



**California JPIA
El Capitan Room
8081 Moody Street
La Palma, California 90623**

*****GOVERNOR'S EXECUTIVE ORDER N-29-20***
RE CORONAVIRUS COVID-19**

**THIS MEETING WILL BE CONDUCTED PURSUANT TO THE PROVISIONS OF THE
GOVERNOR'S EXECUTIVE ORDER WHICH SUSPENDS CERTAIN
REQUIREMENTS OF THE RALPH M. BROWN ACT.**

AGENDA

MANAGERS COMMITTEE

**REGULAR MEETING
THIS MEETING WILL BE VIA TELECONFERENCE ONLY**

May 10, 2021

12:00 P.M.

CALL TO ORDER

Thaddeus McCormack, Chairman, Managers Committee

ORAL COMMUNICATIONS

Any persons present desiring to address the Managers Committee on any proper matter may do so at this time.

CONSENT CALENDAR

All items under Consent Calendar may be enacted by one motion. Any item may be removed from the Consent Calendar and acted upon separately by the Managers Committee.

1. APPROVAL

Managers Committee Minutes for the meeting of February 8, 2021

REPORTS AND RECOMMENDATIONS

2. RECEIVE AND FILE

Employment Practices Liability Initiatives

3. CONSIDERATION

Policy for Establishing City Council Norms of Operation

ADJOURNMENT

To a regular Managers Committee meeting on August 9, 2021 at 12:00 p.m. **(Until the Governor's Stay-At-Home Order is lifted and it is safe to return to in-person meetings, the meeting will be a teleconference only meeting).**

In compliance with Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Agency Clerk at (562) 467-8736. Notification 48 hours before meeting will enable the Authority to make reasonable arrangements to ensure accessibility. (28 CFR 35.102.35.104 ADA Title II)

TELECONFERENCE PARTICIPATION

Pursuant to the Governor's Executive Order N-29-20
Executive Committee Members may participate via teleconference.

Public Participation:

In accordance with Executive Order N-29-20 and guidance from the California Department of Public Health on gatherings, remote public participation is allowed in the following ways:

Public comment will be accepted by email to vruiz@cjpia.org during the meeting, prior to the close of public comment on an item, and read into the record during public comment.

At the announced time of the meeting, teleconference participants (unless otherwise instructed) should call the California JPIA's teleconference number at **(346) 248-7799**, enter Meeting ID: **836 9405 1407** Password: **761491** and identify themselves for the record. To access the video conferencing and view the meeting online, go to <https://cjpia.zoom.us/j/83694051407?pwd=WVNNQnlhVkVRazVuTkMxY2JCNnpzd09>.

If you have any problems with the meeting link or connecting to the meeting, please call Veronica Ruiz at (562) 455-0321.

Dated: May 7, 2021
Posted: May 7, 2021

s/Veronica Ruiz
Veronica Ruiz, CMC
Agency Clerk

AFFIDAVIT OF POSTING

I, Veronica Ruiz, declare as follows: That I am the duly designated Agency Clerk for the California Joint Powers Insurance Authority, and that I caused to be posted the foregoing agenda in accordance with the Brown Act. Dated this 7th day of May, 2021.

By: Veronica Ruiz, CMC, Agency Clerk

California JPIA

MINUTES

MANAGERS COMMITTEE

REGULAR MEETING (TELECONFERENCE)

February 8, 2021

12:00 P.M.

CALL TO ORDER

Chairman McCormack called to order the regular meeting of the Managers Committee of the California Joint Powers Insurance Authority at 12:02 p.m. This meeting was conducted pursuant to the provisions of the Governor's Executive Order N-29-20, which suspends certain requirements of the Ralph M. Brown Act.

ATTENDANCE

A quorum was established by roll call.

PRESENT:

Chairman Thaddeus McCormack, Lakewood
Mark Alexander, La Cañada Flintridge
Chris Constantin, San Dimas
Cheryl Dyas, Mission Viejo
Chris Freeland, Indian Wells
Jorge Garcia, Pismo Beach
Jarad Hildenbrand, Stanton
Mike James, Lemon Grove
Mike Killebrew, Dana Point
Tammy Letourneau, Laguna Niguel
Conal McNamara, La Palma
Gloria Molleda, Rosemead
Ben Montgomery, Chino Hills
Keith Neves, Lake Forest
Ron Phillips, Bishop
Doug Robertson, Apple Valley

STAFF:

Jon Shull, Chief Executive Officer
Toni Consolo, Senior Risk Manager
Joe Eynon, Training Manager
Maria Galvan, Senior Risk Manager
Lucy Gonzalez, Senior Risk Manager
Norm Lefmann, Assistant Executive Officer
Tony Leite, Senior Risk Manager

Alex Mellor, Senior Risk Manager
Veronica Ruiz, Agency Clerk
Jeff Rush, Workers' Comp Program Manager
Nikki Salas, Human Resources Manager
Carl Sandstrom, Business Projects Manager
Alex Smith, Deputy Executive Officer
Jim Thyden, Insurance Programs Manager
Paul Zeglovitch, Liability Program Manager

ATTENDEES: Mike Egan, Tripepi Smith

**ORAL
COMMUNICATIONS**

There were no comments from the audience.

CONSENT CALENDAR

Chairman McCormack presented the item appearing on the Consent Calendar.

The Consent Calendar included:

- Combined Managers Committee and Finance Officers Committee Minutes for the meeting of November 9, 2020
- 2021 Executive Committee Workshop Call for Items

It was moved by Alexander, that the Consent Calendar item be approved in one action, which was seconded by Killebrew. The motion carried unanimously by roll call vote.

CONSIDERATION
Executive Search Service

Chairman McCormack presented the Executive Search Service item.

Norman Lefmann, Assistant Executive Officer, introduced the Authority's proposal to make available executive search services for California JPIA members. The Authority would partner with Peckham & McKenney to provide the services and would provide a non-binding opinion for each of the finalists as they are submitted to the member. The firm would also assist in ensuring the successful candidate's employment contract contains a provision stipulating terms of the Authority's Chief Executive Separation Payment.

Members shared comments and concerns with the proposal. No action was taken.

ADJOURNMENT

The meeting adjourned at 12:52 p.m. to a meeting on Monday, May 13, 2021 at 12:00 p.m. in the El Capitan Room at the California JPIA, 8081 Moody Street, La Palma, CA 90623.

(Until the Governor's Stay-At-Home Order is lifted and it is safe to return to in-person meetings, the meeting will be a teleconference only meeting).

Respectfully submitted,

Thaddeus McCormack, Chairman

CALIFORNIA JPIA

AGENDA REPORT

To: MANAGERS COMMITTEE

From: Jonathan Shull, Chief Executive Officer

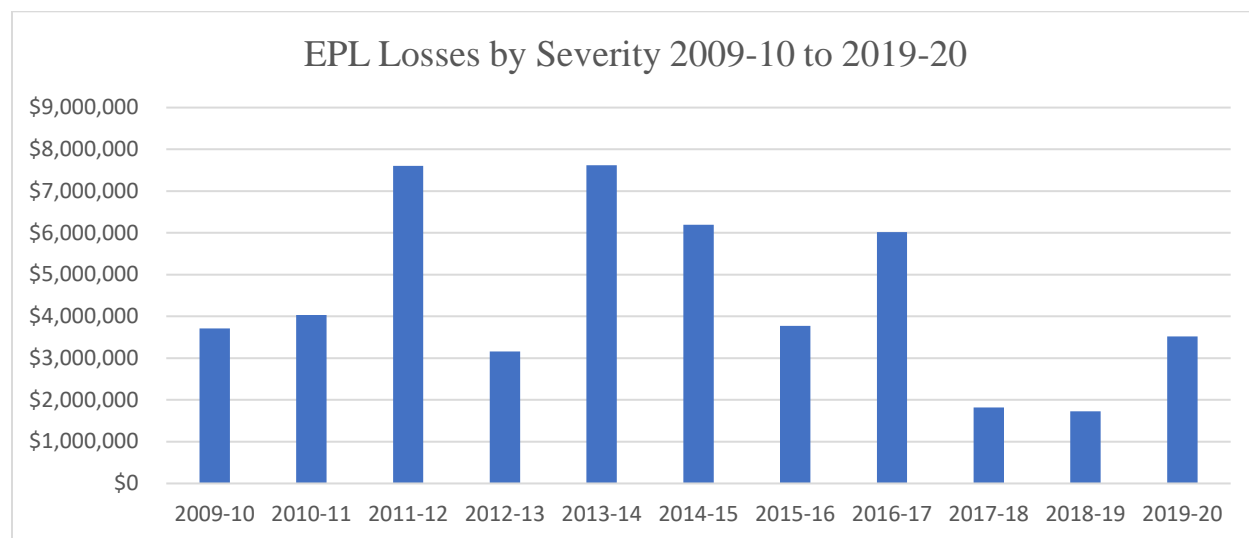
By: Norman Lefmann, Assistant Executive Officer
Alex Mellor, Senior Risk Manager

Date: May 10, 2021

Subject: Employment Practices Liability Initiatives

Background

For some time, employment practices liability (EPL) claims alleging wrongful employment acts such as discrimination, harassment, retaliation, and wrongful termination, have been among the most severe experienced by the California JPIA. Indeed, in the ten-year period from 2009-10 to 2019-20, the Authority spent approximately \$50 million defending and resolving EPL claims:



Member agencies also incur a variety of other costs related to EPL claims. These include the cost of conducting internal investigations, responding to and defending against EEOC/DFEH claims, and costs related to reduction in employee morale and productivity. These are uninsurable costs which must be borne individually by each member.

In 2019, to better understand why EPL claims persist at such a high frequency and severity amongst the membership, Authority staff formed an EPL task force. The task force analyzed

claim data, solicited input from subject matter experts and member agency HR and management staff, and ultimately developed a series of recommendations for how the Authority can better assist member agencies in managing this risk.

Discussion

Based upon recommendations made by the task force, a series of initiatives designed to address the underlying conditions that lead to EPL claims were identified. These initiatives are currently in various stages of development:

Initiative	Status	Projected Cost
Develop new training to address member employee and official behavior, and organizational culture. Topics include abusive conduct, ethics, cultural diversity, unconscious bias, nepotism, cronyism etc.	In development	\$1,000 (virtual delivery) to \$5,000 (in-person delivery) per session
Develop additional online harassment prevention training	Completed	\$103,000 (development costs)
Develop new training to improve member manager and supervisor soft skills. Topics include effective communication, teamwork, and conflict resolution.	In development	\$1,000 (virtual delivery) to \$5,000 (in-person delivery) per session
Develop human resources practitioner training. Topics include absence management, disability management, discipline, compensation, labor relations etc.	In development	Various depending on the level of involvement of external subject matter experts
Revise abusive conduct policy template	Completed	No cost
Develop HR policy manual templates and HR desk reference for member HR practitioners and managers/supervisors	In development - staff has identified the Liebert, Cassidy, Whitmore online library as a possible solution	\$95,200 per year
Offer anonymous harassment reporting system to member agencies	In development – staff has identified StopIt as a solution	\$16,000 per year (no cost for first year assuming continued partnership with Great American Insurance)

Develop a white paper to articulate the business case for addressing conditions that lead to EPL claims.	In development	No cost
Develop a marketing plan to make members aware of the new EPL initiatives	In development – staff working with Tripepi Smith and Juve	Various depending on the level of involvement of Tripepi Smith and Juve

Conclusion

EPL claims represent a significant cost to the California JPIA and can be hugely disruptive for member agencies. To prevent such claims, member agency leadership must cultivate a work environment of civility and respect and adopt a no-tolerance approach toward abusive and harassing behaviors. Further, when such actions occur, member agencies must act decisively to correct the behavior and impose appropriate discipline. The various initiatives already underway are designed to help member agencies achieve these goals, and thus reduce the frequency and severity of EPL claims. Authority staff is optimistic that these initiatives will have the desired effect.

Recommendation

Receive and file.

Attachment

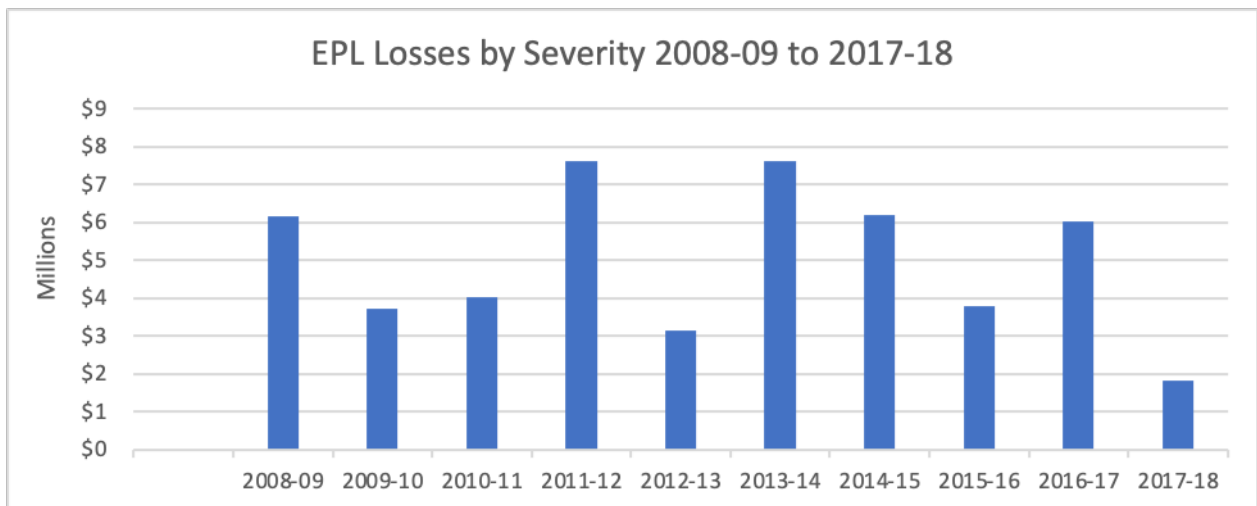
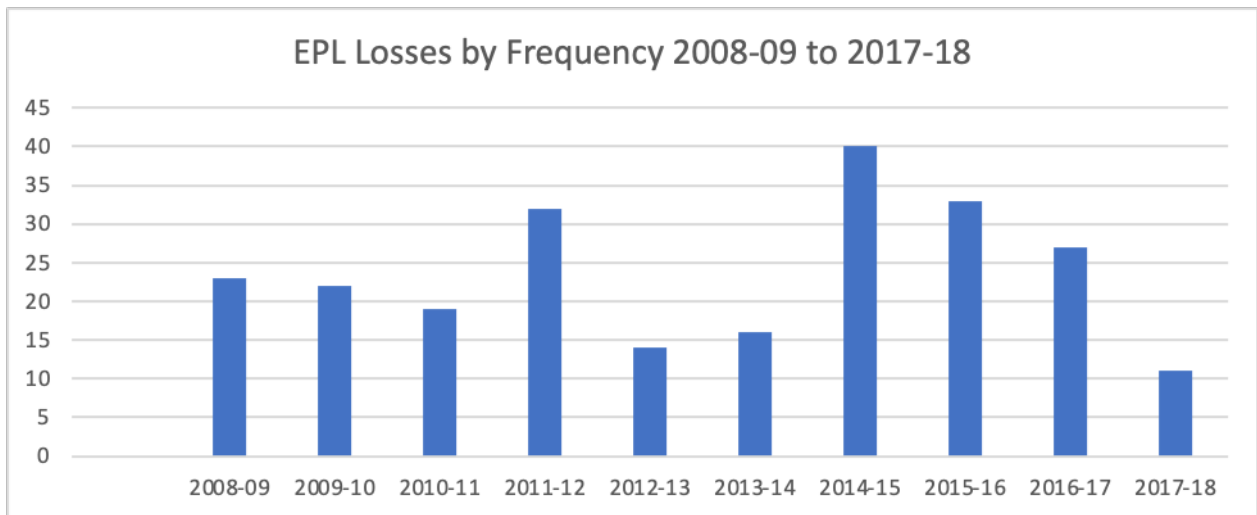
Report of the California JPIA Employment Practices Liability Task Force

REPORT OF THE CALIFORNIA JPIA EMPLOYMENT PRACTICES LIABILITY TASK FORCE

Background

The California JPIA provides coverage for employment practices liability (EPL) claims through its liability joint protection program. Coverage is afforded for a variety of alleged wrongful employment practices including discrimination, harassment, retaliation, and wrongful termination.

Over the past 10 completed coverage periods, more than \$50 million has been spent defending and resolving 237 EPL claims on behalf of member agencies. This represents an average cost per claim of \$211,386.



It is important to understand that this figure only includes costs related to defense and resolution of the tort claim and lawsuit (if applicable). Member agencies incur a variety of other costs related to EPL claims including the cost of internal investigations, responding to and defending against EEOC/DFEH claims, and costs related to reduction in employee morale and productivity. These are uninsurable costs which must be borne individually by each member.

For a number of years, the California JPIA has attempted to control EPL claim costs by assisting member agencies with management of EPL exposures. This assistance has largely taken the form of training for managers and supervisors on prevention of harassment and discrimination in the workplace. While this training has the goal of modifying employee/official behavior as well as organizational culture, the continued frequency and severity of EPL claims suggests that it is only successful in helping member agencies comply with the legal requirement to provide training.

Assistance is also provided through the California JPIA Employment Practices Intervention Program. The purpose of the program is to avoid costly litigation by working with legal counsel and member agencies to develop defensible strategies for addressing individual employment matters. However, the success of the program requires that members first have the ability to identify complex employment matters and then contact the Authority for assistance.

While there is no doubt that these resources provide value to member agencies, their ability to positively affect frequency and severity of EPL claims is questionable.

Purpose

In response to this realization, the California JPIA formed an internal task force to investigate the issue. The purpose of the task force was threefold:

1. Investigate why member agencies continue to experience high frequency and severity of EPL claims;
2. Evaluate the effectiveness of resources currently made available to members to control EPL exposures; and
3. Identify other resources that may have a greater impact on frequency and severity of EPL claims.

Approach

The EPL Task Force was comprised of five California JPIA staff members representing the functional areas of risk management, liability, training, and administration/human resources. To achieve the purpose outlined above, the task force engaged in the following activities:

- Review and analysis of EPL losses;
- Review of the U.S. Equal Employment Opportunity Commission (EEOC) Report of the Co-Chairs of the Select Task Force on the Study of Harassment in the Workplace¹;
- Meetings with task force members;
- Meetings with subject matter experts; and

- Meetings with member agency representatives.

Findings

As the task force undertook the activities outlined above in an effort to achieve its identified purpose, certain themes emerged:

- Training to prevent harassment (and other wrongful employment practices) offered by the California JPIA is ineffective at reducing the frequency and severity of EPL claims. Additional training designed to address member employee behavior and internal member culture is needed. Only then will training have a meaningful impact on claims.
- Instances of wrongful employment practices are often unreported. This is especially true in smaller agencies where inadequate reporting mechanisms exist. Timely and effective reporting of these incidents is critical in reducing frequency and severity of claims.
- Many EPL claims arise because of general incivility between supervisors and subordinates, as well as between peers. If left unaddressed, the aggrieved party sees filing a claim as their only option.
- Ineffective leadership sometimes contributes to EPL claims. Leaders may create a culture of incivility in the workplace themselves, or they may fail to address such behavior exhibited by their subordinates. This is especially true if the individual exhibiting the behavior is a high performer or otherwise favored by leadership.
- The interaction of different generations in the workplace creates conflict which, if not effectively managed, can lead to reduced morale, productivity and eventually EPL claims.
- Lack of regular performance evaluations or “check-ins” contributes to reduced employee morale and thus EPL claims. The traditional model of annual performance evaluations as the sole mechanism for providing performance feedback is largely ineffective, especially if those evaluations are delayed.
- While many member agencies have written policies regarding the prevention of wrongful employment practices, these policies are often ignored in practice.
- Member agencies sometimes perceive that the California JPIA is too quick to settle EPL claims. This can result in frustration and a lack of enthusiasm amongst member leadership for proactively addressing situations that lead to such claims.

Recommendations

To address the challenges outlined above, the task force recommends considering the following actions:

- Develop and implement additional training offerings (or modify current offerings) designed to address member employee/official behavior and internal member culture. Training should address issues typically overlooked in traditional harassment training such as abusive behavior, bullying, hazing, bystander intervention, civility etc.
- Assess the effectiveness of alternative modes of training. A pilot of training offered by social theater group Pure Praxis² is recommended.

¹https://www.eeoc.gov/eeoc/task_force/harassment/task_force_report.cfm

²<http://www.purepraxis.com/>

- Develop and implement training opportunities tailored to different levels of the organization. For example, elected and appointed officials need to hear a different message than executive leadership, who in turn need to hear a different message than line staff. Recommend restructuring training offerings to respond to this need.
- Improve the content and availability of web-based trainings. Providing most legal compliance training online while reserving classroom trainings for offerings designed to reduce frequency and severity of claims may be especially effective.
- Offer additional resources to improve member internal reporting mechanisms. A pilot of an anonymous reporting hotline is recommended.
- Provide more opportunities to train managers and supervisors (especially individuals new to the role) in “soft skills” as well as laws and regulations related to leaves, disability, harassment, and discrimination. Offering more instances of the Management Academy and exploring other creative ways to educate managers and supervisors (e.g., laminated supervisor desk reference) is recommended. Alternatively, a structured training program aimed at new managers and supervisors could be considered.
- Develop and implement a program to better engage member leadership on this topic. It is recommended that this program focus on the business case for taking actions to reduce the frequency and severity of EPL claims. For example, what is the financial impact to members of not adequately addressing negative behaviors and culture?
- Consider hiring an EPL attorney to administer the Employment Practices Intervention Program and provide training to member agencies. This approach may represent a cost savings compared to the current model of compensating EPL attorneys on a time and expense basis.
- Improve procedures for educating members on the liability exposure associated with individual EPL claims and the rationale behind why certain actions (i.e., settlement) are taken. Improving the approach in this area will help members understand why certain decisions are made and improve their support for proactively addressing underlying issues.

Conclusion

While some EPL claims are the result of clearly wrongful employment actions, many other claims are the consequence of a series of unresolved events that leave the affected employee feeling aggrieved. Each of these events represents an opportunity for the agency to intervene and address the issue.

¹https://www.eeoc.gov/eeoc/task_force/harassment/task_force_report.cfm

²<http://www.purepraxis.com/>

CALIFORNIA JPIA

AGENDA REPORT

To: MANAGERS COMMITTEE

From: Jonathan Shull, Chief Executive Officer

By: Norman Lefmann, Assistant Executive Officer
Toni Consolo, Senior Risk Manager

Date: May 10, 2021

Subject: Policy for Establishing City Council Norms of Operation

Discussion

An important role of the Authority is to recognize emerging trends and to assist members with mitigating or eliminating the potential exposures from such trends. From incidents that have occurred in numerous cities throughout the state and among our members, an emerging trend is the increase in contentious interactions among council members, between council members and staff, and in the workplace. The effects of this trend include increased frequency of employment practices claims alleging harassment, inability to perform one's duties, and workers' compensation claims alleging stress due to a stressful work environment. There are also reputational issues resulting in challenges in hiring talented staff due to a perceived negative work environment. Further, the Authority's experience is that councils that fail to operate under a system of norms or best practices tend to be less effective in delivering for their communities.

To that end, the Authority has drafted a policy addressing appropriate behaviors among council members and between council members and agency staff. A draft of such a policy is being presented today entitled Policy for Establishing City Council Norms of Operation.

Staff is bringing this draft policy before the Managers Committee to have a discussion on the challenges of implementing such a policy, obtaining support, and encouraging adoption. In addition, there are ways in which we can promote the new policy template, including participation in training via an Authority Live event, workshop, or roundtable. An e-learning training currently available is "Workplace Harassment Prevention for Local Agency Officials."

Recommended Action

Following review and discussion of the draft policy, provide staff with input as to revisions and/or direction as to distribution of the draft policy to members.

Attachment

Policy for Establishing City Council Norms of Operation

NOTE: The policy should reviewed by City Attorney or General Counsel for evaluation on its matching to the agency’s municipal code.

Policy for Establishing City Council Norms of Operation

Preamble

The legal responsibilities of the City of [NAME] City Council are set forth by applicable state and federal laws. In addition, City of [NAME] (“City”) has adopted regulations, including this Code of Conduct policy, holding Council Members to standards of conduct above and beyond what is required by law. This policy is written with the assumption that Council Members, through training, are aware of their legal and ethical responsibilities as elected officials.

The City Council has established this policy to promote understanding and trust among members of the City Council and City staff concerning their roles, responsibilities, and expectations of the operation of the City. The establishment and periodic review of this policy will assist each member of the City Council, including new members of the City Council, in better understanding their responsibility and role as a Council Member.

Form of Government

The City operates under a [Council-manager] form of government as prescribed by the [municipal] code, section [insert number]. Accordingly, Council Members are elected [at-large/by district], provide legislative direction, set City policy, and ultimately answer to the public. The City Manager serves as the City’s chief administrative officer and is responsible for directing the City’s day-to-day operations and implementing policy direction.

Council Roles and Responsibilities

The role of Council Members is to act as a legislative and quasi-judicial body. Through its legislative and policy authority, the Council is responsible for assessing and achieving the community’s desire for its present and future and for establishing policy direction to achieve its desired outcomes. All members of the Council, including those who serve as Mayor and (vice/pro tem) Mayor have {equal} votes.

Council Members fulfill their roles and responsibilities through relationships with each other and the public. Council Members should approach their work, each other, and the public in a manner reflecting ethical behavior, respectfulness, honesty, and integrity. Council Members’ commitment to their work is characterized by open constructive communication, innovation, and creative problem solving. Council Members commit to working for the common good of the people and not for any private or personal interest and will ensure the fair and equal treatment of all persons, claims, and transactions coming before them.

Mayoral and (Vice/Pro Tem) Mayoral Selection Process

Per section [insert number] of the [municipal] code, the selection of Mayor and (vice/pro tem) Mayor occurs [annually, biennially...] at the [insert number] meeting in [month] by majority vote of the Council Members. The Mayor and (vice/pro tem) Mayor serve at the pleasure of the Council and may be replaced by a majority vote of the Council.

Mayoral and (Vice/Pro Tem) Mayoral Roles, Responsibilities, Relationships

Some key roles, responsibilities, and relationships as related to the Mayor and vice/pro tem Mayor positions follows:

Mayor

1. Presiding officer of the Council. In this capacity, the Mayor is responsible for developing Council agendas in cooperation with the City Manager and leading Council meetings.
2. Recommends various standing committee appointments for the Council for approval. This is conducted [annually] at a Council meeting in [insert month]. When recommending committee appointments, the Mayor should attempt to balance shared responsibilities and opportunities amongst Council Members. The Mayor may also appoint citizens to committees, as deemed appropriate, not established by City ordinance or resolution.
3. Lead communicator/spokesperson with the Council, City Manager, and the public, and in representing the Council in official and ceremonial occasions.
4. Performs special duties consistent with the mayoral office, including, but not limited to, signing of documents on behalf of the City, issuing proclamations, serving as the official voting delegate for various [municipal] advocacy groups, and delivering the State of the City Address. Council will determine additional authority or duties of the Mayor.
5. Special duties may be delegated to the (vice/pro tem) Mayor or another Council Member.
6. In the event one or more members of a City board, commission, or committee acts in a manner contrary to approved board-commission-committee policies and procedures, the Mayor may counsel those members about proper behavior.

(Vice/Pro Tem) Mayor

1. In the Mayor's absence, the (vice/pro tem) Mayor shall perform the formal duties of the Mayor.
2. In the performance of the Mayor's duties, the (vice/pro tem) Mayor is responsible for communicating with the City Manager, Council Members, and the public.

Council Conduct in Public Meetings

Seeking to ensure the highest standards of respect and integrity during public meetings, Council Members should:

1. Use formal titles. Council Members should refer to one another formally during Council meetings, for example, Mayor, (Vice/Pro Tem) Mayor, or Council Member, or Mr., Mrs., or Ms., followed by the individual's last name.
2. Council Members shall prepare by reading the agenda packet in advance of the meeting.
3. Practice civility and decorum in discussions and debate. Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are

legitimate elements of free democracy in action. During public discussions, Council Members should respect others and diverse opinions, and allow for the debate of issues.

4. Honor the role of the presiding officer in maintaining order and equity. Respect the Mayor's efforts to focus discussion on current agenda items. The Mayor shall not influence, interfere with, or otherwise guide discussion in such a way as to prejudice the proceedings. Each Council Member wishing to speak on any agenda item shall be given that opportunity. The Mayor shall have the right to speak last, but only as to his/her opinions and/or conclusions. The Mayor should not attempt to translate the opinions of others on the Council.
5. Council decisions should be reserved until all applicable information has been presented. Council shall publicly share substantive information that is relevant to a matter under consideration which may have been received from sources outside of the public decision-making process.
6. Conduct during public hearings. During public testimony, Council Members should refrain from engaging the speaker in dialogue. For purposes of clarification, Council Members may ask the speaker questions. Council comment and discussion should commence upon the conclusion of all public testimony.
7. All Council Members need not speak or provide their viewpoints during every public hearing or every Council consideration if their concerns have been addressed by other Council Members. On critical or significant issues, all Council Members may want to indicate their opinions on the issue. Council Members may elect to make a statement about their vote after the close of the hearing/agenda item.
8. Upon taking an action, the will of the Council majority shall prevail. It shall be the responsibility and obligation of each Council Member to respect and uphold the action regardless of their individual opinions on the subject matter. This does not preclude any Council Member from expressing their personal views so long as such Council Member clarifies that their statements (if contrary to the official action taken) do not represent the position of the City Council.

Council Participation on Boards, Commissions, and Committees, and Reporting Requirements

Primary Council Member representatives should update the Council about board, commission, and committee activities. When serving as the primary representative, Council Members should periodically provide updated reports to the Council during the [insert agenda item] on the Council meeting agenda.

Recommended actions by the boards, commissions, and committees should be reported to the Council. When serving on a Council committee, whether standing or ad hoc, all work undertaken must be directed by the Council and all recommended actions shall be reported to the Council.

Council Relationship with City Staff

Council Members should be mindful of the support and resources needed to accomplish Council goals to enhance its working relationship with City staff. Guidelines for communicating and working with staff are as follows:

1. City staff should maintain a professional demeanor in making presentations and recommendations to the Council. Written and verbal staff reports should provide an objective, disimpassioned, and unbiased presentation of the facts on which findings and recommendations are based.
2. Mutual respect shall be shown during both open and closed session from both Council Members and staff regarding the respective roles and responsibilities. Council Members should treat staff as professionals. Clear, honest communication respecting the abilities, experience, and dignity of each individual is expected. Civility and decorum are to be exercised in all interactions with staff.
3. Council Members should direct questions about policy, budget, or professional opinion to the **City Manager, City Attorney or other designated legal representative, department directors**. Council Members can direct questions and inquiries to any staff for information that is readily available to the general public or easily retrievable by staff.
4. City staff shall acknowledge the Council as having the final authority to make policy decisions. The City Council shall acknowledge the City Manager and staff as responsible for implementing and administering the Council's policies. The processing of policies and decisions occur with the City Manager and staff. Council should not direct policy/program administrative functions and implementation; rather, it should provide policy guidance to the City Manager.
5. Council Members should attempt to communicate questions, corrections, and/or clarifications about reports requiring official action to staff prior to Council meetings. Early feedback enables staff to address questions and incorporate minor corrections or changes to a report resulting in an efficient meeting discussion. However, this does not preclude Council Members from respectfully asking questions during meetings.
6. Individual Council Members should not direct the City Manager to initiate any action, to change a course of action, or to prepare any report without approval of Council. The City Manager's responsibility is to advise on resources available and required for a particular course of action as it relates to the direction of the Council majority.
7. Council Members should not attend staff meetings unless requested by the City Manager.
8. All Council Members should have the same information with which to make decisions. Information requested by one Council Member will be shared with all Council Members.
9. Concerns related to the behavior or work of a staff member should be directed to the City Manager privately, and not during public meetings. Council Members shall not reprimand staff members.
10. Council Members shall not direct staff members in any manner. Council Members shall not make informational requests for written materials directly to staff. Department heads

will provide answers to questions from Council Members that do not require (1) assembly of information, or (2) significant time in preparation. In those cases requiring assembly or a significant time commitment, the City Manager will determine the impact of regular staff workload and, if appropriate, grant the request of bring it forward to the full Council for a decision. All complaints should be submitted to the City Manager.

11. Council Members should not solicit financial contributions from City staff or use promises or threats regarding future employment, per Government Code Sections 3201-3209. Although City staff may, as private citizens with constitutional rights, support political candidates, such activities cannot take place during work hours, at the workplace, or in uniform.

Legal Requirements

The City Council operates under a series of laws that regulate its operations as well as the conduct of Council Members. The City Attorney serves as its legal officer and is available to advise Council Members on these matters.

A. Training

[Biennial] training in the following areas shall be provided by [staff] to Council Members:

1. Ralph M. Brown Act
2. City ordinances and resolutions and state law on Conflict of Interest (AB 1234)
3. Government Section 1090
4. Incompatible Offices
5. Fair Political Practices Commission Forms
6. Elimination of Bias
7. Harassment and Discrimination (AB 1661)

B. Procurement

Unless authorized by the City Council, Council Members shall not become involved in administrative processes for acquiring goods and services.

C. Land Use Applications

Merits of an application shall only be evaluated on information included in the public record. Council Members shall disclose ex parte communication and any information obtained outside of the public record that may influence a decision on a matter pending before the Council. Council disclosure shall occur after the public hearing section of the agenda and before Council deliberations.

D. Code of Conduct Policy

Newly elected Council Members are strongly encouraged to sign a statement affirming they have read and understand the City's code of conduct policy.

E. Non-Profit Organizations

Council Members may not sit on boards of directors of non-profit organizations which receive funding or in-kind contributions from the City, unless the role serves a legitimate City purpose, such as the League of California Cities, and participation is approved by the full Council.

Council Communication with the Public and other Council Members

The public has a reasonable expectation of engaging its Council Members on matters of community concern. In response, Council Members may express a preliminary opinion on issues or projects raised. Any such preliminary statement shall not constitute a prejudgment or create a presumption of bias on any issue or project. In addition, Council Members may, from time to time, express opinions regarding broad policy matters which may conflict with currently adopted Council policies. Such statements are permissible only if the statement is clearly characterized as personal opinion or policy change objectives.

Enforcement

1. Reporting of Complaints Under this Policy

Complaints that a Council Member has violated the provisions of this policy can be submitted by any employee, by members of the public, and by other Council Members.

- a. Complaints submitted by members of the public, City Manager, or City Attorney should be reported to the Mayor. If the complaint involves the Mayor, it should be reported to the (vice/pro tem) Mayor. If it involves both the Mayor and [vice/pro tem] Mayor, it should be reported to the most senior member of the City Council.
- b. Complaints by staff should be reported to the City Manager or City Attorney.
- c. Complaints by Council Members should be reported to the City Manager or City Attorney to adhere to Brown Act requirements.

2. Evaluation of Complaints Alleging Violations

Upon receipt of a complaint, the City Manager and City Attorney will join the Mayor or (vice/pro tem) Mayor as an evaluation committee to determine the validity of the complaint, and if appropriate, an initial course of action as discussed below. If the City Manager or City Attorney is the complainant, the longest serving uninvolved Council Member will replace the City Manager or City Attorney on the evaluation committee. The evaluation committee will also determine whether the complaint is more appropriately addressed under another City policy, such as the City's policy prohibiting harassment, discrimination, and retaliation, and if so, will refer the complaint to the City Manager for appropriate handling.

The evaluation committee will evaluate the initial complaint and determine the appropriate course of action, which could be, but is not limited to the following: (1) determine that on its face the complaint does not state a violation of this policy; (2) refer the matter to the City Manager for appropriate handling under a more

appropriate City policy; (3) refer the matter to a qualified attorney investigator, who is not part of the City Attorney's Office; (4) admonish the accused Council Member; or (5) refer the matter to the entire City Council for consideration during closed session.

The evaluation committee will also determine what information is required to be shared with the accused Council Member(s), and when that information should be shared.

If an outside attorney investigator is retained, the investigator shall submit a written report with findings of fact. The investigator shall not make any legal conclusions. The investigator shall not make any recommendations, unless specifically requested to do so by the evaluation committee. Any recommendations issued by the investigator are not binding on the City, the evaluation committee, or the City Council.

The report shall be provided to the evaluation committee, and shall be maintained as a confidential, attorney-client privileged record. The evaluation committee shall review the investigation report and determine what recommendation should be made to the City Council.

3. Proceedings

Investigative findings and recommended proceedings and disciplinary action brought forward to Council resulting from a significant policy violation shall be considered at a public hearing. The public hearing should be set far enough in advance to allow the subject Council Member reasonable sufficient time to prepare a response.

Investigative findings shall be presented to Council at a public hearing. The rules of evidence do not apply to a public hearing. It shall not be conducted as an adversarial proceeding.

4. Response to Violations

At the discretion of Council, sanctions may be imposed for violating the code of conduct or engaging in other misconduct. These actions may be applied individually or in combination, and include, but are not limited to:

- a. *Public admonishment.* A reproof or warning directed to a Council Member about a particular type of behavior in violation of policy.
- b. *Revocation of special privileges.* A revocation of assignments, including standing and ad hoc committees, regional boards and commissions, and community-generated board/committee appointments. Other revocations may include temporary suspension of official travel, conference participation, and ceremonial titles.
- c. *Censure.* A formal statement by the Council officially reprimanding a Council Member.

Conflict of Interest

To assure independence and impartiality on behalf of the common good, Council Members shall not use their official position to influence government decisions in which they have a material financial interest or where they have an organizational responsibility or personal responsibility, which may give rise to the appearance of a conflict of interest.

Gifts and Favors

Council Members shall refrain from accepting any gifts, favors, or promises of future benefits from any applicants seeking any discretionary approvals or recommendations.

Confidential Information

Council Members shall respect the confidentiality of written materials and verbal information shared during closed session meetings, as well as information concerning property, personnel/employees, or affairs of the City. They shall neither disclose confidential information without proper legal authorization, nor use such information to advance their personal, financial, or private interests.

If the City Council has provided direction to City staff in closed session on proposed terms and conditions for any type of negotiations whether it be related to property acquisition or disposal, a proposed or pending claim or litigation, and/or employee negotiations, all contact with the other party should be by the designated Council Member or designated staff representative or attorney handling the negotiations or litigation. A Council Member should not have any contact or discussion with the other party or its representative(s) involved concerning the negotiation during this time and not communicate any discussion conducted in closed session. All public statements, information, press releases, and other communications should be handled by the designated staff spokesperson.