basic open meeting provision), sections 54954.2 and 54954.5 (notice and agenda requirements for regular meetings and closed sessions), 54954.6 (tax hearings), 54956 (special meetings), and 54596.5 (emergency situations). Violations of sections not listed above cannot give rise to invalidation actions, but they are subject to the other remedies listed in section 54960.1.
- 2 *Castaic Lake Water Agency v. Newhall County Water District* (2015) 238 Cal.App.4th 1196, 1198.
- 3 Cal. Gov. Code, § 54960.1(d)(2).
- 4 Cal. Gov. Code, § 54960.1(d)(3).
- 5 Cal. Gov. Code, § 54960.1(d)(4).
- 6 Cal. Gov. Code, § 54960.1(d)(5).
- 7 Cal. Gov. Code, § 54960.1, subds. (b), (c)(1).
- 8 Cal. Gov. Code, § 54960.1, subd. (c)(2).
- 9 Cal. Gov. Code, § 54960.1, subd. (c)(4).
- 10 *McKee v. Orange Unified School District* (2003) 110 Cal.App.4th 1310, 1318-1319.
- 11 *Cohan v. City of Thousand Oaks* (1994) 30 Cal.App.4th 547, 556, 561.
- 12 *Boyle v. City of Redondo Beach* (1999) 70 Cal.App.4th 1109, 1116-17, 1118.
- 13 Cal. Gov. Code, § 54960.2, subd. (a); Senate Bill No. 1003, Section 4 (2011-2012 Session).
- 14 Cal. Gov. Code, § 54960.2, subds. (a)(1), (2).
- 15 The legislative body may provide an unconditional commitment after the 30-day period. If the commitment is made after the 30-day period, however, the plaintiff is entitled to attorneys' fees and costs. Cal. Gov. Code, § 54960.2, subd. (b).
- 16 Cal. Gov. Code, § 54960.2, subd. (a)(4).
- 17 Cal. Gov. Code, § 54960.2, subd. (c)(2).

- 18 Cal. Gov. Code, § 54960.2, subd. (c)(1).
- 19 Cal. Gov. Code, § 54960.2, subd. (c)(3).
- 20 Cal. Gov. Code, § 54960.2, subd. (d).
- 21 Cal. Gov. Code, § 54960.2, subd. (e).
- 22 Cal. Gov. Code, § 54960, subd. (a).
- 23 *California Alliance for Utility Safety and Education (CAUSE) v. City of San Diego* (1997) 56 Cal.App.4th 1024; *Common Cause v. Stirling* (1983) 147 Cal.App.3d 518, 524; *Accord Shapiro v. San Diego City Council* (2002) 96 Cal.App.4th 904, 916 and fn.6.
- 24 *Kleitman v. Superior Court* (1999) 74 Cal.App.4th 324, 334-36.
- 25 Cal. Gov. Code, § 54960, subd. (b).
- 26 Cal. Gov. Code, § 54960, subd. (c).
- 27 *Los Angeles Times Communications, LLC v. Los Angeles County Board of Supervisors* (2003) 112 Cal. App.4th 1313, 1327-29 and cases cited therein.
- 28 Cal. Gov. Code, § 54960.5.
- 29 Cal. Gov. Code, § 54959. A misdemeanor is punishable by a fine of up to \$1,000 or up to six months in county jail, or both (California Penal Code section 19). Employees of the agency who participate in violations of the Brown Act cannot be punished criminally under section 54959. However, at least one district attorney instituted criminal action against employees based on the theory that they criminally conspired with the members of the legislative body to commit a crime under section 54949.
- 30 Cal. Gov. Code, § 54952.6.
- 31 61 Ops.Cal.Atty.Gen. 283 (1978).
- 32 California Government Code section 1222 provides that “[e]very wilful omission to perform any duty enjoined by law upon any public officer, or person holding any public trust or employment, where no special provision is made for the punishment of such delinquency, is punishable as a misdemeanor.”
- 33 The principle of statutory construction known as *expressio unius est exclusio alterius* supports the view that section 54959 is the exclusive basis for criminal liability under the Brown Act.







1400 K Street, Suite 400, Sacramento, CA 95814  
Phone: (916) 658-8200 | Fax: (916) 658-8240  
[www.calcities.org](http://www.calcities.org) | [www.westerncity.com](http://www.westerncity.com)



## ROBERT'S RULES OF ORDER CHEAT SHEET

Robert's Rules of Order is a manual of parliamentary procedures that governs most organizations with boards of directors. Robert's Rules of Order are a provision of each of the SMPS chapter's bylaws normally stated as the following:

*"The rules contained in the most recent edition of Robert's Rules of Order shall provide the rules of procedure for the Chapter where they are not inconsistent with the provisions of the Articles of Incorporation or these bylaws."*

### TYPES OF MOTIONS

- **Main Motion:** Introduce a new item
- **Subsidiary Motion:** Change or affect how to handle a main motion (vote on this before main motion)
- **Privileged Motion:** Urgent or important matter unrelated to pending business
- **Incidental Motion:** Questions procedure of other motions (must consider before the other motion)
- **Motion to Table:** Kills a motion
- **Motion to Postpone:** Delays a vote (can reopen debate on the main motion)

- **Point of Inquiry:** A member may use point of inquiry to ask for clarification in a report to make better voting decisions.
- **Point of Personal Privilege:** A member may use point of personal privilege to address the physical comfort of the setting such as temperature or noise. Members may also use it to address the accuracy of published reports or the accuracy of a member's conduct.

### EVERY MOTION HAS 6 STEPS

1. **Motion:** A member rises or raises a hand to signal the chairperson.
2. **Second:** Another member seconds the motion.
3. **Restate motion:** The chairperson restates the motion.
4. **Debate:** The members debate the motion.
5. **Vote:** The chairperson restates the motion, and then first asks for affirmative votes, and then negative votes.
6. **Announce the vote:** The chairperson announces the result of the vote and any instructions.

TIP! If the board is in obvious agreement, the chairperson may save time by stating, "If there is no objection, we will adopt the motion to..." Then wait for any objections. Then say, "Hearing no objections, (state the motion) is adopted." And then state any instructions. If a member objects, first ask for debate, then vote and then announce the vote.

### REQUESTING POINTS OF SOMETHING

Certain situations need attention during the meeting, but they don't require a motion, second, debate or voting. It's permissible to state a point during a meeting where the chairperson needs to handle a situation right away. Board members can declare a Point of Order, Point of Information, Point of Inquiry, or Point of Personal Privilege.

- **Point of Order:** Draws attention to a breach of rules, improper procedure, breaching of established practices, etc.
- **Point of Information:** A member may need to bring up an additional point or additional information (in the form of a nondebatable statement) so that the other members can make fully informed votes.

### TIPS AND REMINDERS FOR CHAIRPERSONS

Robert's Rules of Order, which is also widely known as parliamentary procedure, was developed to ensure that meetings are fair, efficient, democratic and orderly. A skilled chairperson allows all members to voice their opinions in an orderly manner so that everyone in the meeting can hear and be heard. The following tips and reminders will help chairpersons to run a successful and productive meeting without being run over or running over others.

- Follow the agenda to keep the group moving toward its goals.
- Let the group do its own work; don't overcommand.
- Control the flow of the meeting by recognizing members who ask to speak.
- Let all members speak once before allowing anyone to speak a second time.
- When discussions get off-track, gently guide the group back to the agenda.
- Model courtesy and respect, and insist that others do the same.
- Help to develop the board's skills in parliamentary procedure by properly using motions and points of order.
- Give each speaker your undivided attention.
- Keep an emotional pulse on the discussions.
- Allow a consensus to have the final authority of the group.

Action	What to say	Can speaker be interrupted?	Need a second?	Can this be debated?	Can this be amended?	Votes needed
Introduce main motion	"I move to..."	No	Yes	Yes	Yes	Majority
Amend a motion	"I move to amend the motion by..."	No	Yes	Yes	Yes	Majority
Move item to committee	"I move that we refer the matter to committee."	No	Yes	Yes	No	Majority
Postpone item	"I move to postpone the matter until..."	No	Yes	Yes	No	Majority
End debate	"I move the previous question."	No	Yes	Yes	No	Majority
Object to procedure	"Point of order."	Yes	No	No	No	Chair's decision
Recess the meeting	"I move that we recess until..."	No	Yes	No	No	Majority
Adjourn the meeting	"I move to adjourn the meeting."	No	Yes	No	No	Majority
Request information	"Point of information."	No	Yes	No	No	No vote
Overrule the chair's ruling	"I move to overrule the chair's ruling."	Yes	Yes	Yes	No	Majority
Extend the allotted time	"I move to extend the time by _____ minutes."	No	Yes	No	Yes	2/3
Enforce the rules or point out incorrect procedure	"Point of order."	Yes	No	No	No	No vote
Table a motion	"I move to table..."	No	Yes	No	No	Majority
Verity voice vote with count	"I call for a division."	No	No	No	No	No vote
Object to considering some undiplomatic matter	"I object to consideration of this matter..."	Yes	No	No	No	2/3
Take up a previously tabled item	"I move to take from the table..."	No	Yes	No	No	Majority
* Reconsider something already disposed of	"I move to reconsider our action to..."	Yes	Yes	Yes	Yes	Majority
Consider something out of it scheduled order	"I move to suspend the rules and consider..."	No	Yes	No	No	2/3
Close the meeting for executive session	"I move to go into executive session."	No	Yes	No	No	Majority

\*A member may make a motion to reconsider something that was already disposed; however, the reconsidered motion may not be subsequently reconsidered. A motion to reconsider must be made during the same meeting and can extend to a meeting that lasts for more than one day.

## HARASSMENT PREVENTION AND ETHICS TRAININGS

Members of City commissions and the Keep Hayward Clean and Green Task Force are required to complete the **Ethics Training** and **Harassment Prevention Training** within six months of appointment and every two years thereafter.

### FREE ONLINE ETHICS TRAINING

Offered through the California Attorney General's website and made available by the Fair Political Practices Commission (FPPC) for local officials and appointed officials at no cost at the following web link: <https://oag.ca.gov/ethics>

- Under the section For Local Officials, select the training titled AB 1234 – Local Ethics Training (link: <http://localethics.fppc.ca.gov/login.aspx>)

**Please be sure that you remain logged in for at least two hours** to receive full credit for the course. At the end of the two-hour training session, please print the certificate of completion and submit it to the City Clerk's office.

### FREE ONLINE HARASSMENT PREVENTION TRAINING

Offered through **VectorSolutions**, which is an internet-based training and compliance program to fulfill this state mandated requirement at the following web link:  
<http://www.targetsolutions.com/hayward>

Log in with the following information:

- Username: Your email address on file with the City of Hayward
- Temporary Password: Hayward777b!!

Questions related to the online Harassment Prevention training should be directed to Valeria Cazares, Human Resources Technician, at (510) 583-4522 or [Valeria.Cazares@hayward-ca.gov](mailto:Valeria.Cazares@hayward-ca.gov)

**Please be sure that you remain logged in for at least two hours** to receive full credit for the course. At the end of the two-hour training session, please print the certificate of completion and submit it to the City Clerk's office.

Should you have any questions, please contact the City Clerk's office at (510) 583-4400 or [cityclerk@hayward-ca.gov](mailto:cityclerk@hayward-ca.gov).

## **CODE OF CONDUCT**

**(we need to create this document)**



February 10, 2025

NAME  
ADDRESS

***Subject: Statement of Economic Interests (Form 700) – Assuming Office Statement***

Dear NAME:

The City’s Conflict of Interest Code designates your position as being required to file a Statement of Economic Interests (Form 700).

Your position as a member of the Planning Commission is a designated position; therefore, you are required to file the Assuming Office Statement within 30 days from September 17, 2024.

Your Assuming Office Statement will be due on or before October 17, 2024. Except for deadlines that fall on Saturday, Sunday, or an official state holiday, there is no provision in the law for an extension of a filing deadline. Late statements are subject to a \$10 per day fine.

If you prefer to file electronically, you can use the City of Hayward’s e-filing system to create your Statement of Economic Interests (Form 700). To e-file your Form 700:

1. Log in to the system at: <http://www.hayward-ca.gov/your-government/departments/city-clerks-office/statement-economic-interests-sei>
2. Click on Filer Access Portal
3. The e-mail address assigned to you in the system is: [EMAIL](#)
4. To receive a password from the system, click on the “New User? Request a Password” link. Submit your e-mail address to receive an e-mail from the system containing a link to reset your password. Click on the link to display a web page containing your password. Make sure to record your password.
5. Log in using your e-mail address and password and begin the Form 700 filing process.

After you log in, click the “Get Help for this Page” button for information and instructions. Each page also includes links to short instructional videos. At the end of the process, you can create a draft document for review. When you are satisfied with the document, please e-file your document. You do not have to print, sign, or submit a paper copy of your e-filed statement.

OFFICE OF THE CITY CLERK  
777 B Street, Hayward, CA 94541

T: 510.583.4400  
[www.hayward-ca.gov](http://www.hayward-ca.gov)





NAME

-2-

February 10, 2025

If you have any questions, please send an email to [Miriam.lens@hayward-ca.gov](mailto:Miriam.lens@hayward-ca.gov) or call my office at (510) 583-4400.

Sincerely,

---

Miriam Lens  
City Clerk

ML: ba

Enclosures: Form 700  
City of Hayward Conflict of Interest Code





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**COMMUNITY SERVICES COMMISSION (17 members, 3 vacancies)**

*Council Liaison: Ray Bonilla Jr., Staff Liaison: Amy Cole-Bloom, Community Services Manager (510-583-4252)  
Meets monthly, 3<sup>rd</sup> Wednesday, 7:00 p.m., Conference Room 2A*

	<b>FIRST NAME</b>	<b>LAST NAME</b>	<b>ADDRESS</b>	<b>DATE Appointed</b>	<b>TERM Expires</b>
1	Elaine	Alvite	[REDACTED]	9/11/2022	9/30/2028
2	Guadalupe	Angulo	[REDACTED]	9/12/2023	9/30/2026
3	Amardeep	Brar	[REDACTED]	9/12/2023	9/30/2025
4	Hoang	Dao	[REDACTED]	12/12/2023	9/30/2026
5	Hazel	De Leon	[REDACTED]	1/18/2022	9/30/2025
6	Jesse	Gunn	[REDACTED]	9/12/2023	9/30/2026
7	Janet	Kassouf	[REDACTED]	9/15/2015(*)	9/30/2025
8	Yoshiko	Kimura	[REDACTED]	9/12/2023	9/30/2027
9	Daisy	Maxion	[REDACTED]	9/12/2023	9/30/2025
10	Linda	Moore***	[REDACTED]	9/18/2018	9/30/2025
11	Jagdeep	Singh	[REDACTED]	9/20/2022	9/30/2025
12	Mariana	Triviso	[REDACTED]	9/12/2023	9/30/2027
13	Lenita	Wheeler	[REDACTED]	9/20/2022	9/30/2025
14	Calvin	Wong	[REDACTED]	9/12/2023	9/30/2025
15	VACANCY (Tyne Johnson resigned 9/30/24; term was expired 9/30/24)				
16	VACANCY (Collin Thormoto resigned 10/8/24; term was expiring 9/30/26)				
17	VACANCY (Austin Bruckner Carrillo resigned 12/16/24; term expiring 9/30/27)				

\*Two full terms completed.

\*\*Chairperson

\*\*\*Vice Chair

\*\*\*\*Parliamentarian





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**LIBRARY COMMISSION (9 members)**

*Council Liaison: Julie Roche, Staff Liaison: Jayanti Addleman, Director of Library Services (510-881-7956)  
Meets monthly, 3<sup>rd</sup> Monday, 6:30 p.m., Conference Room 2A*

	<b>FIRST NAME</b>	<b>LAST NAME</b>	<b>ADDRESS</b>	<b>DATE APPOINTED</b>	<b>TERM EXPIRES</b>
1	Joshua	De Miguel	[REDACTED]	9/17/2024	9/30/2025
2	Dominique	Dozier***	[REDACTED]	9/12/2023	9/30/2027
3	Valerie	Fredericks	[REDACTED]	9/17/2024	9/30/2025
4	Shonda	Goward**	[REDACTED]	9/21/2021	9/30/2026
5	Marhya	Kelsch	[REDACTED]	1/23/2024	9/30/2027
6	Amalia	Navarro	[REDACTED]	9/15/2020	9/30/2028
7	Crystal	Porter	[REDACTED]	9/12/2023	9/30/2027
8	Shareen	Purcell	[REDACTED]	3/22/2022	9/30/2026
9	Suresh	Sangiah	[REDACTED]	9/10/2019	9/30/2025

*\*Two full terms completed.*

*\*\*Chairperson*

*\*\*\*Vice Chair*

*\*\*\*\*Parliamentarian*



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**PERSONNEL COMMISSION (7 members, 1 vacancy)**

*Council Liaison: George Syrop, Staff Liaison: Brittney Frye, Director of Human Resources (510-583-4544)  
Meets quarterly, 2<sup>nd</sup> Thursday of March, June, September, December, 5:30 p.m., Conference Room 2A*

	FIRST NAME	LAST NAME	ADDRESS	DATE APPOINTED	TERM EXPIRES
1	Erika	Cortez	[REDACTED]	9/18/2018	9/30/2027
3	Linda Gruel	Neff	[REDACTED]	9/17/2024	9/30/2027
4	Rebecca	Parr	[REDACTED]	9/17/2024	9/30/2028
5	Lucy	Woo	[REDACTED]	9/20/2022	9/30/2026
6	Randy	Wright**	[REDACTED]	9/10/2019	9/30/2027
7	VACANCY (Denise Thompson resigned 9/23/24; term expiring 9/30/26)				
7	VACANCY (Jadesola Edwards resigned 11/13/24; term expiring 9/30/26)				

\*Two full terms completed.

\*\*Chairperson

\*\*\*Vice Chair

\*\*\*\*Parliamentarian



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**PLANNING COMMISSION (7 members)**

*Staff Liaison: Sara Buizer, Director of Development Services (510-583-4191) & Jeremy Lochirco, Planning Manager (510-583-4239)  
Meets twice monthly, 2<sup>nd</sup> & 4<sup>th</sup> Thursday, 7:00 p.m., Hybrid- Council Chamber/Zoom (Please See Agenda)*

	<b>FIRST NAME</b>	<b>LAST NAME</b>	<b>ADDRESS</b>	<b>DATE APPOINTED</b>	<b>TERM EXPIRES</b>
<b>1</b>	Shanta	Franco-Clausen	[REDACTED]	9/12/2023	9/30/2026
<b>2</b>	Karla	Goodbody****	[REDACTED]	1/24/2023	9/30/2027
<b>3</b>	Jeffrey	Haman	[REDACTED]	9/17/2024	9/30/2028
<b>4</b>	Brigitte	Lowe**	[REDACTED]	9/21/2021	9/30/2026
<b>5</b>	Ron A	Meyers	[REDACTED]	12/12/2023	9/30/2026
<b>6</b>	Anika	Hardy***	[REDACTED]	1/24/2023	9/30/2027
<b>7</b>	Robert	Stevens	[REDACTED]	9/10/2019	9/30/2027

*\*Two full terms completed.*

*\*\*Chairperson*

*\*\*\*Vice Chair*

*\*\*\*\*Parliamentarian*



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**KEEP HAYWARD CLEAN AND GREEN TASK FORCE (20 members, 5 vacancies, 1 HYC Member)**

*Council Liaison: Angela Andrews; Staff Liaison: Todd Rullman, Director of Maintenance Services (510-881-7746)*

*Meetings: Monthly, 4<sup>th</sup> Thursday, 7:00 p.m., Conference Room 2A, Clean-Up Events: Monthly, 4<sup>th</sup> Saturday, 8:30 a.m.-Noon, Various Neighborhoods*

	FIRST NAME	LAST NAME	ADDRESS	DATE APPOINTED	TERM EXPIRES
1	Lucas C.	Banks	[REDACTED]	9/20/2022	9/30/2027
2	Blytha	Bowers	[REDACTED]	4/15/2008	9/30/2028
3	Celia	Ching Chung	[REDACTED]	9/12/2023	9/30/2027
4	Gwenda G.	Dossey	[REDACTED]	9/12/2023	9/30/2028
5	Mohaned	Elwali	[REDACTED]	9/21/2021	9/30/2028
6	Tom***	Ferreira	[REDACTED]	9/21/2021	9/30/2028
7	Sandra	Frost	[REDACTED]	9/12/2023	9/30/2027
8	Vikram	Gautham	[REDACTED]	9/12/2023	9/30/2028
9	Douglas	Mansel	[REDACTED]	9/21/2021	9/30/2028
10	Sergey	Melnikov	[REDACTED]	9/12/2023	9/30/2027
11	Melissa	Milleman	[REDACTED]	9/15/2020	9/30/2027
12	Shingo	Nagae	[REDACTED]	9/21/2021	9/30/2027
13	Debra	Patton	[REDACTED]	9/10/2019	9/30/2028
14	Chandrakala (Chandu)	Siramdas	[REDACTED]	9/20/2022	9/30/2028
15	George	Villamil	[REDACTED]	9/12/2023	9/30/2027
16	Josue Samuel	Barrera	[REDACTED]	6/20/2023	6/30/2025
17	VACANCY (Chuck Horner resigned 9/30/2023; term expiring 9/30/27)				
18	VACANCY (Jeffrey Haman was appointed to Planning Commission 9/17/24; term expiring 9/30/27)				
19	VACANCY (Margaret Barton resigned 10/11/24; term expiring 9/30/26)				
20	VACANCY (Leah Martinez resigned 10/18/24; term expiring 9/30/27)				
21	VACANCY (Jessica Stanley removed 11/19/24; term expiring 9/30/27)				

\*Two full terms completed.

\*\*Chairperson

\*\*\*Vice Chair

\*\*\*\*Parliamentarian



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**HAYWARD YOUTH COMMISSION**

**(32 members: 21 voting members, 11 alternates)**

*Council Liaison: Mayor Mark Salinas; HARD Advisor, Vicente Zuniga (510-626-8820) & Jen Tibbetts (510-888-0117)*

*City Advisor, Ivan Padilla (510-583-5382), HUSD Advisor, Maya Hernandez (510-723-3857 Ext. 34197)*

*Meets monthly, 2<sup>nd</sup> Monday of each month from September to May, 6:30 p.m., Conference Room 2A.*

	FIRST NAME	LAST NAME	SCHOOL	DATE APPOINTED	TERM EXPIRES
1	Leila Angelic	Aviado	All Saints Catholic School	6/20/2023	6/30/2025
2	Mateo Emiliano	Barajas	Anthony Ochoa Middle School	6/20/2023	6/30/2025
3	Elisabet N.	Barrera	Martin Luther King Jr. Middle School	6/18/2024	6/30/2026
4	Josue Samuel	Barrera	Mt. Eden High School	6/20/2023	6/30/2025
5	Alex(a) Natalia	Cervantes Fernandez	Hayward High School	6/20/2023	6/30/2025
6	Crystal	Guerrero-Lopez	Tennyson High School	6/21/2022	6/30/2026
7	Jeffrey Alexander	Haman	Moreau Catholic High School	6/18/2024	6/30/2026
8	Jacob J.	Jones	Impact Academy of Arts & Technology	6/18/2024	6/30/2026
9	Ruby	Kumar	James Logan High School	6/18/2024	6/30/2026
10	Zoe Nakadama	Kyama	Mt. Eden High School	6/20/2023	6/30/2025
11	Israel J.	Mendez	Chabot College	6/18/2024	6/30/2026
12	Temiloluwa Opemipo	Ogunkanmi	Leadership Public Schools- Hayward	6/20/2023	6/30/2025
13	Julia	Patel	Cesar Chavez Middle School	6/18/2024	6/30/2026
14	Shreya K.	Rathaur	Mt. Eden High School	6/21/2022	6/30/2026
15	Jesus Alejandro	Reynoso	Hayward High School	6/18/2024	6/30/2026
16	Alicia C.	Saenz	Leadership Public School	6/21/2022	6/30/2026
17	Leilani A.	Sandoval	Tennyson High School	6/18/2024	6/30/2026
18	Nishant	Singh	Bret Harte Middle School	6/18/2024	6/30/2026
19	Ananya	Suresh	Moreau Catholic High School	6/21/2022	6/30/2026
20	Michelle	Villalobos	Martin Luther King Jr. Middle School	6/20/2023	6/30/2025
21	Jeremiah Sage	Wong	The Athenian School	6/20/2023	6/30/2025
22	Florencio R.	Babasa*****	Martin Luther King Jr. Middle School	6/18/2024	6/30/2025
23	Arianna M.	Cervantez*****	Castro Valley High School	6/18/2024	6/30/2025
24	Jesus Z.	Delgado*****	Mt. Eden High School	6/18/2024	6/30/2025
25	Liam A.	Felsing*****	Impact Academy of Arts & Technology	6/18/2024	6/30/2025
26	Eliam K.	Ghirmay*****	Impact Academy of Arts & Technology	6/18/2024	6/30/2025
27	Peter	Gikanga*****	Mt. Eden High School	6/18/2024	6/30/2025
28	Khamari T.	Lewis*****	Mt. Eden High School	6/18/2024	6/30/2025
29	Remy	Martin*****	Bret Harte Middle School	6/18/2024	6/30/2025
30	Isla A.	Salgado*****	Hayward High School	6/18/2024	6/30/2025
31	Siddhi M.	Sharma*****	Bret Harte Middle School	6/18/2024	6/30/2025
32	Guadalupe	Zapata*****	Mt. Eden High School	6/18/2024	6/30/2025

*\*Two full terms completed.*

*\*\*Chairperson*

*\*\*\*Vice Chair*

*\*\*\*\*Parliamentarian*



**FOR INTERNAL USE ONLY. DO NOT DISTRIBUTE**

*\*\*\*\*Alternate Member*

*\*Two full terms completed.  
\*\*Chairperson  
\*\*\*Vice Chair  
\*\*\*\*Parliamentarian*

*Updated February 5, 2025*

## **2024-2025 REGULAR MEETING SCHEDULE**

**MEETING LOCATION:** HAYWARD DOWNTOWN LIBRARY  
3rd Floor, Community Learning Center  
888 C Street  
Hayward, California

**MEETING TIME:** 6:30 P.M.

**MEETING DATES:** The Library Commission meets monthly on the 3rd Monday.

**September 16, 2024**

**October 21, 2024**

**November 18, 2024**

**December 16, 2024 -Commission Recess**

**January 27, 2025 – MLK Jr. Day 1/20/25**

**February 24, 2025 – Presidents Day 2/17/25**

**March 17, 2025**

**April 21, 2025**

**May 19, 2025**

**June 16, 2025**

**July 21, 2025**

**August 18, 2025 – Commission Recess**

SAMPLE  
City of Hayward  
Planning Commission Notes

Thursday, \_\_\_\_\_, 20\_\_

- Pledge
  
- Roll Call
  - Quorum? 4/7 required for action
  - Present \_\_; Absent \_\_; recusal \_\_.
  
- Public Comment- items not listed on agenda
  - Open Public comment
  - Close Public comment

---

ACTION ITEMS

---

- Public Hearings
    - Item No. \_\_\_\_\_
      - Staff Presentation/Recommendation
      - Applicant Presentation
      - Commission Questions of Staff and Applicant (*No comments*)
      - Open Public Comment (*Typically 3 min per speaker, 5 min for organizations*)
      - Close Public Comment
      - Commission Discussion
      - Motion
        - First by: \_\_\_\_\_;
        - Second by: \_\_\_\_\_;
      - Debate
      - Motion Re-Stated by Chair- ends debate
        - Any alterations from staff approval? If so,  
List: \_\_\_\_\_
  
    - Vote: \_\_, \_\_, \_\_. [Ayes, Nays, Abstained]
- 
- Commission Reports/ Announcements – No Discussion allowed!
- 
- Approval of Minutes
- 
- Adjournment:  by chair -or-  by vote



COMMISSION SECTION

# Planning Commissioners' Roles and Responsibilities

# The Planning Commission

## Planning Commission

- An Administrative Body that Implements the City's Current Vision based on the General Plan.
- Advises the City Council on Land Use and Policy Issues.

# Responsibilities of a Planning Commission

- To Exercise All Powers and Duties Granted to it by Ordinance or Resolution of the City Council;
- Makes Recommendations to the City Council, for Adoption, General Plan or Specific Plan for the Physical Development of the City;
- Exercise Such Additional Powers and Duties as may be Provided for by Such General Laws of the State of California as are not in Conflict With Local Procedures.
- Administrators the City Zoning Ordinance and Subdivision Ordinance.

# Role of a Planning Commission

## Types of Decisions

- Implementing the Current Vision:
  - Quasi-judicial Decisions:
    - Using the application of pre-existing laws, policies or regulations in a specific factual content
    - Require Findings and Decisions are Appealable
    - Decisions Based on Substantial Evidence

### Types of Quasi-judicial Decisions

Conditional Use Permits	Variances/Exceptions
Design Review	Subdivisions
General Planning Consistency Findings	

# Role of a Planning Commission (cont.)

## Types of Decisions

- Developing the Future Vision:
  - Legislative Recommendations to Council:
    - Adoption of local laws, policies or regulations of general applicability (e.g., applying to the whole)
    - CEQA Applies
    - Cannot be Arbitrary or Capricious or Entirely Lacking in Evidentiary Support
    - Broad Discretion with Public Interest

Types of Legislative Decisions	
Annexations	Zoning Amendments
Specific Plans	Annual CIP
General Planning Amendments	

# A Planning Commissioner

## Planning Commissioner

- Should Always be Thinking About the Vision and How the City Should Grow And Develop
- Focus on the “Big Picture”
- Consider the Long-range Implications of Current Development Trends (e.g., precedent setting)
- Assess the Impact on Future Vision And Overall Quality of Life, Economic Vitality, Prosperity, and Cost of Living

# Role of a Planning Commissioner

## You and the City Council

- You Serve at the Pleasure of the City Council
- Communicating with the City Council will Take Various Forms
  - Council-Commission Liaison
  - Study Sessions and Annual Workshops
  - Policy and Procedure Training Sessions
  - City Events
- Opportunity to Exchange Ideas, Thoughts and Opinions
- Ensure Consistency of the City's Vision for the Community



# Role of a Planning Commissioner

## You and Staff

- Link Between the Planning Commission and Staff
  - Brings Items Before Commission When Ready
  - Make Changes, Additional and Suggestions
  - Overall Coordination of the Commission
- A Good Planning Commission will:
  - Read Staff Reports and Conduct Site Visit
  - Do Not Blindside Staff – Call Beforehand, Allow Time to Research
  - Establish a Collaborative Working Relationship
  - Be Respectful

# Role of a Planning Commissioner

## You and the Public

- Know Your City's Policy for Communicating with the Public
  - Talking with the Public or an Applicant? If so.....Report it!
  - Who can Communicate on Behalf of the Commission?
- Interactions with the Public Outside of Meetings
  - Be Seen
  - Attend City Events
  - Speak with residents in the City and encourage their Input
  - Encouraged to Attend Events put on by Local Organizations

# Role of a Planning Commissioner

## Personally

- Be a Role Model
- Be Informed
  - Read Agenda Materials and Be Prepared
  - Ask Questions and Evaluate the Information Presented
  - Know What is Going on in the Community
  - Attend City Council Meetings
- A Liaison Between the City Council and the Citizens

# Responsibilities of a Planning Commissioner

- Maintain Regular Attendance Planning Commission Meetings
- Review Staff Reports and Recommendations
  - Mark Them and Prepare Questions
- Apply Applicable Laws and Ordinances
  - Every Applicant has a Right to be Judged by the Laws in Place at the Time
  - Evaluate Consistency with Adopted Plans
- Speak with the Applicant
- Conduct Site Visit

# Responsibilities of a Planning Commissioner

- Participate in Proceedings
  - Be an Active Listener
  - Ask Questions
  - Voice Opinions and Make Recommendations
- Take Notes During Meetings and Review Minutes for Accuracy
- Be Polite And Courteous to Staff, the Public and Other Commissioners



# COMMUNITY SERVICES COMMISSION

New Commissioner Orientation Guide  
FY 2023 - 2024

## **TABLE OF CONTENTS**

### **FY 2023 - 2024 Community Services Commission Orientation**

1. Introduction and Community Services Commission Overview
  - a. Overview of Community Services Division, including Staff Roster
  - b. Organizational Values
2. Rules and Training to Support Community Services Commission
  - a. Brown Act
  - b. Conflicts of Interest
3. Role of the Community Services Commissioner
  - a. Role and expectations
    - i. Meeting Schedule
    - ii. Accessing Agenda and Minutes
    - iii. Bylaws
  - b. Community Agency Funding Process
    - i. Overview
    - ii. Best Practices
4. City Council's Appointed Officials Handbook
5. City of Hayward's Strategic Roadmap

## **Community Services Commission**

Staff Liaison and Primary Contact

Dr. Amy Cole-Bloom, Acting Community Services Mgr., [Amy.Cole@hayward-ca.gov](mailto:Amy.Cole@hayward-ca.gov), 510/583-4201

### Additional Staff who provide support to the Community Services Commission

Regina Youngblood, Assistant City Manager, [Regina.Youngblood@hayward-ca.gov](mailto:Regina.Youngblood@hayward-ca.gov), 510/583-4304

Carol Lee, Management Analyst II, [Carol.Lee@hayward-ca.gov](mailto:Carol.Lee@hayward-ca.gov), 510/583-5343

Rick Rivera, Management Analyst II, [Rick.Rivera@hayward-ca.gov](mailto:Rick.Rivera@hayward-ca.gov), 510/583-4003

Emily Hwang, Management Analyst I, [Emily.Hwang@hayard-ca.gov](mailto:Emily.Hwang@hayard-ca.gov), 510/583-4252

Alejandro Mora, Community Program Specialist, [Abel.Mora@hayward-ca.gov](mailto:Abel.Mora@hayward-ca.gov), 510-583-4248

Evelyn R. Olivera, Senior Secretary, [Evelyn.Olivera@hayward-ca.gov](mailto:Evelyn.Olivera@hayward-ca.gov), 510-583-4311



## Our Organization. Our Values.

# CARING



We are caring by questioning everything and working to find innovative solutions for improving our work and the lives of our residents



We are caring for one another by being supportive, compassionate, kind, connected, and respecting of other's diverse perspectives



We are caring for ourselves by maintaining and respecting a healthy work-life balance

# OPENNESS



We are open to trying new things, working together and asking tough questions



We are open in our communication with one another by providing and receiving honest and constructive feedback and praise



We are open to asking for what we need as individuals

# INTEGRITY



We have integrity by ensuring high standards and accountability to the organization and to the community



We have integrity in our interactions with each other by remaining honest and transparent in our communication and decisions



We have integrity by taking ownership and accountability for our work and its impact on others





CITY OF  
**HAYWARD**  
HEART OF THE BAY

October 16, 2019

**Ralph M. Brown Act:**

- Enacted in 1954
- The Brown Act requires California governments to have public meetings
- The Brown Act applies to City of Hayward legislative bodies such as the City Council, Planning Commission and Youth Commission
- Meetings must have posted agendas, public meeting spaces that are ADA-accessible
- No secret meetings unless specifically authorized under the Brown Act such as pending litigation, labor negotiations, etc. 'Secret' meetings are misnomer because the Brown allows 'closed' sessions if correctly agendized
- No texting or use of electronic devices during meetings
- Do not text or email or discuss the commission's business outside of a public meeting — communicate with staff
- Quorum must be present to start and continue meetings — a quorum is a majority of the commission's members
- Meetings should allow for full discussion by all members, and members of the public are entitled to speak on issues
- Commission should select a chairperson and vice-chairperson to lead meetings — chairperson should be fair and flexible
- The commission 'acts' by the making and seconding of motions, followed by a vote to carry or defeat the motion — a motion must be carried by a majority of those members voting on it
- The commission should have a secretary to maintain a record of the actions taken-these are called 'minutes' and the minutes of a prior meeting should be available at the subsequent meeting

**OFFICE OF THE CITY ATTORNEY**

777 13 STREET, HAYWARD, CA 94541-5007  
TEL: 510/583-4450 • FAX: 510/583-3660 • TOO: 510/247-3340

**California Public Records Act:**

- Enacted in 1968
- Public Records Act requires public access to most records generated by public agencies, including the Youth Commission
- Emails, texts, reports are considered public records if they discuss public business
- No reason or justification has to be given in order to make a public records request
- City receives thousands of requests every year

## CONFLICT OF INTEREST

All Community Services Commissioners are subject to the provisions of California Law, such as [Chapter 7, Title 9, of the California Government Code](#), relative to conflicts of interest, and to the conflict of interest code adopted by resolution of the Hayward City Council. If a Community Services Commissioner, after receiving the agenda packet, believes or is aware that the Community Services Commissioner has a potential conflict, the Community Services Commissioner should contact the Community Services Manager, who will confer with the City Attorney prior to the meeting. Any Community Services Commissioner who has a conflict of interest shall abstain themselves from the related agenda item during the debate and voting on the issue.

### FY 2023 – 2024 Council Authorized Funded Agencies

A-1 Community Housing Services	Hayward Area Historical Society
05 Sikh Seva	Hayward Arts Council
100K Trees for Humanity	Hayward Business Association - Latin Jazz Festival
Abode Services - Impact	Hayward Business Association - Vintage Alley Car Show
Alliance Community Wellness dba La Familia	Hayward Municipal Band
Alzheimer's Services of the East Bay	Horizon Services, Inc.
Bay Area Community Health	Immigration Institute of the Bay Area
BOSS	Kumu Hula Association
Centro Community Partners	La Alianza De Hayward
Centro Legal de la Raza	Legal Assistance for Seniors
Community Child Care Council of Alameda County	Love Never Fails
Community Resources for Independent Living	Mercy Retirement & Care Center
Crisis Support Services of Alameda County	Pacific Chamber Orchestra
Downtown Streets Inc	Rebuilding Together Oakland
East Bay Agency for Children	Ruby's Place
Eden Council for Hope and Opportunity	RydeTrans
Eden Information & Referral	Service Opportunity for Seniors
Eden United Church of Christ	Spectrum Community Services
Eden Youth and Family Center	Sun Gallery
El Puente Comunitario	The Araminta Ross Foundation
Family Violence Law Center	Treasures Unleashed
Filipino Asian Basketball	Velda Goe
First Presbyterian Church of Hayward dba South Hayward Parish	West Coast Blues Society
Habitat for Humanity East Bay/Silicon Valley, Inc.	Youth Orchestra of Southern Alameda County (EBYO)

# INTERNAL AGENDA PLANNING CALENDAR

## Sample

<b>FY 2023 – 2024</b>
<b>COMMUNITY SERVICES COMMISSION AGENDA PLANNING CALENDAR</b>
<b>OCTOBER 18, 2023</b>
CSC Elections
CAP/CSC Ad Hoc Subcommittee Formal Recommendation to Council
CSC Conversations on Racial Equity & Public Safety
<i>FYI - Bidder's Conference – November 1, 2023</i>
<b>NOVEMBER 15, 2023</b>
Bidder's Conference De-brief and ARC Selection
CSC Conversations on Racial Equity & Public Safety – Ms. Aisha Knowles Russell City Reparative Justice Project discussion
<b>DECEMBER 20, 2023</b>
CSC Conversations on Racial Equity & Public Safety
<b>JANUARY 2024 – No Meeting</b>
<i>FYI: ARC Interviews Scheduled for Saturday, January 20<sup>th</sup> &amp; January 27<sup>th</sup></i>
<b>FEBRUARY 21, 2024</b>
FY 2024 – 2025 Community Agency Funding Process CSC Draft Funding Recommendations
CSC Conversations on Racial Equity & Public Safety
<i>FYI: OPEN: Public Comment Period (2/21/24-3/20/24)</i>
<b>MARCH 20, 2024</b>
FY 2024 – 2025 Community Agency Funding Process CSC Final Funding Recommendations
CSC Conversations on Racial Equity & Public Safety
<i>FYI: END: Public Comment Period (2/21/24-3/20/24)</i>
<i>FYI: 30-Day Notice: City Council Public Hearing FY 2024-2025 Funding Recommendations</i>
<b>APRIL 2024 – No Meeting</b>
<i>FYI: April 2: City Council Work Session (Commissioner attendance encouraged)</i>
<i>FYI: April 23: City Council Public Hearing and Adoption of Funding Recommendations (Commissioner attendance encouraged)</i>
<b>MAY 15, 2024</b>
Debrief FY 2024 – 2025 Community Agency Funding Process
CSC Conversations on Racial Equity & Public Safety
<b>JUNE 19, 2024</b>
Adoption of FY 2024-2025 Agenda Calendar
CSC Conversations on Racial Equity & Public Safety

## **Access Your Meeting Minutes**

### **How to Access Meeting Minutes**

There are three ways to access the meeting Minutes.

First, you will receive an email from the Community Services Staff approximately one week prior to the regular meeting. This email will have a link to the minutes which can be clicked for easy access.

Second, you can go to the following link (<https://hayward.legistar.com/Calendar.aspx>) to access the meeting Minutes directly.

Third, you can find the meeting Minutes through the City of Hayward's home page by following these steps:

- Go to the City of Hayward's website (<http://www.hayward-ca.gov/>)
- Click on "Your Government" on the upper right-hand side of the page
- Click on "Meetings and Minutes"
  - You will be taken to a page where you can either search for minutes or scroll down to find the department and locate the Minutes

## **Access Your Meeting Agenda**

### **How to Access Meeting Agendas**

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**CITY OF HAYWARD**  
**COMMUNITY SERVICES COMMISSION**

**APPROVED 11/16/22**

**ARTICLE I PREAMBLE**

**SECTION 101. CONFLICTS.**

In the event of any conflict between these bylaws and the Hayward City Charter, Hayward Municipal Code, and City Council Resolutions, then the Hayward City Charter, Hayward Municipal Code, and City Council Resolutions shall prevail.

**SECTION 102. MISSION.**

The Community Services Commission (“CSC” or “Commission”) serves as an advisory body to the City Council of the City of Hayward (“COH”). The mission of the CSC is to:

1. Provide advice and consultation to the Hayward City Council regarding the social, economic, and humanitarian aspects of community development issues within the City;
2. Encourage the development of a planned and orderly approach to the development of community services in the City;
3. Identify the needs for community services, for the coordinated delivery of such services to residents and to avoid duplication and conflict of effort;
4. Support City Council priorities to help solve community problems;
5. Serve as the citizen participation mechanism of federally funded, financed or aided projects; and
6. Create and sustain an environment which will encourage and bring about mutual understanding and respect and to discourage and prevent any and all recognized discriminations based upon race, sex, religion, national origin, age, handicap, sexual orientation, and all other protected categories of persons, if any, under federal and state law, and particularly those discriminations in the areas of housing, employment, and education.

**ARTICLE II DUTIES AND RESPONSIBILITIES**

**SECTION 201. GENERAL DUTIES AND RESPONSIBILITIES.**

The Community Services Commission (“CSC”) and its members shall have the duties and responsibilities to:

1. Regularly attend meetings and vote on items before the Commission.
2. Adopt rules and regulations for the conduct of its business and for the time and place of its meetings.
3. Assist in developing objectives and goals of the Commission.
4. Perform other related duties as directed by City Council.

## SECTION 202. FUNDING RECOMMENDATION DUTIES AND RESPONSIBILITIES.

The Community Services Commission ("CSC") and its members shall have the duties and responsibilities to:

1. Accept and review proposals for City-administered funding as directed by City Council, including but not limited to Community Development Block Grant ("CDBG") and Social Services Program funding.
2. Develop criteria for Announcement of the availability of funds.
3. Develop application guidelines.
4. Review criteria used to make funding recommendations.
5. Prepare and submit priority recommendations to City Council.

## ARTICLE III MEMBERS

### SECTION 301. MEMBERS

The Community Services Commission shall consist of no fewer than seventeen (17) members, who are appointed by City Council.

### SECTION 302. QUALIFICATIONS.

In order to be eligible for appointment to the Commission a person shall be a resident of the City of Hayward. The members of the Commission shall be appointed by the City Council.

### SECTION 303. TERM LIMITS.

By City Resolution 73-235 C.S. the City Council established a policy of a limitation of not more than two and one-half (2 ½) consecutive full terms of four years apiece on any one board or commission for service thereon by members thereof.

### SECTION 304. VACANCIES, ABSENCES, AND ATTENDANCE.

In City Resolution 87-323 C.S. the City Council repeated and implemented Section 905 of the City Charter:

1. **DECLARING VACANCIES.** If a member of a board or commission absents themselves from three consecutive regular meetings of such board or commission, or ceases to be a Hayward resident, their office shall become vacant and shall be so declared by the Council.
2. **EXCUSED ABSENCE.** Boards and commissions shall not excuse or otherwise grant permission to their members to be absent from any regular meeting of the board or commission.
3. **ATTENDANCE** The City Council shall review the attendance records of all board and commission members in May of each year. Unless extraordinary conditions exist, the City Council shall remove all board or commission members who have not attended at least 75 percent of the meetings of the board or commission upon which they serve, which are subject to the Brown Act.

If a Commissioner misses two consecutive meetings, the Community Services Division will notify the City Clerk of said absences. The City Clerk will notify the Commissioner in writing (per Council direction) reminding them of the two consecutive meetings missed



and that one more meeting missed will result in automatic removal from the board or commission.

After three consecutive absences or in the event attendance at 75 percent of meetings is not maintained the Office of the City Clerk will notify the Mayor either of the automatic vacancy or recommending the Commissioner office be declared vacant because of attending less than 75 percent of meetings and requesting that an appointment be made to fill the vacant office.

#### SECTION 305. ROLL CALL.

To be counted as present, a Commissioner shall be in attendance during all action items listed on the agenda.

### ARTICLE IV OFFICERS

#### SECTION 401. OFFICERS.

The Commission shall elect from the CSC members the Chairperson, Vice-Chairperson, and Parliamentarian at the September regular meeting and install them at the October meeting of every year to serve a term of one year or until their successors have been elected. Elected Officers may succeed themselves one or more times, but generally not more than twice.

### ARTICLE V DUTIES OF OFFICERS

#### SECTION 501. CHAIRPERSON.

The Chairperson shall preside at the regular and special called meetings of the Commission. They shall perform all duties incident to their office and such other duties as may be required by the Hayward City Charter, Hayward Municipal Code, City Council Resolutions and these Bylaws. The Chairperson shall appoint all committees and shall be an ex officio member of all committees.

#### SECTION 502. VICE-CHAIRPERSON.

The Vice-Chairperson shall act in the absence of the Chairperson or in the event of the Chairperson's inability or refusal to act. The Vice-Chairperson shall also serve as the Chairperson of the Public Services Application Review Committee.

#### SECTION 503. PARLIAMENTARIAN.

The Parliamentarian shall act in the absence of the Chairperson and Vice-Chairperson, or in the event of the Chairperson or Vice-Chairperson refusal to act. The Parliamentarian shall provide expert guidance related to the bylaws and keep order within the CSC meetings.

### ARTICLE VI STAFF

#### SECTION 601. STAFF.

The Community Services Manager or designated staff members shall provide staff support to the CSC and shall plan, organize and direct the activities of the staff in support of the mission of the CSC. As needed, the Community Services Manager shall work in coordination with the CSC Chairperson to prepare the agendas for CSC meetings.

### ARTICLE VII MEETINGS

#### SECTION 701. REGULAR MEETINGS.

The regular meetings of this Commission shall be held on the third (3rd) Wednesday of every month unless the Commission is notified at least seventy-two (72) hours in advance of no meeting. All agendas for the CSC shall be posted at least seventy-two (72) hours before each regular meeting in the manner set forth in the Rules and Regulations of the CSC and in accordance with the Brown Act.

#### SECTION 702. SPECIAL MEETINGS.

Special meetings may be called at any time by the presiding officer or a majority of the Commission by delivering personally or by mail, a written notice. All members shall be notified at least forty-eight (48) hours prior to the special meeting. The call and notice shall specify the time and place of the special meeting and provide a copy of the agenda. All agendas for special meetings shall be posted at the place designated by City Council.

#### SECTION 703. QUORUM.

The quorum for a regular or special meeting shall be a majority of the currently seated membership of this Commission.

#### SECTION 704. VOTING.

Each member of the Commission shall be entitled to one vote and shall have the right to move or second on any agenda items brought to a vote during a regular or special meeting at which the member is present. The affirmative or negative vote of a simple majority of the seated members shall be necessary for it to take any action.

#### SECTION 705. PUBLIC COMMENT.

In accordance with the Bagley-Keene Act and the Brown Act, the presiding officer shall make explicit mention of the public's ability to comment on individual agenda items. Public comment shall be limited to 3 minutes.

### ARTICLE VIII AMENDMENTS

#### SECTION 801. AMENDMENTS.

Proposed amendments to these Bylaws may be submitted in writing by any Commission member at a regular or special meeting. A copy of the proposed amendments shall be furnished to each Commission member at least 28 days prior to adoption or rejection. Approval by a two-thirds (2/3) affirmative vote shall constitute adoption of the amendment.

## ARTICLE IX COMMITTEES

### SECTION 901. AD HOC COMMITTEES.

The CSC Chairperson may create standing or ad hoc committees from time to time as circumstances warrant. Only CSC members may serve on committees, and the CSC Chairperson shall appoint the members who serve on the committees.

### SECTION 902. INFRASTRUCTURE APPLICATION REVIEW COMMITTEE.

The Infrastructure Application Review Committee (ARC) shall consist of no less than five (5) Commissioners appointed by the Commission Chairperson. The duties of the Infrastructure ARC are: to review all Economic Development and Facilities applications for funding, to interview applicants and to develop recommendations of funding for the CSC.

### SECTION 903. PUBLIC SERVICES APPLICATION REVIEW COMMITTEE.

The Public Services Application Review Committee (ARC) shall consist of no less than five (5) Commissioners appointed by the Commission Chairperson. The duties of the Public Services ARC are: to review the Social Services and CDBG Public Services applications for funding, to interview applicants and to develop recommendations of funding for the CSC.

### SECTION 904. ARTS, MUSIC, AND CULTURAL EVENTS APPLICATION REVIEW COMMITTEE.

The Arts, Music, and Special/Cultural Events Application Review Committee (ARC) shall consist of no less than five (5) Commissioners appointed by the Commission Chairperson. The duties of the Arts, Music, and Special/Cultural Events ARC shall be: to review all related applications for funding, to interview applicants and to develop recommendations of funding for the CSC.

### SECTION 905. APPOINTMENT LIMITATIONS.

Commissioners may be assigned to more than one Application Review Committee, however no one Commissioner shall be named to all three (3) Application Review Committees within a funding cycle.

## ARTICLE X EFFECTIVE DATE

The foregoing bylaws of the CSC are adopted by the CSC on November 18, 2022 and made effective as of this date.

Drafted 11/16/2011

Updated 12/21/2011

Adopted 3/22/2012

New Draft: 3/18/2015

Revised Draft: 5/20/2015

Adopted: 7/15/2015

Revised Draft: 9/21/22

Adopted: 11/16/22

# Community Agency Funding Process



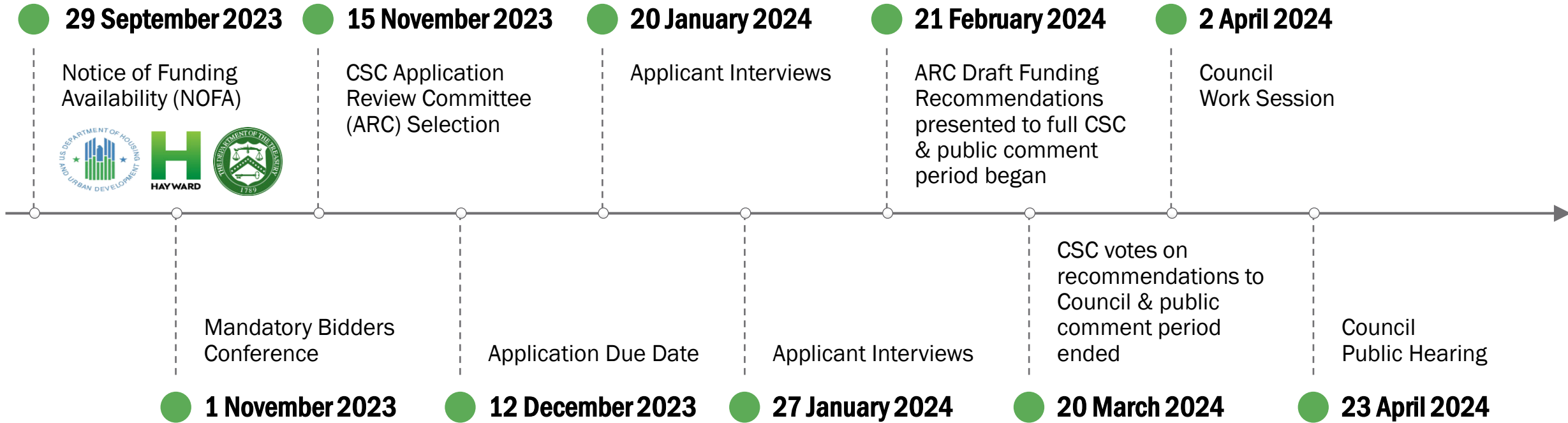
# Background

- The CSC serves as an advisory body to the City Council
- Makes recommendations to the Council for how a portion of the City's General Fund and the City's federal Community Development Block Grant (CDBG) entitlement award should be allocated through the Community Agency Funding Process

# Community Agency Funding Process

- Notice of Funding Availability (NOFA) posted
- CSC and staff review all eligible applications
- CSC Chairperson appoints three Application Review Committees (ARCs) by funding category
- CSC interviews applicants in their respective ARCs
- Each ARC prepares preliminary funding recommendations for full CSC consideration
- On behalf of CSC, staff present final funding recommendations to Council at a Council Work Session and then Council Public Hearing

# The Community Agency Funding Process Timeline



# Application Review Committees

*Typically held across two Saturdays in January*



**Public & Social Services**  
(CDBG & General Fund)



**Infrastructure & Economic  
Development**  
(CDBG)



**Arts, Music, & Cultural Events**  
(General Fund)



# **Community Services Commission Community Agency Funding Best Practices**

## **Community Agency Funding Process**

### **Mandatory Bidder's Conference**

The Annual Funding Forum, organized by staff for potential applicants, is held each fall. Staff holds an in-person meeting with all the potential applicants to discuss the released Notice of Funding Availability. Staff provides an overview of the application requirements and addresses any questions or concerns that arise. Staff makes themselves available for additional technical assistance throughout the application process.

### **Application Review Committees (ARCs)**

Each year the CSC members self-select into one of the three available Application Review Committees: Arts & Music, Social Services, and Economic Development & Infrastructure. The CSC Vice Chair will serve as the Chairperson of the Social Services ARC and CSC Chair appoints the Chairpersons for the remaining two ARCs.

Applicant interviews with the ARC are scheduled to take place on two weekends in January/February. During the interviews, each applicant is given the opportunity to briefly respond to ARC members' follow-up questions pertaining to that applicant's proposal for funding.

The ARC process is considered an excellent way for Commissioners to gain insight into the variety of programs funded through the Community Agency Funding process. It is generally required that all Commissioners serve on one ARC, and no more than two.

After the interviews, the ARC develops initial recommendations to be presented to the CSC. The entire CSC is responsible for developing the CSC's Final Recommendations for Funding, which is presented to City Council in April/May.

### **Preparation for ARCs**

All CSC members should review all applications in City Data Services by the deadline provided by staff. Any questions submitted online for the agencies will be collated by staff and provided to the ARC members on the day of to be able to ask the agency.

All agencies will be asked the same preliminary questions and will receive these in advance of the ARC. Agencies are instructed to send their most knowledgeable staff to answer questions at the interview, as the agencies are instructed that no subsequent information can be provided beyond the scope of the interview.

# Community Services Commission

## Community Agency Funding Best Practices

### Day of the ARCs

1. Time will be allocated at the beginning of the interview day with staff to provide an overview of what to expect, including an outline of the day and a reminder of decision-making criteria.
2. The Chairperson of the ARC will be predesignated by the CSC Chair and serve as the neutral facilitator. The ARC Chairperson will welcome the interviewee, explain the parameters of the interview, and then facilitate Commissioner questions.

#### FACILITATION GUIDE

A facilitator's responsibility is to make a process easier. Good facilitators understand their group and adopt a customized approach while working in the group. Below are useful competencies to take into consideration when facilitating an ARC:

**Communication Skills:** A good facilitator encourages open communication and ensures inclusion whereby each member can participate. Useful skills include scanning for nonverbal cues and paraphrasing for clarification. The facilitator should ensure that the group is focused and not deviating from the topic.

**Active Listening:** A facilitator should use active listening to ensure comprehension of the message that the speaker is conveying. Useful skills include maintaining body language that makes the group feel assured (e.g. open posture, making eye contact, nodding).

**Rapport Building:** A facilitator should be able to connect with the group. Trust and empathy are essential for building a relationship with the group. Useful skills include finding common goals and interests, shared values, and outlook.

**Developing Synergy:** A skilled facilitator knows how to bring the participants together based on shared interests and goals. Useful skills include encouraging sharing of views, respect, and reaching consensus. When the facilitator wants to contribute ideas, it is recommended that they solicit feedback from the group and then contribute to not sway or overpower the conversation.

**Effective Techniques of Questioning:** Facilitators ask questions primarily to probe the understanding of the interviewees and the ARC members to help them in critical thinking and for evaluating information.

# **Community Services Commission**

## **Community Agency Funding Best Practices**

3. Each applicant will have an opportunity to present for 10 minutes, followed by 10 minutes of questions from the ARC members.
4. After meeting with all applicants, staff will facilitate a discussion with the ARC members to formulate preliminary recommendations before leaving for the day.

### **Recommendations for City Council**

The City Council is best served by a unified set of recommendations from the CSC. Each Application Review Committee should aim to reach a consensus on their preliminary funding recommendations.

**February:** At the following CSC meeting, typically held in February, the Chair for each ARC will share their respective recommendations and rationale.

**March:** At the CSC meeting, all members will collectively review and make final funding recommendations for all the categories for Council's review.

**April:** The standing CSC meeting is typically canceled, and CSC members are encouraged to attend the Council work session reviewing and commenting on the funding recommendations by Council. A strong attendance by the Commissioners helps to demonstrate how serious the CSC members take their responsibilities. Staff will provide a report to the Council about the CSC's process and funding recommendations. CSC members are welcome to speak during public comment to emphasize key points and may be called upon to answer questions.

**April/May:** A few weeks after the initial work session, a Public Hearing is conducted in which staff integrate any feedback from the work session and Council finalizes the funding recommendations. CSC members are also encouraged to attend if they would like to emphasize any key points during the public comment period.

### **End of Year Debrief**

During the summer after the funding process, the CSC debriefs on the funding process and discuss what worked well and what could be improved on:

- Encouraging new applicants
- Improving the CSC review process
- Improving the application process
- Additional pertinent components of Community Agency Funding process



**CITY COUNCIL'S**  
**APPOINTED OFFICIALS HANDBOOK**

**COMMISSIONS, COMMITTEES AND  
KEEP HAYWARD CLEAN AND GREEN TASK FORCE**

**SEPTEMBER 2021**



## WELCOME

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On behalf of the City Council, we want to express our appreciation for your interest in serving the City of Hayward. We have developed this Handbook to help you understand the requirements for service on the City's Commissions/Committees/Task Forces. In addition to the Handbook, the City's website [www.hayward-ca.gov](http://www.hayward-ca.gov) provides useful information.

Welcome to the City! We look forward to working with you.

**Office of the City Clerk**

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## INTRODUCTION TO CITY GOVERNMENT

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The City of Hayward operates within a Council-Manager form of government. ([City Charter Section 300](#))

The City of Hayward Council is composed of six Council Members and a Mayor who are elected by the qualified voters of the city at large. The Mayor is the official head of the city for all ceremonial purposes, presides at the meetings of the Council, and signs official documents of the Council. The powers of the Council are subject to the provisions of the City Charter and the Constitution of the State of California. The City Manager is the head of the administrative branch of the city government.

City commissions are established by the City Charter, the Municipal Code, and the City Council. The Planning Commission is established by the City Charter. All other commissions are established by ordinances. The City Council may also establish committees and task forces by resolution.

Special purpose Advisory Committees are formed at the discretion of the City Council to provide greater public participation in the development of plans and recommendations in relation to a committee's specific assignment. ([City Charter 900](#))

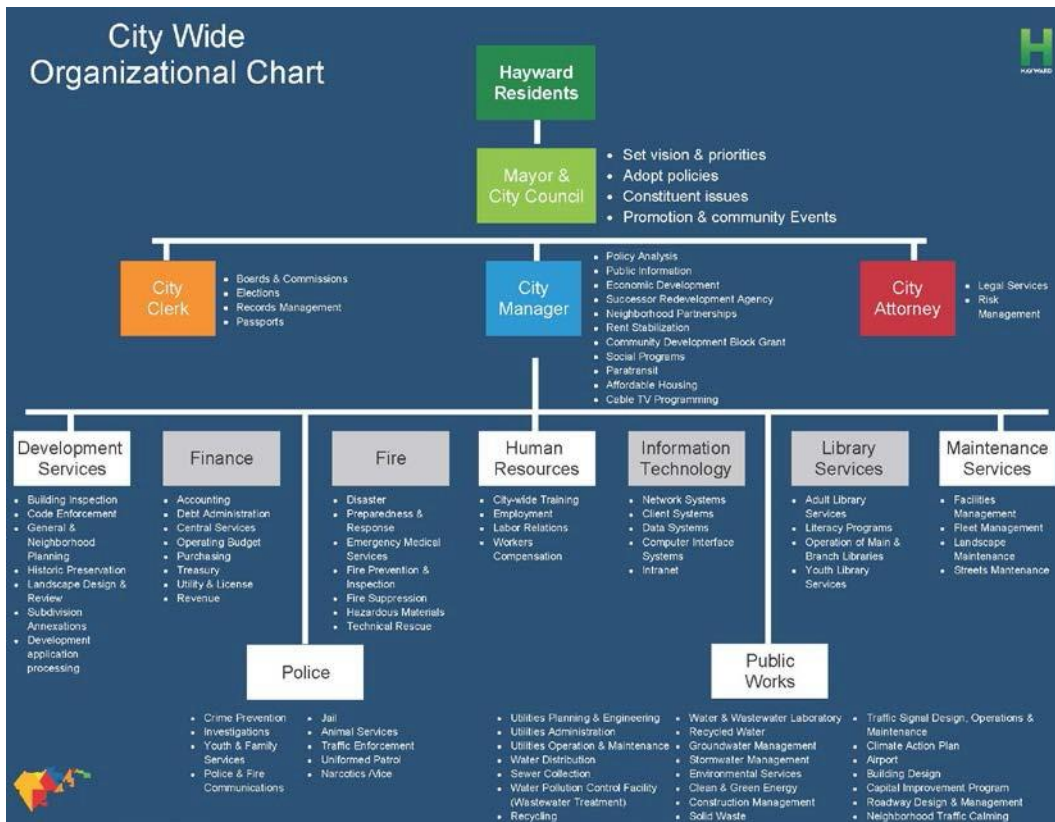
# CITY OF HAYWARD ORGANIZATION

City Council members are elected directly by Hayward residents. The City Council is made up of one Mayor and six Council Members.

The Mayor and City Council adopt and implement legislation and policy, as well as appoint the City Manager, City Attorney, City Clerk, and the various commissions.

The City Manager is the City’s chief executive officer and appoints all other City staff including department heads. The City Manager is responsible for the daily administration of the City government and provides direction and leadership to the departments in implementing the policies of City Council.

Follow the link below for the City of Hayward’s Organizational Chart.



<https://www.hayward-ca.gov/sites/default/files/pictures/COH-Org-210907.pdf>



## CITY OF HAYWARD CHARTER

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The City of Hayward Charter was adopted on March 7, 1956. The Charter defines the form of government and its functions and regulations.

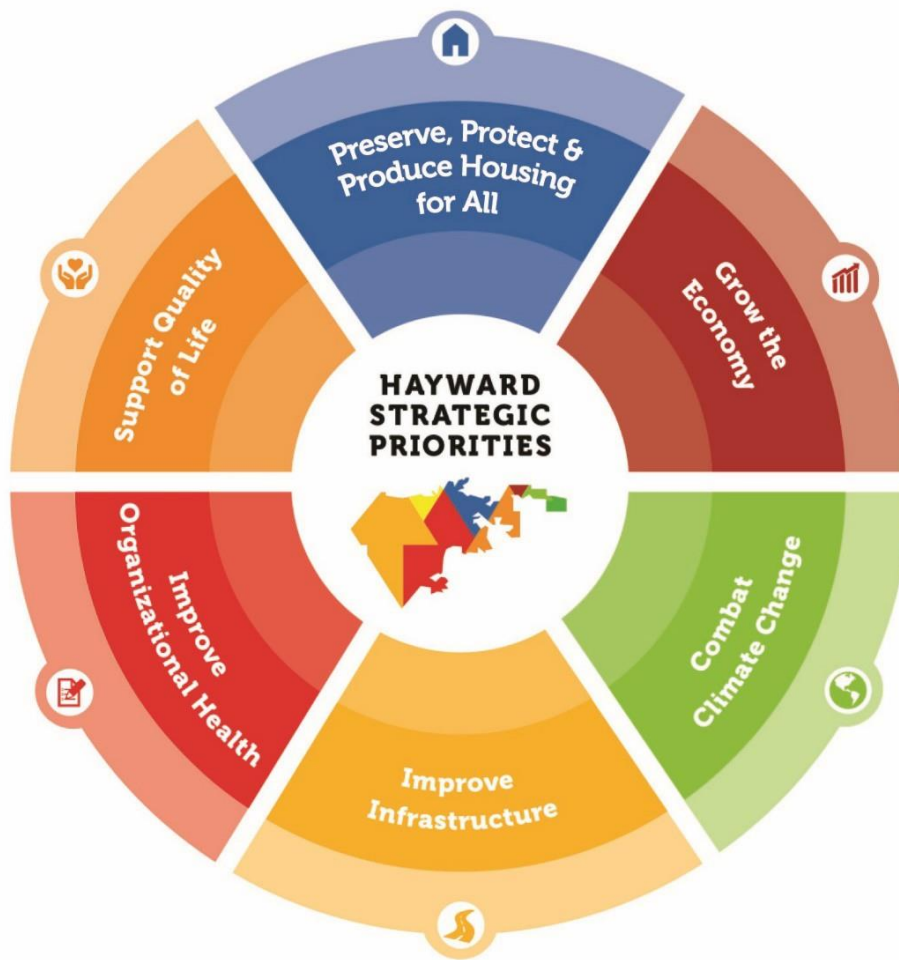
Follow the link below for the City of Hayward Charter.

<https://www.hayward-ca.gov/your-government/codes-regulations>

## HAYWARD STRATEGIC PRIORITIES

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In approving the annual budget for the City, the Council establishes priorities. In June 2021, the City Council adopted an updated Strategic Roadmap, created with input from the community, the City Council, and City staff, which defines a shared vision for the city and identifies the top priorities and projects that need to happen in the coming years to address current gaps in achieving that vision.



<https://www.hayward-ca.gov/sites/default/files/Attachment%20III%20Strategic%20Roadmap.pdf>

## CITY OF HAYWARD BUDGET

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The City Council adopts an annual City budget for all services. The Council holds budget work sessions in May and June, which are open to the public. The draft budget is also scheduled for a public hearing and adoption in June at a City Council meeting.

For comprehensive information regarding the city budget, follow the link below.

<http://www.hayward-ca.gov/your-government/documents/budget-documents>

## GENERAL INFORMATION

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### ***Application Procedure and Membership:***

Volunteer service provides a way for residents who have special experience or interest to participate in the City's decision-making process by advising the City Council and staff on numerous topics.

Applications for service on any Commission, Committee, or Task Force (Council's Appointed Officials) are valid for one year from the date of receipt and are public record. Applicants for service on the Community Services Commission are required to complete supplemental forms, which are also public documents.

State and local law require that selected members abstain from participation in decisions that may affect financial interests, including sources of income, interests in real property or investments. If appointed, certain members may be required to fill out a disclosure statement which identifies certain financial interests beginning with the immediate twelve-month period prior to the appointment.

The Community Services Commission supplemental forms will require applicants to identify any organizations, associations, or entities by which they are employed or associated that might be affected by decisions of these bodies.

Planning Commission and Community Services Commission applicants will be required to file the Fair Political Practices Commission Statement of Economic Interests (Form 700), which is a public record.

It is the City Council's desire for applicants for the Planning Commission to have applicable experience on other elected/appointed legislative bodies.

Application forms and information that describe duties and time commitments are available from the Office of the City Clerk. Information about the number of vacancies is available from the Office of the City Clerk or on the [City's Commissions & Task Forces webpage](#).

The City Clerk conducts recruitments for the Council's appointed bodies from April to July annually, with interviews in July and appointments each September. Recruitment for the Hayward Youth Commission is conducted each April and May, with interviews and appointments annually in June.

Passage of Measure OO in the November 2020 municipal election amended the Hayward City Charter to remove language restricting appointment to City commissions and other bodies to registered voters. The change opens service on City Council-appointed advisory bodies to City residents who are not registered or who are ineligible to be registered to vote.

To be eligible for appointment to any Commission, Committee or Task Force (Council's Appointed Officials) a person shall be a resident of the incorporated area of the City of Hayward. (City Charter Section 900)

The City Council will interview eligible applicants at a special Council meeting and will confirm the selections made at a regular Council meeting which will be followed by the administration of Oath of Office by the City Clerk.

No member of any commission shall be a member of any other commission or hold any paid office or employment in the City government, ([City Charter Section 900](#))

The Council's appointed officials serve without compensation but may receive reimbursement for necessary traveling and other expenses incurred on official duty when such expenditures have received authorization by the Council. ([City Charter Section 905](#))

Before members can participate as voting members of their respective bodies, they must take the Oath of Office as required by law. The City Clerk or her designee administers the Oath of Office to appointed members.

### ***Term of Office:***

All members are appointed by the City Council, and they could be subject to removal by a motion of at least four affirmative votes of the Council. The Council's appointed officials shall serve for no more than two and one-half consecutive full terms of four years on any one commission. ([Resolution 73-235](#))

Section 902 of the Charter of the City of Hayward does not apply to the term of office for members of the Keep Hayward Clean and Green Task Force because the Task Force is not a board, commission, or committee as contemplated by the Charter. Its purpose is focused on improving the quality of life in the many diverse neighborhoods in the City through Saturday and other clean-up activities. The Task Force is not delegated with legal or jurisdictional responsibilities as are other boards, commissions, or committees created by the Council.

The term of office for the City's appointed officials shall terminate when successors are appointed.

Members who have successfully completed one term on one of the Council's appointed bodies may be eligible to be re-appointed to a second term. The Council would only interview candidates seeking re-appointment who have failed to meet the required performance criteria. The performance criteria consist of the following: attending no less than seventy-five percent of all regular meetings held; complying with training and statutory requirements; being an active and focused participant; and being prepared for meetings, e.g., reviewing the materials in the agenda packet. The Council /Staff Liaison, in concert with the Chair, will provide performance data to the CityClerk, who in turn will forward it to the Council as part of the re-appointment process at the same time applications for new candidates are received. Current members, identified as necessitating an interview, would be invited to interview with the City Council at a special meeting preceding the interviews for prospective members.

Current commission members who have served a minimum of two full consecutive terms on the same body will be eligible to request consideration of appointment to a different body. Their request will be considered by City Council during the annual interviews.

### ***Attendance and Vacancies***

If a member of a commission absents themselves from three consecutive regular meetings of such commission, unless by permission of such commission expressed in its official minutes, or is convicted of a crime involving moral turpitude, or ceases to be a qualified resident of the City, their office shall become vacant and shall be so declared by the Council. ([City Charter Section 905](#))

Members shall be required to attend no less than seventy-five percent of all regular meetings held. If a member misses two consecutive meetings, the staff liaison designated to the Council's appointed body will notify the City Clerk of said absences. The City Clerk will notify the member in writing that failure by a member to attend three consecutive regular meetings of a commission will be cause for Council to declare the member's position vacant. After three consecutive absences or in the event attendance at seventy-five percent of meetings is not maintained, the City Clerk will notify the Council. Attendance records will be reviewed by the City Clerk and will issue notices to members with attendance issues. The City Clerk will present an attendance record to the Council during the annual interview process for the Council's appointed bodies.

The Keep Hayward Clean and Green Task Force considers its "Monthly Clean-Up Events" as an invaluable function and therefore equally important of its attendance policy; therefore, the attendance policy in [City Resolution 87-323 C.S.](#) related to regular meetings will be extended to the monthly clean-up events.

A member wishing to resign shall submit a letter of resignation to the City Clerk. Once the letter is submitted, the City Clerk will prepare a recommendation for Council to accept the resignation.

Any vacancies in any commission shall be filled by appointment by the Council during the annual appointment process for the City's Appointed Officials.

As the City Council finds more qualified candidates than available seats to appoint every year, the Council established an alternate list in 2020. The alternate list is valid for one year and expires at the beginning of the new recruitment process. The process for appointing from the alternate list involves two separate Council actions: adoption of a resolution accepting the resignation of a member; and adoption of a resolution recommending an alternate from the alternate list to fulfill the vacated position for the remainder of the unexpired term. The City Clerk would ensure the alternate continues to be interested in serving and would confirm the alternate's eligibility status prior to recommending an alternate.

Government [Code Section 54974](#) provides that whenever an unscheduled vacancy occurs, a special vacancy notice shall be posted in the office of the City Clerk, and as may be directed by the City Council, the City Clerk will conduct a special recruitment for the purpose of filling the unexpected vacancy.

The City Clerk shall, pursuant to Government [Code Section 54972](#), prepare an appointments list of all regular and ongoing commissions which are appointed by the City Council, which shall contain the information required in said section. All efforts will be made to provide public information relative to vacancies prior to such appointments.

### ***Election of Officers:***

The Council's appointed officials shall organize by electing one of its members to serve as the presiding officer at the pleasure of such commission. Each commission shall hold such regular and special meetings as such commission may require. All proceedings shall be open to the public. ([City Charter Section 904](#))

### ***Staff Liaison Role:***

Staff support is available to commissions via staff members assigned as liaisons to each appointed body. The staff liaison is responsible for creating meeting schedules, preparing meeting agendas and reports, and notifying the City Clerk of attendance problems, resignations, and members' change of contact information. The staff liaison is responsible for ensuring that appointed members are oriented about policies and procedures as they relate to the body.

The staff liaison is also responsible for updating bylaws by working with members and the City Attorney and sending the original to the City Clerk after formal adoption by the commission.

All communications addressed to a specific appointed body are received by the staff liaison or their designee and relayed to the appointed body. In 2021, members of the Planning Commission were issued City email addresses to receive correspondence in their capacity as members of the Planning Commission. The roster of appointed officials is a public document available in the office of the City Clerk. The roster includes the name, residence or mailing address, and either a home or business telephone number for each member. Commissioners may interact with the public; however, if they are contacted by the public outside of a meeting, commissioners should encourage public members to send their comments to the staff liaison or their designee for distribution to all commissioners or come to a meeting and speak during public comment.

### ***Council Liaison Role:***

Every year, the Mayor will appoint Council Members to serve as liaisons to the Council's appointed bodies. It shall be the responsibility of a Council liaison to attend as many commission meetings as possible in order to be aware of current issues, to listen and observe, and to bring back to the Council any needs, requests, or information from a commission. A Council liaison shall not take part in the deliberations of the commission.

### ***Budget:***

Budget allocations are not established for commissions; however, funds necessary for the routine business of commissions are included in the departmental budget for each City department which provides staff support to a commission.

The use of the City logo is restricted to communications generated from a City department. The City of Hayward does not provide business cards for members of appointed commissions.

### ***Bylaws:***

The Council's appointed officials may adopt bylaws which are not inconsistent with the City Charter, or other policies that may be established by the Council. Bylaws must be filed with the City Clerk.

### ***Orientation:***

City staff provides annual trainings regarding the structure and the operation of City government and the legal and ethical duties and responsibilities of members of the Council's appointed bodies. All members of City commissions are required to attend Ethics and Harassment Prevention trainings either in person/virtual or by completing online training.



This requirement must be fulfilled within six months of the appointment of any member. Record and compliance with this requirement will be maintained in the Office of the City Clerk.

Staff liaisons provide new members with pertinent materials which will assist new members in becoming fully functioning members of the body. Chairpersons are required to become familiar with parliamentary procedure of conducting and presiding over meetings.

### ***Ethics Training:***

Assembly Bill 1234, now California Government [Code Section 53234](#), was signed into law on October 7, 2005. This law requires, among other things, that all local agencies that provide compensation, salary, or a stipend to, or reimburses the expenses of members of a legislative body must provide Ethics Training to local agency officials by January 1, 2007, and every two years thereafter. The Council has determined such training shall be extended to and include all employees and members of advisory bodies, such as commissions, and task forces.

Assembly Bill 1234 requires local officials who are compensated for their service or reimbursed for their expenses to complete ethics training on a biennial basis.

On September 16, 2008, the City Council adopted [Resolution 08-130](#) which amended the Hayward Council Member Handbook by expanding the Ethics Training requirement to members of commissions, task forces, and committees established by Council.

### ***Harassment Prevention Training:***

AB 1825 and SB 1343, now [California Government Code Section 12950.1](#), require immediate and continual Sexual Harassment Prevention Training for supervisors. This law increases the training obligations of all employers with employees within the State of California and extends their obligations beyond the training requirements discussed by the U.S. Supreme Court, the Equal Employment Opportunity Commission ("EEOC"), and other federal and state courts and legislative bodies. While AB 1825 and SB 1343 do not specifically define "supervisor," the definition contained in the California Fair Employment and Housing Act ("FEHA") will presumably apply. Under the FEHA, a supervisor is any individual having the authority "to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or the responsibility to direct them, or to adjust their grievances, or effectively to recommend that action be taken if the exercise of that authority is not merely routine or clerical in nature, but requires the use of independent judgment. Training is mandatory for all employees who become supervisors after January 1, 2006, within six months of assumption of a supervisory position and a once every two years thereafter.

Members of commissions, task forces and committees established by Council are also required to obtain the above-described training.

On October 12, 2010, the City Council adopted [Resolution 10-159](#), which updated the City's Harassment Policy by extending the policy against harassment and retaliation to City Council and all appointees.

Assembly Bill 1661, now [California Government Code Section 53237](#), was signed into law on September 29, 2016. This law requires local agency officials to receive sexual harassment prevention training and education if the local agency provides any type of compensation to those officials. The law also requires an entity that develops curricula to satisfy this requirement to consult with the city attorney regarding its sufficiency and accuracy.

Notwithstanding the foregoing limitations, the Council requires such training for all employees and members of advisory bodies including commissions, committees, and task forces.

## MEETING RESPONSIBILITIES

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### ***Public Meetings:***

The Brown Act or “Open Meeting Law” is officially known as the Ralph M. Brown Act and is found in the California Government Code § 54950 et seq. The Brown Act was enacted in 1953 to guarantee the public’s right to attend and participate in meetings of local legislative bodies. A legislative body is defined as “A commission, committee, board, or other body of a local agency, whether permanent or temporary, decision-making or advisory, created by charter, ordinance, resolution, or formal action of a legislative body.” ([Government Code § 54950 \(b\)](#))

All meetings must be properly noticed under the Brown Act. Meetings include retreats, workshops, and similar types of events. A meeting can be in person, via telephone, or video conference.

According to the Brown Act, the agenda for a regular meeting must be posted in “a location that is freely accessible to members of the public” at least 72 hours before the meeting. Any meeting not on the regular meeting schedule is a special meeting. Notice of a special meeting must be posted at least 24 hours prior to a meeting. Agendas are posted on the bulletin board in front of City Hall, on the bulletin board in the Office of the City Clerk, and on the City’s website.

Meetings that are not noticed are considered serial meetings, which are illegal. “A majority of the members of a legislative body shall not, outside a meeting authorized by the Act, use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the legislative body.” ([Government Code § 54952.2 \(b\)](#))

A type of unintentional serial meeting could result from improper use of email. To avoid this, members of legislative bodies should never use the “reply to all” function to an email that may be addressed to a quorum of the legislative body. The Brown Act’s 2021 amendments (via [AB 992](#)) include messaging via social media as a form of communications that could constitute serial meetings.

Attendance at a public conference is permissible as long as a quorum of the body do not discuss among themselves specific business that is within the subject matter of the jurisdiction. Purely social events are not considered meetings as long as the members do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the local agency. ([Government Code § 54952.2 \(c\) \(5\)](#))

[Government Code 54954](#) requires that each legislative body of a local agency, except for advisory committees or standing committees, provide the time and place for holding regular meetings.

[Government Code 54953](#) allows meetings to be conducted by teleconferencing under procedures including the requirement that each location be identified in the agenda and made accessible to the public, that all votes must be by roll call, and public comment may be made at any of the noticed locations.

[Government Code 54954.3](#) requires that public comment for regular meetings be allowed on any item of interest to the public that is within the subject matter jurisdiction of the city. At special meetings the public comments can be restricted to the subject matter to be considered at the special meeting.

[Government Code 54954.2](#) allows members of the legislative body or its staff to make brief responses to comments made at public comment but cannot be used to start a discussion between commissioners or to take action in response to comments.

When a meeting is canceled a notice of cancellation shall be posted at all the locations where the notice and the agenda are regularly posted. Interested members of the public shall be noticed as soon as possible.

It is recommended that the Council's appointed officials follow the procedures for the conduct of meetings as established in the Parliamentary Procedure and Robert's Rules of Order. In instances where Robert's Rules of Order are inconsistent with the provisions of the City Charter, the Charter shall take precedence.

While the appointed body is in session, the members should not interrupt the proceedings, any commissioners, or any member of the public who has the floor. Persons attending the meeting should observe the rules and procedures of the legislative body. Members who do not follow the rules for decorum may be asked to leave the meeting.

Council liaison and members of the Council's appointed bodies have a mutual obligation to accord the utmost courtesy to one another and shall refrain from rude and derogatory remarks, abusive comments, or other chastising, particularly in public.

If a Council liaison has a specific concern about the behavior and/or statements of an individual commission member, they should bring it first to the attention of the commission Chairperson in private. If no resolution is affected, then the matter should be brought to the attention of the Mayor for their action.

Conversely, commission members should discuss a concern about a Council liaison with their respective Chairperson and not go directly to the Mayor or to other Council Members.

Decorum among commission members shall be the same as applicable to the Council.

Copies of rules, bylaws, and meeting minutes of each one of the Council's appointed bodies shall be kept on file in the Office of the City Clerk where they shall be available for public inspection.

## CONFLICT OF INTEREST GUIDELINES

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### ***Conflict of Interest:***

According to [Government Code 81000](#), also known as the “Political Reform Act,” public officials should perform their duties in an impartial manner, free from bias, caused by their own financial interest. The regulation prohibits a commissioner from making, participating in making, or influencing a governmental decision, if the commissioner knows that the decision will have a material financial effect on interests of the Appointed official.

[The State Fair Political Practices Commission \(FPPC\)](#) enforces these prohibitions. Members are encouraged to consult with the City Attorney or the FPPC before participating in a matter that would create a possible conflict of interest. Public officials specified in [Government Code 87200](#), such as planning commissioners, must publicly identify the economic interest that creates the conflict, step down from the dais, and must then leave the room. The identification of the conflict of interest must be made orally and as part of the official record.

The State of California requires that designated individuals who make or participate in making governmental decisions that could affect their personal economic interests file Statements of Economic Interests, Form 700s [The Hayward Conflict of Interest Code, Administrative Rule 9.1](#) specifies the Council’s appointed bodies that are subject to the disclosure requirement. Designated members have 30 days after the date of appointment to file an Assuming Office Statement of Economic Interests with the City Clerk. If a member resigns or is terminated, a Leaving Office Statement of Economic Interests must be filed within 30 days of termination. All designated members are required to file annual statements and will be routinely advised of the deadlines by the City Clerk.

The City of Hayward has a free filing system, NetFile, that allows individuals to create and electronically file their Statements of Economic Interests disclosure reports mandated by the FPPC.

### ***Incompatible Public Offices:***

The common law doctrine of incompatible public offices prohibits a public official from occupying two public offices which are incompatible in terms of their duties.

## RESOURCES

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### Application

<https://www.hayward-ca.gov/your-government/commissions-task-forces>

### Commissions, Committees, and Task Forces

<https://www.hayward-ca.gov/your-government/commissions-task-forces>

### Council Standing Committees

<https://www.hayward-ca.gov/your-government/council-standing-committees>

### California Law

<http://leginfo.legislature.ca.gov/faces/codes.xhtml>

### Conflict of Interest Code – Admin Rule 9.1

<http://static.netfile.com/agency/hwd/AdministrativeRule9.1ConflictofInterestCode.pdf>

### List of Current Council’s Appointed Officials

<https://www.hayward-ca.gov/your-government/boards-commissions>

### NetFile

<https://public.netfile.com/pub/?aid=hwd>

### Robert’s Rule of Order

<http://www.robertsrules.org/>

### Statement of Economic Interest – Form 700

<http://www.fppc.ca.gov/Form700.html>



# Strategic Roadmap

Fiscal Years 2024 to 2025+





# A About the Roadmap

## Why do we have a Strategic Roadmap?

This Strategic Roadmap outlines where we see our highest priorities in the next few years and a roadmap of specific actions to get us there. We designed this Roadmap to be bold in its vision for the future but also grounded in a realistic assessment of existing staff capacity and resource constraints.

# V Vision

## What are we trying to achieve with this and future Roadmaps?

The City of Hayward is a place where people want to be. It has a growing economy, good housing options, cradle-to-career educational opportunities, and an inviting downtown. Its diverse and inclusive community is well supported with robust city services, and is kept healthy and safe through innovative programs. It continues to be a leader in climate resilience and environmental justice to prepare residents to face the impacts of climate change. City staff have what they need to thrive in their work and take pride in helping Hayward continually improve.



# E Expanded Vision Statement

In the future, Hayward continues to grow in population and stature, becoming a destination city in the East Bay. Existing residents are proud to call Hayward home, and it is becoming a community of choice for new families and employers.

Hayward attracts new, higher-paying jobs, allowing existing and new residents to live and work in the same community. Hayward's attractive downtown and neighborhood business corridors draw people from across the region, featuring unique and locally-owned restaurants, music and art, attractive retail, outdoor dining, and inviting public spaces.

Diverse families live in healthy, inclusive 'complete communities' with stable housing, safe streets, excellent schools, cultural attractions, and community services. The city celebrates its diversity openly with cultural events, and protects that diversity with its commitment to equitable development. Hayward leads by developing important service partnerships between local and regional agencies.

Families are proud to live in an 'education city,' where the city actively supports them in taking advantage of the many local educational opportunities available. All residents know they will have a pathway from 'cradle to career' in Hayward.

Hayward has started construction of thousands of new housing units at all income levels. To reduce displacement of existing residents, the City is especially focused on making housing accessible and affordable to all, with new high density developments located near transit. The few who are unhoused are able to access the services necessary to thrive. Because demand is high, blighted properties throughout the city are re-developed and occupied.

Hayward continues to be a leader in climate resilience and environmental justice, reducing its carbon footprint, improving its sustainable practices, increasing green spaces, and preparing residents to face the impacts of climate change. Clean, leafy and landscaped corridors are more walkable and bikeable. Hayward and its neighboring cities have prioritized active transportation and multi-modal corridors over a reliance on cars and roads. As a result, the City sees less traffic, less pollution, and less speeding.

Through innovative programs, Hayward has also aligned public safety with community expectations for effectiveness, response times, and engagement, leading to an overall reduction in harm, improved mental health, and better relationships within Hayward's diverse community.

Internally, employees feel city-wide priorities are aligned to their work and are able to grow and thrive in their roles. Employees from diverse backgrounds are recruited, retained and celebrated, and staff provide culturally informed services to our community. The City continues to develop innovative revenue sources and maintains a well-staffed and well-resourced workforce. The City is streamlining processes, using technology more effectively, and improving cross-department collaboration to provide better customer service.

Overall, there is a rising sense of pride among employees and residents alike. While there is much more to do, the City of Hayward is a place where people want to be.

# S Strategic Priorities

## Creating the Six Priorities

In order to achieve the vision, what must the City prioritize? In answer to this question, we arrived at the six overarching focus areas, or Strategic Priorities, that structure this Roadmap. The Strategic Priorities provide a framework to focus on the most pressing special projects and process improvements, as well as a structure for the work that happens in the Council subcommittees. The next page shows subcategories under each Strategic Priority.



# S Strategic Priorities



## Enhance Community Safety & Quality of Life

- Invest in community-based crime response and enforcement models
- Strengthen Emergency preparedness
- Invest in cleanliness and blight reduction
- Implement Community Enrichment
- Activate Public Spaces
- Invest in community-wide internet access
- Strengthen justice and belonging



## Confront Climate Crisis & Champion Environmental Justice

- Reduce greenhouse gases and dependency on fossil fuels
- Promote a circular economy
- Mitigate climate impacts through resilient design, emphasizing frontline communities



## Preserve, Produce, & Protect Housing for All

- House and support people experiencing homelessness
- Incentivize housing production for all
- Protect the affordability of existing housing



## Invest in Infrastructure

- Invest in multi-modal transportation
- Invest in City-owned facilities & property
- Invest in water supplies, sanitation, & sewers



## Grow the Economy

- Invest in business support services
- Create thriving commercial corridors
- Grow workforce development pipelines
- Strategically dispose of City property



## Strengthen Organizational Health

- Strengthen fiscal sustainability
- Streamline customer service & access
- Strengthen retention & recruitment
- Invest in a safe work environment
- Optimize workforce technology

# Racial Equity Lens

**We strive to build a culture of equity to ensure that we are meeting the needs of all residents.**

The City is committed to providing equitable services that improve the lives of all residents and take into consideration past inequities and injustices. We know achieving this vision requires tackling tough issues like institutional racism and implicit bias. We also know it takes continuous listening, learning, and improvement.



**Throughout this plan, we have identified projects with this icon that have a racial equity focus or services/projects that we are reviewing through a racial equity lens.**

**Questions we ask when we apply a racial equity lens to a service or project:**

- What problem is this service/project seeking to address?
- Who benefits from this service/project? Are some community members impacted by the problem more than others? Do we have demographic information about this group(s)?
- Who does this service/project not benefit? Do we have demographic information about this group(s)?
- Who is currently accessing this service?
- Who is not accessing this service? Do we know why? Are there barriers that makes it more difficult for some community members to use or access this service?
- How are we communicating about this service/project? What barriers are there for people to find up-to-date information?
- What racial, cultural, and/or ethnic groups experience disparities related to this program? How does this program benefit them or further exacerbate their disparities?

# E Education City Lens

**We strive to build a city where all residents have access to quality educational opportunities and cradle-to-career support so they can achieve their life goals.**

The City is committed to working alongside our educational and community partners to support the academic success and future employment of Hayward's students. The City does this by actively participating in collaborations like the Hayward Promise Neighborhoods, growing the economy, facilitating pathways for both private and public sector careers, partnering to provide education and employment services, and communicating about educational opportunities and successes.



**Throughout this plan, we have identified projects with this icon that have an 'Education City' focus or services/projects that we are reviewing through an 'Education City' lens.**

**Questions we ask when we apply an 'Education City' lens to a service or project:**

- Have we communicated with our educational and community partners to align service offerings and create a more seamless service experience for Hayward families?
- How will this service, project, or policy support or expand educational and/or economic opportunities for people in Hayward? How are we collaborating with partners to facilitate and develop educational and/or employment pathways accessible to all Hayward youth and residents?
- How are we communicating education and economic opportunities in and around Hayward to Hayward families? What barriers do we need to remove for people to access this information or educational opportunities?
- How will we know this service, project, or policy is improving educational and/or economic opportunities for Hayward youth and residents?
- Transportation specific: Does this project make it easier for families and students to get to their campuses and other educational resources?

# P Projects

## Creating the Roadmap Projects

The initial project list for this Roadmap was created by surveying each City Council Member and key staff whose work tasks closely align with the six Strategic Priorities. Council then prioritized the projects through a dot voting exercise. The following pages detail the projects by priority area. Below is a key to the organization of information.

**Strategic Roadmap  
FY2024 to FY2025+ Project List**

**Enhance Community Safety and Quality of Life**

+ = Racial Equity Focus Project    🎓 = Education Focus Project

Subcategory		Projects	Y1	Y2+	Departments
		<b>Invest in Cleanliness and Blight Reduction</b>			
Q10	Roll out a permanent illegal dumping prevention program +				MS
Q11	Engage owners of vacant building properties to encourage activation, starting in the downtown, and enforce against owners of empty storefronts				CM, DS
Q12	Finalize community preservation ordinance to combat blight and enhance neighborhood livability +				DS

The timeline shows if staff will work on this project in Year 1 (FY24) or start work in Year 2+ (FY25+). It also shows if staff anticipates completing work in FY24 or continuing to future years.

Shows which departments have primary responsibility for project implementation

### Departments Legend

**CM** City Manager

**DS** Development Services

**FR** Fire

**FN** Finance

**HR** Human Resources

**IT** Information Technology

**MS** Maintenance Services

**LB** Library

**PD** Police

**PW** Public Works

# Strategic Roadmap FY2024 to FY2025+ Project List



## Enhance Community Safety and Quality of Life

✦ = Racial Equity Focus Project    📖 = Education Focus Project

Projects		Y1	Y2+	Departments
<b>Support Safe and Clean Neighborhoods</b>				
<b>Invest in Community-Centered Crime Response and Enforcement Models</b>				
Q1	Continue to implement and measure the HEART Pilot Program ✦			CM, FD, PD
Q2	Implement the recommendations from the Dispatch Assessment ✦			CM, FD, PD
Q3	Conduct an assessment of the Jail and other Community Services Officer functions. Convene quarterly meetings with residents and the Police Department to foster better communications.			PD
Q4	Seek and implement CALEA accreditation for the Police Department			PD
Q5	Conduct an analysis of the Community Advisory Panel for the Police Department			CM, PD
Q6	Enhance background checks for gun ownership and gun storage rules			PD
Q7	Provide a report on coordination around human trafficking, truancy, and child abuse			PD
<b>Strengthen Emergency Preparedness, Planning, and Response</b>				
Q8	Update comprehensive Emergency Management Plan			FD
Q9	Reestablish the Hazardous Materials Response Team and research funding options for equipment			FD
Q10	Explore solutions for ambulance transfer			FD
<b>Invest in Cleanliness and Blight Reduction</b>				
Q11	Roll out a permanent illegal dumping prevention program ✦			MS
Q12	Engage owners of vacant building properties to encourage activation, starting in the downtown, and enforce against owners of empty storefronts			CM, DS
Q13	Finalize community preservation ordinance to combat blight and enhance neighborhood livability ✦			DS
Q14	Create an analysis of the staffing and funding needs to create a public art program			CM
Q15	Expand litter collection services (like the Downtown Streets Team) to pick up litter through the City			PW, MS
<b>Support Vibrant Communities</b>				
<b>Implement Community Enrichment and Social Support Programming</b>				
Q16	Continue to provide educational, cultural, and social support programs at the Hayward Library ✦📖			LB
Q17	Continue to provide family support programs through the Youth and Family Services Bureau ✦📖			PD

# Strategic Roadmap FY2024 to FY2025+ Project List



## Enhance Community Safety and Quality of Life

✦ = Racial Equity Focus Project    📖 = Education Focus Project

Projects		Y1	Y2+	Departments
Q18	Continue to implement Hayward's People's Budget projects			CM
Q19	Continue to work with HARD on understanding recreational programs through the Master Lease ✦			CM
<b>Activate Public Spaces</b>				
Q20	Design and Install Heritage Plaza Art Pieces to Honor Indigenous and Russell City Heritage ✦			CM, LB
Q21	Work with partners to design programming for the future Stack Center Community Event Plaza 📖			CM, LB
Q22	Increase the access to community meeting rooms and facilities across the city by collaborating with HUSD and HARD to have 2-3 campuses open for public use			LB
<b>Invest in Community-Wide Internet Infrastructure and Access</b>				
Q23	Continue to provide internet connected devices and hotspots through the Library 📖			LB
Q24	Work with partners to identify funding for a strategic plan for Broadband			CM, IT, PW
<b>Strengthen Justice and Belonging</b>				
Q25	Continue to implement an internal racial equity training program ✦			CM
Q26	Use the Racial Equity Toolkit to implement pilots across departments, and assess and pilot inclusive recruitment, retention, and promotion practices ✦			CM
Q27	Work with the survivors and descendants of Russell City to determine appropriate restitution ✦			CM



# Strategic Roadmap FY2024 to FY2025+ Project List



## Preserve, Protect, and Produce Housing for All

✦ = Racial Equity Focus Project    📖 = Education Focus Project

Projects		Y1	Y2+	Departments
<b>Invest in Programs to House and Support People Experiencing Homelessness</b>				
H1	Support development of St. Regis Behavioral Health Campus to provide health and housing services to people experiencing homelessness and mental health crises ✦			CM
H2	Continue to oversee operations of the Navigation Center Annex ✦			CM
H3	Piloting a flexible funding pool for preventing homelessness, including a shallow subsidy program ✦			CM
H4	Continue to explore safe parking options along with encampment management ✦			CM
H5	Leverage partnerships to support acquisition and rehabilitation projects through State Homekey funding ✦			CM
<b>Incentivize Housing Production for All</b>				
H6	Create objective residential development standards & update zoning regulations to align with the General Plan			DS
H7	Explore Social Impact Bond Program to convert tax-defaulted or vacant and blighted properties into wealth building ownership opportunities ✦			DS
H8	Continue to create marketing materials to incentive housing production			DS
H9	Continue work on updating the Affordable Housing Ordinance ✦			DS
H10	Amend the Municipal Code to address Housing Element Actions related to housing for a variety of income levels and housing types			DS
HC11	Work with BART to encourage Transit Oriented Development at the two Hayward stations			CM
<b>Protect the Affordability of Existing Housing</b>				
H12	Continue to pilot Tenant Relocation Emergency Fund ✦			DS
H13	Continue to implement the Foreclosure Prevention Program inclusive of loan restructuring, modification, and financial assistance ✦			DS
H14	Evaluate available funding to issue a Notice of Funding Availability (NOFA)			DS
H15	Amend the Municipal Code to establish residential replacement requirements pursuant to State Law (AB 1397)			DS
H16	Provide creative financing like down payment assistance to help more buyers get unrestricted-deed properties			DS

# Strategic Roadmap FY2024 to FY2025+ Project List



## Confront Climate Crisis & Champion Environmental Justice

✦ = Racial Equity Focus Project    📖 = Education Focus Project

Projects		Y1	Y2+	Departments
<b>Reduce Greenhouse Gases and Dependency on Fossil Fuels</b>				
C1	Implement Year 1 Programs from the adopted GHG Roadmap (Climate Action Plan)			PW
C2	Continue to collaborate with EBCE to provide public EV charging facilities			PW
C3	Present a plan on EV charging for city facilities to CIC (for fleet and employee commuters)			MS
C4	Continue to transition City facilities from natural gas to electric, with a focus on HVAC systems			MS
C5	Explore a partnership with EBCE to offer incentives to purchase electric appliances to encourage community members make the transition from gas to electric			PW
C6	Improve e-bike adoption through the creation of an e-bike rebate program and ensuring that electric transit infrastructure such as EV chargers also serve e-bike and not just electric cars			PW
<b>Reduce waste by promoting a circular economy</b>				
C7	Continue to identify opportunities for compost hubs and other distribution mechanisms for compost in Hayward			PW
C8	Continue to partner with Alameda County All In Eats to encourage food recovery			CM
<b>Mitigate climate crisis impacts through resilient design and community engagement</b>				
C9	Prepare an ordinance to create smoke-free multifamily housing			DS
C10	Plant 1,500 trees annually, directly and in partnership with community groups ✦			MS
C11	Update Tree Preservation Ordinance			DS, MS
C12	Implement Year 1 Programs from the adopted General Plan Environmental Justice Element, with a focus on mitigating the impact on frontline communities ✦			PW
C13	Work with HASPA partners to seek grant funding to implement the Shoreline Master Plan and provide an update to Council			DS
C14	Continue to pursue water conservation measures like increasing recycled water supplies			PW

# Strategic Roadmap FY2024 to FY2025+ Project List



## Invest in Infrastructure

✦ = Racial Equity Focus Project 📖 = Education Focus Project

Projects		Y1	Y2+	Departments
<b>Invest in Multi-Modal Transportation</b>				
N1	Continue to implement major corridor traffic calming initiatives			PW
N2	Develop a micro-mobility policy (eBikes, eScooters)			PW
N3	Complete construction of Mission Boulevard phase 3			PW
N4	Implement Safe Routes for School, with a focus on Cesar Chavez and Palma Ceia ✦📖			PW
N5	Implement six intersections for Safe Route for Seniors in the downtown area			PW
N6	Continue to add approximate 10 miles of bike lanes annually, with a focus on protected bike lanes and intersections that have high traffic/incidents			PW
N7	Work with AC Transit to beautify bus shelters and construct more seating at bus stops to improve the ridership experience			PW
N8	Evaluate the alternatives to the Downtown Loop			PW
<b>Invest in City Facilities &amp; Property</b>				
N9	Break ground on the Stack Center and continue fundraising for project needs 📖			PW, LB
N10	Construct La Vista Park			PW
N11	Complete Jackson Corridor landscape beautification. Replace and relocate the existing monument gateway sign located on Jackson Street and Silva Avenue			MS, PW
N12	Continue City parking lot upgrades, with a focus on parking lots 7, 8, and 11			PW
N13	Continue Corporation Yard safety upgrades (ARPA project)			MS, PW
N14	Continue upgrades to Fleet facilities (ARPA project)			MS
N15	Continue upgrades to Animal Control facilities (ARPA project)			MS, PD, PW
N16	Provide CIC a needs assessment/preliminary feasibility report on a new Corporation Yard			MS, PW
N17	Provide CIC a needs assessment/preliminary feasibility report on a new Police Building, including a funding mechanism			CM, MS, PW, PD
N18	Create a preliminary concept plan for the Weekes Library to be eligible for potential grants ✦📖			LB, MS, PW
<b>Invest in Water Supplies, Sanitation Infrastructure &amp; Storm Sewers</b>				
N19	Replace an average of 2.5 miles of water pipelines annually			PW
N20	Replace an average of 2.5 miles of sewer lines annually			PW
N21	Design Water Pollution Control Facility Phase II upgrade			PW
N22	Develop a Recycled Water Master Plan			PW
N23	Implement Sustainable Groundwater Plan			PW

# Strategic Roadmap FY2024 to FY2025+ Project List



## Grow the Economy

✦ = Racial Equity Focus Project 📖 = Education Focus Project

Projects		Y1	Y2+	Departments
<b>Invest in Programs that Support Hayward Business and Workers</b>				
E1	Work with the CEDC to identify priority sites and review concept plans, including downtown sites and Southland Mall			CM
E2	Complete remaining “Restaurant Relaunch” and façade program projects			CM
E3	Continue to partner with DSAL to build and launch the commercial kitchen incubator program at the Stack Center			CM
<b>Invest in Plans and Programs that Create Thriving Commercial Corridors</b>				
E4	Continue to roll out the Downtown District Activation pilot program which includes performance art			CM
E5	Finalize Sidewalk Vendor Ordinance and provide a training on how to apply for a business license ✦			DS
E6	Provide an informational report to Council on older ordinances that may have an adverse impact on our local economy (such as the Cabaret Ordinance, the Alcohol ration, and Happy Hour), and offer recommendations to update them			CM, DS
<b>Grow Educational Pathways and Workforce Development Pipelines</b>				
E7	Provide cradle to career educational programs for all ages through cross-agency pathways, in partnership with the Hayward Promise Neighborhoods ✦📖			LB
E8	Design and implement the ARPA Tuition Assistance program and job fair series with CSUEB, Chabot, EAROP and Hayward employers ✦📖			CM
E9	Continue the Fire Career Pathway Program with ROP and Chabot, and host 17 student fire fighters annually 📖			FD
E10	Continue the IT Department’s internship program 📖			IT
E11	Collaborate with Hayward’s educational institutions to streamline and amplify partner communications and achievements 📖			CM
E12	Develop recommendations for encouraging development of worker-cooperatives in Hayward 📖			CM, FN
<b>Strategically Dispose of City Property</b>				
E13	Continue to work on Route 238 Corridor lands dispositions and development			CM
E14	Release solicitation for City Center disposition and development			CM
E15	Study the options for disposing of Successor Agency parcels on Mission Blvd			CM

# Strategic Roadmap FY2024 to FY2025+ Project List



## Strengthen Organizational Health

✦ = Racial Equity Focus Project    📖 = Education Focus Project

Projects		Y1	Y2+	Departments
<b>Strengthen Fiscal Sustainability and Transparency</b>				
R1	Hold a work session with the Council to provide an overview of the updated General Fund Long Range Financial model			FN
R2	Expand financial transparency and data sharing through platforms like OpenGov			FN
R3	Prioritize Hayward's involvement in the creation of a Public Bank			FN
<b>Strengthen and Streamline Customer Service and Access</b>				
R4	Conduct a language access assessment ✦			CM
R5	Conduct a post-COVID assessment of on-line and in-person customer service needs, including Access Hayward			CM
R6	Assess hybrid meeting model for Board and Commissions and explore options to add additional meeting locations with hybrid capacity			CM, IT
R7	Develop systems for tracking and responding to constituent requests for Council, such as using a ticketing system and having more informational updates online			CM
<b>Strengthen Employee Engagement, Professional Development, and Retention</b>				
R8	Develop talent acquisition plan for citywide and critical positions ✦			HR
R9	Audit existing policies and HR processes for compliance including areas for revision and general enhancement			HR
R10	Develop a citywide compensation philosophy with internal benchmarks in alignment with the comparator marketplace			HR
R11	Implement 360 evaluations for all department heads and simultaneously implement executive coaching			HR, CM
<b>Invest in a Safe Work Environment</b>				
R12	Conduct a workplace safety assessment for all workplace locations and implement phased improvements			HR, PD, FR, MS
R13	Develop the Police Department's Wellness program			PD
<b>Optimize Access to Workforce Technology</b>				
R14	Ensure up to date technologies and processes including the City's procurement system by optimizing ERP solution through use of different modules			FN, IT
R15	Implement an IT Governance workgroup to ensure business alignment with technology solutions			IT

**2025 KHCG MEETINGS, CLEANUP/BEAUTIFICATION EVENTS,  
AND COMMUNITY EVENTS**

Month	Meetings	Cleanup/ Beautification		Community Events (Tabling/Booth)
	Date	Date	Location	Events
January	01/23/25	None		
February	*2/20/25 (3rd Thurs.)	2/22/2025	Rancho Arroyo Park (2121 Depot Rd. 94545)	
March	03/27/25	None		
April	4/24/2025	4/26/2025	Earth Day Event (KHCG Support) Staging @ Weekes Park 2782 Patrick Ave.	4/26/24 Earth Day Event
May	05/22/25	None		
June	06/26/25	6/28/2025	27182 Weekes Park (Weekes Park 2782 Patrick Ave.)	**June 19 DT Street Party Juneteenth Event
July	RECESS	RECESS		**July 17 DT Street Party
August	*8/21/25 (3rd Thurs)	8/23/2025	Eden Greenway (Eden Greenway Park @ 25625 Cypress Ave.)	8/16/25 Senior Front Yard Assistance Event
September	09/25/25	None		9/24/24 Hayward Executive Airport Open House Coastal Cleanup Day (TBA)
October	*10/16/25 (3rd Thurs)	10/18/2025	Mt. Eden Park (2451 W. Tennyson Rd.)	Science in the Park (Even Years)
*November	*11/20/25 (3rd Thurs)	None		
December	None	None		Beautiful Yard Contest Awards & Recognition TBA (City Council Meeting)

\*\*Downtown Street Parties PENDING Confirmaiton (third Thursday of Jun, Jul, Aug): Tentative 6/19, 7/17, 8/21)

\* Special Meeting 3rd Thursday      Unscheduled: 2025 Volunteer Recognition & Awards Dinner Event

**Schedule is subject to change.**

As of 10/2024