

City of Carpinteria
City Council Regular Meeting Agenda
Tuesday, November 12, 2024
Council Chamber, 5775 Carpinteria Avenue, Carpinteria, CA 93013

5:30 p.m. Regular Meeting
In-Person and Virtual Participation Options

Attendance/Viewing Options:

- Attend the in-person meeting in City Council Chambers at City Hall (5775 Carpinteria Ave.).
- View the meeting live through the City's website (<https://carpinteriaca.gov/city-hall/agendas-meetings/>).
- View the meeting on Government Access Television Channel 21 (broadcast live and rebroadcast on the Wednesday and the Saturday following the meeting at 8:00 p.m. and 5:00 p.m., respectively).
- Call 669-900-9128 (and enter Webinar ID 889 0390 2262) to listen to the meeting.
- Join the City's Zoom webinar by [CLICKING HERE](#). Alternatively, you can join the Zoom webinar by logging on to www.zoom.us, downloading the application, selecting "Join Meeting", and entering Webinar ID 889 0390 2262.
- Spanish interpretation will be available at the in-person meeting and through the City's Zoom webinar.

Public Comments

- Provide a live public comment in City Council Chambers at City Hall (5775 Carpinteria Ave.).
- Provide a live comment through the City's Zoom webinar platform (through the link provided above). To make public comments through this platform please use the "raise your hand" feature to notify staff that you would like to make a public comment during designated public comment times. Once it is your turn to provide a public comment, staff will unmute your microphone and you will be given a designated amount of time to provide your comment. At the end of your comment, staff will once again mute your microphone.
- Submit a written comment (as either a general public comment or on a specific agenda item) to be distributed to Council Members by **12:00 P.M. on the day of the meeting** by either submitting your comment via (1) email to PublicComment@carpinteriaca.gov, or (2) the **eComment** link on the City's agenda website available at <https://carpinteriaca.gov/city-hall/agendas-meetings/>. Please reference the agenda item to which your comment pertains. Although

written comments become part of the record, they will not be read aloud at the meeting.

Please note that the City will make every effort to make the meeting accessible virtually; however, if one of the above virtual attendance/viewing or public comment options is unavailable due to technological issues, you are invited to take advantage of one of the other participation options outlined above (including attending and providing public comment in-person in the City Council Chambers). Additional options may be made available at the meeting.

Levine Act Warning

Applicants and their agents before the City Council are subject to the campaign disclosure provisions detailed in Government Code Section 84308. No City Council Member may accept, solicit, or direct a contribution of more than \$250 from any party or agent for 12 months following the date a final decision is rendered by the City. This prohibition commences when an application has been filed, or the proceeding is otherwise initiated. A party to a City proceeding—which includes both applicants and agents—shall disclose on the record of the proceeding any contribution of more than \$250 made to any Council Member by the applicant or agent, during the preceding 12 months. No party to a City proceeding, or agent, shall make a contribution to a Council Member during the proceeding and for 12 months following the date a final decision is rendered by the City. Prior to rendering a decision on a City proceeding, any Council Member who received contribution of more than \$250 within the preceding 12 months from any party, or agent, to a proceeding shall disclose that fact on the record of the proceeding, and shall be disqualified from participating in the proceeding. However, if any Council Member receives a contribution that otherwise would require disqualification, and returns the contribution within 30 days of knowing about the contribution and the relevant proceeding, the Council Member shall be permitted to participate in the proceeding. If you believe that these provisions apply to you or a Council Member, please inform the City Clerk at the earliest possible opportunity. Failure to do so may affect the City's ability to process your application.

CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

COUNCILMEMBER(S) REQUEST FOR REMOTE PARTICIPATION UNDER AB 2449:

The City Council may consider Councilmember(s) request to participate in the meeting remotely under the regulations of AB 2449 by making the necessary findings and voting on whether the Councilmember(s) may participate remotely.

AGENDA MODIFICATIONS: The City Council may modify the regular agenda by tabling items, adding urgency items to the agenda, or changing the order in which items are considered. Changes to the Consent Calendar are considered at the time the Consent Calendar is considered.

INTRODUCTIONS, PROCLAMATIONS AND PRESENTATIONS: NONE

TEMPORARY ADJOURNMENT FOR THE PURPOSE OF HOLDING THE MONTHLY MEETING OF THE CARPINTERIA LIBRARY BOARD OF TRUSTEES

RECONVENE THE REGULAR MEETING OF THE CITY COUNCIL

PUBLIC INFORMATION REPORTS AND ANNOUNCEMENTS

This may include updates on law enforcement activity within the City from a Sheriff's Office representative.

CITY MANAGER'S REPORT

The City Manager will report to the City Council regarding various City and/or community events and/or matters of interest. There will be no City Council discussion except to ask questions or refer matters to staff; and no action will be taken unless listed on a subsequent agenda or as otherwise specified below.

- a. City Employee Updates
- b. Updates on Capital Improvement Projects
- c. Updates on Development Applications
- d. Other City/Community Updates

PLANNING COMMISSION ACTIONS:

The City Council may vote to appeal a decision of the Planning Commission to itself by majority vote (CMC 14.78.040(2)).

PUBLIC COMMENT ON MATTERS NOT ON THE AGENDA

This is a time for public comments on matters not otherwise on the agenda but within the subject matter jurisdiction of the City Council. The Mayor may establish reasonable regulations for public comment based on the time available and/or the number of persons waiting to speak. Typically, the Council's practice has been to limit each speaker to three minutes. The audio-visual system in the Council Chamber is not available for speaker use during the general Public Comment period.

The City and the City Council are not responsible for the content of statements made during the public comment period, or the factual accuracy of any such statements.

CONSENT CALENDAR: Items on the consent calendar are considered to be routine and are normally enacted by one unanimous vote of the Council. If you wish to speak on a consent calendar item please do so during the public comment period provided at the beginning of this item.

1. Approve the minutes of the regular meeting held October 28, 2024.
2. Receive and file the Expenditures for the period beginning October 21, 2024 and ending November 1, 2024.
3. Approve appropriations for the Community Services Support Grant program for the current fiscal year (FY) 2024-2025 totaling \$152,250. *(Requires a roll call vote.)*

ADMINISTRATIVE MATTERS:

4. First Amendment of the Freeway Maintenance Agreement with the State of California Department of Transportation for the Highway 101 Carpinteria to Santa Barbara Project-Phase 4A.

Recommendation: Authorize the City Manager to execute the First Amendment of the Freeway Maintenance Agreement with the State of California Department of Transportation for the Highway 101 Carpinteria to Santa Barbara Project-Phase 4A. *(Requires a roll call vote.)*

Staff Presenter: John L. Ilasin, Public Works Director

- a. Staff Report
- b. Public Comment
- c. City Council Determination

5. Consider canceling the regular City Council meeting for December 23, 2024.

Recommendation: Authorize the cancelation of the regular City Council meeting on December 23, 2024.

Staff Presenter: Brian C. Barrett, City Clerk

- a. Staff Report
- b. Public Comment
- c. City Council Determination

6. City Council Advisory Group Handbook, Appointment Process Policy, and Dissolution of the Standing City Council Boards, Commissions and Committees Interview Committee.

Recommendation: Adopt Resolution No. 6346, adopting the City Council Advisory Group Handbook and Appointment Process Policy and dissolve the Standing City Council Boards, Commissions, and Committees Interview Committee.

Staff Presenter: Brian C. Barrett, City Clerk

- a. Staff Report
- b. Public Comment
- c. City Council Determination

PUBLIC HEARING:

7. Hearing at the request of the City of Carpinteria to: (1) Adopt Resolution No. 6344, amending the Safety Element of the City of Carpinteria General Plan to incorporate in its entirety, the City's adopted Local Hazard Mitigation Plan ("LHMP"), pursuant to California (State) Assembly Bill ("AB") 2140; and (2) Determine that the proposed General Plan amendment is exempt from review under the California Environmental Quality Act ("CEQA") pursuant to Sec. 15061(b)(3) of the CEQA Guidelines (and Public Resources Code Sec. 21065).

Recommendation: (1) Adopt Resolution No. 6344 (Attachment A), as read by title only, amending the Safety Element of the General Plan to incorporate the adopted Local Hazard Mitigation Plan; and (2) Determine that the proposed General Plan amendment is exempt from review under the California Environmental Quality Act ("CEQA") pursuant to Sec. 15061(b)(3) of the CEQA Guidelines and Public Resources Code Sec. 21065; and approve the proposed CEQA Notice of Exemption (Attachment D).

Staff Presenter: Megan Musolf, Assistant Planner

- a. Staff Report
- b. Public Comment
- c. City Council Determination

CONSIDERATION OF ANY ITEMS REMOVED FROM CONSENT CALENDAR AND/OR OTHER AGENDA ITEMS REQUESTED TO BE ADVANCED

MATTERS CONTINUED FROM PREVIOUS MEETINGS: NONE

OTHER BUSINESS:

8. Consideration of Fiscal Sponsorship Application through the Santa Barbara Foundation; Acceptance of a \$35,000 Grant from La Centra-Sumerlin Foundation for Building Appraisal and Consultant Services; and Review and Approval of Scope of Services for a Request for Proposal (RFP) to Solicit Consultant Services for a Potential Community Center in Carpinteria.

Recommendation: (1) Authorize submission of an application to the Santa Barbara Foundation for the purpose of fiscal sponsorship; (2) Authorize acceptance of a \$35,000 grant from La Centra-Sumerlin Foundation to use for building appraisal and consultant services related to identification of a site for use as a community center; and (3) Review and approve scope of services for RFP. *(Requires a roll call vote.)*

Staff Presenter: Michael Ramirez, City Manager

- a. Staff Report
- b. Public Comment
- c. City Council Determination

LEGISLATIVE UPDATE: The City Council will discuss local, state and/or federal legislation under consideration and decide whether to direct staff to place a matter(s) on a future City Council agenda for consideration.

COMMITTEE REPORTS, INQUIRIES AND OTHER MATTERS PRESENTED BY COUNCILMEMBERS

Informational reports from Councilmember representatives on the committees, commissions and organizations listed below. This is also an opportunity for Councilmembers to request information from staff or seek support from fellow Councilmembers for future agenda items.

1. Appointees to Other Government Agencies
 - a. Beach Erosion Authority for Clean Oceans and Nourishment (BEACON) (Solórzano/Alt. Clark)
 - b. California Joint Powers Insurance Authority (CJPIA) (Clark/Alt. Alarcon)
 - c. Santa Barbara County Association of Governments (SBCAG)(Clark/Alt. Nomura)
 - d. Santa Barbara County Air Pollution Control District (APCD)(Clark/Alt. Nomura)
 - e. Central Coast Community Energy (3CE) (Goleta/Alt. Nomura)
 - f. Santa Barbara Mosquito and Vector Management District (Joe Franken)
 - g. Santa Barbara Metropolitan Transit District (Solórzano)

2. Regional Committees

- a. Channel Counties Division, League of California Cities (Nomura/Alt. Alarcon)
- b. Santa Barbara Joint Affordable Housing Task Group (Alarcon & Solórzano)
- c. Santa Barbara County Elected Leaders Forum to Address Homelessness (Clark/Alt. Alarcon)
- d. South Coast Youth Safety Partnership (Solórzano/Alt. Lee)
- e. Multijurisdictional Solid Waste Task Group (Lee/Alt. Alarcon)

3. Joint and Standing Committees

- a. City Council/Economic Vitality Committee (Alarcon & Lee)
- b. City Council/Public Safety Committee (Clark & Nomura)
- c. City Council/School Board Committee (Lee and Alarcon)
- d. City Council/Utilities Committee (Lee & Nomura)
- e. City Council/First District Supervisor Committee (Lee & Solórzano)
- f. City Council Finance/Budget Committee (Alarcon & Clark)
- g. Transportation Committee (Lee & Clark)
- h. Development Review Committee (Joint Committee membership from City Council, Planning Commission and Architectural Review Board) (CC: Clark & Nomura) (PC: To Be Selected by Planning Commission) (ARB: Stein & O'Connor)
- i. General Plan and Coastal Plan Update Committee (Joint Committee membership from City Council and Planning Commission) (Lee & Clark) (PC: Benefield and Salant)
- j. Public Facility Site Acquisition/Development Committee (Clark & Nomura)
- k. City Council Boards, Commissions and Committees Review Committee (Clark & Nomura/ Alt. Lee)
- l. Sustainability Committee (Nomura & Solórzano)

4. Ad Hoc Committees

- a. Civic/Youth Engagement Committee (Lee & Nomura)
- b. Harbor Seal Advisory Committee (Solórzano & Alarcon)
- c. Appointment Process Committee (Alarcon & Clark)

5. Appointed Representatives to Area Boards & Committees

- a. Community Media Access Center (Gary Dobbins)
- b. County Library Advisory Committee (Gail Marshall)

ATTENDANCE OF COUNCILMEMBERS FOR FUTURE MEETINGS

ADJOURNMENT

The next regular City Council meeting will be held November 25, 2024 at 5:30 p.m.

In compliance with the Americans with Disabilities Act, if you need assistance to participate in this meeting, please contact the City Clerk's Office at (805) 755-4403 or the California Relay Service at (866) 735-2929. Notification two business days prior to the meeting will enable the City to make reasonable arrangements for accessibility to this meeting.

Materials related to an agenda item submitted to the City Council after distribution of the agenda packet are available for public review at the City Clerk's Office, located at 5775 Carpinteria Avenue, Carpinteria, CA 93013 or by going to the City's website at <https://carpinteriaca.gov/city-hall/agendas-meetings/>.

This agenda was posted on Thursday, November 7, 2024, in the City Clerk's Office, on the City Hall Public Notices Board, and on the Internet.

CARPINTERIA LIBRARY BOARD OF TRUSTEES
5775 Carpinteria Avenue
Carpinteria, CA 93013

REGULAR MEETING AGENDA
MONDAY, NOVEMBER 12, 2024
5:30 P.M.

1. Call to order and roll call.
2. Confirmation of legal noticing and procedural requirements of meeting.
3. Public Comment – This is the time for public comments on matters not otherwise on the agenda but within the subject matter of the Carpinteria Library Board of Trustees.
4. Approval of minutes of the regular meeting held October 14, 2024.
5. November 2024 Community Library Report.

Recommendation: Receive and file the report.
6. New Business & Discussion.
7. Adjournment.

The Carpinteria Library Board of Trustees agenda and any associated staff reports will be available on Thursday, November 7, 2024 on the City's Website: <https://carpinteriaca.gov/city-hall/agendas-meetings/>. The Carpinteria Library Board of Trustees agenda and staff reports are part of the City Council agenda for its regular meeting of November 12, 2024. Please see "[TEMPORARY ADJOURNMENT FOR THE PURPOSE OF HOLDING THE MONTHLY MEETING OF THE CARPINTERIA LIBRARY BOARD OF TRUSTEES](#)." Details and procedures on how to provide public comment and participate in the meeting through telephonic means are available on the posted City Council agenda at <https://carpinteriaca.gov/city-hall/agendas-meetings/>.

In compliance with the Americans with Disabilities Act, if you need assistance to participate in this meeting, please contact Brian Barrett, City Clerk at brianb@carpinteriaca.gov or (805) 755-4403. Notification two business days prior to the meeting will enable the City to make reasonable arrangements for accessibility to this meeting. This agenda was posted on Thursday, November 7, 2024, in the City Clerk's Office, on the City Hall Public Notices Board, and on the Internet.

CARPINTERIA LIBRARY BOARD OF TRUSTEES
5775 Carpinteria Avenue
Carpinteria, CA 93013

REGULAR MEETING MINUTES
MONDAY, OCTOBER 14, 2024

1. Call to order and roll call.

President Clark called the meeting to order at 5:40 pm.

Boardmembers present: Boardmember Roy Lee
Boardmember Wade T. Nomura
Boardmember Mónica J. Solórzano
Vice President Natalia Alarcon
President Al Clark

Staff members present: Michael Ramirez, Chief Executive Officer
Ryan Kintz, Assistant Chief Executive Officer
Jena Shoaf Acos, Legal Counsel
Jody Thomas, City Librarian
Brian C. Barrett, Secretary

2. Confirmation of legal noticing and procedural requirements of meeting.

Secretary Barrett acknowledged that all legal noticing and procedural requirements have been met.

3. Public Comment

Speakers in-person: Kathy Henry

4. Approval of minutes of the regular meeting held September 9, 2024.

There was no public comment.

Motion by Boardmember Solórzano, seconded by Boardmember Nomura, to approve the minutes of the regular meeting held September 9, 2024. Upon voice vote, the motion carried unanimously.

5. October 2024 Community Library Report.

Recommendation: Receive and file the report.

City Librarian Thomas presented the staff report.

There was no public comment.

Motion by Boardmember Solórzano, seconded by Boardmember Nomura, to receive and file the report. Upon voice vote, the motion carried unanimously.

6. New Business & Discussion.

There was no new business nor discussion.

7. Adjournment.

President Clark adjourned the meeting at 5:50 pm.

Brian C. Barrett, CMC, CPMC, Secretary



City of Carpinteria

LIBRARY BOARD OF TRUSTEES AGENDA STAFF REPORT November 12, 2024

ITEM FOR LIBRARY BOARD OF TRUSTEES CONSIDERATION

November 2024 Community Library Report

STAFF RECOMMENDATION

Receive and file the report.

Sample Motion: I move to receive and file the Carpinteria Community Library report.

BACKGROUND

The Carpinteria Community Library, established by Ordinance No. 747 on June 14, 2021, and added to the Municipal Code, Chapter 2.38, also established a Library Board of Trustees (section 2.38.030) to meet at least once a month.

The purpose of this agenda item is to provide Council an update on the Library's programs, outreach efforts, and staff changes, if any.

DISCUSSION

Program Updates: In October, Library staff participated in various community outreach events, including the Avocado Festival, the Carpinteria Children's Project Health Fair, and a PTA event at Canalino School.

In response to requests from graduates of the Partners in Education Basic Computer class, the Library launched new computer classes in Spanish this October. These classes focus on building digital skills and were designed to address community needs. Notably, the majority of participants are first-time library users, highlighting the effectiveness of community-driven programming.

The LEGO engineering workshops, designed for children ages 6–10, quickly reached full capacity. Participants had the opportunity to construct and operate remote-controlled LEGO Chumash Tomols.

Statistics: The annual Public Library Survey was submitted to the California State Library's data coordinator on October 31, 2024. It is currently under review by the State Library, and a full report will be provided in a future staff update once approved. (Attachment A)

Staff Updates: The library's second-quarter staff training session is scheduled for November 21, 2024.

The recruitment for the Literacy Coordinator position has just begun, and is posted online as of Friday, November 8th.

A request for proposals (RFP) is being developed seeking a consultant to lead the development of a strategic plan for the Library, following recommendations from the Library Advisory Commission and recent guidance from Library consultant Martín Gómez.

In October, the City Librarian and the Community Engagement Librarian attended the California Library Association conference. Eric Castro, Community Engagement Librarian, presented his Catalyst Leadership Program project to an audience of approximately 100 library professionals from across the state. (Attachment B)

POLICY CONSISTENCY

The Library programs and resources are consistent with the actions of the City Council concerning the establishment of a municipal library.

FINANCIAL CONSIDERATIONS

All resources and activities are budgeted in the FY2024-2025 Library budget.

LEGAL AND RISK MANAGEMENT CONSIDERATIONS

As determined necessary and appropriate, staff consults with the City Attorney's Office and risk managers of its insurance entity, the California Joint Powers Insurance Authority, in order to ensure compliance with legal requirements and best practices.

OPTIONS

1. Receive and file.
2. Direct staff as appropriate.

PRINCIPAL PARTIES EXPECTED AT MEETING

None

ATTACHMENTS

- A. Annual Report for 2024
- B. Presentation Slides

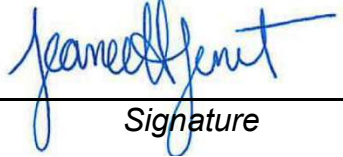
Staff contact:

Eric Castro, Community Engagement Librarian
(805) 684-4314, ericc@carpinteriaca.gov

Staff contact: Jeanette Gant, Director of Parks,
Recreation and Community Services
(805) 755-4449, jeanetteg@carpinteriaca.gov

Staff contact: Michael Ramirez, City Manager
(805) 755-4450, michaelr@carpinteriaca.gov

 for
Signature


Signature


Signature

ATTACHMENT A

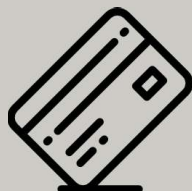


CARPINTERIA COMMUNITY LIBRARY

Annual
Report
2024



2,418 operational hours in
fiscal year 2022/2023!



3,669 people have a card
at our library



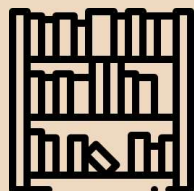
63,391 people walked
through our doors last year



In addition to **168,648**
website visits



Print materials totaled
13,920



The collection contained
16,130 items



There were **45,919**
electronic materials
circulated



Contributing to a total of
106,668 checkouts!



We lent our items to
libraries outside of our
system **5,344** times



Our service is delivered by **750** Reference questions
4.00 dedicated FTE staff were asked



And brought in **6,393**
items upon patron
request



540 total programs
offered



9,262 people
attended in total!

READ



CARPINTERIA
COMMUNITY LIBRARY

ATTACHMENT B

Co-Design experience at the Carpinteria Community Library

Connecting with underserved communities



A decorative graphic consisting of a series of short, parallel diagonal lines in various colors (brown, orange, grey, teal, purple, red, blue, green, yellow, dark blue, light orange, pink, grey, orange, purple, yellow, teal, grey) arranged in a curved, fan-like pattern that starts from the top center and extends towards the bottom right corner.

Defining my process

who, what, when, how, why

Why?

To empower immigrants and put them as the center of the library programming process.



Who? English language learners from the Santa Barbara City College class in Carpinteria



How?

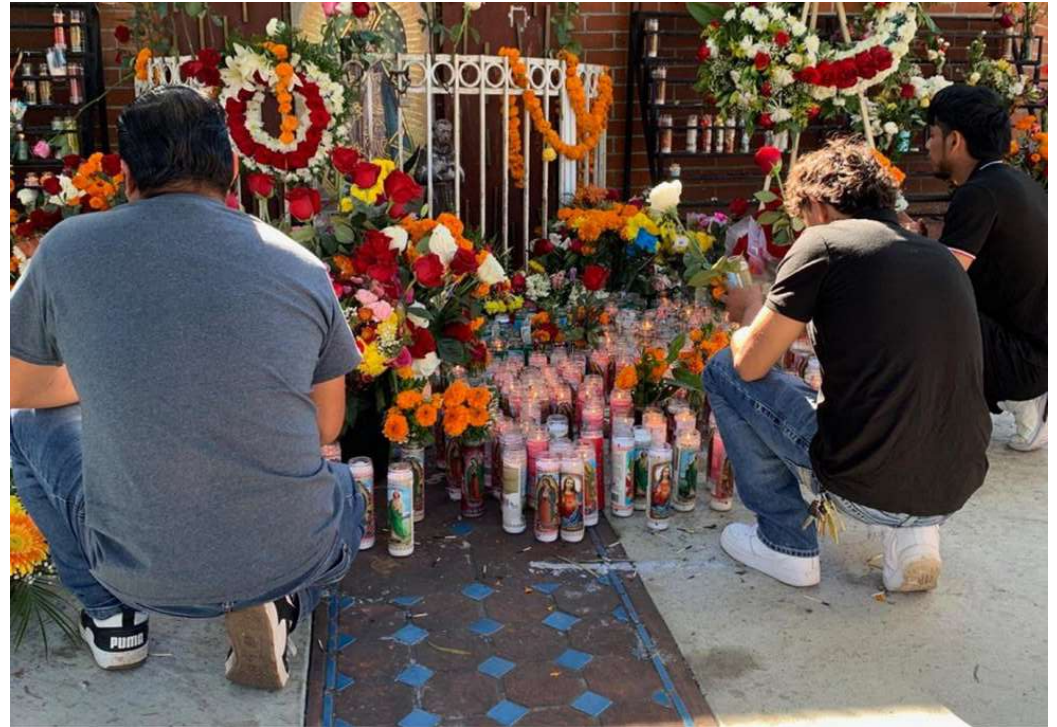
Co-designing with the community and exercising leadership with empathy



**Go beyond the
traditional ways.**



Remember Empathy is the Foundation of a Human-Centered Design Process.



To empathize, we:



Observe

To empathize, we:



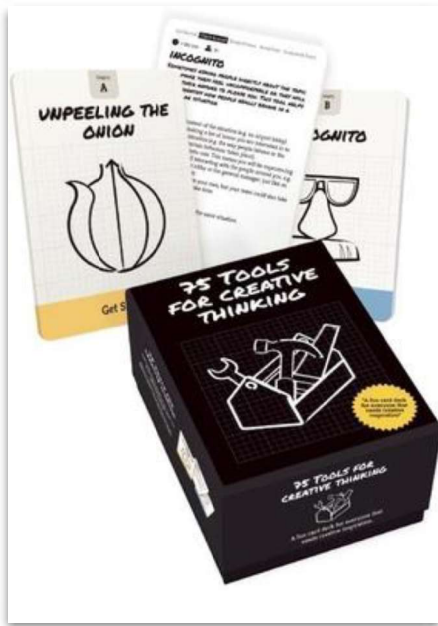
Engage

To empathize, we:

Immerse



Tools available



Is this culturally relevant?

Co-Design Activity



BRAINSTORMING



To express as many needs as possible without too many restrictions and in an effective way.

Having the experience of knowing what it is like to be an immigrant and what means to live in the U.S., with this knowledge imagine that you are in your country of origin and you are going to immigrate again but in this occasion you have the possibility of bringing things, people, knowledge, experience, degrees, skills or anything that could help you have a better life in the U.S. Write down a list of all these things you would bring with you. There is no limit, you can bring as many things as you want.

FILTERING



To evaluate their needs and select the more important ones.

Evaluate and prioritize what elements will help you more as an immigrant in the U.S. Circle the 10 most important.

1

h the constrain

airport and the
only allowed to
4 things that you

relevant needs

Write it down and



**A Co-Design activity created
with the lived experience
perspective.**

BRAINSTORMING



To express as many needs as possible without too many restrictions and in an effective way.



Brainstorming

Write down a list of all the things you would bring with you. There is no limit, you can bring as many things as you want.



FILTERING



To evaluate their needs and select the more important ones.

Filtering

Circle the ten most important items from your list because those are the only ones you will be bringing with you.



THE CHOICE



To select the greatest needs with the constraints of putting some needs aside.

The Choice

Imagine that you are at the Los Angeles airport and the immigration officer tells you that you are only allowed to enter with four items from your list and you have to leave everything else. What are those four elements that you would choose to keep?



REFLECTION



To identify and compare the most relevant needs in the group.

Deep Reflection



Explain why did you chose these four elements?

Write down why and share it with the group if you feel comfortable.

Sharing and Hearing



Identified Needs

1. English language / Education.
2. Legal immigrant status.
3. Being able to bring close family members or at least be able to visit them.
4. To learn how to drive a car.

Library Programs as a Result of the Project

U.S. Citizenship Test Preparation Class



U.S. Citizenship Test Preparation Class

Participants from Latin America, Europe, Australia, and Asia, all of them Carpinteria residents.



Immigration Legal Advice



Specialist from the organization IMPORTA, Immigration legal work authorized by the U.S. Department of Justice.



Basic Computer Class



Class was offered in collaboration with Santa Barbara Partners in Education. Each student received a Chromebook to work with in the class. After completing the class, they got to keep them.



Basic Computer Class

CO-EVALUATION

CO-PLAN

CO-DELIVER

Long-Term Relationship with the Immigrant Community





Thank you

Eric Castro

Community Engagement Librarian
Carpinteria Community Library
ericc@carpinteriaca.gov

MEMORANDUM

Memorandum



Date: November 04, 2024
To: Michael Ramirez, City Manager
From: Chief Rich Brittingham
Subject: City of Carpinteria – October 2024 Monthly Report
cc: Ryan Kintz, Assistant to the City Manager

City of Carpinteria Chief's Recap

Wednesday 10/2/24, 10:06 am

459 PC (burglary to a vehicle) 3208 Via Real

An unknown suspect drove into the parking lot of the above address and exited his vehicle from the back passenger side and began looking inside the parked cars. The suspect broke the driver side window of the victim's vehicle and took the victim's purse. The victim had a debit card and about \$100 in cash in her purse.

Thursday 10/03/24, 11:19 pm

273.5 PC (Felony Domestic Violence), 236 PC (False Imprisonment), 591.5 PC (Preventing Victim From Calling 911)

Deputies responded to a call of a female yelling at Viola Fields. The suspect and the female victim were parked in the suspect's vehicle. The victim had the suspect's cell phone and saw a text message that upset her. The two began arguing. The victim attempted to call 911 but the suspect took her cell phone preventing her from doing so. The suspect picked the victim up off the ground and dropped her on her back. The victim was able to get her cell phone back and the

MEMORANDUM

two went back to the suspect's vehicle. While in the vehicle the victim was attempting to leave but the suspect was holding her arms and physically keeping her from exiting. The victim was able to exit the vehicle but would not let the suspect leave because he still had her cell phone and purse. The suspect exited the vehicle, and the victim jumped in the driver's side. The suspect picked the victim up and dropped her on her back again. The suspect's parents arrived on scene and were able to get the victim's purse and cell phone back and then left the area prior to deputies' arrival. An Emergency Protective Order (EPO) was granted but the suspect was not located.

Friday 10/18/24, 4:08 pm.

211 PC (Robbery), 236 PC (False Imprisonment), 245(a)(4) PC (Assault with Force Likely to Produce Great Bodily Harm)

The victim was inside a trailer at the Sea Breeze trailer park with the witness when the suspect entered and grabbed the victim and threw him onto the couch. The suspect put his forearm across the victim's throat and caused him to become lightheaded and have difficulty breathing. The suspect removed vape items from the victim's pockets while he was pinned to the couch. The suspect let the victim get up and struck him approximately three times in the face.

Saturday 10/19/24, 11:02 pm.

11351 HS (Transportation of a Controlled Substance), 11370.1 HS (Possession of a Controlled Substance While Armed), 496 PC (Possession of Stolen Property)

Two suspects were identified spontaneously fleeing after seeing a marked patrol car in the parking lot west of San Roque Mobile Home community. Both suspects were standing next to one of the suspect's trucks, and several bikes matching the description of recently stolen bikes from Carpinteria State Beach Campground were also present. Upon a search of the area and of the suspect's truck, deputies recovered the following: 115 grams of meth, 2 grams of fentanyl, 1 loaded and unregistered pistol, \$1300 cash, 3 recovered stolen bikes, 4 meth pipes, and various forms of identifying information for the suspects. The truck was towed since it had not been registered since 2019. Both suspects fled upon the officer's arrival, and one of the suspects was subsequently arrested several days later.

SANTA BARBARA SHERIFF'S OFFICE

MEMORANDUM

Wednesday 10/23/24, 7:08 am

487 PC (Grand Theft)

The victim's tools were stolen from unsecured crates in the back of his work truck at approximately 0430 hours on the morning of 10/23/2024. The victim provided security footage showing the suspect vehicle pull up and park next to his vehicle. An unknown adult male subject took the tools from the victim's truck and drove away. The total value of the stolen tools was approximately \$1500.

Friday 10/25/24, 6:58 am.

488 PC (Petty Theft)

An unknown suspect stole the victim's tools from the backseat of his unlocked vehicle during the night. In addition, the unknown suspect placed bags of dog-feces on the passenger side door handle and on the passenger seat of his vehicle. According to the victim, the value of the stolen tools was approximately \$350.

Community Outreach

- Deputy Bailey attended the Trunk or Treat event at Girl's Inc. and passed out candy.

Upcoming Events to look for:

- Deputy Pereyra is working on an elder scam presentation that will be given in January 2025, in both English and Spanish.
- Deputy Goodwin is working on an E-bike safety and bicycle safety presentation for Carpinteria High school, which will also likely take place in January 2025.

MEMORANDUM

Criminal Investigations Bureau City of Carpinteria Investigations

Case Overview (October Stats)

Number of new cases forwarded to investigations: 47

Number of cases suspended: 0

Number of cases assigned: 1

Number of cases closed by arrest: 0

Number of cases closed by other: 44

Number submitted for complaint: 0

Number of current active cases: 18

MEMORANDUM

Chief's Message

Please remember to call 911 (non-emergency number if it is not critical) immediately for a law enforcement response when crimes are committed, especially when the suspect displays violent behavior.

Non-Emergency Dispatch Number: 805-683-2724

Methamphetamine and other drugs are very commonplace nowadays. Methamphetamine especially has become very affordable over the past few years, which means there is an abundance of it in our community. And with more lenient drug laws, more people are willing to risk using or transporting the drug. A lot of other crimes (burglaries, thefts, violent crimes, etc.) can be linked to illicit drug use.

Overdose County deaths:

There have been 31 overdose deaths in Santa Barbara County from July through September. Fentanyl is responsible for most of the overdoses.

As depicted above, many thefts occur from a crime of opportunity. If you leave a purse, backpack, tools, anything of value on the seat or in plain view, you make yourself an easy target. Like the vehicle burglary on Oct. 2, many suspects look through different vehicles and if the vehicle is empty, they move on to the next one until they find something in plain sight. If you cannot take the item with you, do your best to conceal it by placing it in the trunk, under your seat, etc. Try to keep it out of sight so the thief will not waste his/her time with your vehicle. Also, if you have a work truck with tools, it would be a good idea to put them inside the garage when not in use, if possible. If you are unable to do so, consider parking your vehicle in a well-lit area.

****Crime opportunity theory suggests that when offenders want to commit a crime, they look for an opportunity or a practical target. By implementing crime prevention through environmental design strategies, opportunities for crime will be reduced, helping eliminate crime opportunities around your property. Crime decreases if the opportunity to commit crime is reduced or eliminated (Don't make it easy for them).**

Respectfully,

SANTA BARBARA SHERIFF'S OFFICE

MEMORANDUM

Chief Rich Brittingham



Rich Brittingham, Lieutenant

Santa Barbara County Sheriff's Office

South County Operations Division-Coastal

City of Carpinteria-Chief of Police Services

805-568-3388 Office

805-566-2166 Fax

MEMORANDUM



Council Meeting Date: November 12, 2024

To: Honorable Mayor and City Council

From: Michael Ramirez, City Manager

Subject: City Manager's Report

CITY EMPLOYEE UPDATES

Recruitments

Below is a partial list of open recruitments and status. Additional information on City job openings is available online at <https://carpinteriaca.gov/city-hall/human-resources/>.

- Chief Building Inspector / Plans Examiner – Full-time
 - Deadline to apply: November 24, 2024.
- Maintenance Worker – Two Part-time Positions
 - Pending background check.
- Management Assistant – Full-time
 - Interviews pending screening of 44 applications
 - Tentative interview date: November 13.
- Parks & Facilities Attendant – Part-time
 - Pending background.
- Program Manager – Parks, Recreation, and Community Services
 - Deadline to apply extended: November 11, 2024.
- Literacy Coordinator – Part-time
 - Deadline to apply: December 1, 2024.

UPDATES ON CAPITAL IMPROVEMENT PROJECTS

None.

UPDATES ON DEVELOPMENT APPLICATIONS

Palms Restaurant Renovation Scheduled for PC Review on December 2, 2024

The proposed renovation plan for the historic Palms Restaurant building at 701 Linden Avenue is scheduled to be considered by the City's Planning Commission on December 2nd. The proposed project would restore the historic integrity of the building's exterior, remodel the ground floor restaurant space, convert the second floor into a banquet/event space, and introduce a new rooftop bar and dining area. The Planning Commission agenda, staff report and a copy of the proposed plans will be posted to the City website no later than Wednesday, November 27th at: <https://carpinteriaca.gov/city-hall/agendas-meetings/>

Surfliner Inn Scheduled for ARB Review on December 12, 2024

The proposed Surfliner Inn project located on a portion of the City Parking Lot #3 property at Linden Avenue and Fifth Street (499 Linden Avenue) is scheduled to be reviewed by the Architectural Review Board (ARB) on December 12, 2024. The ARB will be responsible for reviewing the project for consistency with applicable City design policies and providing a recommendation to the Planning Commission.

In preparation for the ARB meeting, story poles will be erected onsite to demonstrate the approximate size, bulk and scale of the proposed Inn project. Story poles will be erected the week of November 25th and will remain in place through the week of January 6th. During the time the story poles are up, a portion of the City Parking Lot #3 will be unavailable for public use. The west end of the parking lot, along with the sidewalks along Linden Avenue and Fifth Street, and the Amtrak platform will, however, remain open and available for the public's use throughout this time.

The ARB meeting agenda and staff report will be posted to the City website no later than Thursday, December 5th at: <https://carpinteriaca.gov/city-hall/agendas-meetings/>

OTHER CITY/COMMUNITY UPDATES

AgeWell Community Forum

A Senior Services Community Forum will be held on November 14th at 1:00 PM in the Veterans Hall Meeting Room. This forum provides an opportunity for community members to share ideas and suggestions for future programs. Input from attendees will play a valuable role in shaping services that meet the needs of the senior community. All are invited to join for an engaging discussion focused on creating a better future together.

AgeWell & PEARLS

AgeWell is pleased to announce the launch of the all-new PEARLS Group Sessions, available exclusively in Spanish starting November 12th. PEARLS, or the Program to Encourage Active Rewarding Lives, is a complimentary group program designed to promote emotional well-being and support positive lifestyle changes. These sessions will equip participants with tools to manage and reduce feelings of sadness and loneliness,

improve problem-solving skills, and foster meaningful social connections. The sessions will be held every Tuesday from 10:30 AM to 12:00 PM at the Veterans Hall Meeting Room. This program is made possible through a collaboration with the Family Service Agency and aims to serve our Spanish-speaking community members.

Veterans Storytelling Hour

A special Veterans Storytelling Hour took place on November 7th at 5:30 PM in the Veterans Hall Meeting Room. Attendees enjoyed an evening of powerful stories as seven remarkable veterans each shared true stories in just seven minutes, offering a glimpse into their lives and journeys. Refreshments were served, and it was a meaningful event filled with inspiration and community support for our veterans.

Memorial Bench Program Update

The Memorial Bench Program is currently on hold while staff develop a comprehensive policy addressing the acceptance, maintenance, care, and replacement of memorial benches. This policy will aim to ensure sustainable and respectful management of the program. Numerous community members have inquired about ways to honor their loved ones, and staff anticipate finalizing the policy in the new year.

2024 Winter Protection Berm

The annual Winter Protection Berm is tentatively scheduled for assembly within the week of November 18, 2024. All regulatory environmental permits from the California Coastal Commission, Regional Water Quality Control Board, and U.S. Army Corps of Engineers are currently valid for the Winter Protection Berm. Again, the purpose of the Winter Protection Berm is for protection of the Carpinteria City Beach and immediately adjacent properties, and funding is from Assessment District No. 5.

Diversity, Equity, and Inclusion (DEI)

Staff continues to work with its DEI consultant, Equity Praxis Group. For a summary of engagement and information gathered as of November 2024, see **Attachment A**.

In the next month, EPG will create a draft Strategic Equity Plan based on the recommendations that came out of the community engagement process. This plan will be presented to the City of Carpinteria DEI Committee on December 3, 2024. During this meeting, the Committee will share their feedback on both the plan's content and format with the goal of finalizing a plan that can be shared with the City Council in January 2025 for review, feedback, and potential adoption.

ATTACHMENT A



Progress Report

November 2024

The City of Carpinteria for Diversity, Equity, & Inclusion Initiative Support Services

Equity Praxis Group has been working to help The City of Carpinteria better understand and improve community dynamics in Carpinteria, focusing on diversity, equity, and inclusion. In the past year, we have conducted individual interviews with all City Council members (prior to the most recent election) and key individual community leaders. We also conducted group listening sessions with key community constituencies including non-profits, ESL students, local business owners, and LGBTQ+ community members. Participants across sessions varied in age, gender, and background, encompassing a wide range of community stakeholders. Below is a table outlining the community listening sessions:

Session	Medium	# of Participants	Age Range	Gender	Background
Listening Session 1	Zoom	9	Over 18	Mixed	Non-Profit and Community Service Providers
Listening Session 2	In-Person	6	16 - 35	Mixed	Employees and Beneficiaries of CommUnify
Listening Session 3	In-Person	18	Over 18	Mixed	ESL Students
Listening Session 4	In-Person	6	14 - 17	Mixed	High School Students
Listening Session 5	In-Person	9	Over 18	Mixed	Local Small Business Owners
Interview 1	Zoom	1	Over 18	Man	Community Service Provider
Interview 3	Zoom	1	Over 18	Woman	LGBTQ+ Community Member
Interview 3	Zoom	1	Over 18	Gender Non-Binary	LGBTQ+ Community Member

Major Themes Identified:

- **Community Engagement and Identity:** A strong sense of community belonging and pride was evident across groups. Recognition of Carpinteria's unique small-town character as an asset across groups.
- **Diversity and Inclusion in Political Representation:** There is an ongoing shift towards more diverse political representation, particularly among younger Latinas.
- **Affordable Housing and Living Conditions:** Housing affordability emerged as a significant concern, affecting community cohesion.
- **Educational Challenges and Opportunities:** The need for more inclusive and dual-language educational policies was highlighted.
- **Healthcare Accessibility and Mental Health:** Limited access to healthcare, especially mental health services, was a recurring concern.

- Law Enforcement and Community Relations: Mixed experiences with law enforcement were reported, with suggestions for improved community engagement.
- Support for Marginalized Groups: Enhanced focus and support for LGBTQ+ individuals, minority communities, and the homeless were identified as necessary.
- Economic Challenges for Local Businesses: Business owners faced challenges in navigating city regulations, highlighting the need for economic and marketing support.
- Intersectionality Analysis: A nuanced understanding of the diverse needs of community members based on their intersecting identities was critical in understanding their unique experiences and challenges.

Community Member Recommendations:

- Youth Empowerment: Enhance collaboration and establish a Youth Advisory Committee.
- Gentrification and Housing: Implement regulations on short-term rentals and develop affordable housing initiatives.
- Historical Perspective: Promote storytelling initiatives and offer DEI training.
- Political Representation: Study electoral districts' impact and encourage community integration.
- Law Enforcement Relations: Support community policing, cultural humility training, and police-community dialogue sessions with key community subgroups in order to build trust and relationships.
- Healthcare Accessibility: Promote telehealth services and ensure language access services in healthcare.
- Economic Support for Businesses: Organize small business workshops and networking events. Develop a Spanish-language business owners advisory group to help improve policies, protocols, and practices for helping Spanish-speaking business owners better navigate City regulatory and permit processes.
- Community Engagement: Encourage inclusive events and the creation of community spaces.
- LGBTQ+ Visibility and Support: Appoint a city liaison for LGBTQ+ matters and promote safe spaces.

What the City of Carpinteria is doing well:

- Strong community engagement and solidarity
- Advancement in diverse political representation
- Positive steps in law enforcement and community relations
- Accessible community resources like library programs

- Commitment to diversity and inclusion

What the City of Carpinteria Could Do Better:

- Enhance affordable housing options
- Improve healthcare accessibility
- Expand language and cultural inclusivity
- Deepened law enforcement community engagement
- Further develop economic and administrative support for local businesses

Equity Praxis Group Recommendations:

Develop a Comprehensive Affordable Housing Plan:

- Opportunity: Address the critical issue of housing affordability.
- Recommendation: Create partnerships with developers for affordable housing projects, revise zoning laws to allow for more housing development, and explore funding options for low-income housing initiatives.

Expand Healthcare Services and Accessibility:

- Opportunity: Improve access to healthcare, especially mental health services.
- Recommendation: Partner with healthcare providers to establish local clinics, promote telehealth services, ensure healthcare facilities are equipped with multilingual staff, provide training to healthcare providers on working with interpreters and translators, develop a local team of medical interpreters from the City's bilingual population (this has the added benefit of helping to foster new local businesses and entrepreneurs).

Enhance Support and Visibility for Marginalized Groups:

- Opportunity: Foster a more inclusive environment for LGBTQ+ individuals, minorities, and the homeless.
- Recommendation: Develop targeted programs, support community centers, and create public awareness campaigns to promote inclusivity and support.

Facilitate Economic Growth and Support for Local Businesses:

- Opportunity: Address challenges faced by small business owners.
- Recommendation: Simplify regulatory processes, provide tax incentives, offer workshops on navigating city regulations, and create a business support network - especially for Spanish-speaking business owners.

Improve Law Enforcement and Community Relations:

- Opportunity: Build trust and understanding between law enforcement and residents.

- **Recommendation:** Implement community policing strategies; increase transparency in reporting from Sherriff to City; conduct diversity, cultural humility, equity, and de-escalation training for officers; organize community-law enforcement forums and dialogue processes to build trust and relationship; develop a local team of community interpreters from the City's bilingual population (this has the added benefit of helping to foster new local businesses and entrepreneurs).

Promote greater Language Access and Cultural Inclusivity across all aspects of City operations:

- **Opportunity:** Cater to the diverse linguistic and cultural needs of the community.
- **Recommendation:** Offer city services in multiple languages, celebrate cultural events, and incorporate cultural humility and equity training for city employees; develop a local team of community interpreters from the City's bilingual population (this has the added benefit of helping to foster new local businesses and entrepreneurs), develop a set of language access guidelines and policies and a City of Carpinteria Language Access Handbook to document them and ensure consistency and transparency.

Conclusion:

Implementing these recommendations requires concerted efforts from local government, community organizations, businesses, and residents to foster a more inclusive and equitable environment in Carpinteria. A more detailed report will be provided to The City of Carpinteria in early 2025.

MEMORANDUM

Date: November 5, 2024
To: City Council
From: Nick Bobroff, Community Development Director
Subject: November 4, 2024 Planning Commission Action



On Monday, November 4th, the Planning Commission considered the following hearing requests with Commissioners Allen, Benefield, La Fevers, Moyer, and Salant in attendance:

1) Monte Vista Off-Leash Dog Park Temporary Use Permit Status Report

Planner: Megan Musolf

Project 23-2261-TUP

Address: Monte Vista Park

Applicant: City of Carpinteria

Hearing pursuant to the adopted Conditions of Approval for Project 23-2261-TUP to receive a status report following six months of operation of the Monte Vista off-leash dog park pilot program. The dog park is located in Monte Vista Park (APN 001-080-038).

The Planning Commission voted 5-0 to receive and file the status report, and to amend Condition No. 20 to allow a subsequent application for a Temporary Use Permit reauthorization to be considered by the Community Development Director rather than having to return to the Planning Commission. The Commission also clarified that they did not require the dog park to be locked outside of park hours.

2) Zoning Amendments for the 2023-2031 Housing Element

Planners: Mindy Fogg and Megan Musolf

Project 24-2279-ORD/LCPA

Address: Citywide

Applicant: City of Carpinteria

Hearing on behalf of the City of Carpinteria Community Development Department to consider three proposed ordinances that would implement Program 1 (Adequate Sites to Accommodate Regional Housing Needs) of the City's 2023-2031 Housing Element, and to provide recommendations to the City Council regarding adoption of the ordinances, as determined appropriate.

The Planning Commission voted 5-0 to recommend approval of the proposed ordinance package to the City Council, as described below:

- Adopt proposed Ordinance A adding Chapter 14.19 to the CMC to include a new Mixed-Use Zone and include the following changes:
 - Change name of zone to RMU – Residential / Mixed Use
 - Amend Chapter 14.19 as shown in ~~strikeout~~ and underline, below:
 - 14.19.040 - Uses permitted by right
 - A. The following uses shall be allowed as a use by right in the MU district:
 - 1. Mixed-use commercial and multifamily residential developments, subject to the provisions of Sections 14.19.070 through 14.19.100, that provide a minimum of 20 percent of deed-restricted residential units for lower-income households;
 - 2. Multifamily residential-only developments, subject to the provisions of Sections 14.19.070 through 14.19.100, that provide a minimum of 20 percent of deed-restricted units for lower-income households;
 - 14.19.050- Uses permitted subject to development plan approval. Mixed-use commercial and multifamily residential developments that do not meet the affordability requirements of Section 14.19.040(A)(1) and multifamily residential-only developments that do not meet the affordability requirement to Section 14.19.040(~~B~~)(A)(2) shall require approval of a development plan in accordance with Section 14.19.030(C). Uses subject to development plan approval shall comply with the provisions of Sections 14.19.070 through 14.19.100 and all applicable provisions of the Title 14 of the City's Code.
- Adopt proposed Ordinance B adding Chapter 14.51 of the CMC to include new Objective Design Standards and include the following changes:
 - Amend Chapter 14.51 as shown in ~~strikeout~~ and underline, below:
 - 14.51.040 – Building Form, Massing, and Articulation
 - B. Upper floor massing. Upper floors shall be reduced in bulk and massing: upper floors shall each have up to a total maximum floor area of 80 percent of the total net floor area of the ground floor. For lots with 5,000 square feet or less, upper floors shall have a total maximum floor area of up to 70 percent of the total net floor area of the ground floor.
- Adopt proposed Ordinance C amending the official Zoning Maps and LCP to rezone the select parcels to Mixed Use and include the following changes:
 - Add Site No. 5 (6380 Via Real) to the proposed list of sites to be rezoned;
 - Remove Site No. 16 (4621-4643 Carpinteria Ave.) from the proposed list of sites to be rezoned.
- Find that the addendum to the certified Program EIR satisfies the environmental review requirements of CEQA.

City of Carpinteria
City Council Minutes
Regular Meeting
Monday, October 28, 2024
Council Chamber, 5775 Carpinteria Avenue, Carpinteria, CA 93013
In-Person and Virtual

CALL TO ORDER

Mayor Clark called the meeting to order at 5:32 pm.

ROLL CALL

Councilmembers present:

Councilmember Roy Lee
Councilmember Mónica J. Solórzano
Councilmember Wade T. Nomura
Vice Mayor Natalia Alarcon
Mayor Al Clark

Staff members present:

Michael Ramirez, City Manager
Sydne Levy, on behalf of Brownstein Hyatt Farber
Schreck, LLP acting as City Attorney of the City
of Carpinteria
Ryan Kintz, Assistant City Manager
Brian C. Barrett, City Clerk
Jody Thomas, City Librarian
Nick Bobroff, Community Development Director
David Hernandez, Code Compliance Supervisor
Licette Maldonado, Administrative Services Director
John L. Ilasin, Public Works Director
Jeanette Gant, Parks, Recreation & Community
Services Director

PLEDGE OF ALLEGIANCE

Mayor Clark led those present in the salute to the flag.

COUNCILMEMBER(S) REQUEST FOR REMOTE PARTICIPATION UNDER AB 2449:

There were no Councilmember requests for remote participation under AB 2449.

AGENDA MODIFICATIONS: NONE

INTRODUCTIONS, PROCLAMATIONS AND PRESENTATIONS

1. Proclamation Recognizing and Celebrating the 38th Anniversary of the California Avocado Festival. *(Requires approval prior to presentation of proclamation.)*

There was no public comment.

Motion by Vice Mayor Alarcon, seconded by Councilmember Nomura, to approve the Proclamation Recognizing and Celebrating the 38th Anniversary of the California Avocado Festival. Upon voice vote, the motion carried unanimously.

Mayor Clark and the City Council presented the proclamation to Mike Lazaro and Olivia Sorgman. Ms. Sorgman provided remarks.

2. Presentation on Status Report of Carpinteria and Montecito Libraries, including Recommendations regarding Montecito Library joining Carpinteria Community Library by Martín Gómez, Principal Consultant for MJ Gómez and Associates.

City Librarian Thomas introduced Martín Gómez, Principal Consultant for MJ Gómez and Associates who provided the staff report and PowerPoint presentation. City Librarian Thomas introduced Glynn Birdwell, Chair of the Carpinteria Library Advisory Commission and Pat Saley, representing Friends of the Montecito Library, and both provided remarks.

Speakers in-person: Fred Shaw, Pat Saley representing Friends of the Montecito Library, and Gaby Edwards representing Friends of the Carpinteria Library

Motion by Councilmember Nomura, seconded by Councilmember Solórzano, to receive and file the presentation. Upon voice vote, the motion carried unanimously.

CITY MANAGER'S REPORT

- a. Senior Services Programming

None.

- b. City Employee Updates

City Manager Ramirez reported on City recruitments.

- c. Updates on Capital Improvement Projects

None.

- d. Updates on Development Applications

Community Development Director Bobroff reported that the Planning Commission on November 4th will receive a six-month status report on the Monte Vista Dog Park Pilot Program.

e. Other City/Community Updates

City Manager Ramirez spoke on the issue of illegal dumping with the trash bins at the City Beach Ends as well as responded to a public comment the City Council received at its meeting on October 14th regarding trash on the east end of Carpinteria Avenue. He also announced that the Library will be open on the Veterans Day Holiday, Monday, November 11th; however, the Community Pool will be closed and there will be no Agewell programming that day.

Community Development Director Bobroff stated that the Planning Commission on November 4th will consider a suite of proposed ordinances to implement necessary rezones to meet the City's Regional Housing Needs Allocation ("RHNA") as part of the City's adopted 2023-2031 Housing Element. He also noted that Chief Building Inspector and Plans Examiner Dan Chepley has accepted the position of Chief Building Official with the County of Santa Cruz.

There was no public comment.

PUBLIC COMMENT ON MATTERS NOT ON THE AGENDA

Speakers in-person: Eileen Marcussen and Annie Sly

Emails distributed: Van Fleisher, representing C-DOG

CONSENT CALENDAR:

There was no public comment.

Motion by Councilmember Lee, seconded by Councilmember Nomura, to approve the Consent Calendar Item Nos. 3 through 8. Upon voice vote, the motion carried unanimously.

3. Approve the minutes of the regular meeting held October 14, 2024.
4. Receive and file the Expenditures for the period beginning October 7, 2024 and ending October 18, 2024.
5. Receive and file the Report of Contracts Executed by the City Manager for the Period of August 6, 2024 through October 7, 2024.
6. Receive and file the Monthly City Treasurer's Report on Compliance with Statement of Safekeeping and Investment of Public Funds for September 2024.
7. Receive and file the Quarterly Review of the Pension Stabilization Trust.
8. Adopt Resolution No. 6345, receiving and filing the Annual City Investment Policy.

ADMINISTRATIVE MATTERS:

9. Code Compliance Quarterly Report Q3, 2024.

Recommendation: Receive and file the Q3 Code Compliance Quarterly Report.

Code Compliance Supervisor Hernandez presented the staff report and PowerPoint presentation.

Speakers via Zoom: Susan Allen

Motion by Councilmember Solórzano, seconded by Councilmember Nomura, to receive and file the Q3 Code Compliance Quarterly Report. Upon voice vote, the motion carried unanimously.

PUBLIC HEARING: NONE

CONSIDERATION OF ANY ITEMS REMOVED FROM CONSENT CALENDAR AND/OR OTHER AGENDA ITEMS REQUESTED TO BE ADVANCED: NONE

MATTERS CONTINUED FROM PREVIOUS MEETINGS: NONE

OTHER BUSINESS:

10. First Quarter Department Reports for Fiscal Year 2024/25 Budget.

Recommendation: Receive and file First Quarter Department Reports for Fiscal Year 2024/25 Budget.

City Manager Ramirez introduced the item and presented the General Government Department PowerPoint along with City Clerk Barrett.

Mayor Clark recessed to a break at 7:31 pm and reconvened the meeting at 7:38 pm.

Administrative Services Director Maldonado provided the Administrative Services Department PowerPoint.

Community Development Director Bobroff presented the Community Development Department PowerPoint.

City Manager Ramirez noted there was a correction to the staff report on the Upcoming Priorities for the Next Quarter under the Legislative & Policy Program (pdf page 7 of the staff report) in that the Entertainment License will be an update, not a public hearing.

Public Works Director Ilasin provided the Public Works Department PowerPoint.

Parks, Recreation and Community Services Director Gant presented the Parks, Recreation and Community Services Department PowerPoint.

Motion by Councilmember Nomura, seconded by Vice Mayor Alarcon, to receive and file the First Quarter Department Reports for the Fiscal Year 2024/25 Budget. Upon voice vote, the motion carried unanimously.

LEGISLATIVE UPDATE: NONE

COMMITTEE REPORTS, INQUIRIES AND OTHER MATTERS PRESENTED BY COUNCILMEMBERS

Councilmember Solórzano reported on the following:

- Santa Barbara Joint Affordable Housing Task Group met on October 24th and had roundtable updates from the members and will be looking for a new Chair for next year since Supervisor Das Williams will be stepping down.
- Ad Hoc Harbor Seal Advisory Committee met on October 23rd and is finalizing recommendations to Council from the Data Collection and Survey Subcommittees and will narrow down final priorities at its next meeting.

ATTENDANCE OF COUNCILMEMBERS FOR FUTURE MEETINGS

All Councilmember are expected to be in attendance at the November 12th regular meeting.

ADJOURNMENT

Mayor Clark adjourned the meeting at 8:34 pm.

Al Clark, Mayor

ATTEST:

Brian C. Barrett, CMC, CPMC
City Clerk



City of Carpinteria

COUNCIL AGENDA STAFF REPORT November 12, 2024

ITEM FOR COUNCIL CONSIDERATION

Expenditures for the period beginning October 21, 2024 and ending November 01, 2024.

STAFF RECOMMENDATION

Receive and file Warrant Register for the period of October 21, 2024, through November 01, 2024, pursuant to Carpinteria Municipal Code 2.08.150(F).

DISCUSSION

As part of each regular City Council agenda, a list of all checks (Attachment A) disbursed since the last reporting period is presented to the City Council pursuant to C.M.C. 2.08.150(F). The report is provided for City Council and public information and serves as staff's verification that the expenditures have been reviewed and are within budgeted appropriations.

FINANCIAL CONSIDERATIONS

The warrant register is designed to communicate the City's fiscal activity since the prior reporting period and ensure expenditures are within the approved budget.

ATTACHMENTS

Attachment A: Warrant Register for the period beginning October 21, 2024, and ending November 01, 2024.

Staff contact: Brenda Robinson, Accounting Specialist
(805) 755-4442, BrendaR@carpinteriaca.gov



Signature

Staff contact: Licette Maldonado, Admin Services Dir.
(805) 755-4448, LicetteM@carpinteriaca.gov



Signature

Reviewed by: Ryan Kintz, Assistant City Manager
(805) 755-4400, ryank@carpinteriaca.gov



Signature

Reviewed by: Michael Ramirez, City Manager
(805) 755-4450, michaelr@carpinteriaca.gov



Signature

ATTACHMENT A



Warrant Register

Carpinteria, CA

Date Range: 10/21/2024 - 11/01/2024

Vendor Number	Vendor Name	Payment Date	Payment Amount	Number
Payable #	Payable Type	Payable Description		
Bank Code: AP Bank-AP Bank				
Payment Type: Regular				
0062307	ACCESS CONTROL SECURITY INC.	10/24/2024	253.75	104575
	Invoice	SECURITY: ROA-MELENDZ 9/21/24		
Q3 JUL-SEP 2024	AJA FORNER	10/24/2024	90.00	104576
	Invoice	LIBRARY ADVISORY COMMISSION STIPEND JUL-SEP 2024		
13DH-CFF7-DC3G	AMAZON CAPITAL SERVICES INC	10/24/2024	1,017.75	104577
13H7-LMXN-PQNG	Credit Memo	BOOKS FOR LIBRARY		
13P1-YM6K-JMLP	Invoice	BOOKS FOR LIBRARY		
14GT-MCTQ-M11G	Invoice	LUGGAGE TAGS FOR LIBRARY		
19LQ-VJLV-QKF9	Invoice	BOOKS FOR LIBRARY		
1DXP-JMKM-6HFO	Invoice	ACRYLIC PITCHER, CUPS FOR INTERVIEW PANELS		
1GV3-W144-3Y6L	Invoice	2 IPHONE CHARGING BLOCKS		
1LKW-MCYW-MHLK	Invoice	TONER FOR PUBLIC WORKS PRINTER		
1P93-KMXR-3NDF	Invoice	WORK PANTS FOR D. HERNANDEZ		
1QKC-XF9J-4D69	Invoice	BOOKS FOR LIBRARY		
1RYD-GGRF-GMC7	Invoice	BOOKS FOR LIBRARY		
	Credit Memo	BOOKS FOR LIBRARY		
Q3 JUL-SEP 2024	AMBER KAPLAN	10/24/2024	60.00	104578
	Invoice	LIBRARY ADVISORY COMMISSION STIPEND JUL-SEP 2024		
Q3 JUL-SEP 2024	AMY BLAKEMORE	10/24/2024	75.00	104579
	Invoice	ARCHITECTURAL REVIEW BOARD MEETINGS JUL-SEP 2024		
259	BEYOND THE TOOLBOX LLC	10/24/2024	900.00	104580
	Invoice	NOV24 LEGO WORKSHOP AT LIBRARY		
658100	BIG GREEN CLEANING COMPANY	10/24/2024	450.00	104581
	Invoice	SHAMPOO CARPETS AT LIBRARY 9/1/24		
25-485	BLACK GOLD COOPERATIVE LIBRARY SYSTEM	10/24/2024	18,718.00	104582
	Invoice	FY24/25 Q2 BLACK GOLD LIBRARY SERVICES		
Q3 JUL- SEP 2024	BRAD STEIN	10/24/2024	50.00	104583
	Invoice	ARCHITECTURAL REVIEW BOARD MEETINGS JUL-SEP 2024		
RI 24045476	BUREAU VERITAS NORTH AMERICA INC	10/24/2024	31,054.26	104584
RI 24045477	Invoice	SEP24 MONTHLY PLAN CHECK SERVICES		
	Invoice	SEP24 MONTHLY PERMIT TECH SERVICES		
200024832	CALIFORNIA SOCIETY OF MUNICIPAL FINANCE OFFICERS	10/24/2024	565.00	104585
	Invoice	CSMFO ANNUAL CONFERENCE REGISTRATION L. MALDONADO		
INV0006395	CHEVRON U.S.A. INC	10/24/2024	813.61	104586
	Invoice	CASITAS PIER LEASE PAYMENT BALANCE		
61675	COASTAL VIEW NEWS	10/24/2024	525.00	104587
61702	Invoice	EMERGENCY PREPAREDNESS AD 10/3/24		
	Invoice	NOTICE OF ARB MEETING 10/10/24		
65217	COUNTY SANITATION COMPANY INC STEWARTS & SELZER PLUN	10/24/2024	8,293.41	104588
65299	Invoice	SHERIFF WATER HEATER REPLACEMENT		
	Invoice	HYDRO JET MAINLINE AT CITY HALL 9/26/24		
Q3 JUL-SEP 2024	DANIELLE MANRIQUEZ-OSBORN	10/24/2024	90.00	104589
	Invoice	LIBRARY ADVISORY COMMISSION STIPEND JUL-SEP 2024		
Q3 JUL-SEP 2024	DAVID ALLEN	10/24/2024	240.00	104590
	Invoice	PLANNING COMMISSION MEETINGS JUL-SEP 2024		

293953	DOCUPRODUCTS Invoice	10/24/2024 CANON DX4751I/C5760I COPIER METER 7/13-10/12/24	207.84	104591
05690	ENCOMPASS CONSULTANT GROUP INC Invoice	10/24/2024 JUN24 PAVEMENT MAINTENANCE	4,120.00	104592
OCT24 805-684-4314-063022-5 OCT24 805-684-7613-042205-5	FRONTIER COMMUNICATIONS Invoice Invoice	10/24/2024 OCT24 PHONE & INTERNET SERVICES FOR LIBRARY OCT24 PHONE & INTERNET FOR LG TOWER & BOATHOUSE	360.60	104593
Q3 JUL-SEP 2024	GLENN D LA FEVERS Invoice	10/24/2024 PLANNING COMMISSION MEETINGS JUL-SEP 2024	180.00	104594
Q3 JUL-SEP 2024	GLYNN BIRDWELL Invoice	10/24/2024 LIBRARY ADVISORY COMMISSION STIPEND JUL-SEP 2024	90.00	104595
Q3 JUL-SEP 2024	JANE L BENEFIELD Invoice	10/24/2024 PLANNING COMMISSION MEETINGS JUL-SEP 2024	240.00	104596
INV0006390	JAYNE DIAZ Invoice	10/24/2024 NOV24 MEDICAL REIMBURSEMENT	712.14	104597
Q3 JUL-SEP 2024	JOHN MOYER Invoice	10/24/2024 PLANNING COMMISSION MEETINGS JUL-SEP 2024	240.00	104598
Q3 JUL-SEP 2024	KATHERINE SALANT Invoice	10/24/2024 PLANNING COMMISSION MEETINGS JUL-SEP 2024	240.00	104599
INV0006391	LARRY DRIGGERS Invoice	10/24/2024 NOV24 MEDICAL REIMBURSEMENT	712.14	104600
INV0006393	MARY ANN COLSON Invoice	10/24/2024 NOV24 MEDICAL REIMBURSEMENT	712.14	104601
INV0006392	MEGAN MUSOLF Invoice	10/24/2024 REIMBURSE 2024 APA CONFERENCE TRAVEL	273.83	104602
01352CO24303642	OVERDRIVE INC. Invoice	10/24/2024 OCT24 EBOOKS/AUDIOBOOKS FOR LIBRARY	5,689.26	104603
Q3 JUL-SEP 2024	PATRICK O'CONNOR Invoice	10/24/2024 ARCHITECTURAL REVIEW BOARD MEETINGS JUL-SEP 2024	50.00	104604
403407	POLICORE INC. Invoice	10/24/2024 IT SERVICES-CITY HALL SEP24	5,184.25	104605
Q3 JUL-SEP 2024	RICHARD A LITTLE Invoice	10/24/2024 ARCHITECTURAL REVIEW BOARD MEETINGS JUL-SEP 2024	75.00	104606
Q3 JUL-SEP 2024	RICHARD E JOHNSON Invoice	10/24/2024 ARCHITECTURAL REVIEW BOARD MEETINGS JUL-SEP 2024	100.00	104607
1369	SANTA BARBARA BICYCLE COALITION Invoice	10/24/2024 FY24/25 SAFE ROUTES TO SCHOOL GRANT	7,785.60	104608
INV0006397	SANTA BARBARA COUNTY CLERK OF THE BOARD Invoice	10/24/2024 CEQA NOTICE OF EXEMPTION FILING FEE CITY CARPORT	50.00	104609
AUG24 700405192484 OCT24 700827247063 SEP24 700474689651	SO CA EDISON Invoice Invoice Invoice	10/24/2024 AUG24 ELECTRICITY-MULTIPLE LOCATIONS OCT24 ELECTRICITY-5781 CARPINTERIA AVE PED PED SEP24 ELECTRICITY-4683 9TH ST	10,765.50	104610
SEP24 140 914 3084 4	SO CAL GAS Invoice	10/24/2024 NATURAL GAS 941 WALNUT AVE (VETS HALL)	121.11	104611
218	SOLID WASTE SOLUTIONS INC Invoice	10/24/2024 SEP24 WASTEWATER PROFESSIONAL SERVICES	2,648.25	104612
INV0006398	STEVE MURRAY Invoice	10/24/2024 REIMBURSE FOR DAMAGED SIDEWALK/WALL	1,500.00	104613
208457 208850	TRI-CO REPROGRAPHICS Invoice Invoice	10/24/2024 SCANNING SMALL FORMAT, COMBINE EMAIL 10/2/24 SCANNING COLOR, FILE RENAME 10/8/24	41.89	104614

1421	TWO TRUMPETS COMMUNICATIONS Invoice	SEP24 COMMUNICATIONS SERVICES	10/24/2024	6,000.00	104615
202404222	UNITED PET CARE Invoice	OCT24 PET INSURANCE PREMIUMS	10/24/2024	17.50	104616
124101401	VIDIFLO LLC Invoice	OCT24 GATV EQUIPMENT REPAIRS	10/24/2024	550.00	104617
40098893	WSP USA ENVIRONMENT & INFRASTRUCTURE INC. Invoice	GENERAL PLAN/COASTAL PLAN UPDATE THROUGH 9/30/24	10/24/2024	3,450.00	104618
690518	AFLAC Invoice	OCTOBER 2024 EMPLOYEE PREMIUMS	10/31/2024	179.85	104619
14LY-CV33-NLMF 1C9P-76N3-H9QG 1CLR-9GX3-HQD3 1L4W-PLHW-CW74	AMAZON CAPITAL SERVICES INC Invoice Invoice Invoice Invoice	BOOKS FOR LIBRARY BOOKS FOR LIBRARY BOOKS FOR LIBRARY BOOKS FOR LIBRARY	10/31/2024	1,336.54	104620
IN3239216	BASIC Invoice	OCT24 MONTHLY FSA ADMIN FEE	10/31/2024	167.64	104621
INV0006403	CALIFORNIA BUILDING STANDARDS COMMISSION Invoice	FEE REMITTANCE FY25 (Q1 JUL-SEP 2024)	10/31/2024	349.20	104622
35869745	CANON FINANCIAL SERVICES INC Invoice	OCT24 MAINT & SERVICE CANON PRINTERS	10/31/2024	1,249.52	104623
37413 37449	CARPINTERIA GLASS COMPANY Invoice Invoice	REPLACE GLASS AT VETS HALL REPLACE GLASS IN PUBLIC WORKS FLOOD LIGHT	10/31/2024	68.56	104624
548374	CARPINTERIA VALLEY LUMBER CO Invoice	PLANTS FOR COMMUNITY GARDEN	10/31/2024	7.06	104625
61728 61731 61732	COASTAL VIEW NEWS Invoice Invoice Invoice	COASTAL LAND USE PLAN AD 10/17/24 NOTICE OF PUBLIC HEARING AD 10/17/24 ORDINANCE 786 AD 10/17/24	10/31/2024	683.00	104626
INV0006405	DEPARTMENT OF CONSERVATION Invoice	FEE REMITTANCE FY25 (Q1 JUL-SEP 2024)	10/31/2024	1,428.06	104627
240501-06	FILIPPIN ENGINEERING INC. Invoice	SEP24 2022 PAVEMENT REHABILITATION PROJECT	10/31/2024	52,347.75	104628
INV0006416	FRIENDS OF CARPINTERIA LIBRARY Invoice	DIA DE LOS MUERTOS PROGRAM	10/31/2024	5,000.00	104629
E5A09F	HAAKER EQUIPMENT COMPANY Invoice	HAAKER SWEEPER RENTAL 9/25/24-10/8/24	10/31/2024	7,848.00	104630
FY24/25 SENIOR GRANT	HELP OF CARPINTERIA Invoice	TRANSPORT SERVICES FOR SENIOR COMMUNITY	10/31/2024	14,000.00	104631
2385822 2793705 3306227 3426991 6690851 7412734 8633448	HOME DEPOT CREDIT SERVICES Invoice Invoice Invoice Invoice Invoice Invoice Invoice	PORTABLE POWER WASHER TOOL PORTABLE POWER WASHER TOOL EXTRA LARGE STORAGE SHED FOR PARKS PORTABLE POWER WASHER TOOL TAPE SUPPLIES FOR AVOCADO FESTIVAL ELECTRICAL TAPE FOR SHOP 2 STEP LADDER FOR SHOP	10/31/2024	926.59	104632
6456Oct24	INFOARMOR INC Invoice	OCT24 IDENTITY THEFT EMPLOYEE PREMIUMS	10/31/2024	81.75	104633
1078 1084	ISAAC ELECTRIC INC. Invoice Invoice	PUBLIC WORKS YARD ELECTRICAL INSTALL INSTALL POWER TO STORAGE UNITS AT CITY HALL	10/31/2024	12,700.00	104634

INV0006414	JEANETTE GANT Invoice	10/31/2024 REIMBURSE TRAVEL BOATING-WATERWAYS ANNUAL MEETING	441.36	104635
INV0006411	MICHAEL RAMIREZ Invoice	10/31/2024 REIMBURSE TRAVEL 2024 LEAGUE-LONG BEACH	381.02	104636
INV0006407 INV0006408	MONICA SOLORZANO Invoice Invoice	10/31/2024 REIMBURSE TRAVEL 2024 LEAGUE-LONG BEACH REIMBURSE TRAVEL 2024 CJPIA MANAGEMENT FORUM	991.08	104637
INV0006421 INV0006422	NOAH ALVARA Invoice Invoice	10/31/2024 OCT24 REPLENISH PETTY CASH OCT24 REPLENISH CASH DRAWER	159.62	104638
INV0006409	NOMURA WADE Invoice	10/31/2024 REIMBURSE TRAVEL 2024 LEAGUE-LONG BEACH	243.00	104639
9326	PROFESSIONAL WASH CENTER Invoice	10/31/2024 WASH & FOLD TABLECLOTHES 9/25/24	24.00	104640
45400	ROCKWELL PRINTING Invoice	10/31/2024 12 2024 ELECTIONS SIGNS (ENGLISH/SPANISH)	331.68	104641
INV0006412 INV0006413	RYAN KINTZ Invoice Invoice	10/31/2024 REIMBURSE TRAVEL 2024 LEAGUE-LONG BEACH REIMBURSE TRAVEL 2024 CJPIA MANAGEMENT FORUM	1,348.48	104642
83202	SANSUM CLINIC Invoice	10/31/2024 PRE-SCREENING FOR PT MAINTENANCE CANDIDATE	286.00	104643
2325	SANTA BARBARA COUNTY SHERIFFS DEPT Invoice	10/31/2024 OCT24 CONTRACTED LAW ENFORCEMENT SERVICE	516,750.00	104644
OCT24 700291369452	SO CA EDISON Invoice	10/31/2024 OCT24 ELECTRICITY-MULTIPLE LOCATIONS	5,179.57	104645
6014537472	STAPLES ADVANTAGE Invoice	10/31/2024 2025 CALENDARS FOR CITY STAFF	252.63	104646
2505515078	TRANSAMERICA EMPLOYEE BENEFITS Invoice	10/31/2024 OCT24 EMPLOYEE PREMIUMS	526.08	104647
209500	TRI-CO REPROGRAPHICS Invoice	10/31/2024 SCANNING, BIND, REBIND 10/18/24	55.16	104648
220484	WEST COAST ARBORISTS INC Invoice	10/31/2024 TREE MAINTENANCE 9/16/24-9/30/24	28,738.00	104649
100360588	WEX BANK (CHEVRON) Invoice	10/31/2024 OCT24 FUEL FOR CITY VEHICLES	1,815.15	104650
INV0006423 INV0006424 INV0006425 INV0006426	MISSIONSQUARE Invoice Invoice Invoice Invoice	10/31/2024 MISSIONSQUARE Employee Contributions Deferred Compensation Contribution-Part Time Emp MissionSquareEmployee Contributions MISSIONSQUARE Employee Contributions	9,536.54	104651
INV0006427	SEIU LOCAL 620 Invoice	10/31/2024 Employee Union Dues Contribution	235.32	104652
OCT24 PREMIUMS	GUARDIAN Invoice	10/31/2024 OCT24 PREMIUMS	9,315.59	104653
PR22 10/31/24	EDD-SDI Invoice	10/31/2024 PR22 10/31/24 SDI TAX DEPOSIT	2,007.87	DFT0003364
PR22 10/31/24	EDD-SIT Invoice	10/31/2024 PR22 10/31/24 PIT TAX DEPOSIT	7,162.50	DFT0003365
PR22 10/31/24	INTERNAL REVENUE SERVICE Invoice	10/31/2024 PR22 10/31/24 FEDERAL TAX DEPOSIT	21,633.00	DFT0003366
10/12/24-10/25/24 PEPRA	CalPERS Invoice	10/31/2024 PEPRA RETIREMENT CONTRIBUTIONS 10/12/24-10/25/24	13,712.81	DFT0003367

10/12/24-10/25/24 CLASSIC	CalPERS	10/31/2024	15,533.73	DFT0003368
	Invoice	CLASSIC RETIREMENT CONTRIBUTIONS 10/12/24-10/25/24		
10/12/24-10/25/24 CLASSIC RETRO	CalPERS	10/31/2024	288.63	DFT0003369
	Invoice	CLASSIC CONTRIBUTIONS 10/12/24-10/25/24 D. CHEPLEY		



City of Carpinteria

COUNCIL AGENDA STAFF REPORT November 12, 2024

ITEM FOR COUNCIL CONSIDERATION

Approval of FY 2024-25 Community Services Support Grant program appropriations.

STAFF RECOMMENDATION

Approve appropriations for the Community Services Support Grant program for the current fiscal year (FY) 2024-2025 totaling \$152,250.

Sample Motion: I move to:

Re-approve appropriations for the Community Services Support Grant program for the current fiscal year (FY) 2024-2025 totaling \$152,250.

(This motion requires a roll call vote.)

BACKGROUND

The Community Services Support Grant (CSSG) program, established by the City Council as part of the General Government Department, was initially created to address youth recreation needs upon the City's incorporation. While it began with a focus on youth services, the program has since expanded to encompass health and human services, non-K-12 education, and after-school programs for youth ages 5 to 18 in Carpinteria.

The Community Services Support Grant program applications are reviewed by the Finance Committee, which currently consists of Mayor Al Clark and Vice Mayor Natalia Alarcon. After review, the Finance Committee selects and recommends recipients and grant amounts for inclusion in the draft Fiscal Year budget.

On June 24, 2024, the City Council adopted the Fiscal Year (FY) 2024-25 Budget¹, setting related Appropriations Limits as required by State Law, making year-end amendments to the FY 2023-24 Budget, updating the budget and fiscal policies, and adopting salary schedules for FY 2024-25. This budget included appropriations to the Community Services Support Grant program for FY 2024-25, in the amounts shown in Table 1. Table 1 also

¹ FY 2024-25 Budget Adoption Staff Report and Attachments:

carpinteria.granicus.com/MetaViewer.php?view_id=2&clip_id=1465&meta_id=93272

shows the organizations that were selected to receive funding for FY 2023-24 and FY 2024-25.

Table 1: Grant Applicants

Community Services Support Program FY 2023-25 Funding Chart		
Service Provider Grants	FY 2023/24	FY 2024/25
Boys & Girls Club	25,000	25,000
Girls Inc	30,000	30,000
HELP of Carpinteria	14,000	14,000
STESA	6,000	10,000
HopeNet of Carpinteria	1,750	2,000
Carpinteria Childrens Project	20,000	25,000
Lynda Fairly Carpinteria Arts Center	6,000	7,500
Compassionate Care of Carpinteria	12,500	12,500
Lynda Fairly Carpinteria Arts Center (Chalk Walk)	8,000	-
Alcazar	9,750	3,250
Seniors Inc	1,500	2,000
Therapy Dogs of Santa Barbara	5,000	-
Carpinteria Children's Project (Homeless Prevention Prog)	10,000	-
Carpinteria Education Foundation	2,500	-
Artesania para la Familia	-	5,000
Muralism (previously to Lynda Fairly Carp Arts Center)	-	6,000
LISTOS	-	10,000
Total Proposed Recommendation	152,000	152,250
Total Budget	211,750	152,250
Total Unassigned Community Services Grants*	59,750	-

DISCUSSION

Although the City Council's approval of an appropriation to the Community Services Support Grant program for FY 2024-25 did not include specific approval of a grant to any organization, the staff report and the presentation provided during the meeting included the above chart identifying the organizations recommended by the Finance Committee to receive grants.

One of the organizations recommended by the Finance Committee to receive a grant is the Alcazar Theatre. Since Councilmember Nomura's wife is employed as the executive director

of the Alcazar Theatre there is the potential for a conflict of interest. In an abundance of caution, Councilmember Nomura has requested staff agendize this item for reapproval.

FINANCIAL CONSIDERATIONS

No Additional Funding Requested. Funds for the program are a part of the adopted FY 2024-25 budget.

OPTIONS

1. Approve Additional appropriations through the Community Services Support Grant program (CSSG) for the current fiscal year (FY) 2024-2025 as directed by Council.
2. Do not approve Additional appropriations through the Community Services Support Grant program (CSSG) for the current fiscal year (FY) 2024-2025

Staff contact: Ryan Kintz, Assistant City Manager
(805) 755-4401; RyanK@carpinteriaca.gov



Signature

Reviewed by: Michael Ramirez, City Manager
(805) 755-4450, michaelr@carpinteriaca.gov



Signature



City of Carpinteria

COUNCIL AGENDA STAFF REPORT November 12, 2024

ITEM FOR COUNCIL CONSIDERATION

First Amendment of the Freeway Maintenance Agreement with the State of California Department of Transportation for the Highway 101 Carpinteria to Santa Barbara Project- Phase 4A.

STAFF RECOMMENDATION

Authorize the City Manager to execute the First Amendment of the Freeway Maintenance Agreement with the State of California Department of Transportation for the Highway 101 Carpinteria to Santa Barbara Project- Phase 4A.

Sample Motion: I move to authorize the City Manager to execute the First Amendment of the Freeway Maintenance Agreement with the State of California Department of Transportation for the Highway 101 Carpinteria to Santa Barbara Project- Phase 4A.
(Requires a roll call vote.)

BACKGROUND

The Highway 101 Carpinteria to Santa Barbara Project- Phase 4A (Highway 101 Phase 4A) involved the construction of High Occupancy Vehicle lanes on Highway 101 for 3.2-miles between Carpinteria and Santa Barbara to improve access and operations; improve operations on Highway 101; reduce the use of Highway 101 for local trips; improve public transportation accessibility; improve local vehicular, bicycle and pedestrian circulation; and reduce emergency response times. On April 1, 2019, the Planning Commission accepted the Final Environmental Impact Report/Environmental Assessment and approved the project under City Project No. 18-1920-CUP/CDP with conditions of approval.

As a statutory requirement of ownership and operation of planned traffic and circulation features for the freeway, an agreement between the City and the California Department of Transportation (Caltrans) must be established. Specifically, California Streets and Highways Code (SHC) Sections 100.2, 100.21, 100.22, and 100.25 provide the statutory direction for execution of freeway or controlled access highway agreements when

planned traffic circulation at or near a freeway or expressway will be modified including modification to city streets or county roads. At its meeting of January 10, 2022, the City Council adopted Resolution No. 6086, authorizing the execution of a Freeway Maintenance Agreement with Caltrans for Highway 101 Phase 4A in accordance with SHC Sections 100.2, 100.21, 100.22, and 100.25.

Concurrent with Highway 101 Phase 4A, Caltrans completed the Santa Claus Lane Multi-Use Path Project in November 2022. In 2023, Highway 101 Phase 4A improvements within the City's jurisdictional boundaries were completed by Caltrans. Caltrans proposes an amendment of the existing Freeway Maintenance Agreement for Highway 101 Phase 4A to include a portion of the existing Santa Claus Lane Multi-Use Path that is within the City's jurisdictional boundaries.

The purpose of this agenda matter is to allow for the City Council to authorize the City Manager to execute the First Amendment of the Freeway Maintenance Agreement with Caltrans for Highway 101 Phase 4A.

DISCUSSION

The First Amendment of the Freeway Maintenance Agreement for Highway 101 Phase 4A, as shown as Attachment A, proposes to include a portion of the existing Santa Claus Lane Multi-Use Path that is within the City's jurisdictional boundaries. The reasons for the First Amendment are to 1) establish agreement of the maintenance roles and responsibilities between the City and Caltrans; 2) contractually formalize the Memorandum of Understanding between the City, County of Santa Barbara (County), and Caltrans, as shown as Attachment B; and 3) consolidate such agreements into the Freeway Maintenance Agreement with Caltrans for Highway 101 Phase 4A. The County also executed a separate Freeway Maintenance Agreement with Caltrans for the County's portion of the existing Santa Claus Lane Multi-Use Path.

There would be no financial impacts to the City related to the maintenance obligations that are a part of the First Amendment of the Freeway Maintenance Agreement for Highway 101 Phase 4A. The estimated annual maintenance expense is \$5,000. A budget was already programmed in the Fiscal Year 2024/25 Budget for this anticipated street maintenance/right-of-way expense by the First Amendment of the Freeway Maintenance Agreement for Highway 101 Phase 4A. Funds from Gas Tax, Local Transportation Fund, and/or Measure A are eligible to be used for street maintenance/right-of-way expenses.

POLICY CONSISTENCY

The First Amendment of the Freeway Maintenance Agreement for Highway 101 Phase 4A is consistent with SHC Sections 100.2, 100.21, 100.22, and 100.25.

FINANCIAL CONSIDERATIONS

No Additional Funding Requested. There is sufficient budget included in FY 2024/25.

LEGAL AND RISK MANAGEMENT CONSIDERATIONS

The City Attorney's Office reviewed the First Amendment of the Freeway Maintenance Agreement for Highway 101 Phase 4A and finds no exceptions.

OPTIONS

1. Authorizing the City Manager to execute the First Amendment of the Freeway Maintenance Agreement with Caltrans for the Highway 101 Carpinteria to Santa Barbara Project- Phase 4A. (Staff recommendation)
2. The City Council could choose to not approve the recommendation and direct staff as determined appropriate.

PRINCIPAL PARTIES EXPECTED AT MEETING

There are no principal parties expected at the meeting.

ATTACHMENTS

Attachment A: First Amendment of the Freeway Maintenance Agreement for the Highway 101 Carpinteria to Santa Barbara Project- Phase 4A
Attachment B: Memorandum of Understanding between the City, County, and Caltrans dated February 12, 2016

Staff contact:

John L. Ilasin, Public Works Director
(805) 880-3402; johni@carpinteriaca.gov


Signature

Finance by:

Licette Maldonado, Administrative Service Director
(805) 755-4448; licettem@carpinteriaca.gov


Signature

Reviewed by:

Michael Ramirez, City Manager
(805) 755-4450; michaelr@carpinteriaca.gov


Signature

ATTACHMENT A

**First Amendment of the Freeway Maintenance Agreement for the Highway 101
Carpinteria to Santa Barbara Project- Phase 4A**

**AMENDMENT No. 1 TO THE
FREEWAY MAINTENANCE AGREEMENT
WITH
CITY OF CARPINTERIA**

Pursuant to Section II, Article 17 of the Freeway Maintenance Agreement (FMA) dated January 25, 2022, this AMENDMENT is made effective this _____ day of _____, 20__.

As provided for in Section II, Article 2 and 3 of the FMA, Exhibit A is amended, per the terms of this AMENDMENT, and the amended Exhibit A titled "Exhibit A Revised" shall replace the existing "Exhibit A."

THE FOLLOWING IS ADDED TO SECTION II OF THE FMA BY WAY OF THIS
AMENDMENT:

17.1. BICYCLE PATHS, LANES, AND BIKE TRACKS. CITY will maintain, at CITY expense, a safe facility for bicycle travel along the entire length of any BIKE PATH, as shown on the attached Exhibit A, within CITY jurisdiction by providing maintenance including but without limitation: all traffic service facilities (sidewalks, traffic stripes and pavement markings, signs, interpretive displays, fencing, rails, and guard railing); walking, deck, and pavement surfaces (including repaving or patching of surface and elimination of graffiti); and any structural drainage systems or drainage facilities serving the bicycle path, graffiti abatement; and debris removal and sweeping when necessary.

17.1.1 STATE will maintain the concrete barrier and bicycle railing between Highway 101 and the Bike Path, except for graffiti on the BIKE PATH side, which will be the responsibility of CITY. STATE will maintain retaining walls within STATE right of way that support the Bike Path, excluding graffiti abatement on all surfaces.

17.2. ENCAMPMENTS REMOVAL – CITY shall be responsible for removing Persons Experiencing Homelessness (PEH) and any structures, personal property, debris, and/or other items related to the encampment from City's areas of responsibility shown on Exhibit A, subject to STATE's Encampment Removal policy, MPD 1001 R1 and applicable State and Federal Law.

Nothing in this Agreement grants or waives the right of California Highway Patrol (CHP) and other law enforcement agencies having jurisdiction over the Locations shown in Exhibit A.

17.3. GRAFFITI REMOVAL. CITY, at CITY's sole cost and expense, shall remove all graffiti from the STATE right of way. CITY is solely responsible for ensuring that any graffiti that in any way resembles a mural, artwork, paintings, or other similar elements shall not be removed without the written authorization of STATE. Graffiti removal must protect air and water quality as required by law. CITY shall conform to the STATE's Maintenance Manual, Volume 1, Family D Chapter, D1.06.

This AMENDMENT and the additional pages of Exhibit A shall be attached to the original AGREEMENT dated January 25, 2022, and the "Revised Exhibit A" shall replace the original "Exhibit A."

IN WITNESS WHEREOF, PARTIES hereto have set their hands and seals the day and year first above written.

CITY OF CARPINTERIA

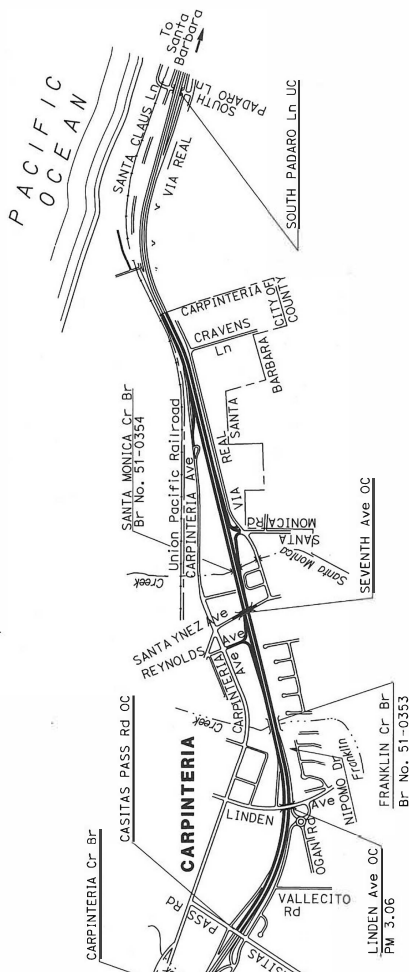
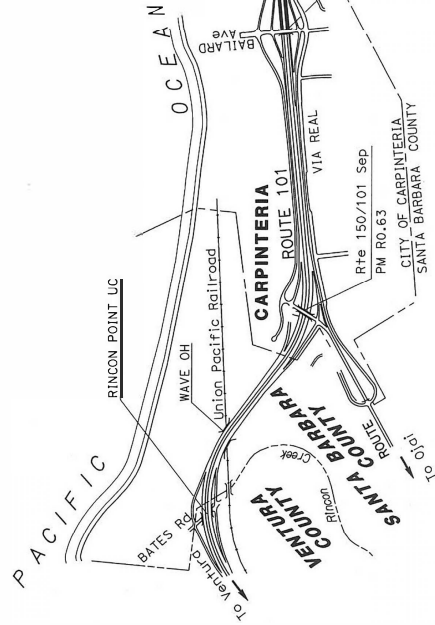
STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

By: _____
Michael Ramirez, City Manager

By: _____
Deputy District Director
Maintenance District 5

Attachment: Revised Exhibit A

DIST	COUNTY	ROUTE	POST MILES TOTAL PROJECT	SHEET NO.	TOTAL SHEETS
05	SB	101	1.4/4.6	1	6



SOUNDWALL LOCATIONS (HOV- SEGMENT 4A)

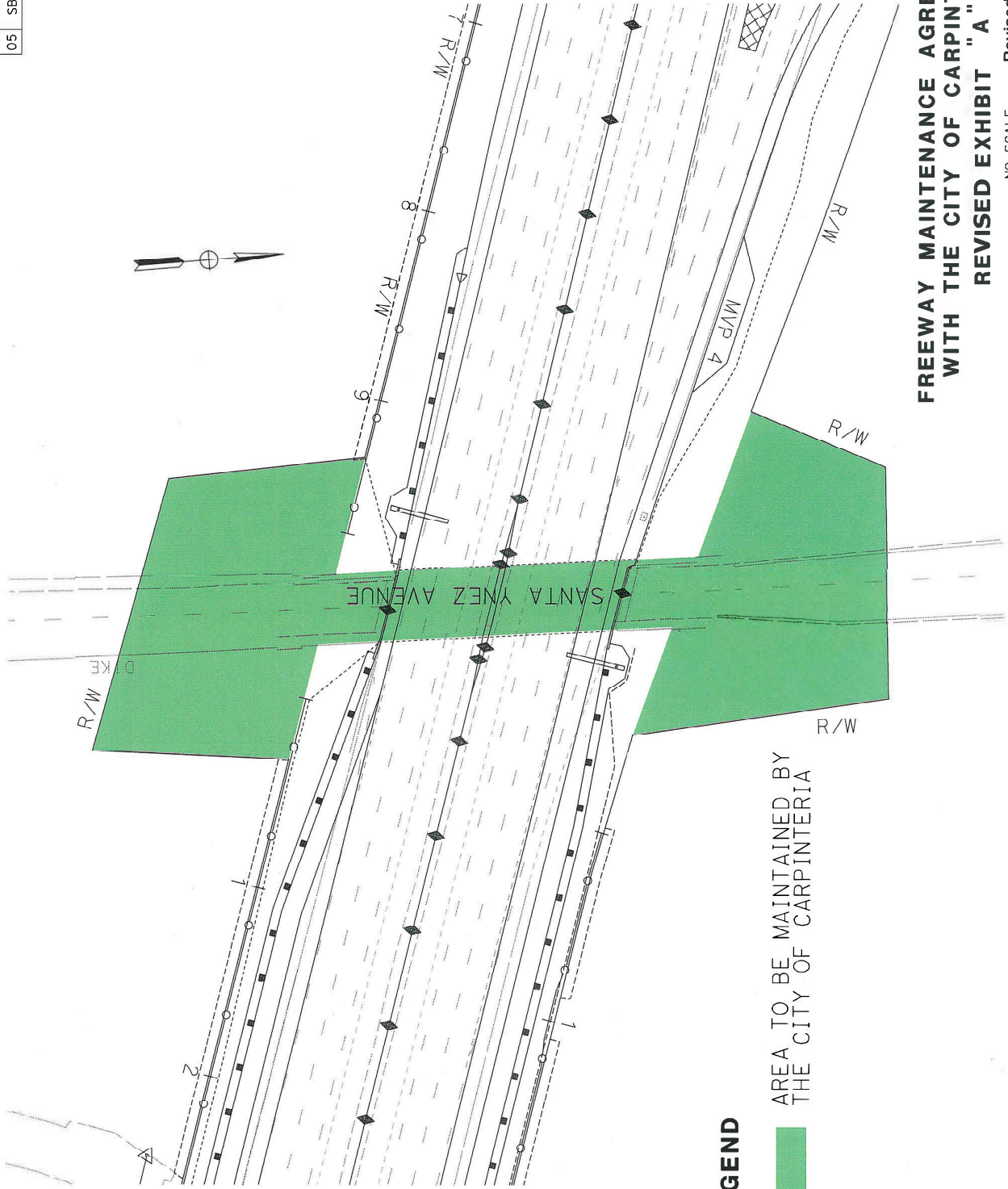
SOUNDWALL #	LOCATION	DESCRIPTION
1	PM 2.07 TO PM 2.39	NB RT ALONG VIA REAL VIA REAL
2	PM 3.31 TO PM 3.33	NB RT NEAR FRANKLIN CREEK BRIDGE
3	PM 3.32 TO PM 3.66	NB RT FRANKLIN CREEK TO SANTA YNEZ AVE
4	PM 3.67 TO PM 3.79	NB RT SANTA YNEZ AVE TO SANTA MONICA CR
5	PM 3.80 TO PM 3.81	JUST NORTH OF SANTA MONICA CR
6	PM 3.80 TO PM 3.83	JUST NORTH OF SANTA MONICA CR
7	PM 3.68 TO PM 3.77	SB LT SANTA YNEZ AVE TO SANTA MONICA CR
8	PM 3.76 TO PM 3.80	SB LT AT SANTA MONICA CR
9	PM 3.78 TO PM 4.08	SB LT SANTA MONICA CR GOING NORTH
10	PM 4.30 TO PM 4.38	NB RT SOUTH OF CRAVENS LANE
11	PM 4.31 TO PM 4.39	NB RT SOUTH OF CRAVENS LANE
12	PM 4.45 TO PM 4.60	NB RT SOUTH OF CRAVENS LANE

NO SCALE

FREEWAY MAINTENANCE AGREEMENT WITH THE CITY OF CARPINTERIA ON ROUTE 101 FROM .2 MILE SOUTH OF BAILARD AVENUE O/C TO 0.7 MILE SOUTH OF SOUTH PADARO LANE VICINITY MAP

REVISED EXHIBIT "A"
Revised 09/25/2024

Dist	COUNTY	ROUTE	PROJECT NO.	SHEET NO.	TOTAL SHEETS
05	SB	101	1.4/4.6	2	6



LEGEND

AREA TO BE MAINTAINED BY
THE CITY OF CARPINTERIA

FREEWAY MAINTENANCE AGREEMENT WITH THE CITY OF CARPINTERIA REVISED EXHIBIT "A"

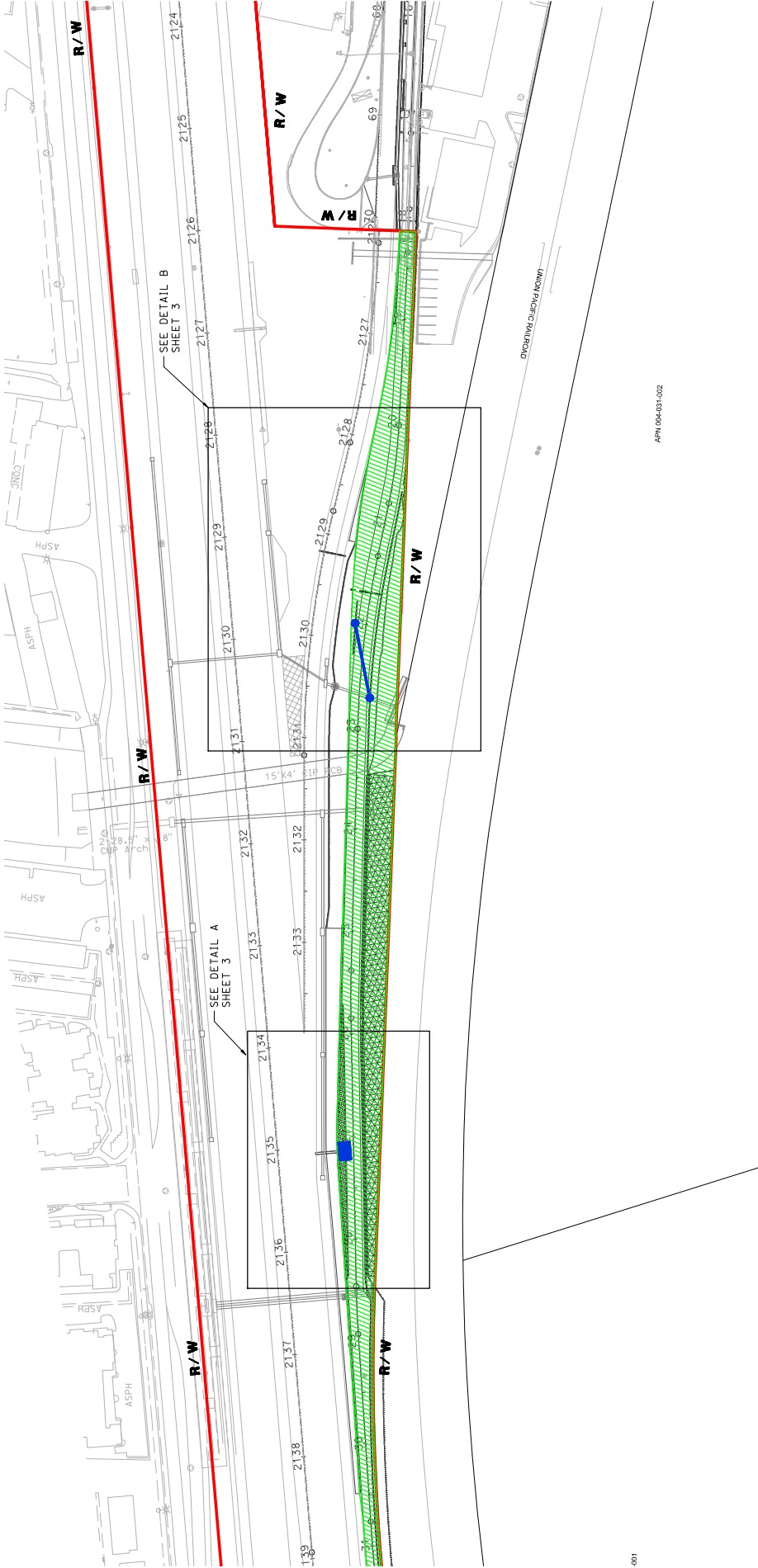
NO SCALE Revised 09/25/2024

FREEWAY MAINTENANCE AGREEMENT
WITH THE CITY OF CARPINTERIA

REVISED EXHIBIT A

Revised 09/25/2024

- LEGEND:
-  MAINTAINED BY CITY OF CARPINTERIA
 -  PROPOSED RIGHT OF WAY LINE



APH 08A-031-002

20/1

LOCATION 2
NO SCALE

DIST	COUNTY	ROUTE	POST MILES TOTAL PROJECT	SHEET TOTAL NO. SHEETS
5	SB	101	1.4/4.6	3
				6

FREEWAY MAINTENANCE AGREEMENT
WITH THE CITY OF CARPINTERIA

REVISED EXHIBIT A

Revised 09/25/2024

- LEGEND:
-  MAINTAINED BY CITY OF CARPINTERIA
 -  PROPOSED RIGHT OF WAY LINE



DIST	COUNTY	ROUTE	POST MILES TOTAL PROJECT	SHEET TOTAL NO. SHEETS
5	SB	101	1.4/4.6	4
				6

FREEWAY MAINTENANCE AGREEMENT
WITH THE CITY OF CARPINTERIA

REVISED EXHIBIT A

Revised 09/25/2024

LEGEND:



MAINTAINED BY CITY OF CARPINTERIA



PROPOSED RIGHT OF WAY LINE



DRAINAGE MAINTAINED BY THE CITY OF CARPINTERIA

SHEET NO.	COUNTY	ROUTE	POST MILES TOTAL PROJECT	SHEET TOTAL SHEETS
5	SB	101	1.4/4.6	5
				6



DETAIL B



DETAIL A

DRAINAGE DETAILS

LOCATION 2
NO SCALE

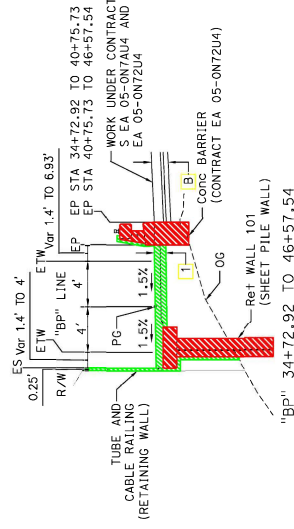
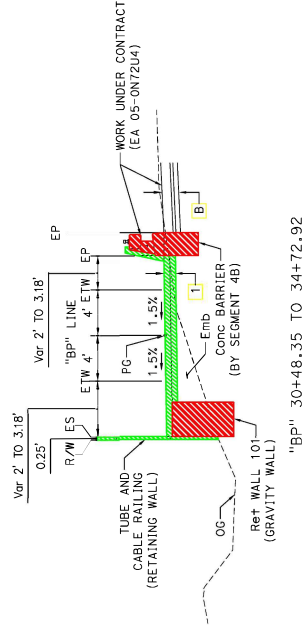
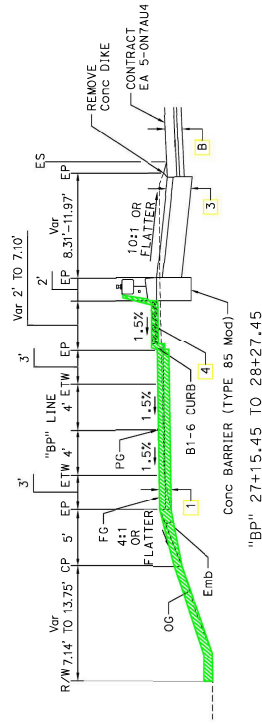
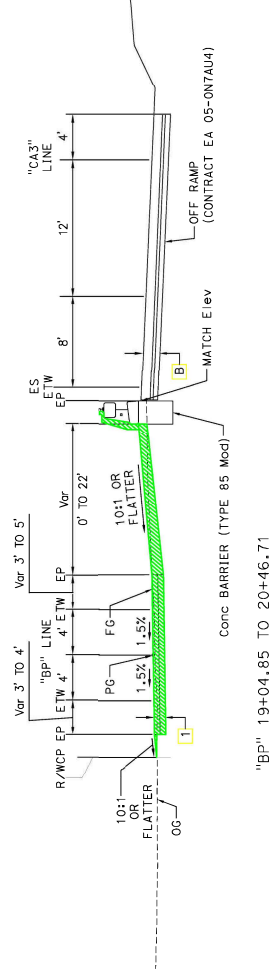
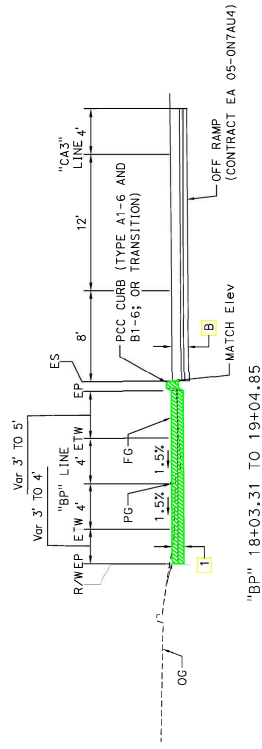
LEGEND:

MAINTAINED BY CITY OF CARPINTERIA

MAINTAINED BY STATE

REVISÉD EXHIBIT A

Revised 09/25/2024



TYPICAL SECTIONS

LOCATION 2
NO SCALE

ATTACHMENT B

**Memorandum of Understanding between the City, County, and Caltrans
dated February 12, 2016**

**MEMORANDUM OF UNDERSTANDING FOR THE SANTA CLAUS LANE
STREETSCAPE
February 12, 2016**

This letter will serve as the non-binding Memorandum of Understanding (MOU) between the California Department of Transportation (CALTRANS, STATE), the Santa Barbara County Department of Public Works (COUNTY) regarding the proposed Segment of Streetscapes improvements and bicycle path that will connect Padaro Road/ Santa Claus Lane to Carpinteria Avenue.

Santa Barbara County Association of Governments (SBCAG) is the sponsor and implementing agency of the proposed streetscape improvements and bicycle path along Santa Claus Lane (Project). Prior to SBCAG moving forward with the design of the project, SBCAG wanted an understanding of which government agency or agencies will attend to the various maintenance responsibilities along the bicycle path segment through this section of CALTRANS right of way and a consensus between CALTRANS, CITY and COUNTY (PARTIES) regarding the conceptual design of this bicycle path to minimize those responsibilities.

Typically, a Freeway Maintenance Agreement (FMA) defines the maintenance responsibilities of local agency facilities passing through the CALTRANS right of way. This case requires a separate FMA be written between CALTRANS and each local agency, (COUNTY/ CITY) to define their areas of responsibility. This is due to the boundary between COUNTY/ CITY corporate areas falling across the bicycle path as that path traverses STATE right of way. It is because of this nexus that the PARTIES seek to arrive at a common agreement regarding this bicycle path. To date, this bicycle path proposal has only been a conceptual plan with a few typical cross sections produced for SBCAG by Martin, Northart & Spencer (MNS) Engineering. The sub-committee first reviewed the definition of "Maintenance" as it would apply to the CITY and the COUNTY per the MNS rendering. That rendering revealed a bicycle path that was partial structure and partial HMA Pavement on-grade. The bike path conforms to Original Ground (OG) in contrast to the freeway prism adjacent to it. This discontinuity is resolved by a retaining wall that ranges from approximately 3-feet high at the point of maximum superelevation to zero at either end of the retaining wall at conform.

The purpose of this MOU is to provide definition to the language in the FMA that will be signed at the end of the Coastal Development Permit (CDP) process but prior to project design completion. It will also serve as guidance to the project design team as to design requirements necessary to minimize the maintenance responsibilities for each of the PARTIES prior to all their signing the FMA. The intent of the FMA is that the COUNTY & CITY would each be responsible for surficial maintenance of the bicycle path along those sections that are within their respective corporate boundaries.

CALTRANS would be responsible for all structural repairs and replacement of the retaining wall and railing that separates the freeway from the bicycle path and would extend that responsibility to include all structural elements of the bicycle path as well. The elements of maintenance are as follows:

CITY/ COUNTY would be responsible for the following at CITY/ COUNTY expense:

1. ***All portions of the bicycle path above the deck, including, but without limitation, lighting installations, as well as all traffic service facilities, e.g., sidewalks, striping, pavement markings, rails or fence, etc. that may be required for the benefit or control of traffic using that non-motorized facility.***
2. ***The deck (including eliminating graffiti) and/or surfacing, e.g., repaving or patching Hot Mixed Asphalt (HMA) pavement overlays.***
3. ***Any structural drainage system or drainage installations servicing that bicycle path.***
4. ***Wall surfaces (including eliminating graffiti)***
5. ***Sweeping and debris removal when necessary***

CALTRANS would be responsible for the following at STATE expense:

1. ***Structural repair or replacement of any CALTRANS structure necessary to either or both the motorized and the non-motorized facility, e.g., walls, concrete decks, viaducts, etc. located and constructed within STATE's right of way.***
2. ***Structural repair or replacement of any Ca/trans structure that separates the motorized facility from the non-motorized facility, e.g., bridge rails, guard rail, fence, etc.***
3. ***Repair or replacement of all drainage facilities servicing freeway cross drainage or surface drainage within CALTRANS' right of way.***

In order for the PARTIES to sign the FMA prior to completion of the design Ready to List (RTL), PARTIES agree that every effort to minimize maintenance in the future will be incorporated through design of long-life features in the plans. The use of HMA pavement for the bicycle path riding surface within CALTRANS right of way, if selected, will not be the responsibility of CALTRANS to maintain, repair or replace. Structural elements such as viaducts or Portland Concrete Cement (PCC) reinforced slabs will need to be designed and constructed to meet the standards of CALTRANS Division of Structures and CALTRANS Geotechnical Engineering.

Based on this information, the following design criteria was discussed and is recommended by the PARTIES.

1. **The bicycle path design life will be maximized and its maintenance minimized if it is constructed in its entirety of either PCC structures or reinforced PCC slabs.**
2. **All delineation and pavement markings will be done in thermoplastic or similar approved long-life products.**
3. **The outer fence between the bicycle path and the salt marsh will be an anti-graffiti type fence.**
4. **Lighting shall either not be included or shall be constructed along the base of bicycle path and mounted into the retaining wall separating the freeway so that the wiring cannot be tampered with.**

With these design criteria in place, the CITY/COUNTY would be responsible for the following:

1. **The fence along the outside (Salt Marsh) side of the bicycle path would be the complete responsibility of the CITY /COUNTY to maintain, repair or replace as necessary.**
2. **Sweeping and deck surface and surficial patching of the PCC bicycle path.**
3. **Maintenance and replacement as necessary of the thermoplastic pavement markings and striping.**
4. **Graffiti removal on all surfaces (retaining wall faces, bicycle path surface, etc.)**
5. **Lighting fixtures and bulbs.**

CALTRANS would maintain, repair or replace any structural elements that make up the PCC bicycle path within the STATE right of way. CALTRANS will also be responsible for the structural maintenance and repair of the retaining wall between the bicycle path and the freeway and the railing along the top of that wall. Further, CALTRANS will be responsible for all maintenance, repairs and replacement of any elements located on the freeway side of the wall and railing separating the freeway from the bicycle path.

It is assumed that the PARTIES will have an interactive process with the Design Team in order to minimize the maintenance requirements.

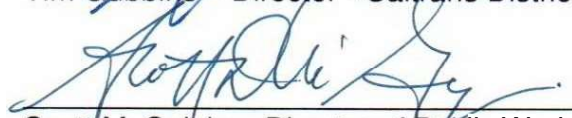
The PARTIES will work in good faith to execute FMAs mutually agreeable to CALTRANS and CITY/COUNTY, respectively. The provisions of this MOU are nonbinding, and the terms of the executed FMAs may differ from the terms contained herein. An executed FMA will supersede this MOU. Upon execution of an FMA, the terms of this MOU will have no force or effect for the parties to that FMA.

Contact Chris Sneddon at the COUNTY, Charlie Ebeling at the CITY or Lance Gorman at CALTRANS for further information, comments or recommendations.



Tim Gubbins – Director - Caltrans District 5

4/7/16



Scott McGolpin – Director of Public Works - County of Santa Barbara

3/16/2016



Charlie Ebeling – Director of Public Works/ City Engineer - City of Carpinteria



City of Carpinteria

COUNCIL AGENDA STAFF REPORT November 12, 2024

ITEM FOR COUNCIL CONSIDERATION

Consider canceling the regular City Council meeting for December 23, 2024.

STAFF RECOMMENDATION

Authorize the cancelation of the regular City Council meeting on December 23, 2024.

Sample Motion: I move to authorize the cancelation of the regular City Council meeting on December 23, 2024.

BACKGROUND/DISCUSSION

The City Council holds its regular meeting on the second and fourth Mondays of every month. The exception is when the meeting date lands on a City observed holiday. When this occurs, the meeting is held the same hour and place on the next succeeding day thereafter which is not a holiday. The City Council has the authority to establish meeting dates and times and to reschedule or cancel such meetings with proper and timely public notice (CMC 2.04.010, GC §54954). Traditionally, the City Council has canceled the second regular City Council meeting in December due to a light agenda and/or vacation schedules associated with the holidays.

At its meeting of January 8, 2024, the City Council approved the following holiday schedule for December as a part of its approval of the 2024 Holiday Schedule (Resolution No. 6184).

December 2024 Holiday Schedule

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
12/15/2024	12/16/2024	12/17/2024	12/18/2024	12/19/2024	12/20/2024	12/21/2024
	City Hall open as usual					
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
12/22/2024	12/23/2024	12/24/2024	12/25/2024	12/26/2024	12/27/2024	12/28/2024
	City Hall Open as usual	City Hall Closed	Christmas Holiday	Day After Christmas Holiday	City Hall Closed	
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
12/29/2024	12/30/2024	12/31/2024	1/1/2025	1/2/2025	1/3/2025	1/4/2025
	City Hall Closed	Day Before New Year's Day Holiday	New Year's Day Holiday	City Hall Open as usual		

The purpose of this agenda matter is for the Council to consider canceling the second City Council meeting on December 23, 2024.

Traditionally, due to a light agenda and/or vacation schedules associated with the holidays, the City Council has elected to cancel the second meeting in December.

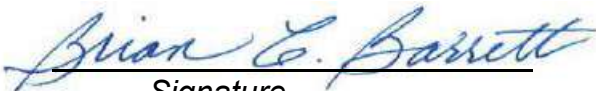
LEGAL

Should the City Council cancel the scheduled meeting, staff will ensure that the required posting and proper noticing of the canceled meeting are met.

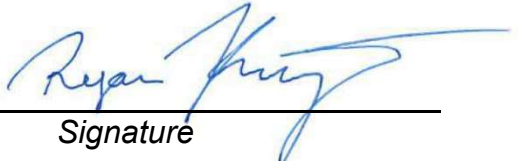
OPTIONS

1. Approve the cancelation of the December 23, 2024 City Council meeting. (*Staff recommendation*)
2. The City Council could choose not to cancel the meeting and hold it on December 23, 2024.

Staff contact:
Brian C. Barrett, City Clerk
(805) 755-4403; brianb@carpinteriaca.gov

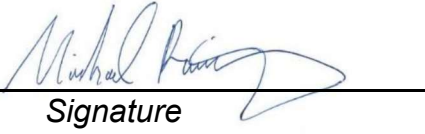

Signature

Reviewed by: Ryan Kintz, Assistant City Manager
(805) 755-4400; ryank@carpinteriaca.gov



Signature

Reviewed by: Michael Ramirez, City Manager
(805) 755-4450; michaelr@carpinteriaca.gov



Signature



City of Carpinteria

COUNCIL AGENDA STAFF REPORT November 12, 2024

ITEM FOR COUNCIL CONSIDERATION

City Council Advisory Group Handbook, Appointment Process Policy, and Dissolution of the Standing City Council, Boards, Commissions and Committees Interview Committee.

STAFF RECOMMENDATION

1. Adopt Resolution No. 6346, adopting a process to appoint public members to City Council Advisory Groups and to appoint City Council Representatives to Outside Agencies & Committees and to City Council Subcommittees;
2. Approve the City Council Advisory Group Handbook; and
3. Dissolve the Standing City Council Boards, Commissions, and Committees Interview Committee.

Sample Motion: I move to (1) adopt Resolution No. 6346, as read by title only; (2) approve the City Council Advisory Group Handbook; and (3) dissolve the Standing City Council Boards, Commissions and Committees Interview Committee.

BACKGROUND

On December 12, 2022, the City Council received a report on the recruitment and appointment processes for Boards, Commissions, and Committees used by nearby local agencies. Based on this review, the City Council directed staff to include the following procedures for the recruitment, evaluation, and appointment of Board, Commission, and Committee members:

- Specific qualifications for Boards, Commissions and Committees include being a resident.
- Each term being a two-year period.
- Interview all applicants (including incumbents) and allow interviews to be conducted in-person, over the telephone, or virtually.

- Create a standing Council sub-Committee (City Council Boards, Commissions, and Committees Interview Committee) to do the interviews comprised of Councilmember Nomura and Mayor Clark with Councilmember Lee as an alternate.
- Have the Council make appointments to Boards, Commissions and Committees following the Annual Work Plan with interviews occurring before the Annual Workplan.
- Council will provide specific questions for Boards, Commissions and Committees to the City Clerk for inclusion in a supplemental questionnaire. Staff will return with a staff report in January for Council to approve the questions. These questions can be asked at a subsequent Council meeting where appointments are made or at the Council sub-Committee meeting.

The Council selected and finalized questions for each Board, Commission and Committee at its meeting of January 23, 2023. These questions were included in a supplemental questionnaire to all incumbents and new candidates. On March 13, 2023, the Council made appointments to the City's Boards, Commissions and Committees for the term ending January 31, 2025 and directed staff to return with a future agenda item to conduct a debrief on the current appointment process of the City's Boards, Commissions and Committees, and to consider establishing written procedures.

On October 23, 2023, the City Council received a debrief on its process for making appointments to Council Advisory Groups¹ and adopted Resolution No. 6267, approving the formation of an Ad hoc City Council Appointment Process Committee which included Mayor Clark and Vice Mayor Alarcon. This Committee met on October 22 and 29, 2024 to review the proposed Council Advisory Group Handbook and the Appointment Process Policy and recommended approval by the City Council.

The purpose of this agenda item is for the Council to consider adopting the City Council Advisory Group Handbook and Appointment Process Policy to establish a transparent and fair process of making public member appointments to Council Advisory Groups and City Council appointments to Outside Agencies/Committees and City Council Subcommittees as well as to consider dissolving the Standing City Council, Boards, Commissions and Committees Interview Committee.

DISCUSSION

Council Advisory Group Handbook

The Council Advisory Group Handbook is designed to be a reference guide for individuals serving on the City's Boards, Commissions and Committees as well as any public member appointments to City Council sub-Committees and public member

¹ The term "Council Advisory Group" shall include all City Boards, Commissions and Committees (City Council Advisory Groups), City Council Ad Hoc Committees (if there are public member appointments), and public member appointments to Other Government Agencies.

appointees to other government agencies such as the Santa Barbara Mosquito and Vector Management District. The Handbook is intended to:

- Provide an overview of City government
- Outline and describe membership and organizational requirements
- Educate and/or refresh appointees on the roles and responsibilities of Council Advisory Group members
- Provide meeting guidelines (i.e., the Brown Act and Rosenberg's Rules of Order) for the operation of Council Advisory Groups
- Affirm the Rules of Conduct and Decorum for all City Council Advisory Groups.

All Council Advisory Group members (current and new) will receive the Handbook and will be required to turn in an Acknowledgment of Receipt and Statement of Commitment to abide by the policies, procedures, and Rules of Conduct and Decorum.

Appointment Process of Public Members to Council Advisory Groups, Council Sub-Committees and Public Member Appointees to Other Government Agencies

Per Carpinteria Municipal Code Section 2.24.010, the term of office for all Council Advisory Group members is two years, expiring on January 31st of every odd-numbered year. The appointment process to the City's Council Advisory Groups occurs biennially (every two-years) before the expiration of terms in January of odd-numbered years. The appointment process includes the following:

1. In November/December of even-numbered years, the City Clerk posts a Notice of Vacancies on Council Advisory Groups on the City's website and social media, on physical posting locations at City Hall and the Library, and through the Coastal View News. The Notice includes a listing of the number of open vacancies on each Advisory Group, when terms expire, the term of the next two-year appointment, deadline to submit applications to the City Clerk, qualifications, and anticipated date of the City Council meeting where appointments to Council Advisory Groups will be made. All Council Advisory Group member positions shall be open for appointment, regardless if there is currently a sitting member.
2. City Clerk notifies all Council Advisory Group members that their existing term will end soon and inquires if they wish to be reappointed. If so, they must complete and submit an updated application with the City Clerk. There is no guarantee that incumbents will be reappointed.
3. Once the Notice of Vacancies on Council Advisory Boards is posted/published, individuals must submit applications and supplemental questionnaires to the City Clerk.
4. The application period will be open for at least 30 days, and application materials will be available on the City's website.

5. All applicants are required to complete and return a separate application and supplemental questionnaire (if applicable) by the stated deadline for each Council Advisory Group on which they wish to serve.
6. City Clerk will encourage all applicants to attend the City Council meeting where appointments are made to make a statement of their qualifications and respond to Council questions.

The City Clerk will screen all received applications to ensure certain qualifications are met and include them as part of the agenda packet for the City Council to review prior to the Council meeting where appointments are made to each Council Advisory Group. At the meeting the Mayor will open up public comment for applicants of each Council Advisory Group to provide up to a three-minute statement of why they want to serve in the position. The City Council may ask questions of candidates followed by public comment and any additional questions by Council. The Council will then discuss the pros, cons, and preferences of the various candidates for all Council Advisory Groups.

- If the number of qualified applicants exceeds the number of open positions on a Council Advisory Group, Councilmembers will fill out a ranking form to narrow down the list of applicants to the number of open positions and submit their forms to the City Clerk who will tabulate and announce the results.
- If there ends up being a tie for two or more candidates, the process will be repeated with the tied candidates to create a ranking of the tied candidates.
- If the number of qualified applicants is below or at the number of open positions on a Council Advisory Group, the Council may dispense with ranking candidates and simply vote on the appointment for that particular Council Advisory Group.

The City Council has the sole discretion in making appointments to Council Advisory Groups and does not have to make an appointment even if there is an open Council Advisory Group position and an interested individual(s).

Once a successful candidate (or candidates, if there is more than one) has been selected, the Mayor may call for a motion, second, and a voice vote to adopt the resolution(s) making the appointment(s).

Appointment Process of City Council Representatives to Outside Agencies & Committees and to City Council Subcommittees

This process shall refer to the appointment of Council appointees to Other Government Agencies, Council Representatives to Regional Agencies & Committees, City's Joint and Standing Committees, and the City's Ad Hoc Committees.

Every two years (in January of odd-numbered years) following the General Municipal Election, the City Council selects, from its members, representatives to outside agencies/committees and to City Council subcommittees. Once the City Council is reorganized in December of every even-numbered year, the City Clerk will inquire with Councilmembers of their interest in serving on the various Outside Agencies/Committees and City Council subcommittees and compile a list of interested Councilmembers for each. The list will be presented to the full Council, typically at the first meeting in January when the Council considers appointments of its members to Outside Agencies/Committees and City Council subcommittees. The Mayor will announce each Outside Agency/Committee and City Council Subcommittee and the corresponding interested Councilmembers. The Council will discuss the pros, cons, and preferences of the various interested Councilmembers for each Outside Agency/Committee and City Council Subcommittee. Once a successful candidate (or candidates, if there is more than one) has been selected, the Mayor may call for a motion, second, and a voice vote to adopt the appointment(s).

Dissolution of the Standing City Council Boards, Commissions and Committees Interview Committee

The Council formed the Standing City Council Boards, Commissions and Committees Interview Committee to review received applications and interview potential Council Advisory Group candidates and make recommendations to the City Council on the appointment(s) to Council Advisory Groups. The ad hoc City Council Appointment Process Committee recommended the dissolution of the Standing City Council Boards, Commissions and Committees Interview Committee in order to streamline the applicant process and hold interviews of potential applicants at the Council meeting where appointments will be made.

POLICY CONSISTENCY

This agenda item is consistent with the City Council Primary Goal #1 – Enhance Public Outreach, Education, and Transparency in that it establishes a clear and formalized process for appointing members to City Advisory Groups.

FINANCIAL CONSIDERATIONS

No Additional Funding Requested. Minimal staff time to prepare the report is included in the Adopted FY 2024-25 General Fund Budget.

LEGAL AND RISK MANAGEMENT CONSIDERATIONS

The City Attorney's Office has reviewed this staff report and Resolution No. 6346 and is available to respond to questions at the meeting.

OPTIONS

1. Adopt Resolution No. 6346, adopting a process to appoint public members to City Council Advisory Groups and to appoint City Council Representatives to Outside Agencies & Committees and to City Council Subcommittees; Approve the City Council Advisory Group Handbook; and dissolve the Standing City Council Boards, Commissions, and Committees Interview Committee. (*Staff recommendation*)
2. Decline to adopt Resolution No. 6346 and/or approve the City Council Advisory Handbook and/or dissolve the Standing City Council Boards, Commissions and Committees Interview Committee, and direct staff as appropriate.

PRINCIPAL PARTIES EXPECTED AT MEETING

No principal parties are expected at the meeting.

ATTACHMENTS

Attachment A: Resolution No. 6346
Attachment B: City Council Advisory Group Handbook (November 2024)

Staff contact:

Brian C. Barrett, City Clerk
(805) 755-4403; brianb@carpinteriaca.gov



Signature

Reviewed by: Ryan Kintz, Assistant City Manager
(805) 755-4400; ryank@carpinteriaca.gov



Signature

Reviewed by: Michael Ramirez, City Manager
(805) 755-4450, michaelr@carpinteriaca.gov



Signature

ATTACHMENT A

Resolution No. 6346

RESOLUTION NO. 6346

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARPINTERIA, ADOPTING A PROCESS TO APPOINT PUBLIC MEMBERS TO CITY COUNCIL ADVISORY GROUPS AND TO APPOINT CITY COUNCIL REPRESENTATIVES TO OUTSIDE AGENCIES & COMMITTEES AND TO CITY COUNCIL SUBCOMMITTEES

WHEREAS, on December 12, 2022, the City Council received a report on the recruitment/appointment process of members of the public for Boards, Commissions and Committees (City Council Advisory Groups) used by nearby local agencies and directed staff concerning the procedures for recruitment, consideration and appointment to City Council Advisory Groups; and

WHEREAS, on October 23, 2023, the City Council reviewed the City Council process for appointing members of the public to City Council Advisory Groups and the process to appoint Councilmembers as appointees to other governmental agencies, as representatives to regional agencies and committees, and to City Council subcommittees; and

WHEREAS, the City Council adopted Resolution No. 6267 on October 23, 2023, establishing the Ad hoc City Council Appointment Process Committee to review the current appointment process, make improvements to streamline the process for both applicants, the City Council, and staff, and recommend a written process for the recruitment and appointment process to City Council Advisory Groups and Councilmember appointments to other governmental agencies, regional agencies and committees, and City Council subcommittees; and

WHEREAS, the Ad hoc City Council Appointment Process Committee met on October 22 and 29, 2024 and reviewed the proposed City Council Advisory Group Handbook and recruitment/appointment process for City Council Advisory Groups and City Council appointments and recommended the Handbook and processes be forwarded to the City Council for adoption.

NOW, THEREFORE, BE IT RESOLVED as follows:

SECTION 1. The above recitals are true and correct, and incorporated herein by reference.

SECTION 2. The Carpinteria City Council hereby resolves that the Policy to Appoint Public Members to City Council Advisory Groups, City Council Ad Hoc Committees, and Other Government Agencies shown as Exhibit 1 and the Appointment Process Policy of City Council Representatives to Outside Agencies & Committees and to City Council Subcommittees shown as Exhibit 2 be adopted.

PASSED, APPROVED AND ADOPTED on this 12th day of November, 2024, by the following vote:

AYES: COUNCILMEMBER(S):

NOES: COUNCILMEMBER(S):

ABSENT: COUNCILMEMBER(S):

ABSTAIN: COUNCILMEMBER(S):

Mayor, City of Carpinteria

ATTEST:

Brian C. Barrett, CMC, CPMC
City Clerk, City of Carpinteria

I hereby certify that the foregoing resolution was adopted at a regular meeting of the City Council of the City of Carpinteria held on November 12, 2024.

Brian C. Barrett, CMC, CPMC
City Clerk, City of Carpinteria

APPROVED AS TO FORM:

Jena Shoaf Acos, on behalf of Brownstein
Hyatt Farber Schreck, LLP acting as
City Attorney of the City of Carpinteria

Exhibit 1 to Resolution No. 6346

POLICY TO APPOINT PUBLIC MEMBERS TO CITY COUNCIL ADVISORY GROUPS, CITY COUNCIL AD HOC COMMITTEES, AND OTHER GOVERNMENT AGENCIES

Purpose

The City of Carpinteria establishes its Council Advisory Group Policy to institute a transparent and fair process for making appointments to Council Advisory Groups by the City Council.

For the purposes of this Policy, the term "Council Advisory Group" shall include the following:

- All City Boards, Commissions and Committees (Council Advisory Groups)
- City Council Ad Hoc Committees (if there are public member appointments)
- Public Member Appointees to Other Government Agencies

Appointment Method, Terms, and Vacancies

Annual Appointment List: In accordance with the Maddy Act, a list of all regular and ongoing Council Advisory Groups whose members serve at the pleasure of the City Council shall be posted on or before December 31st of each year. This list shall be known as the "Local Appointments List" and shall contain the following information:

- a. A list of all appointive terms which will expire during the next calendar year
- b. The name of the incumbent
- c. The date of appointment
- d. The date the term expires
- e. The necessary qualifications for the position.

The list will also include all boards, commissions, and committees whose members serve at the pleasure of the City Council and the necessary qualifications for each position per the Maddy Act (California Government Code Section 54972).

The Local Appointments List shall be posted at City Hall, the Community Library, and on the City website with copies available to the public upon request.

Term of Office

Per Carpinteria Municipal Code Section 2.24.010, the term of office for all Council Advisory Group members is set for a period of two years expiring on January 31st of every odd-numbered year; however, terms shall be automatically extended until a successor has been

appointed. During this biennial appointment process, all Council Advisory Group member positions shall be open for appointment, regardless if the seat is currently filled.

Biennial (Every Two Years) Appointment Process

1. In November/December of even-numbered years, prior to all Council Advisory Group members' terms expiring, the City Clerk publishes a Notice of Vacancies on Council Advisory Groups on the City's website, on the City Hall bulletin board, at the Community Library, and publishes the Notice in the Coastal View newspaper and on social media. The Notice includes a listing of the number of open vacancies on each Council Advisory Group, when all terms expire, the term of the next two-year appointment, deadline to submit applications to the City Clerk, qualifications, and anticipated date of the City Council meeting where appointments to all Council Advisory Groups will be made. All Council Advisory Group member positions shall be open for appointment, regardless if there is currently a sitting member.
2. The City Clerk also notifies all Council Advisory Group members that their existing term will end soon and inquires if they wish to be reappointed. If so, they must complete and submit an updated application with the City Clerk. There is no guarantee that incumbents will be reappointed.
3. Applications from all individuals must be submitted to the City Clerk beginning with the posting/publishing of the Notice of Vacancies on Council Advisory Groups.
4. The application period will be open for at least 30 days. Applications will be available from the City Clerk's Office and on the City's website.
5. All applicants are required to complete and return a separate application for each Council Advisory Group they desire to serve on by the established deadline and in accordance with the posted instructions (Note: the City discourages individuals from serving on multiple Council Advisory Groups to allow all interested individuals to have a chance to serve). The applicant will be required to respond to supplemental questions pertaining to the Council Advisory Group they wish to serve on. The City Clerk shall screen all applications to meet any specific qualifications (such as being a resident of the City if required) and compile a final list of applicants from the applications received.
6. The City Clerk will encourage all Council Advisory Group candidates (including incumbents) to attend the City Council meeting where appointments are made to make a statement of their qualifications and respond to Council questions.

Vacancies

If a vacancy occurs after less than six months of a term, the selection process will begin from applications on file from the prior biennial appointment process. If there are no applications on file from the prior biennial appointment process, the selection process will follow that for a vacancy occurring after more than six months of a term.

If a vacancy occurs after more than six months of a term, the vacancy will be posted and the application and nomination/selection process will begin.

All vacancies will be posted and noticed in accordance with Government Code Section 54974 (the Maddy Act).

Nomination/Selection Process

Applicant Statements:

1. After the application deadline, the City Clerk includes screened applications as part of the agenda packet for the City Council to review prior to the Council meeting where appointments are made to each Council Advisory Group.
2. At the Council meeting, the City Clerk shall provide a report on the biennial recruitment and appointment process to Council Advisory Groups.
3. The Mayor will open up comment from applicants of each Council Advisory Group if they choose to speak. Candidates may give a three-minute statement of why they want to serve in the position.
4. The City Council may ask questions of candidates.
5. The Mayor will open public comment on appointments followed by any additional Council questions, if any.

Discussion:

6. Councilmembers will discuss the pros, cons, and preferences of the various candidates for all Council Advisory Groups. *Nominations are not accepted at this time.*

Ranking:

The Council will rank all candidates for each Council Advisory Group at the same time according to the following:

7. If the number of qualified applicants exceeds the number of open positions on a Council Advisory Group, Councilmembers will fill out a ranking form (see attached) for that particular Council Advisory Group to narrow down the list of applicants to the number of open positions. These forms will be submitted to the City Clerk and a short recess will be held while the City Clerk tabulates the results using the Ranking Form Calculator Sheet (see attached). Following the recess, the City Clerk will present the results of the ranking forms. Depending on the number of open positions, the same number of top candidates, those with the top ranks (the lowest score equals the top rank), may be appointed to fill the open positions on any Council Advisory Group.
8. If there ends up being a tie for two or more candidates, the process will be repeated with the tied candidates to create a ranking of the tied candidates.
9. If the number of qualified applicants is below or at the number of open positions on a Council Advisory Group, the Council may dispense with ranking candidates and simply vote on the appointment for that particular Council Advisory Group.
10. The City Council has the sole discretion in making appointments to Council Advisory Groups and as such does not have to make an appointment even if there is an open Council Advisory Group position and an interested individual(s).

Appointment:

11. Once a successful candidate (or candidates, if there is more than one) has been selected, the Mayor may call for a motion, second, and a voice vote to adopt the resolution(s) making the appointment(s). If there is only one candidate, then a simple discussion and adoption of a resolution is all that would be necessary to make the appointment.

Attachments:

- A: Appointment Ranking Form
- B: Appointment Ranking Calculator

RANKING FORM FOR PUBLIC MEMBER APPOINTMENTS

City Councilmember: _____

[illegible]

ATTACHMENT B

EXAMPLE						
APPOINTMENT RANKING FORM						
<i>Each Councilmember lists the Candidates in the order of preference with 1 being most preferred.</i>						
Number of Councilmembers Voting:	5		Council Advisory Group: 			
Candidate Name	Councilmember 1	Councilmember 2	Councilmember 3	Councilmember 4	Councilmember 5	SCORE
Candidate #1	2	2	4	3	2	2.6
Candidate #2	1	3	2	1	4	2.2
Candidate #3	4	1	1	2	3	2.2
Candidate #4	3	4	3	4	1	3
Candidate #5						0
Candidate #6						0
Candidate #7						0
Candidate #8						0
Candidate #9						0
Candidate #10						0
In this example, Candidates #2 and #3 have tied for first place, with Candidate #1 in second place, and Candidate #4 in fourth place.						

To get the score, the numbers on each Candidate's line are added up, then divided by the number of Councilmembers voting.

Exhibit 2 to Resolution No. 6346

APPOINTMENT PROCESS POLICY OF CITY COUNCIL REPRESENTATIVES TO OUTSIDE AGENCIES & COMMITTEES AND TO CITY COUNCIL SUBCOMMITTEES

Purpose

The City of Carpinteria establishes this Policy to institute a transparent and fair process for making appointments of City Council Representatives to the following Outside Agencies, Committees, and Subcommittees:

- Council Appointees to Other Government Agencies
- Council Representatives to Regional Agencies & Committees
- City's Joint and Standing Committees
- City's Ad Hoc Committees

Appointment Method and Vacancies

Biennial (Every Two Years) Appointment Process

Every two years (in January of odd-numbered years) following the General Municipal Election, the City Council selects from its members representatives to outside agencies/committees and to City Council subcommittees.

Vacancies

If a Councilmember who was appointed to serve on an outside agency/committee and/or City Council subcommittee vacates their Council seat, the Council will use the biennial nomination/selection process described below when a new Councilmember is elected or appointed. If the resignation effective date is near the time when the biennial appointment process occurs, then the Council may wait to fill the vacant outside agency/committee and/or City Council subcommittee position until the biennial appointment process which typically occurs in January of odd-numbered years following the General Municipal Election.

Nomination/Selection Process

Interested Councilmembers:

1. Once the City Council is reorganized in December of every even-numbered year, the City Clerk will inquire with Councilmembers of their interest in serving on the Outside Agencies & Committees and City Council Subcommittees and compile a list of interested Councilmembers for each Outside Agency & Committee and City

Council Subcommittee. The list will be presented to the full Council, typically at the first meeting in January when the Council considers appointments of its members to Outside Agencies & Committees and City Council Subcommittees. The Mayor will announce each outside agency/committee and City Council Subcommittee and the corresponding interested Councilmembers.

Discussion:

2. Councilmembers will discuss the pros, cons, and preferences of the various interested Councilmembers for each outside agency & committee and City Council subcommittee. *Nominations are not accepted at this time.*

Appointment:

3. Once a successful candidate (or candidates, if there is more than one) has been selected, the Mayor may call for a motion, second, and a voice vote to adopt the appointment(s).

ATTACHMENT B
Council Advisory Group Handbook

CITY OF CARPINTERIA



CITY COUNCIL ADVISORY GROUP HANDBOOK

NOVEMBER 2024

Prepared By:
City of Carpinteria
City Clerk's Office
brianb@carpinteriaca.gov
(805) 755-4403

Approved by the City Council on November 12, 2024

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INTRODUCTION

On behalf of the City of Carpinteria, I would like to welcome you as a new member of a City of Carpinteria Board, Commission or Committee (Council Advisory Group). As a member, you are now considered a public official serving in an advisory capacity to the City Council performing a valuable service by addressing community issues and needs. The City Council looks forward to your contribution as we work together to provide efficient municipal services that are responsive to local needs and expectations.

Community participation and input is highly valued by the Carpinteria City Council. Elected officials and City staff cannot by themselves provide the time, energy, knowledge, and talent needed to keep Carpinteria the exceptional community that it is. To meet the needs for advice, skills, and public service, Carpinteria looks for participation from its diverse and experienced residents. It offers a means of participating in community affairs, of helping to shape policy decisions, and of working with interested people.

This handbook is a reference guide for those residents who volunteer to serve on the Council Advisory Groups, including both standing and ad hoc groups. These advisory groups are established by the City Council so they can examine a variety of City Council directed subjects in detail and make recommendations to the City Council based upon their study and public deliberation. This handbook is intended to help Council Advisory Group members better understand their roles and responsibilities, governing regulations, and meeting protocol for effective decision-making. It has been prepared to:

- a. Give an overview of the City government structure.
- b. Describe the membership requirements, organizational requirements, and member roles and responsibilities of the Council Advisory Groups.
- c. Provide meeting guidelines for the operation of the Council Advisory Groups.
- d. Rules of Conduct and Decorum for all Council Advisory Groups.

Should you have any questions regarding the information in this book, reach out to the staff liaison of your Council Advisory Group or the City Clerk.

Please fill out and sign your receipt of this handbook found in the Appendix at the end of this Handbook and submit it to the City Clerk.

I appreciate your commitment and willingness to serve our community and hope you will find it to be an interesting and rewarding experience.

Sincerely,



Brian C. Barrett, CMC, CPMC
City Clerk

CITY GOVERNMENT STRUCTURE

The City of Carpinteria incorporated as a general law city on September 28, 1965 in the State of California. Carpinteria has a Council-Manager form of government which is popular because it successfully brings together the combination of full-time professional staff in City administration with the finest talents the community has to offer in its locally elected and appointed officials. This form of government can be described as a partnership between elected officials, appointed staff, and community volunteers with each group having their own distinct roles and responsibilities.

City Council

The City Council is the governing body for the City. The City Council sets overall policy for the community and hires a City Manager to carry out the policy.

Major City Council functions include:

- a. Representing the City and all its residents
- b. Appointing the City Manager and City Attorney
- c. Adopting and amending City laws
- d. Approving the annual budget
- e. Approving City contracts and agreements
- f. Establishing City policies and standards

Councilmembers are not full-time City officials and do not manage the day-to-day activities of the City organization. This is done by the City Manager under the direction of the City Council. Members of the City Council are elected by District on a non-partisan ballot. The five Councilmembers serve overlapping four-year terms. As the governing body of the community, the City Council carries out its policy making at meetings held in the City Hall Council Chambers at 5775 Carpinteria Avenue, Carpinteria, CA 93013, on the second and fourth Monday of every month, commencing at 5:30 pm with special meetings and/or closed sessions as needed.

Mayor

Upon the re-organization of the Council in December of even years (after the general municipal election), the City Council selects one of its members to serve as Mayor and another to serve as Vice Mayor. The Mayor acts as the presiding officer over City Council meetings, observing order and decorum, stating questions posed before the Council, announcing the Council's decision on all subjects, and deciding all questions of order. The Mayor has a vote just like other members and does not have the power of veto over actions of the City Council. The Mayor also acts as the official head of the City on public and ceremonial occasions and signs all ordinances, resolutions, and agreements approved by the Council. In the absence of the Mayor, the Vice Mayor shall act as the presiding officer at the Council meeting and act as the ceremonial head of the City and sign official City documents.

City Manager

The Carpinteria Municipal Code establishes the office of City Manager. The City Manager is appointed by the City Council on the basis of their administrative and executive ability and qualifications and holds office at the pleasure of the City Council. The City Manager is the administrative head of the government of the City under the direction and control of the City Council and is responsible for the efficient administration of all the affairs of the City which are under their control.

The City Manager's duties include:

- a. Enforcing City laws
- b. Managing the City departments, programs, and activities
- c. Recommending policy and regulations to the City Council
- d. Keeping the City Council at all times fully advised of the financial condition of the City
- e. Preparing and submitting a proposed annual budget and salary plan for the City Council to approve

The City Manager is responsible for hiring, promoting, disciplining, and removing all City staff (except for City Attorney). The City Council shall deal with the administrative services of the City only through the City Manager and the City Council shall not give orders to any subordinates of the City Manager. The City Manager shall take orders and instructions from the collective City Council only when sitting in a Council meeting and no individual Councilmember shall give orders or instructions to the City Manager. The City Manager takes policy direction from the City Council and is responsible for implementing that policy.

City Clerk

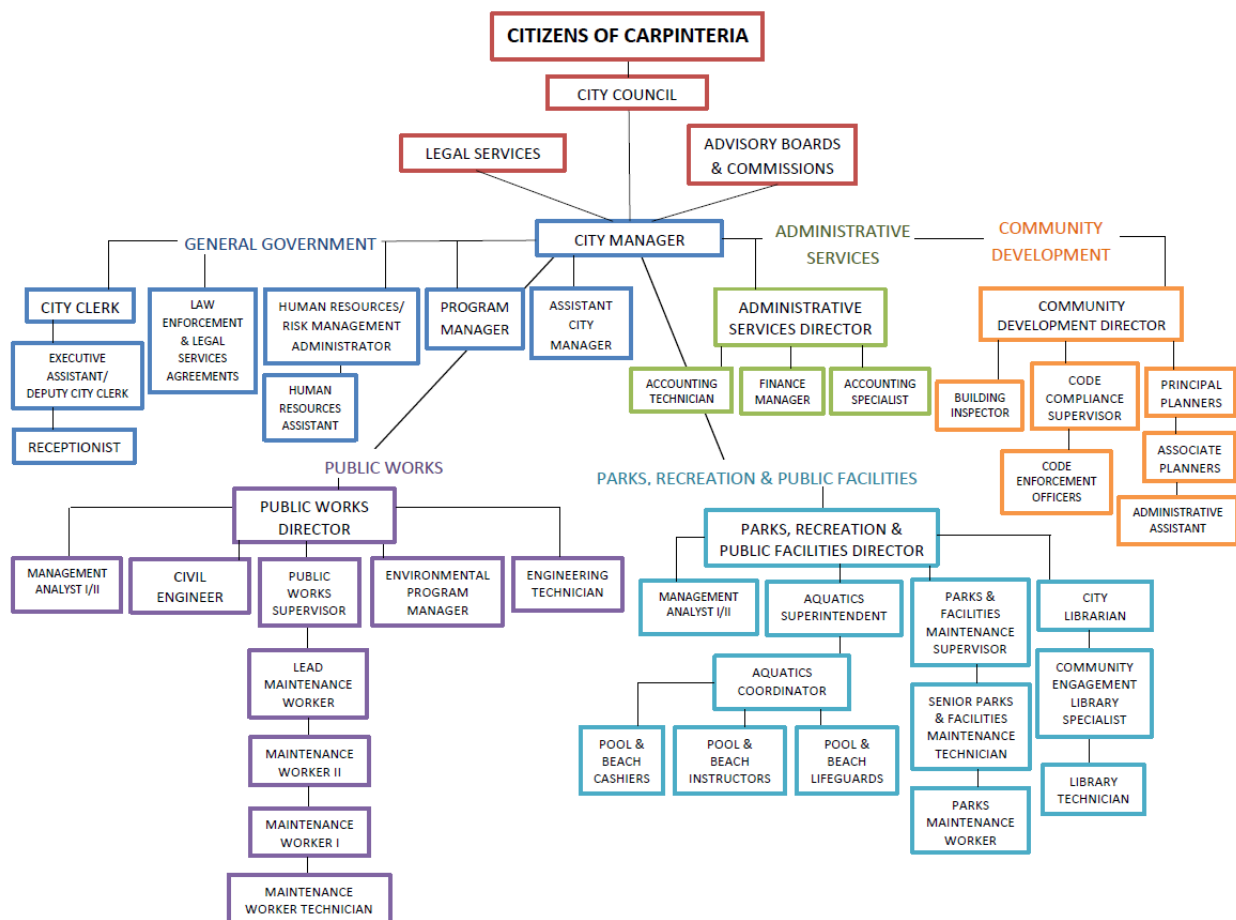
The City Clerk is responsible for maintaining the legislative record of the City Council and prepares City Council agendas, minutes, legal publications, processes resolutions and ordinances, and manages the recruitment of City Council Advisory Groups. As the Elections Official, the City Clerk administers municipal elections in conjunction with the County of Santa Barbara. The City Clerk acts as the compliance officer for federal, state, and local statutes including the Political Reform Act, the Brown Act, and the Public Records Act. The City Clerk provides easy access to information and serves as a guide to open participation in the decision and policy making process.

City Attorney

The City contracts with the law firm Brownstein Hyatt Farber Schreck, LLP (BHFS) for its legal services. BHFS is the legal advisor of the City Council and all other City officials, departments, and Council Advisory Groups. In carrying out their responsibilities, the City Attorney:

- Provides legal opinions to the City Council, City Manager, and other City officials
- Drafts or approves as to form all the City's ordinances, resolutions, and contracts
- Is responsible for representing the City in all litigation to which the City is a party
- Approves as to form all bonds given to or for the benefit of the City
- Prosecutes violations of the Municipal Code

City Organizational Chart



COUNCIL ADVISORY GROUPS

Council Advisory Groups are created by the City Council to obtain increased public input and community participation in the determination of policies and programs. Council Advisory Groups make recommendations to the City Council on matters within the group's scope of responsibility. Each group's duties are established by law and/or Council action and are summarized below.

While all Council Advisory Groups serve as advisors to the City Council, some have decision-making authority over specified matters, such as the Planning Commission. City Council Advisory Groups are the community's volunteer branch of the City government.

The City Council has established 10 Council Advisory Groups, as outlined below with formation documents, duties/responsibilities, membership, meeting schedule, and assigned department:

1. Planning Commission

Formed: by Carpinteria Municipal Code Chapter 2.32.

Duties: Reviews and recommends changes to the General Plan and Zoning Regulations, conducts hearings and decides on applications for development, pursuant to State law and Chapter 2.32 of the Carpinteria Municipal Code.

Membership: The Planning Commission consists of five members with the qualifications for membership being residency within the city at the time of their appointment and during their tenure in office.

Meeting Schedule: Meets the first Monday of every month at the City Council Chambers at 5:30 pm.

Assigned Department: Community Development

Compensation: \$60 per meeting attended

2. Architectural Review Board (ARB)

Formed: by Carpinteria Municipal Code Chapter 2.36.

Duties: Evaluates the architectural merit of commercial, residential, and public building projects as established through Chapter 2.36 of the Carpinteria Municipal Code. The Board also advises City staff and the Planning Commission on design standards, architectural and landscape design, and site planning. Board goals are

1) harmonious, aesthetic development within the City and 2) preservation of the City's natural beauty and visual resources.

Membership: The ARB consists of five members with the qualifications for membership being residency within the City at the time of appointment and during tenure in office and that membership consist of a mix of lay and professional citizens skilled in the interpretation of architectural and landscape drawings and ability to evaluate the effects of proposed development upon surrounding areas.

Meeting Schedule: Set to meet twice a month on Thursdays at the City Council Chambers at 5:30 pm. Oftentimes, one of the two monthly meetings is cancelled due to lack of agenda matters being ready for ARB consideration.

Assigned Department: Community Development

Compensation: \$25 per meeting attended

3. Mobile Home Park Rent Stabilization Board (MHPRSB)

Formed: by Carpinteria Municipal Code Section 5.69.030

Duties: The MHPRSB administers the City's rent stabilization ordinance (Carpinteria Municipal Code Chapter 5.69) for the City's mobile home parks. The Boards is empowered to approve, set and adjust the rent schedule and maximum rents for the mobile home tenancies within the City.

Membership: The MHPRSB consists of five members, all of which shall be appointed on an at-large basis.

Meeting Schedule: Meets as needed at City Council Chambers.

Assigned Department: General Government / Community Development

Compensation: N/A

4. Carpinteria Open Space Management Advisory Board (COSMAB)

Formed: Originally formed as Bluffs Management Advisory Board via Resolution No. 4694 reformed as Carpinteria Open Space Management Board via Resolution No. 6002. Also formed per Deed of Conservation Easement Carpinteria Bluffs Open Space Preserve, recorded October 16, 2000.

Duties: The Board will assist the City in its compliance with the applicable terms of relevant Conservation and Trail Easements. The Board will provide input to the City for the acquisition, creation, development, operation and maintenance of the Coastal open space and City owned or managed trail system.

Membership: The COSMBAB is comprised of seven members appointed on an at-large basis.

Meeting Schedule: Meets at 3:00 pm on the third Thursday of every month in the City Council Chambers.

Assigned Department: Parks, Recreation and Community Services

Compensation: N/A

5. Integrated Pest Management (IPM) Committee

Formed: by Resolution No. 5355

Duties: The committee focuses on methods to reduce the use of pesticides while considering maintenance standards for City parks, open spaces, roadways, and buildings. Conducts public outreach and information programs to help guide private citizens on best management practices to reduce the use of pesticides in public spaces and prepares an annual report to disclose pest issues encountered and tactics used and/or pesticides used to combat the issues.

Membership: The IPM Committee is comprised of no fewer than five and no more than nine members that include representation from the Parks and Recreation Department, the Public Works Department, the Carpinteria Open Space Management Advisory Board, and at least two at-large community members.

Meeting Schedule: Meets as needed.

Assigned Department: Public Works

Compensation: N/A

6. Tree Advisory Board (TAB)

Formed: by Carpinteria Municipal Code Section 12.28.080

Duties: The TAB assists City Staff in implementation of the City's Street Tree Management Plan, and local regulations established for the maintenance of street trees.

Membership: The TAB consists of five members with the qualifications for membership being residency within the Carpinteria Valley and a composition of a mix of lay citizens and professionals from a pertinent discipline. Carpinteria Municipal Code Section 12.28.080A provides examples of some of the

characteristics or attributes to be used in creating a composition of board members.

Meeting Schedule: Meets quarterly in the City Hall Council Chambers at 5:30 pm.

Assigned Department: Public Works

Compensation: N/A

7. Downtown “T” Business Advisory Board (DTBAB)

Formed: by Resolution No. 1882 and amended via Resolution No. 5902

Duties: The DTBAB advises the City Council on parking and business improvement matters within the Downtown retail business area of the City. The Board has a duty to file an annual report with the City Council making recommendations on the expenditure of revenues derived from the levy of assessments, an estimate of the costs of providing the improvements and activities, the method used of levying the assessment, the amount of any surpluses carried over from the previous year, and any contributions made from other sources.

Membership: The DTBAB is comprised of seven members with four of those members paying assessments within Parking and Business Improvement District No. 4, and three at-large members from the general public. There are also three alternate assessment paying members in addition to the seven members that may fill-in for any absent assessment-paying member. The position of Chair and Vice Chair are drawn from assessment-paying members only.

Meeting Schedule: Meets the first Thursday of every month at 8:30 am in the City Council Chambers.

Assigned Department: Public Works

Compensation: N/A

8. Environmental Review Committee (ERC)

Formed: by Resolution No. 4082 and amended via Resolution No. 4418

Duties: Its function is to serve the public interest by providing direct input on the City's environmental review process. The Committee is chaired by the Community Development Office who also acts as the Secretary.

Membership: The ERC is a five-member committee made up of the City Manager or his designee, the City Engineer, the Community Development Director or his

designee, the City Biological Resource Specialist, and a member of the general public.

Meeting Schedule: Meets as needed.

Assigned Department: Community Development

Compensation: N/A

9. Community Development Block Grant (CDBG) Committee

Formed: by Council minute order on December 11, 2006

Duties: The committee's basic duty is to review grant applications for CDBG funds and to make recommendations to the City Council on which applications to fund and support the community's interests and help address identified needs. The CDBG Committee shall perform the following functions: (1) establish procedures in conjunction with the Santa Barbara County Housing and Community Development Department for applying for funds, setting criteria for allocations, and making funding recommendations to the City Council; (2) Coordinate CDBG funding so that basic human service needs are met; and (3) Provide recommendations to the City Council concerning matters relating to the CDBG Program. The Committee may adopt such rules and regulations as it may deem necessary to carry out its functions.

Membership: The CDBG Committee is comprised of one member of the Planning Commission, two at-large community members, and one alternate at-large member.

Meeting Schedule: Typically meets in January/February of each year.

Assigned Department: Community Development

Compensation: N/A

10. Library Advisory Commission (LAC)

Formed: by Resolution No. 6074

Duties: Act in an advisory capacity to the Library Board of Trustees and City Librarian in matters pertaining to the management, administration, operation, development, improvement and maintenance of the library.

Membership: The LAC shall be composed of five members representative of the Library service area with an option to expand as needed. The Commission shall be representative of the Library service area population demographic; library user

groups, including underrepresented user groups; and person(s) knowledgeable in library management and operations.

Meeting Schedule: Meets on the first Monday of each month at 3:30 pm at the Carpinteria Community Library Community Meeting Room.

Assigned Department: Parks, Recreation and Community Services

Compensation: \$30 per meeting attended

APPOINTMENT PROCESS & CONDITIONS

Term of Office

Per Carpinteria Municipal Code Section 2.24.010, the term of office for all Council Advisory Groups is set for a period of two years expiring on January 31st of every odd-numbered year; however, terms shall be automatically extended until a successor has been appointed.

Appointment Process

During the biennial (every two years) appointment process all Council Advisory Group member positions shall be open for appointment, regardless if there is currently a sitting member. In November/December of every even year, the City Clerk notifies existing Council Advisory Group members that their terms will be coming to an end and asks if they would like to be re-appointed to their Council Advisory Group. Those members wishing to continue must complete and submit an application to the City Clerk and will be moved forward for Council consideration along with any new applications for appointment at a City Council meeting in January of every odd year. If an existing member wishes to retire/resign, their position will become vacant upon the effective date of resignation/retirement.

On occasion there will be an “Unscheduled Vacancy.” An Unscheduled Vacancy occurs when an individual resigns from a position before their term ends or otherwise leaves office. This also results in a Vacancy Notice being posted. If a vacancy occurs after less than six months of a term, the selection process will begin from applications on file from the prior biennial appointment process. If there are no applications on file from the prior biennial appointment process, the selection process will follow that for a vacancy occurring after more than six months. If a vacancy occurs after more than six months of a term, the vacancy will be posted and the application and nomination/selection process will begin.

For those interested in serving on a Council Advisory Group, an application and supplemental questionnaire (both available on the City’s website) pertaining to the Council Advisory Group to which they wish to be appointed must be filled out and turned in to the City Clerk. The City Clerk will notify the individual when the City Council will make appointments to the Council Advisory Group and encourages the individual to attend the Council meeting to make a brief statement about their qualifications for the Council Advisory Group and/or respond to any questions from the Council. The City Council has the sole discretion in making appointments to Council Advisory Groups and as such there is no guarantee the City Council will make an appointment even if there is an open Council Advisory Group position and an interested individual(s).

The City Clerk’s Office prepares a “Local Appointments List” which reflects the Council Advisory Group members names, when their terms expire and how many terms they have

been appointed. This list is updated annually in December as required by the Maddy Act (California State Law). Posting this list on the website and at City Hall and the Community Library allows residents to see when vacancies will occur.

Appointment of Employee's Relative

It shall be the applicant's responsibility to disclose any relation to a current City employee, particularly in the City department the Council Advisory Group serves. Employed Relative is defined as an employee with a familial relationship to either the Council Advisory Group member or the member's spouse as follows:

Relative of Member	Relative of Member's Spouse
Spouse	Brother
Brother	Sister
Sister	Parent or Step Parent
Brother's Spouse	Grandparent
Sister's Spouse	Child or Step Child
Grandparent	
Child or Step Child	
Child's Spouse	

Furthermore, the member shall agree to abstain from any discussion or recommendation on matters that may directly or indirectly benefit, influence, or affect their Employed Relative. A member shall not become involved in any way to seek influence on behalf of the Employed Relative or become involved in any way with the supervision of work performance of the Employed Relative. Failure to follow these requirements and guidelines may lead to a member being removed from their appointment by the Council.

Appointment of Relatives of City Council or City Manager

No relative of a member of the City Council or of the City Manager shall be appointed to or serve on any Council Advisory Group. If any such relationship arises, the relative's seat is immediately vacated. "Relative" shall be defined as a City Councilmember's or City Manager's:

- Spouse
- Sibling
- Child or Step Child
- Child's Spouse
- Brother's Spouse / Sister's Spouse
- Parent / Parent-in-law
- Grandparent / Souse's grandparent
- Grandchild
- Cousin
- Uncle or Aunt

- Nephew or Niece

Individual Serving on Multiple Council Advisory Groups

The City Council discourages individuals from serving on multiple Council Advisory Groups in order to allow all interested individuals to have a chance to serve.

Removal from Office

All Council Advisory Group members serve at the pleasure of the City Council. Carpinteria Municipal Code Section 2.24.010 states that the City Council may declare the seat of any Council Advisory Group member vacant by a majority vote of the Council and such vacant seat may be filled for the unexpired term.

Leaving Office

Council Advisory Group members may resign at any time. Sixty (60) days' notice is suggested to enable a replacement to be identified and appointed without causing a gap in a Council Advisory Group membership. Each Council Advisory Group member must file a Fair Political Practices (FFPC) Form 700 Leaving Office Statement within 30 days of leaving office – See Conflict of Interest section later in this Handbook.

Qualifications

Generally, individuals appointed to Council Advisory Groups must be residents of the City when appointed and remain a resident through the entire time during their appointment. Some Council Advisory Groups have special or additional membership requirements for particular backgrounds/expertise and do not require residency, but do require owning, operating, or managing a business enterprise within the City.

Specific qualifications for each Board, Commission or Committee are listed above under Council Advisory Groups section.

Attendance

Members are expected to attend all scheduled meetings and should make every effort to do so. The City Council wants the collective benefit of each member's participation and judgment on every issue. Council Advisory Group members who cannot attend a meeting should contact their staff liaison.

When a member does not attend two consecutive regular meetings, unless excused, the position of such member shall be deemed vacant and the term of such member terminated. The Chair of the Council Advisory Group and/or staff liaison shall monitor the attendance of members and shall notify the City Manager of any members who have missed more than two consecutive Council Advisory Group meetings without the member being excused for their absence.

Council Advisory Group members who are unable to continue their service for health, business, or personal reasons should submit a letter of resignation to the staff liaison and the City Clerk's Office.

Independent Governmental Agency Appointments

The City Council also makes citizen appointments to the following independent governmental agencies. Since these are independent governmental agencies, they are not bound by the City of Carpinteria CAG Handbook. Each of these governmental agencies/bodies develops their own regulations.

Independent Governmental Agency Appointments	
Name	Website
Santa Barbara Mosquito and Vector Management District	https://www.mvmdistrict.org/
Community Media Access Center Board of Directors	https://tvsantabarbara.org/
County Library Advisory Committee	https://www.countyofsb.org/1348/County-Library-Advisory-Committee

ORGANIZATIONAL REQUIREMENTS AND DUTIES

Election of Chair and Vice Chair

In February of each year, all Council Advisory Groups elect a Chair and Vice Chair from its membership for a one-year term. For the Downtown “T” Business Advisory Board, the Chair and Vice Chair will be limited to assessment-paying members only.

Roles and Responsibilities

Although the specific duties of each of the City’s Council Advisory Groups vary widely with the purpose for which they are formed, there are certain roles and responsibilities that are common to all Council Advisory Group members.

The following is a summary of the important roles and responsibilities of Council Advisory Group members to assist members to maximize their contributions to the City.

New Member Orientation

Whenever a new member joins a Council Advisory Group, a new team must be developed. An effective orientation program begins immediately following appointment and continues until the member comes up to speed. Early orientation of new members helps the Council Advisory Group keep up its momentum instead of making time while the new member struggles to figure everything out alone. It also helps prevent misunderstandings, which may have long-lasting effects, and that all decisions are based on full-member knowledge.

If the new member is to be able to participate quickly and knowledgeably in decision-making, they need to know such things as the following before attending the first meeting:

- a. How the group operates.
- b. What the group’s responsibilities are.
- c. What the annual work plan is.
- d. What decisions the group faces immediately.
- e. What and why plans and actions have been formulated.
- f. Laws affecting the Council Advisory Group.
- g. Resources available.

An effective orientation program begins with the Council Advisory Group staff liaison, and will include the Chair, and Council Advisory Group members starting at their first meeting.

New members will be given this Handbook and must fill out the attached Acknowledgment of Receipt and Statement of Commitment (found in the Appendix to this Handbook) and return it to the City Clerk’s Office. Failure to do so may result in the member being removed from the Council Advisory Group by the City Council.

City Clerk's Staff Role

- a. Advise applicants of the date of the City Council meeting for appointments and encourage they attend the Council meeting to make a statement and/or respond to questions from the Council.
- b. Advise of Form 700 filing obligation (if applicable) and Ethics Training requirement.
- c. Prepare Certificates of Appointment.
- d. Give "Oath of Office" to new appointee.
- e. Upon approval, email PDF copy of Handbook.

Staff Liaison's Role

- a. Make contact as soon as possible and welcome members after City Council approval of the appointment.
- b. Ensure member received a copy of this Handbook to review.
- c. Schedule a time to review the contents of the Handbook and go over the duties and responsibilities pertaining to the particular Council Advisory Group.
- d. Arrange a tour of the department and City facilities and introduce City staff members.
- e. Discuss the Council Advisory Group's projects and goals, and pertinent departmental goals and objectives.
- f. Indicate date, time, and place of next meeting.
- g. Brief the new member of pending issues to come before the group at its next meeting to give the new member maximum time for needed background study.
- h. Provide minutes of recent meetings.
- i. Ensure that an "Oath of Office" is conducted by the City Clerk's Office before attending their first meeting.
- j. Monitor the attendance of members and notify the City Manager of any members who have missed more than two consecutive Council Advisory Group meetings without the member being excused for their absence.

City staff provide professional support for several of the Council Advisory Groups. Effective Council Advisory Groups develop a partnership with the City staff based upon mutual understanding and acceptance of roles and responsibilities. Key staff liaison responsibilities include:

- a. Making sure agendas and reports are readily available for the public.
- b. Making sure the adequate room and equipment are available for the meeting.
- c. Being informed about the latest developments in their field such as changes in State law.
- d. Actively participating in meetings by providing background and expressing views to the Council Advisory Group on agenda items.
- e. Making a professional recommendation on every issue presented on the agenda.
- f. Alerting Council Advisory Group members of possible detrimental impacts from proposed actions.

- g. Interpreting City Council and administrative policies for the Council Advisory Group.
- h. Record the meeting (audio, video, or both) and prepare action minutes of the proceedings.

Member's Role

- a. Chair and all members need to make the new member feel welcomed and a respected participant.
- b. Encourage the new member's questions and participation with a willingness to take additional time to provide background on issues and actions, which started before their term began.
- c. Avoid projecting an impression of "clubbiness" among existing members.
- d. Be willing to hear and consider new or alternate approaches to problems and proposed actions. Infusion of new thinking should be viewed as a valued new resource and not an opportunity for a senior board member to put down.

Do Your Homework

It is extremely important that Council Advisory Group members do their homework before each meeting. This involves thoroughly reviewing the agenda and staff reports. It also may mean making on-site visits if the agenda issue involves a site or facility.

Members should also endeavor to maintain an objective attitude in their fact finding. Remember that there are always at least two sides to every issue. Some members do not do their homework and try to "wing" it or catch-up at the meeting. This ploy is obvious to colleagues and is considered bad manners.

Be Representative of the Whole City

One of the difficult on-going dilemmas for a Council Advisory Group member is balanced representation. Should the member represent a specific group, District or the entire community? While the City Council may have appointed a member because that person represents a specific interest group, the City Council expects appointees to broaden their viewpoint. The question "What is best for the entire community?" should take precedence over "What is best for a special interest group?"

Be Careful to Represent the Council Advisory Group

Individual Council Advisory Group members should not represent their personal views or recommendations as those of the Council Advisory Group. Members making recommendations or expressing views not approved by a majority of the Council Advisory Group should indicate that they are representing themselves as individuals and not the Council Advisory Group.

Public statements should contain no promises to the public that purport to be binding on the Council Advisory Group, City staff, or City Council. When making statements to the press, members should indicate if Council Advisory Group actions are recommendations and, if so, that final action will be taken by the City Council. Comments to the press and public should be factual.

Be Conscious of the City Council Expectations

The City Council relies upon thorough, unbiased recommendations from its Council Advisory Groups. Do not embarrass the City Council with “politically popular but impractical” recommendations.

Do not get upset or offended if your group’s recommendation is not adopted by the City Council. Your recommendation is one of several factors the City Council takes into consideration when making a decision. Remember they are directly accountable to the public.

Become the “Eyes and Ears” of the City Council

As an influential member of the community, the Council Advisory Group member is in a unique position of serving as a liaison between the City and its citizens in helping to reconcile contradictory viewpoints and to build a consensus around common goals and objectives. The Council Advisory Group member serves as a communication link to the community, presenting City programs and recommendations, and also providing a channel for citizen expression. Council Advisory Group members should explain and promote policies established by the City Council.

If a member is not careful, this communication channel may break down such as when Council Advisory Group members substitute their own opinions for those of the general public. This is seldom malicious or even intentional, but results in ineffective representation.

Be Conscious of the Relationship with the City Council and City Staff

Supportive relationships with the City Council and City staff are basic for successful operation of any Council Advisory Group.

In contacting City staff on Council Advisory Group business, the proper channel is through the Chair to the staff liaison.

City staff is required by the City Council to make individual recommendations, which may or may not agree with those of the Council Advisory Group. City staff is required to fairly present and explain the staff recommendation and the Council Advisory Group’s recommendations, but will not defend them if in disagreement.

When appropriate, the Chair or delegated representative should communicate in writing or be present at the City Council meeting to report on the Council Advisory Group recommendations. This is particularly true when the City staff recommendation is not in accord with the approved position of the Council Advisory Group on a given issue. What the City Council seeks is full and complete information including a range of options on a given issue.

Disagreements

A Council Advisory Group or individual member may disagree with the City Council on any matter, but once the City Council has established its position on a matter, the Council Advisory Group should not do anything contrary to the established policies and programs adopted by the City Council. If personal ethical problems arise, the resignation from the Council Advisory Group is the appropriate response.

Establish a Good Working Relationship with Other Council Advisory Group Members

On many occasions, the success or failure of the efforts of Council Advisory Groups is largely dependent on the degree of cooperation among the individual members of the group. To help build a consensus around common goals and objectives, members will often have to first reconcile contradictory viewpoints and show a willingness to objectively consider the real issues.

Another way of developing this cooperation is for each member to ensure that meetings proceed in an orderly and constructive manner. The Chair is primarily responsible for seeing that consideration of agenda items moves along without delay, but with reasonable time allocated to each item. Each member can assist the Chair by becoming familiar with the basic rules of parliamentary procedure and by adequate preparation of any presentations made to the group.

Other important points that each member should consider in working with other members are:

1. Respect colleagues' viewpoints even though they may be opposite of yours.
2. Practice civility when discussing contentious matters.
3. Allow other members adequate time to present their views fully before making comments on their views.
4. Be open and honest at all times.
5. Recognize new Council Advisory Group members and see that they are made welcome.

Understand the Role and Scope of Responsibility of the Council Advisory Group

One of the first responsibilities of a Council Advisory Group member is to be informed of the group's role and scope of responsibility. The role of the Council Advisory Group includes advising the City Council on specific City program areas and related policies. In

addition, some Council Advisory Groups have some decision-making responsibilities, such as the Planning Commission. An overview of the general roles is discussed below:

Roles include:

1. Expressing views on programs and policies within the Council Advisory Group's authorized area of responsibility.
2. Focusing issues for the City Council by identifying pros, cons, alternatives, and possible actions.
3. Holding forums for members of the public to express their views on community issues within the Council Advisory Group's area of responsibility.
4. Serving the general interest of the City rather than specific interest groups or special program areas.
5. Putting self in the role of the City's general interest; balancing competing priorities and demand for resources.
6. Assuring consideration of community values and goals in the Council Advisory Group's scope of interest.
7. Completing the Council Advisory Group annual work plans.
8. Educating the public on the democratic process and subject matters within the Council Advisory Group's area of responsibility.

The education role is especially important and should not be discounted. For many residents, a Council Advisory Group meeting may be their first and only contact with City Hall. The Council Advisory Group's job is to not only deal with the issue, but also represent the City and demonstrate how the democratic process works.

Roles **do not** include:

1. Becoming involved in the administrative matters of the City departments. The Carpinteria Municipal Code specifies that the City Manager is responsible for the oversight of administration and operations.
2. Directing City staff to initiate programs or conduct studies.
3. Establishing departmental work programs (as opposed to Council Advisory Group) and determining departmental priorities. Work programs and priorities are established through the Annual Work Plan process and are managed by the City Manager.
4. Taking unilateral action as a City representative such as attempting to resolve a complaint. Resident complaints about City services or programs should be referred to City staff for assistance.
5. Serving as advocates for departmental budgets, programs, or policies.
6. Discussing or considering personnel matters dealing with hiring, transfers, terminations, or discipline of City employees.
7. Serving the specific interests of special groups at the expense of the overall interests of the City.

The City Council may remove a Council Advisory Group member from their seat if they do not follow the role and scope of responsibility of their particular Council Advisory Group.

Working with the Media

Members should be aware that any statements or opinions made to representatives of the media could be considered “on the record” by reporters. Such statements should always be made in consideration of the likelihood that they will be printed or broadcasted. You may not make a statement representing your Advisory Group, unless the Group at a meeting made a motion that you can represent them on this matter with the media. When giving any statements, ensure without this authority that you state the comments/opinions are from you, as a resident, not as a representative of the Advisory Group.

Participation in Political Activities

Local government elections in California are nonpartisan. City Council appointments to Council Advisory Groups are made without regard to political party affiliation. Acceptance of an appointment to a Council Advisory Group does not in any manner restrict citizen participation in political activities of an individual’s choosing at any level of government be it local, state, or federal. However, members should not use their appointed role or title in the conduct of political activity.

CONFLICTS OF INTEREST

The Political Reform Act of 1974 (Government Code Sections 81000, et seq.), which was approved by the voters of the State of California, is intended to prevent conflicts of interest by requiring public officials to disclose certain personal financial interests, which could foreseeably cause conflicts. In addition, a public official may be required to disqualify themselves from making, participating in, or attempting to influence any government decisions which will affect any of their financial interests, not just those that are required to be disclosed. Most Council Advisory Group appointees (see table below) will be required to complete/file a Fair Political Practices Commission Form 700.

Council Advisory Group	Form 700 Required?	Ethics Training Required?
Planning Commission	Yes	Yes
Architectural Review Board	Yes	Yes
Mobile Home Park Rent Stabilization Board	Yes	Yes
Carpinteria Open Space Management Advisory Board	No	Yes
Integrated Pest Management Committee	No	Yes
Tree Advisory Board	No	Yes
Downtown “T” Business Advisory Board	Yes	Yes
Environmental Review Committee	No	Yes
Community Development Block Grant Committee	No	Yes
Library Advisory Commission	Yes	Yes

The City of Carpinteria has adopted a local conflict of interest code as required by the Political Reform Act. This Act requires the financial disclosure of interests by certain individuals who are in decision-making positions within state and local government.

Prior to a meeting, you should review the agenda to evaluate potential financial conflicts of interest on actions to be taken. If you have a conflict of interest, or think you may have a conflict of interest, alert the staff liaison, Chair, or the City Clerk immediately, and you should not directly or indirectly influence City staff, Council Advisory Group members, the proceedings, or the vote. At the subject meeting, you may be required to state the basis for your conflict of interest immediately after the Chair announces the time for consideration. For example, “Madame Chair, I have a conflict of interest on this item because (state reason)..., and I will not be participating in the deliberations.” The minutes

will reflect that you stated the conflict and did not participate in any way in the proceedings or the vote.

The penalties for violating the conflict-of-interest laws are serious and may include fines and criminal prosecution.

When a conflict of interest is declared on an item, you must leave the meeting and not participate in the decision-making process for that item.

A Council Advisory Group member will not be allowed to participate in meetings if their Form 700 statements are not completed and filed with the City Clerk's Office, and failure to do so in a timely manner may be cause for termination of the position.

Assuming Office Statement

As an appointed Council Advisory Group member, you are required to complete and file the appropriate conflict of interest forms (Form 700) within thirty (30) days after the date you assumed office (date the City Council appointed you). Forms and assistance will be provided by the City Clerk's Office. Financial disclosure forms are filed with the City Clerk, as a matter of public record.

All economic disclosure documents are filed online via the eDisclosure system. The City Clerk's Office will send a notification to your email address with links and instructions for filing online. The email will come from Form700.CarpinteriaCity@southtechhosting.com, so please be sure to monitor your email regularly for this notification. You will receive a welcome email and a separate email with your login ID (your provided email address) and your temporary password.

The notification will include information on how to e-file your Assuming Office Statement:

1. Log in to the system at <https://CarpinteriaCity.southtechhosting.com/eDisclosure/>.
2. Use the email address you provided as your Login ID.
3. Setup your permanent password.
4. Login to begin the Form 700 filing process.

When you are satisfied with the document, please e-file your document. You do NOT have to print, sign, and submit a paper copy of your e-filed statement.

If you have any questions about a possible conflict of interest, the City Attorney's Office is available to assist you. The Fair Political Practices Commission (FPPC) Office is also available at their toll-free telephone number 866-ASK-FPPC (866-275-3772), via email at advice@fppc.ca.gov, or at www.fppc.ca.gov, to answer questions regarding a conflict of interest, disclosure of certain personal financial interests, or when the law requires disqualification.

Annual Statements

Members are required to file annual conflict of interest forms during their term (due each year in April). The City Clerk will annually notify all members of their requirement to file Form 700 in advance of the due date.

Notifications regarding the filing deadline are sent to the email address you provided. As stated previously, the email will come from Form700.CarpinteriaCity@southtechhosting.com, so please be sure to monitor your email regularly for this notification.

Leaving Office Statements

You are required to complete and file the appropriate conflict of interest forms within thirty (30) days after the date you leave office.

Once the City Clerk is notified of your leaving office, the City Clerk's Office (via Form700.CarpinteriaCity@southtechhosting.com email address) sends you notification to e-file your leaving office statement.

Ethics Laws

Council Advisory Group members commit to spending significant amounts of time in service to the City; and they also assume a responsibility to work for the betterment of the City. Ethics laws impose rules on the manner in which public officials conduct themselves.

The goal of ethics laws is to maximize the likelihood that the decisions of a public agency are made solely with the public's interests in mind. The laws frequently strive to avoid even the appearance of impropriety as well as actual improprieties. Ethics laws represent the minimum standards for the conduct of public officials.

State law requires local agency officials to attend ethics training. The basic requirement is two hours no later than one year from the date appointed and thereafter two hours at least once every two years. An online training program is available that will allow you to satisfy the requirements of Assembly Bill 1234 on a cost-free basis. Upon appointment, the City Clerk's Office will send you a link to complete your online ethics training through the Fair Political Practices Commission. Print the completion certificate (make sure your certificate shows at least 2 hours of training), sign, and submit electronically or by paper to the City Clerk's Office.

A Council Advisory Group member will not be allowed to participate in meetings if their ethics completion certificate has not been timely completed and filed with the City Clerk's Office, and failure to do so may be cause for termination of the position.

MEETING GUIDELINES

Meeting Types

All Council Advisory Group meetings are governed by the Ralph M. Brown Act (Brown Act), California Government Code Section 54950 et seq.

- **Regular Meetings**

Regular meetings shall be held at a regular date, time and place, which the Council Advisory Group has approved. Regular meetings may be rescheduled with the posting of a Notice of Rescheduled Meeting. Meetings may be cancelled due to a lack of business or if a quorum cannot be obtained. Regular meetings require a 72-hour noticing of the agenda. Agenda materials shall be available to the public in attendance at meetings.

- **Special Meetings**

Special meetings are those meetings held outside the regular meeting date and time. Special meetings may be held at any time upon the call of the Chair or a majority of Council Advisory Group members. The agenda for such meetings is required to be posted 24-hours before the meeting.

- **Joint Meetings**

From time to time, it may be necessary for a joint meeting to be held between the City Council and Architectural Review Board and/or Planning Commission. The purpose of such joint meeting could be for a conceptual review of a development project, receiving updates on new housing laws, etc.

Quorum

A Council Advisory Group can only transact business when a quorum is present at the meeting. A majority of the members of the Council Advisory Group constitutes a quorum. For a group size of five members, a quorum is three members while for a seven-member group, the quorum is four. For those Council Advisory Groups that have alternate members (such as the Downtown “T” Business Advisory Board), when an assessment-paying member is absent, an alternate assessment-paying member may fill-in and act as a voting member on the Board. If all regular members are present in addition to any alternate members, the alternate members present would be non-voting members.

If a quorum is not present, the meeting cannot be convened. If during the meeting a quorum is no longer present, the members present must adjourn the meeting. If no members are present, the staff liaison may adjourn the meeting.

Ralph M. Brown Act (California State Law)

Also see Open & Public VI – A Guide to the Ralph M. Brown Act included in the Appendix to this Handbook.

The Brown Act, described as one of the strongest open meeting laws in the United States, is designed to ensure that public meetings are conducted openly without restrictions on the right of the public to attend or to make comments. The salient purpose of the Brown Act is to protect the public's right to be informed. Provisions of the Brown Act open meeting law include:

- a. The Brown Act applies to all City Council Advisory Groups.
- b. In general, a meeting is a quorum (majority of members) of the Council Advisory Group, no matter how informal, or where business is discussed or transacted.
- c. Generally, the Brown Act does not apply to ad hoc subcommittees of the Council Advisory Group composed solely of its members, which are less than a quorum. However, standing committees that have been formally established by the City Council and which have either a continuing subject matter jurisdiction or a set meeting schedule are subject to the Brown Act.
- d. In general, a meeting between a subcommittee of a Council Advisory Group and a subcommittee of the City Council may constitute a public meeting subject to the Brown Act.
- e. It was once thought that in order for a "meeting" to occur that was subject to the Brown Act, "action" had to be taken at that meeting. A meeting under the Brown Act includes not only action, but also deliberation conducted by the Council Advisory Group.
- f. Serial meetings occur when a majority of the members privately confer with each other in tandem on City business. Serial meeting may be a chain, in which Member A contacts Member B, B then contacts C, C contacts D, and so on, until a quorum is involved. Serial meetings also occur when a majority of the Council Advisory Group members confer with each other through an intermediary, by e-mail, text, or phone (e.g. when City staff sends out an agenda to all members and a member replies all, that may be considered a serial meeting). A Council Advisory Group member has the right to confer with a colleague about public business; but if and when a "collective concurrence as to action to be taken" is reached by a quorum of members, the Brown Act is violated. Serial meetings yield a process that deprives the public the opportunity for a meaningful contribution to the decision-making process. Council Advisory Group members should be alert to the possibility of serial meetings when engaging in discussion with their colleagues on a matter within the subject jurisdiction of the Council Advisory Group.
- g. In most cases, the law requires that the agenda for all meetings be in writing and posted 72 hours before the scheduled time of the meeting. No action can be taken on any matter that has not been listed on the agenda.
- h. The agenda must allow for the public to speak on issues within the jurisdiction of the Council Advisory Group.

- i. Members of the public cannot be required to give their names, or otherwise identify themselves, as a condition of attendance at Council Advisory Group meetings.
- j. Members of the public have the right to record the meeting proceedings in the absence of a reasonable finding of the Council Advisory Group that such recording constitutes a disruption of the proceedings.
- k. Secret ballots even when conducted in public are prohibited by the Brown Act.
- l. Attendance of members of the Council Advisory Group at a purely social or ceremonial occasion is permitted, provided the members do not discuss official business among themselves.

Virtual/Teleconference Meetings

The Brown Act does allow for members to participate remotely with some additional rules.

1. The address of where the member will be participating must be on the agenda and the location must be open to the public.
2. The agenda must be posted at the offsite location and follow the 72-hour noticing requirement.
3. The teleconference location must be accessible to the public, including permitting the public to participate in public comment from that location.
4. A quorum of the Council Advisory Group must participate in the meeting from locations within the City's jurisdiction.
5. All votes take during a teleconference meeting must be by roll call.

Those Council Advisory Group members who wish to participate in a meeting remotely, need to let the staff liaison know in advance to ensure the above rules are followed.

Meeting Agenda

The agenda focuses on the discussion at the meeting by specifying topics and the order in which they will be taken up. In accordance with the Brown Act, the Council Advisory Group may not take action on any item that did not appear on the posted agenda prior to the meeting unless an exception is permitted under Government Code Section 54954.2.

The agenda must be posted on the City's website and posted on the Public Notices Board at City Hall and/or the Community Library (e.g. for the Library Advisory Commission).

Order of Business

The agenda is prepared by City staff and is made available to Council Advisory Group members prior to the meeting so that members can review it before the meeting is held. The agenda is generally laid out in accordance with the following order of business unless otherwise specified:

- Call to Order
- Roll Call

- Public Comment on Items Not on the Agenda
- Consent Calendar
- Approval of Minutes
- Regular Business Items
- Council Advisory Group Communications
- Staff Communications
- Adjournment

Placing an Item on the Agenda

Either the Chair or at least two Council Advisory Group members can request an item be placed on a future agenda by bringing it up at a regular meeting under Council Advisory Group Communications. The Council Advisory Group will make a determination (i.e. majority of the Council Advisory Group) if the item should be agendaized and at what meeting.

Consideration and Action on an Agenda Item

The agenda constitutes the Council Advisory Group's road map for the meeting. Most agenda items can be handled with the following 4-step process:

1. **Presenting Item**
 - a. **Opening Item** – The Chair should announce the agenda item number and subject. The Chair should then announce any special procedures to be followed (e.g., if the item is a quasi-public hearing). This is also when the members would announce their conflict of interest, if any exists, recuse themselves, and leave the room.
 - b. **Hearing the Report** – The Chair should invite the appropriate people (typically the staff liaison) to report on the item. Verbal presentations should be short, so as not to repeat basic information included in the agenda packet. The Chair may provide an opportunity for members to ask any clarifying questions of the person providing the report. This not preferred as questioning tends to segue into position statements before public input is taken, which is inconsistent with open meeting principles.
2. **Asking for Public Input** – The Chair opens the meeting to public input. The Chair may limit speakers' time. The standard time is three minutes per speaker per item.
3. **Considering the Item** – The Chair requests the Council Advisory Group deliberate. Member deliberation would include: questions of the person(s) making the report or others with relevant knowledge, alternatives to the recommendation, additional considerations not previously stated, additional relevant facts and opinions. Time committed to deliberation should be adequate to allow the sense of the Council Advisory Group to emerge.

4. Council Advisory Group Decision – The Council Advisory Group acts by a motion and voting. For all action items, the Chair should invite a motion from the members. Once a motion is made, the Chair should ask for a second. Once a motion and second are made, the Chair should allow any additional desired discussion. Questions for clarification of the motion should be heard at this time. The Chair shall ask for the vote and publicly report any action taken and the vote on that action, e.g. the motion passes 3-2, with Council Advisory Group members A and B opposed.

Staff Reports / Staff Memos

Well written staff reports / staff memos are an indispensable part of the Council Advisory Group process. They are used to provide background information and frame the issue for the Council Advisory Group. Staff reports/memos should anticipate the important questions regarding the issue. In addition, staff reports should include a chronology of events or actions, an analysis of the issues, and alternative approaches. Every staff report/memo should also include a staff recommendation presenting the staff's best professional judgment. Council Advisory Group members are not compelled to follow the staff recommendation if they do not agree.

Chair Responsibilities

The Chair is the key to the effectiveness of this group process and can be likened to the team captain. The Chair provides group direction and sets the tone for meetings. The Chair presides over all Council Advisory Group meetings and has the authority to preserve order at the meetings. This includes removing any person from a meeting for disorderly conduct, enforcing the rules of the Council Advisory Group, and determining the order of business under the rules of the Council Advisory Group.

The Chair must balance being strong enough to move the meeting along and democratic enough to involve all members in the meeting. To be effective the Chair needs the support of the members. Trust is built by even-handedness and fairness to all the participants. It also means that a Chair does not use the powers of the Chair unfairly to win a point or argument.

An effective Chair:

- a. Prevents dominant Council Advisory Group members from having a disproportionate influence.
- b. Defends all members from public and colleague abuse.
- c. Solicits opinions, feelings, and positions from reticent members.
- d. Keeps new thoughts from being rejected prior to fair evaluation.
- e. Discourages blame-oriented statements.
- f. Keeps the discussion focused on the problem.
- g. Encourages the generation of alternative solutions.
- h. Delays evaluation and analysis of alternatives until all are on the table.

- i. Guides the process of screening alternatives and selecting the solution.
- j. Attempts to obtain consensus.
- k. Moves the meeting along and does not let the group drift off the subject at hand.

Absence of Chairperson

The Vice Chair acts in the absence or disability of the Chair. When the Chair and Vice Chair are absent from any meeting of the Council Advisory Group, the members present may choose another member to act as Chair Pro Tempore, and that person has the powers of the Chair for that meeting.

Member Meeting Responsibilities

Members of Council Advisory Groups also have a responsibility for making sure the meeting runs smoothly. Member responsibilities include:

- a. Helping the Chair move the meeting along.
- b. Obtaining recognition from the Chair before speaking.
- c. Limiting remarks to the issue being considered.
- d. Asking clarifying questions if something is not understood.
- e. Respecting colleagues' rights.
- f. Explaining the reasoning behind significant decisions.
- g. Raising concerns and objections at the meeting rather than after the meeting.
- h. Always behaving and representing the City in a professional manner. This applies to the demeanor and behavior during a meeting. When attending a virtual meeting, follow the same rules and regulations that would apply to attending a meeting in-person in a City facility. This includes no smoking, no vaping, no consumption of alcohol and no profanity during any public meetings. (Also when attending virtually, keep mic off unless speaking).

Public Participation

One of the most important functions of a Council Advisory Group is to obtain increased public input and participation. The skillful Council Advisory Group is able to obtain public input by practicing positive encouragement measures.

Here are some steps that will increase the public's willingness to participate:

- a. Recognize that some people are fearful or anxious at a meeting. It may be the first time a person has addressed a public group. The Chair may try to calm and assure the individual.
- b. Show patience – imagine yourself addressing the Council Advisory Group.
- c. The Chair should keep the audience informed of the process and procedures that are being followed.
- d. Before each item is considered, the Chair should describe the item and the possible actions identified.

- e. Members should project a feeling of fairness, understanding, and graciousness as circumstances permit. Members should be considerate of all interests, attitudes, and differences of opinion.
- f. Members should take care to observe the appearance as well as the principle of impartiality.
- g. Members should go through the Chair and try to avoid speaker-to-audience conversation. The purpose of hearing the public is usually to help the Council Advisory Group to act, not to encourage debate or argument with the public.
- h. Do not spend too much time on routine items such as correcting the minutes. This is especially important when an audience is presented.
- i. Relations with the City Council should also be kept in mind in communicating with the public or the media. Council Advisory Group members are considered by the public to be representatives of and spokespersons for the official City family. Because policy decisions are the sole responsibility of the City Council, it is inappropriate for Council Advisory Group members, as representatives of the City, to publicly criticize established City policies or Councilmembers. If personal ethical problems arise, resignation from the Council Advisory Group is the appropriate response. This does not in any way preclude a member's responsibility to advocate their position on a policy matter prior to the decision on an official policy.

Public Hearings

Note: The only Council Advisory Group to hold public hearings is the Planning Commission.

The Council Advisory Group procedure for the conduct of public hearings is generally as follows:

- a. The public hearing must have been noticed.
- b. Council Advisory Group members disclose any ex parte communications (see next section).
- c. The Chair opens the public hearing.
- d. City staff presents its report.
- e. Council Advisory Group members may ask questions of City staff if they so desire.
- f. The applicant or appellant then has the opportunity to present comments, testimony, or arguments. In the case of an appeal when the appellant is different from the applicant, the appellant should be called up first to provide comments or testimony.
- g. Members of the public are provided with the opportunity to present their comments, testimony, or arguments (time limit of 3 minutes per person per item).
- h. The applicant or appellant is given an opportunity for rebuttal or closing comments. In the case of an appeal when the appellant is different from the applicant, the appellant is given the opportunity for closing comments.
- i. The public hearing is closed.
- j. The Council Advisory Group deliberates on the issue.

- k. If the Council Advisory Group raises new issues through deliberation and seeks to take additional public testimony (questions of the applicant, or the public), the public hearing must be reopened. At the conclusion of the public testimony, the public hearing is again closed.
- l. The Council Advisory Group deliberates and takes action.

Ex Parte Communications

The Council Advisory Group (e.g. Planning Commission) sometimes acts in a quasi-judicial capacity (or “like a judge”) when it applies existing laws to specific facts at a public hearing concerning one person or a small number of people rather than the entire City. The most common quasi-judicial matters that come before the Planning Commission relate to ruling on whether to grant land use entitlements, such as permits, licenses, or land use entitlements.

Ex parte communications are substantive oral or individual written communications or sensory observations concerning quasi-judicial matters that occur outside of noticed public hearings. Communications include conversations, meetings, site visits, mailings, or presentations during which substantial factual information about the item is gathered by or submitted to the Council Advisory Group member. Casual or non-substantive communications do not violate the due process rights of non-present parties. This rule prohibiting ex parte communications in quasi-judicial proceedings is designed to ensure fairness and procedural due process for all parties.

Public Discussion at Hearings

When a matter for public hearing comes before the Council Advisory Group, the Chair will open the public hearing. Upon opening the public hearing and before any motion is adopted related to the merits of the issue to be heard, the Chair will inquire if there are any persons present who desire to speak on the matter which is to be heard or to present evidence respecting the matter.

There is a standard 3-minute time limit for each speaker per agenda item.

- a. Public Member Request to Speak – Any person desiring to speak or present evidence shall make their presence known to the Chair and upon being recognized by the Chair, the person may speak or present evidence relevant to the matter being heard. No person may speak without first being recognized by the Chair.
- b. Council Advisory Group Questions of Speakers – Members of the Council Advisory Group who wish to ask questions of the speakers or each other during the public hearing portion may do so, but only after first being recognized by the Chair. Interaction with the speaker shall be limited to a question or questions, rather than an ongoing dialogue. Members should avoid raising questions as a method to extend the allocated time for a speaker.
- c. Due Process – The Chair shall conduct the meeting in such a manner as to afford due process.

- d. Public Oral Presentations – All Council Advisory Group rules pertaining to oral presentation by members of the public apply during public hearings.
- e. Materials for Public Record – All persons interested in the matter being heard by the Council Advisory Group shall be entitled to submit written evidence or remarks, as well as other graphic evidence. Written communications and petitions concerning the subject matter of the hearing will be noted, read aloud, or summarized by the Chair. A reading in full shall take place if requested by the City as part of the record.
- f. German Comments – No person will be permitted during the hearing to speak about matters or present evidence that is not germane to the matter being considered. A determination of relevance shall be made by the Chair, but may be appealed to the full Council Advisory Group.

Continuance of Hearings

At any time it appears to the Chair or the majority of the Council Advisory Group, through the Chair, that inadequate evidence has been presented to afford judicious consideration of any matter before the Council Advisory Group at any time of a public hearing, continuation of such hearing may be ordered to afford the applicant, their opponents or City staff adequate time to assemble additional evidence for the Council Advisory Group's consideration. Any continuation ordered by the Council Advisory Group through the Chair shall be to a date certain, which date shall be publicly announced and shall constitute notice to the applicant and his opponents at the time and place that such further evidence shall be taken. Public announcements provided for in this chapter, shall constitute notice to the applicant and their opponents as to the time and place for further evidence to be taken by the Council Advisory Group.

Listening Skills

Effective meetings require members who have developed their listening skills. Although listening often is considered a passive condition, it is exactly the opposite. Listening is hard work and requires definite commitment and personal discipline. The listener must deliberately prepare to listen and the quality of that listening deteriorates as they may be carried away with the events of the moment.

Perhaps the chief requirement for effective listening is to "have room" to tend to others. If you are preoccupied with your own thoughts and feelings, you will not be available to actively listen. People who give relaxed, open attention to others are rated as effective listeners and better recall what has been said. Active listeners signal their attention and availability both verbally ("I would like to listen to you now") and non-verbally (by not fidgeting or looking bored, etc.).

When listening, it is helpful to try to understand the other person's view without superimposing your own views or judgments prematurely. One sure way to prevent communications is to jump in with your own viewpoint before the other person has been able to fully express their point. Such discussions frequently deteriorate into wrangles.

Active listening shows others that you respect and value their contribution. It may be difficult to accept the idea that the differences between people offer a resource for progress; but if you can manage to bridge differences, there is much value to be gained.

A Council Advisory Group that sets a high standard of listening usually is enjoyed by its members. The group is generally effective and individuals feel a high commitment to the other members.

The Art of Asking Questions

Questions are one of the most important tools members can use to focus the group and to facilitate decision-making. The art of asking questions is a skill that must be developed. It was James Thurber who once said, "It is better to know the right questions rather than the answers." Thurber's insight that responses are subject to change, but the ability to ask probing questions does not, underlines the importance of developing and refining the questioning skill.

There are two basic types of questions: closed and open.

Closed questions can be answered with a yes or no, or with a simple statement of fact. They are good for getting information in a hurry. They also help keep the Council Advisory Group on track.

Open questions are used to get results and build consensus. They allow the other person(s) to get involved. They also require a more in-depth response than yes or no. Open questions are the preferred types of questions to use in a Council Advisory Group setting.

Courtesy and Decorum

Speakers should first be recognized by the Chair. This ensures that only one person speaks at a time.

Meetings should take place in an environment where members and the public can freely express their views. The Chair should ensure that discussion focuses on the item in question, not on personalities or members or the public. The Chair must protect the record, protect privacy rights for all participants, and is responsible for maintaining a harassment-free environment.

The Chair has the right to cut off discussion that is personal or too emotional. The Chair may request a break in such instances.

Refer to the Rules of Conduct and Decorum included in the Appendix of this Handbook.

Managing Difficult Meetings

From time to time, Council Advisory Groups may be faced with conducting highly charged controversial meetings. These meetings may involve one unified group or two or more conflicting groups. The group demeanor may also be characterized by aggressiveness and hostility. Such meetings really test the mettle of the Council Advisory Group and City staff. In addition to the points raise in the “Working with the Public” section, the following should be considered:

Before the meeting, the Chair will:

- a. Try to get the group or groups to designate one or more spokespersons. This will help reduce redundancy and make sure that all sides of the issue will be heard.
- b. Establish ground rules before the meeting. Determine which procedures will be followed.

During the meeting, the Chair will:

- a. Explain the issues, the possible actions, and the procedures that will be followed at the meeting.
- b. Have speakers address the members and not the audience. Some speakers are very adept at inciting audiences, especially if they are permitted to address the audience.
- c. Stop clapping and shouting early. Explain the reasons why such actions are disruptive and counterproductive.
- d. Not hesitate to use recesses to help diffuse hostility or aggressiveness.
- e. Limiting speakers to their three minutes limit and apply it fairly and consistently. If a virtual meeting, ensure the meeting host mutes at the three minutes.
- f. Use speaker cards. These can help identify how many people wish to speak and also whether they support or contest an issue. They also are helpful in preparing the minutes by accurately recording the names of people who speak. Recognize, however, that if a person does not wish to complete a card, they still have the legal right to speak.

Parliamentary Procedure

Parliamentary Procedure is a set of rules for conducting meetings. It allows all participants to be heard and to make orderly decisions. Flexibility should be used in applying these rules in order to enhance rather than frustrate the democratic process. The City Council has adopted the Rosenberg’s Rules of Order: Simple Rules of Parliamentary Procedure for the 21st Century. *These are included in the Appendix to this Handbook.*

Council Advisory Group meetings are usually conducted according to parliamentary procedure. The Chair directs the meeting, and the Chair’s rulings must be followed, unless they are overruled by the Council Advisory Group.

Preparing a Motion

When a member wishes to propose an idea for the Council Advisory Group to consider, the members makes a motion. If the idea is spelled out in written form, a motion is still needed to adopt the statement. A motion goes through the following steps:

- a. The member asks to be recognized by the Chair.
- b. After being recognized, the member makes the motion (e.g., "I move to ...").
- c. Motions should be clearly and concisely stated.
- d. Another member seconds the motion.
- e. The Chair states the motion and asks for discussion.
- f. When the Chair feels that there has been enough discussion, the debate is closed (e.g., "Are you ready for the question?" – "Is there any further discussion?"). Any member of the Council Advisory Group may move to close debate by stating, "I move that debate on this motion be closed," or "I move the previous question." This motion must be seconded. A motion to close debate cannot be amended or debated. The Chair immediately requests a roll call vote.
- g. If no one asks for permission to speak, the Chair then puts the question to a vote. The Chair may ask, "All in favor say AYE, those opposed NO, "or a roll call vote may be taken.
- h. After the vote, the Chair announces the decision ("The motion is carried" – "The motion failed" as the case may be).

General Notes About Main Motions

- a. Only one motion may be considered at a time.
- b. The maker of the motion is entitled to speak first.
- c. The maker of the motion may withdraw their motion before the motion is seconded or if seconded, if there is no objection from the maker of the second.
- d. The motion of record is as stated by the Chair unless clarified or amended by the members.

City staff can also help in the phrasing and writing of difficult motions.

Tie Votes

A tie vote means the motion fails. For a five-member group, if one member is absent and the vote is 2 ayes, and 2 noes, or 2-2-1, the motion fails. Tie votes may be reconsidered on motion by any member of the Council Advisory Group voting aye or no during the original vote. Before a motion is made on the next item on the agenda, any member of the Committee may make a motion to continue the matter to another date. Any continuance for this purpose suspends the running of any time in which action of the Committee is required by law.

Comments for the Record

If a Council Advisory Group member desires that a comment be included in the minutes, it is their responsibility to indicate that the statement is “for the record” before making the comments.

Adjournment

When the Council Advisory Group has finished its business, the Chair adjourns the meeting.

Recordings of Meetings

Recordings are maintained in accordance with the City’s adopted records retention schedule. Only City Council, Planning Commission, and Architectural Review Board meetings are videorecorded. All other Council Advisory Groups meetings may be audio recorded to assist in minute preparation.

Action Minutes

Minutes of Council Advisory Group meetings will be action minutes. Action minutes include final motions with votes. The minutes will also reflect the names of public speakers. Council Advisory Group and City staff discussion and comments will not be included in the minutes. Minutes of all meetings will be prepared by the staff liaison and are required to be kept by the department.

Generally, minutes are submitted to the Council Advisory Group at the next regular meeting for approval and once approved they become the permanent record of the Council Advisory Group. Minutes are made available to the public.

Public Records

Materials provided to Council Advisory Group members at a public meeting must be made available for inspection and copying by the public.

Members should avoid the use of electronic devices during meetings such as communications, social media posts, emails and text messages may be subject to the City’s Records Retention Schedule and disclosable under the Public Records Act.

RULES OF CONDUCT AND DECORUM

The City of Carpinteria prides itself on conducting its business in a professional, respectful, and courteous manner. As Council Advisory Groups are comprised of citizens of Carpinteria, serving in an advisory role to the City Council, it is understood that citizens participating in Council Advisory Group meetings and other forums are to conduct themselves in the same manner. Common courtesy and respect for fellow Council Advisory Group members, City staff, City Councilmembers, and the general public is expected. Council Advisory Group members should refrain at all times from rude and derogatory remarks, reflections as to integrity, abusive comments, and statements as to motives and personalities.

Council Advisory Group members shall observe the following Rules of Conduct and Decorum:

1. A member of a Council Advisory Group shall neither, by conversation or otherwise, delay or interrupt the proceedings of the Council Advisory Group, interrupt any fellow member while speaking, or disobey the orders of the Chair.
2. Council Advisory Group members should provide the utmost courtesy to each other, to City staff, and to the public appearing before the Council Advisory Group. Members should refrain from:
 - a. Rude and derogatory remarks.
 - b. Questioning the integrity of their fellow members and/or public speakers.
 - c. Abusive comments.
 - d. Directing City staff, other than within the context of the Council Advisory Group meeting, subject to the consensus of the members and subject to review and approval of the Department Head and City Manager, and consistent with the Municipal Code and any related state law.
 - e. Making comments on behalf of other individuals that may be considered hearsay.
 - f. Statements about the member's personal feelings about the speaker's motives.
 - g. Personal attacks.
3. At all times members shall conduct themselves so as to ensure that their image and appearance befit the occasion and reflect their position within the community.
4. At no time shall members engage in conduct that substantially and unreasonably interferes with the ability of any other member or City employee to perform their official duties, violates any City policies, or that creates an intimidating or hostile work environment.

5. Members are to refrain from conduct that is abusive of a member's public office or utilizes the Council Advisory Group in an inappropriate manner to further one's own political gains.
6. Members shall not use their title or status as a City official for personal purposes, or other unsanctioned activity not related to official Council Advisory Group behavior, other than permitted by law.
7. Members shall not engage in conduct that is in violation of any civil or criminal law.
8. Any person(s) making personal, defamatory or profane remarks or who willfully utters loud, threatening or abusive language or engages in any disorderly conduct, which disturbs or disrupts the orderly conduct of any meeting shall be called to order by the Chair. If such conduct continues, the Chair, at their discretion, may order such person removed from that meeting. If the Chair is in violation of any of the above rules of decorum, a majority vote of the Group may order the removal of the Chair from the meeting and the Vice Chair to take over. If the Vice Chair is absent, the remaining members shall select a Chair Pro Tempore.
9. Members shall follow the role and scope of responsibility of their particular Council Advisory Group.
10. Members shall work in accordance with the Brown Act.

Member Misconduct

All Council Advisory Group members serve at the pleasure of the City Council. Violations of the Rules of Conduct and Decorum shall be handled in the following manner:

1. Minor Misconduct: Issues will be reported to the Department Head of the department that provides staff support to the Group. The Department Head shall then attempt to resolve the issue with the City Manager and member.
2. Major Misconduct: Issues of this level will involve the City Manager and possibly the City Attorney and may lead to a recommendation to the City Council to remove the member from their seat.

The City Manager shall report a member's misconduct to the City Council. The following are examples of misconduct which may subject members to disciplinary action(s):

1. Minor Misconduct: Lack of preparation for a meeting; late arrival at meetings; failure to complete mandatory training; discourteous behavior in relations with fellow members, staff, and/or members of the public.
2. Major Misconduct: Repeated instances of minor misconduct; violation of City Council policies (including, but not limited to, City Council policies addressing

violence in the workplace and/or violations of the Brown Act; acceptance of gifts or gratuities; drug free workplace; drugs and alcohol in the workplace; and other policies as may be adopted by the City Council from time to time).

While the above items are presented as examples, the determination of what (if any) discipline to impose, up to and including removal from the Council Advisory Group, shall be at the sole discretion of the City Council.

Discipline of Council Advisory Group Members by the City Council

Should the City Council determine, in its sole discretion, that a Council Advisory Group member may have allegedly acted in a manner inconsistent with law or a City Council policy, the City Council may determine to impose any or all of the following:

1. Provide direction to the City Manager to meet with the member to informally investigate alleged misconduct and provide counseling to the member to indicate behavior consistent with law and City Council policy.
2. Provide direction to the City Manager to investigate member alleged misconduct and report findings to the City Council.
3. Determine, in the City Council's sole discretion and with or without cause, to remove a member from their seat. Such removal shall only be effective upon a majority vote of the City Council.

APPENDIX

Open & Public VI – A Guide to the Ralph M. Brown Act – Revised January 2024 by the League of California Cities

Rosenberg’s Rules of Order – Revised 2011 – Simple Rules of Parliamentary Procedure for the 21st Century by Judge Dave Rosenberg

Acknowledgment of Receipt and Statement of Commitment

Open & Public VI

A GUIDE TO THE RALPH M. BROWN ACT

REVISED JANUARY 2024



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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



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."¹

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."²

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."³

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.⁴

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.⁵

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.

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.

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.⁶ 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.

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.

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

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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.¹



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.”² 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.³ A housing authority is a local agency under the Brown Act even though it is created by and is an agent of the state.⁴ The California Attorney General has opined that air pollution control districts and regional open space districts are also covered.⁵ Entities created pursuant to joint powers agreements are also local agencies within the meaning of the Brown Act.⁶

- **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.⁷ 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.

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.

- 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.*

- **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.⁸
- **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.⁹ 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.¹⁰ “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.¹¹ 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.¹² 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.¹³ These include some nonprofit corporations created by local agencies.¹⁴ 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.¹⁵ 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.¹⁶

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.¹⁷

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.¹⁸ 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.¹⁹
- 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.²⁰

- 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.²¹
- 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.²²
- County central committees of political parties are also not Brown Act bodies.²³

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.²⁴

ENDNOTES

- 1 *Taxpayers for Livable Communities v. City of Malibu* (2005) 126 Cal.App.4th 1123, 1127.
- 2 Cal. Gov. Code, § 54952, subds. (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.”¹ 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.²

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.³
- **“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.⁴
- **“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.⁵
- **“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.⁶

Six exceptions to the meeting definition

The Brown Act creates six exceptions to the meeting definition:⁷

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.⁸ 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).⁹

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.¹⁰ 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.¹¹



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.”¹² 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.¹³ 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.”¹⁴

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.¹⁵

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

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."¹⁸ 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.¹⁹

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.²⁰ 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.²¹ 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.”²² 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:²³

- 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.



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

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.²⁴

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.²⁵

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:²⁶

- 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.²⁷

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.²⁸ 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.²⁹

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.³⁰ State law has also allowed for virtual meetings under certain emergency situations.³¹

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

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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.”¹ 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.² 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.³ 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.⁴

- 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.⁵ 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.⁶ 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.⁷ 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.⁸ 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.

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

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.”⁹ 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.¹⁰ 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.¹¹

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.¹² 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.¹³



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).¹⁴

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.¹⁵

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.¹⁶ 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.¹⁷ 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.¹⁸

Notice requirements for emergency meetings

The special meeting notice provisions apply to emergency meetings, except for the 24-hour notice.¹⁹ 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.²⁰

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.²¹ However, they are generally consistent with the Brown Act. An item is probably void if not posted.²² 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.²³

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.²⁴ 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.²⁵ 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:²⁶

- 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.²⁷ 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.²⁸

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.²⁹ This does not mean, however, that the public is entitled to free entry to a conference attended by a majority of the legislative body.³⁰

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.³¹

Action by secret ballot, whether preliminary or final, is flatly prohibited.³²

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.³³

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.³⁴ Ejection is justified only when audience members actually disrupt the proceedings,³⁵ 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).³⁶ 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.³⁷

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.³⁸ A fee or deposit as permitted by the California Public Records Act may be charged for a copy of a public record.³⁹

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.⁴⁰ 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.⁴¹

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.⁴²

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.⁴³

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.⁴⁴ The agency may impose its ordinary charge for copies that is consistent with the California Public Records Act.⁴⁵

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.⁴⁶

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.⁴⁷

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.⁴⁸

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.⁴⁹ However, this prohibition does not provide immunity for defamatory statements.⁵⁰

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.⁵¹ 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.⁵²

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

speaking on the item before or during its consideration, and if the item has not been substantially changed.⁵³

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.⁵⁴

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.¹



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.² 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.³

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),⁴ 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.⁵ 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.⁶

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.⁷

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.⁸ 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.⁹ 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.¹⁰

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.¹¹ 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.¹² 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.¹³ 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.¹⁴ 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.¹⁵ 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.¹⁶

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.

The California Attorney General has opined that if the agency's attorney is not a participant, a litigation closed session cannot be held.¹⁷ 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.¹⁸

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.*¹⁹

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.²⁰

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.²¹ 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.²²



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.²³ 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.²⁴ 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.²⁵

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,²⁶ and the names of the parties with whom its negotiator may negotiate.²⁷

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.²⁸

"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.”²⁹ 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.³⁰ The body must possess the power to appoint, evaluate, or dismiss the employee to hold a closed session under this exception.³¹ That authority may be delegated to a subsidiary appointed body.³²

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,³³ 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.³⁴ The employee has the right to have the specific complaints and charges discussed in a public session rather than closed session.³⁵ If the employee is not given the 24-hour prior notice, any disciplinary action is null and void.³⁶

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.³⁷

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.³⁸ 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.³⁹ 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.⁴⁰ However, a report on a dismissal or non-renewal of an employment contract must be deferred until administrative remedies, if any, are exhausted.⁴¹

“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,⁴² 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.⁴³

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

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.⁴⁴

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.⁴⁵ 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.⁴⁶

Public participation under the Rodda Act also takes another form.⁴⁷ 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.⁴⁸ 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.⁴⁹

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.⁵⁰ Kindergarten through 12th grade districts may also meet in closed session to review the contents of the statewide assessment instrument.⁵¹

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.⁵²

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.⁵³

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.⁵⁴ 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.⁵⁵

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.⁵⁶

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:⁵⁷

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.⁵⁸

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,⁵⁹ consideration of the purchase or sale of particular pension fund investments by a legislative body of a local agency that invests pension funds,⁶⁰ 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,⁶¹ 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,⁶² 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.⁶³

PRACTICE TIP: Meetings are either open or closed. There is nothing “in between.”⁶⁴

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.⁶⁵

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.⁶⁶ 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.⁶⁷ 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.⁶⁸

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,⁶⁹ though the Attorney General has also concluded that a local agency is preempted from adopting an ordinance criminalizing public disclosure of closed session discussions.⁷⁰ 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.⁷¹

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.⁷²

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.⁷³ 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 *Duvall 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.¹ 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.²
- Those involving the sale or issuance of notes, bonds, or other indebtedness, or any related contracts or agreements.³
- 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.⁴
- Those connected with the collection of any tax.⁵
- 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.⁶

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.⁷ The legislative body then has up to 30 days to cure and correct its action.⁸ 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.⁹

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

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.¹³ 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.¹⁴ The legislative body has 30 days after receipt of the letter to provide an unconditional commitment to cease and desist from the past action.¹⁵ 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.¹⁶

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.¹⁷ The unconditional commitment must be substantially in the form set forth in the Brown Act.¹⁸ No legal action may thereafter be commenced regarding the past action.¹⁹ 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.²⁰

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.²¹

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.²²

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.

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.²³ A court may not compel elected officials to disclose their recollections of what transpired in a closed session.²⁴

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.²⁵ 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.²⁶

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.²⁷ 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.²⁸

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.²⁹

"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.³⁰ 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.³¹ 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 1222.³² 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.³³

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 54956.5 (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.



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Rosenberg's Rules of Order

REVISED 2011

Simple Rules of Parliamentary Procedure for the 21st Century

By Judge Dave Rosenberg



MISSION AND CORE BELIEFS

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Established in 1898, the League of California Cities is a member organization that represents California's incorporated cities. The League strives to protect the local authority and autonomy of city government and help California's cities effectively serve their residents. In addition to advocating on cities' behalf at the state capitol, the League provides its members with professional development programs and information resources, conducts education conferences and research, and publishes Western City magazine.

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ABOUT THE AUTHOR

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

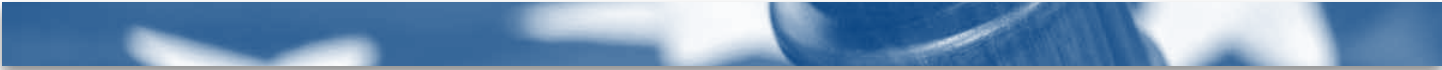


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INTRODUCTION

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

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

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

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

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

Establishing a Quorum

The starting point for a meeting is the establishment of a quorum. A quorum is defined as the minimum number of members of the body who must be present at a meeting for business to be legally transacted. The default rule is that a quorum is one more than half the body. For example, in a five-member body a quorum is three. When the body has three members present, it can legally transact business. If the body has less than a quorum of members present, it cannot legally transact business. And even if the body has a quorum to begin the meeting, the body can lose the quorum during the meeting when a member departs (or even when a member leaves the dais). When that occurs the body loses its ability to transact business until and unless a quorum is reestablished.

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

The Role of the Chair

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

Since the chair runs the conduct of the meeting, it is usual courtesy for the chair to play a less active role in the debate and discussion than other members of the body. This does not mean that the chair should not participate in the debate or discussion. To the contrary, as a member of the body, the chair has the full right to participate in the debate, discussion and decision-making of the body. What the chair should do, however, is strive to be the last to speak at the discussion and debate stage. The chair should not make or second a motion unless the chair is convinced that no other member of the body will do so at that point in time.

The Basic Format for an Agenda Item Discussion

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



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

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

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

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

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

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

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

This is done in one of three ways:

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

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

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

Tenth, the chair should announce the result of the vote and what action (if any) the body has taken. In announcing the result, the chair should indicate the names of the members of the body, if any, who voted in the minority on the motion. This announcement might take the following form: “The motion passes by a vote of 3-2, with Smith and Jones dissenting. We have passed the motion requiring a 10-day notice for all future meetings of this body.”

Motions in General

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

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

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

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

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

The Three Basic Motions

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

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



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

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

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

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

Multiple Motions Before the Body

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

When there are two or three motions on the floor (after motions and seconds) at the same time, the vote should proceed *first* on the *last* motion that is made. For example, assume the first motion is a basic “motion to have a five-member committee to plan and put on our annual fundraiser.” During the discussion of this motion, a member might make a second motion to “amend the main motion to have a 10-member committee, not a five-member committee to plan and put on our annual fundraiser.” And perhaps, during that discussion, a member makes yet a third motion as a “substitute motion that we not have an annual fundraiser this year.” The proper procedure would be as follows:

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

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

Third, the chair would now deal with the first motion that was placed on the floor. The original motion would either be in its original format (five-member committee), or if *amended*, would be in its amended format (10-member committee). The question on the floor for discussion and decision would be whether a committee should plan and put on the annual fundraiser.

To Debate or Not to Debate

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

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

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

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

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



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

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

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

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

Majority and Super Majority Votes

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

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

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

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

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

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

Counting Votes

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

Usually, it’s pretty easy to determine whether a particular motion passed or whether it was defeated. If a simple majority vote is needed to pass a motion, then one vote more than 50 percent of the body is required. For example, in a five-member body, if the vote is three in favor and two opposed, the motion passes. If it is two in favor and three opposed, the motion is defeated.

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

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

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

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



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

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

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

How does this work in practice?

Here are a few examples.

Assume that a five-member city council is voting on a motion that requires a simple majority vote to pass, and assume further that the body has no specific rule on counting votes. Accordingly, the default rule kicks in and we count all votes of members that are “present and voting.” If the vote on the motion is 3-2, the motion passes. If the motion is 2-2 with one abstention, the motion fails.

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

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

Now, exactly how does a member cast an “abstention” vote?

Any time a member votes “abstain” or says, “I abstain,” that is an abstention. However, if a member votes “present” that is also treated as an abstention (the member is essentially saying, “Count me for purposes of a quorum, but my vote on the issue is abstain.”) In fact, any manifestation of intention not to vote either “yes” or “no” on the pending motion may be treated by the chair as an abstention. If written ballots are cast, a blank or unreadable ballot is counted as an abstention as well.

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

The Motion to Reconsider

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

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

First, is the matter of timing. A motion to reconsider must be made at the meeting where the item was first voted upon. A motion to reconsider made at a later time is untimely. (The body, however, can always vote to suspend the rules and, by a two-thirds majority, allow a motion to reconsider to be made at another time.)

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

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



Courtesy and Decorum

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

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

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

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

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

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

Appeal. If the chair makes a ruling that a member of the body disagrees with, that member may appeal the ruling of the chair. If the motion is seconded, and after debate, if it passes by a simple majority vote, then the ruling of the chair is deemed reversed.

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

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

Special Notes About Public Input

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

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

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

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



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Acknowledgment of Receipt and Statement of Commitment

I have received my copy of the City of Carpinteria's City Council Advisory Group Handbook. My signature below certifies that I understand and agree that it is my responsibility to read and abide by the policies and procedures contained in this Handbook. I further understand that the policies and procedures contained in this Handbook may be added to, deleted or changed by the City at any time.

As a member of a Carpinteria City Council Advisory Group, I agree to uphold the Rules of Conduct and Decorum specified in this Handbook.

I affirm that I have read and that I understand, accept, and support the City's Rules of Conduct and Decorum.

Please fill out the information below and sign and return this page to the City Clerk's Office.

Council Advisory Group Name

Position

Name

Signature

Date



City of Carpinteria

COUNCIL AGENDA STAFF REPORT November 12, 2024

ITEM FOR COUNCIL CONSIDERATION

Hearing at the request of the City of Carpinteria to:

1. Adopt Resolution No. 6344, amending the Safety Element of the City of Carpinteria General Plan to incorporate in its entirety, the City's adopted Local Hazard Mitigation Plan ("LHMP"), pursuant to California (State) Assembly Bill ("AB") 2140; and
2. Determine that that the proposed General Plan amendment is exempt from review under the California Environmental Quality Act ("CEQA") pursuant to Sec. 15061(b)(3) of the CEQA Guidelines (and Public Resources Code Sec. 21065).

STAFF RECOMMENDATION

Staff recommends that the City Council:

1. Adopt Resolution No. 6344 (Attachment A), as read by title only, amending the Safety Element of the General Plan to incorporate the adopted Local Hazard Mitigation Plan; and
2. Determine that the proposed General Plan amendment is exempt from review under the California Environmental Quality Act ("CEQA") pursuant to Sec. 15061(b)(3) of the CEQA Guidelines and Public Resources Code Sec. 21065; and approve the proposed CEQA Notice of Exemption (Attachment D).

Sample Motion: I move to adopt Resolution No. 6344, as read by title only, and approve the CEQA Notice of Exemption.

BACKGROUND

The City of Carpinteria's General Plan / Coastal Land Use Plan ("GP/CLUP"), adopted in 2003, contains eight elements and is the primary planning policy document for the City. The Safety Element is one of the seven mandatory elements (i.e., policy areas) required to be included in a General Plan (the others being Land Use, Circulation, Housing, Conservation, Open Space, and Noise). Pursuant to Government Code Sections 8685.9, 65302, and 65302.6, California cities can incorporate a Local Hazard Mitigation Plan

("LHMP") into the Safety Element to satisfy certain required disaster preparedness and planning measures. An LHMP serves to ensure a jurisdiction is adequately prepared to face different types of disasters or hazards, and to reduce the cost of repair and recovery after disasters. Carpinteria's LHMP was last comprehensively updated in 2022 and was adopted by City Council in April 2023. It is an annex to the Santa Barbara County Multi-Jurisdictional Hazard Mitigation Plan, and is available to view at <https://carpinteriaca.gov/city-hall/community-development/planning/general-plan-coastal-land-use-plan/> (Attachment B).

The Federal Disaster Mitigation Act of 2000 ("DMA") requires local governments to develop and submit hazard mitigation plans. Doing so also qualifies the jurisdiction for Hazard Mitigation Grant Program ("HMGP") funds, administered by the Federal Emergency Management Agency ("FEMA"). Additional information on the DMA and its relation to funding can be found in section two of the City's 2023 LHMP, "Plan Purpose and Authority". In addition to HMGP funds, Assembly Bill ("AB") 2140, passed in 2006, allows California counties and cities to be considered for additional State cost-share on eligible Public Assistance projects by adopting their current, FEMA-approved LHMPs directly into the Safety Element of their General Plan. Eligible Public Assistance projects may include actions such as debris removal in the immediate aftermath of a disaster, or permanent work such as road and bridge rehabilitation.

On July 20, 2019, the City's California Office of Emergency Services ("CalOES") Hazard Mitigation Grants Program application for the LHMP update project was approved and the City was awarded \$84,437 in federal funds. Once the grant was approved, the City expended staff and consultant resources to prepare and finalize the 2023 LHMP.

On April 10, 2023, the City Council adopted the final LHMP and completed a minor General Plan Amendment ("GPA") to incorporate the City's adopted LHMP into the Safety Element by reference.¹ City staff's understanding at the time was that this GPA was sufficient to satisfy the requirements of AB 2140. However, subsequent efforts to close out the Hazard Mitigation Grant were stalled when CalOES deemed the incorporation of the LHMP into the Safety Element by reference insufficient (i.e., incorporation by reference without a direct link or attachment did not meet the letter of State law). Because direct LHMP incorporation is part of the grant's scope of work, the City is unable to receive the full grant reimbursement (\$84,437) until a revised amendment to the Safety Element is completed.

Accordingly, staff has drafted new language addressing the LHMP for the Introduction to the Safety Element and an updated Safety Element Policy S-7a to incorporate the adopted LHMP into the City's General Plan in a manner that staff believes meets the intent of CalOES requirements. The revised Safety Element Introduction and Policy were presented to the Carpinteria Planning Commission at their October 7, 2024 hearing,

¹ City Council Meeting on April 10, 2023 (Item 11):
https://carpinteria.granicus.com/GeneratedAgendaViewer.php?view_id=2&clip_id=1227

wherein the Planning Commission recommended that the City Council approve the proposed amendment on a 5-0 vote.²

DISCUSSION

To properly incorporate the adopted LHMP into the Safety Element, staff has utilized the guidelines published by CalOES as part of the AB 2140 Fact Sheet (Attachment C). The guidelines note that to be compliant with AB 2140, “*the local agency must include language specific to the LHMP within the Safety Element of their General Plan **and** make the LHMP easily accessible in its entirety as a weblink, appendices, or attachment.*” Accordingly, the proposed Resolution would make the following amendments to the Safety Element, shown below in strikeout/underline:

The following paragraph would be added to the end of the Introduction section:

The Local Hazard Mitigation Plan (LHMP) for the City of Carpinteria planning area was developed in accordance with the Disaster Mitigation Act of 2000 (DMA 2000) and followed FEMA’s Local Hazard Mitigation Plan guidance. The LHMP incorporates a process where hazards are identified and profiled, the people and facilities at risk are analyzed, and mitigation actions are developed to reduce or eliminate hazard risk. The implementation of these mitigation actions, which include both short and long-term strategies, involve planning, policy changes, programs, projects, and other activities. The LHMP is part of this Safety Element and is available to view at carpinteriaca.gov/city-hall/community-development/planning/general-plan-coastal-land-use-plan.

Policy S-7a would be amended as follows:

The current Local Hazard Mitigation Plan as adopted by City Council is ~~hereby incorporated by reference and is incorporated as~~ part of this General Plan Safety Element and can be accessed via this link: carpinteriaca.gov/city-hall/community-development/planning/general-plan-coastal-land-use-plan.

These proposed amendments ensure that the LHMP is made a part of the General Plan and not just incorporated “by reference.” This language will also ensure that as the LHMP is updated and re-adopted over time, the Safety Element will not need to be amended as well.

² A recording of this meeting, as well as the staff report and related materials, is available on the City website at <https://carpinteriaca.gov/city-hall/agendas-meetings/>.

The attached Resolution proposes to amend the City's current General Plan, which was adopted in 2003. It is not associated with the City's ongoing effort to update the overall GP/CLUP; however, the updated GP/CLUP will also contain AB 2140-compliant language to ensure the City remains eligible for funding.

ENVIRONMENTAL

The proposed GPA is exempt from environmental review under the CEQA Guidelines Section 15061(b)(3) and Public Resources Code Sec. 21065, which exempts projects that would have no potential for causing a significant impact on the environment. The language being added and amended in the Safety element incorporates the LHMP document into the General Plan document and does not in itself propose any change to the environment. Additionally, the General Plan amendment is categorically exempt from review under CEQA pursuant to CEQA Guidelines Section 15308, which exempts projects undertaken by a regulatory agency to implement certain procedures which maintain, restore, enhance, or protect the environment. The LHMP contains goals and objectives for not only responding to hazards and emergencies, but proactively mitigating harmful effects to the built and natural environment.

POLICY CONSISTENCY

Amending the Safety Element to bring the City into compliance with AB 2140 would not substantially change any goals, objectives, or policies of the Safety Element or the GP/CLUP as a whole, nor would it change any City decision-making processes, as the LHMP was already incorporated "by reference" in 2023. This minor GPA would further achieve the City's Safety Element objectives by minimizing potential risks and reducing the loss of life, property and the economic and social dislocations resulting from various hazards and natural disasters (Objectives S-1 through S-6).

LEGAL AND RISK MANAGEMENT CONSIDERATIONS

The City has an interest and obligation to comply with State and federal laws concerning emergency planning and preparedness. If the City of Carpinteria chooses not to approve the amendment to the Safety Element, it could affect the percentage of cost-share that the State and federal government may allocate to the City for disaster recovery Local Assistance funds. The City's GP/CLUP is a combined document, meeting legal requirements under the Government Code and the California Coastal Act for both General Plans and Coastal Land Use Plans. The proposed amendment is for the General Plan portion of the GP/CLUP and would not affect the Local Coastal Plan.

FINANCIAL CONSIDERATIONS

Completion of this General Plan amendment will allow the City to be reimbursed \$84,437 for costs incurred to update the LHMP between 2019 and 2022 through the previously-awarded CalOES Hazard Mitigation Grants Program.

OPTIONS

1. Adopt Resolution No. 6344, amending the Safety Element of the General Plan and finding the project exempt from CEQA. (*Staff's recommendation*)
2. Direct staff to make specified changes to the proposed Safety Element language and return to a future Council meeting.
3. Do not adopt Resolution No. 6344 and direct staff as appropriate.

PRINCIPAL PARTIES EXPECTED AT MEETING

Interested citizens

ATTACHMENTS

Attachment A Resolution No. 6344, amending the Safety Element of the General Plan

Attachment B Link to Carpinteria's current Local Hazard Mitigation Plan

Attachment C AB 2140 Fact Sheet from CalOES

Attachment D Draft CEQA Notice of Exemption

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Signature

ATTACHMENT A

RESOLUTION NO. 6344

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARPINTERIA TO AMEND THE SAFETY ELEMENT OF THE CITY'S GENERAL PLAN, PROJECT NUMBER 24-2308-GPA, INCORPORATING THE CITY'S ADOPTED LOCAL HAZARD MITIGATION PLAN INTO THE SAFETY ELEMENT PURSUANT TO ASSEMBLY BILL 2140.

WHEREAS, in January 2003 the City Council adopted the City's current General Plan/Coastal Land Use Plan; and

WHEREAS, the Federal Emergency Management Agency (FEMA) requires local governments to provide and maintain a hazard mitigation plan in order to qualify for several types of grant funding and assistance programs; and

WHEREAS, Public Law 106-390, Section 322, commonly known as the Disaster Mitigation Act of 2000 (DMA 2000), and the associated Interim Final Rule, 44 CFR Parts 201 and 206, published in the Federal Register on February 26, 2002 establishes planning and funding criteria for states and local communities; and

WHEREAS, local jurisdictions may adopt a local hazard mitigation plan (LHMP) into the Safety Element of a General Plan to provide supplemental information and/or fulfill planning requirements pursuant to Government Code Sections 65302 and 65302.6; and

WHEREAS, pursuant to Assembly Bill (AB) 2140, California cities that adopt a LHMP, as well as incorporate the LHMP into the Safety Element of the city's General Plan, are eligible for increased State cost-share on certain Public Assistance projects, an important funding source in the event of disaster; and

WHEREAS, on November 27, 2017, the City Council adopted Resolution No. 5751, adding Objective S-7 and Policy S-7a to the Safety Element of the General Plan, which incorporated the City's LHMP by reference; and

WHEREAS, on April 10, 2023, the City Council adopted the City's current LHMP and incorporated it by reference into the City's Safety Element; and

WHEREAS, in order for the City's Safety Element to be compliant with the specifications of AB 2140, additional language must be added/modified to make the LHMP accessible in its entirety to the reader; and

WHEREAS, pursuant to Government Code Section 65302.5, the City provided the California Geologic Survey with a draft of this Safety Element amendment more than 45 days prior to adoption of the amendment and received no comments; and

WHEREAS, pursuant to the requirements of Senate Bill 18 (2004), the City notified local tribes of the Safety Element amendment, provided a 90-day period for consultation requests, and all requests for consultation have been completed; and

WHEREAS, on October 7, 2024, the Planning Commission recommended, on a 5-0 vote, that the City Council adopt the Safety Element amendment and determine that the amendment is exempt from review under the California Environmental Quality Act, as proposed; and

WHEREAS, the LHMP represents a critical part of emergency preparedness and planning for the City, and this amendment to the Safety Element will increase the City's eligibility for disaster assistance and ongoing resiliency to disasters.

NOW, THEREFORE, BE IT RESOLVED as follows:

SECTION 1. The above recitals are true and correct.

SECTION 2. The Safety Element of the General Plan shall be amended as follows:

The Introduction of the Safety Element shall add the following paragraph to the end of the section:

The Local Hazard Mitigation Plan (LHMP) for the City of Carpinteria planning area was developed in accordance with the Disaster Mitigation Act of 2000 (DMA 2000) and followed FEMA's Local Hazard Mitigation Plan guidance. The LHMP incorporates a process where hazards are identified and profiled, the people and facilities at risk are analyzed, and mitigation actions are developed to reduce or eliminate hazard risk. The implementation of these mitigation actions, which include both short and long-term strategies, involve planning, policy changes, programs, projects, and other activities. The LHMP is part of this Safety Element and is available to view at carpinteriaca.gov/city-hall/community-development/planning/general-plan-coastal-land-use-plan.

Policy S-7a shall be amended as follows:

The current Local Hazard Mitigation Plan as adopted by City Council is ~~hereby incorporated by reference and is~~ incorporated as part of this General Plan Safety Element and can be accessed via this link: carpinteriaca.gov/city-hall/community-development/planning/general-plan-coastal-land-use-plan.

SECTION 3. The City Council finds the proposed ordinance amendment to be exempt from review under CEQA pursuant to pursuant to Section 15061(b)(3) of the CEQA Guidelines (and Public Resources Code Sec. 21065), which exempts projects which will have no potential for causing a significant impact on the environment.

SECTION 4. This Resolution is effective upon its adoption.

PASSED, APPROVED AND ADOPTED on November 12, 2024 by the following vote:

AYES: COUNCILMEMBER(S):

NOES: COUNCILMEMBER(S):

ABSENT: COUNCILMEMBER(S):

ABSTAIN: COUNCILMEMBER(S):

Mayor, City of Carpinteria

ATTEST:

Brian C. Barrett, CMC, CPMC
City Clerk, City of Carpinteria

I hereby certify that the foregoing resolution was adopted at a regular meeting of the City Council of the City of Carpinteria held on November 12, 2024.

Brian C. Barrett, CMC, CPMC
City Clerk, City of Carpinteria

APPROVED AS TO FORM:

Jena Shoaf Acos, on behalf of Brownstein
Hyatt Farber Schreck, LLP acting as
City Attorney of the City of Carpinteria

ATTACHMENT B

The City's current Local Hazard Mitigation Plan can be accessed here:

<https://carpinteriaca.gov/wp-content/uploads/2023/09/6221.pdf>

Additional information is provided on the General Plan/Coastal Land Use Plan webpage:

<https://carpinteriaca.gov/city-hall/community-development/planning/general-plan-coastal-land-use-plan/>

ATTACHMENT C



Assembly Bill 2140 (AB 2140) Fact Sheet

Information for Counties and Cities

What is AB 2140?

Passed in 2006, [Assembly Bill No. 2140 \(AB 2140\)](#) allows California counties and cities to be considered for additional state cost-share on eligible Public Assistance projects by adopting their current, FEMA-approved local hazard mitigation plans (LHMPs) into the Safety Element of their General Plan. This adoption, along with other requirements, makes the county or city eligible to be considered for part or all of its local-share costs on eligible Public Assistance projects to be provided by the state through the [California Disaster Assistance Act \(CDAA\)](#). For more information regarding Public Assistance, please visit [Cal OES Public Assistance Division](#).

How Can AB 2140 Help Counties, Cities, and Your Citizens?

For eligible Public Assistance projects, the typical local (non-federal) cost share is 25% of the total project cost. [CDAA](#) can allow the state to pay up to 18.75% of the non-federal share, that would otherwise fall upon the county or city, to pay for eligible Public Assistance projects once the legislature has passed a bill allowing additional state funding after a disaster occurs. Upon approval of the legislature, counties and cities that are AB 2140 compliant are also eligible to be considered for the remaining 6.25% local share to be funded by the state, essentially covering the entire local-share cost for eligible Public Assistance projects. Please note that funding is not guaranteed.

What Do You Need to Know?

- AB 2140 is **not** a requirement; it is an optional state incentive to help counties and cities become more resilient to natural hazards. Be sure to work with your planning department as the process proceeds.
- There are multiple steps that must be completed before Cal OES can issue a letter of AB 2140 compliance. These steps are listed in detail below in the section *What Are the Steps to Become AB 2140 Compliant?*
- Be aware that adopting the LHMP via a formal resolution is a federal requirement for FEMA to officially “approve” the LHMP and does not make your jurisdiction automatically AB 2140 compliant. AB 2140 is a state incentive which also requires adopting your LHMP into the Safety Element of your General Plan. However, both adoptions can take place at the same time using the same adoption resolution.
- AB 2140 compliance expires when the LHMP expires. You must re-adopt the LHMP itself **AND** adopt the LHMP into the Safety Element of your General Plan each time you update your LHMP in order to continue compliance.
- For multi-jurisdiction hazard mitigation plans (MJHMPs), the county and each city in the MJHMP must adopt its own specific annex into its own General Plan



Assembly Bill 2140 (AB 2140) Fact Sheet

Information for Counties and Cities

Safety Element. Annex jurisdictions are not covered under the county's adoption.

- Special districts are not eligible for AB 2140 compliance as they do not have General Plans.
- For additional information on General Plan and Safety Element requirements please contact the [California Office of Planning and Research \(OPR\)](#).

What Are the Steps to Become AB 2140 Compliant?

1. Complete and submit an LHMP to the Governor's Office of Emergency Services (Cal OES). A jurisdiction must have a current, FEMA-approved LHMP.
 - a. Cal OES will provide an initial review and, if applicable, request required revisions based on the [FEMA LHMP Guidance](#).
 - b. Once Cal OES has determined the plan has met all FEMA LHMP requirements, Cal OES will then forward the LHMP to FEMA for final review and approval.
 - c. For questions or assistance, please contact the Cal OES Local Mitigation Planning Unit at mitigationplanning@caloes.ca.gov.
2. LHMP adoption **AND** adoption into the Safety Element of the General Plan
 - a. Adopt the LHMP via a formal resolution following your jurisdiction's typical procedure once FEMA has issued "approvable pending adoption" (APA) status. Once FEMA receives a signed adoption resolution, they can then issue an official "approval" notice for your LHMP.
 - i. A sample adoption resolution for your LHMP is provided in [Appendix B of the FEMA LHMP Policy Guide](#).
 - b. At this time, you may also choose to adopt the LHMP into the Safety Element of your General Plan using the same resolution in order to meet a requirement of AB 2140 compliance (see step 3).
 - i. Within the Safety Element update adoption resolution, there must be language specific to adopting the LHMP into the Safety Element of the General Plan, and the resolution must be signed and approved before the LHMP expires. This adoption can occur at the same time the LHMP is adopted to comply with FEMA requirements, or it can occur after the LHMP is approved but before it expires after five years.
 - c. At any time during the life of an approved LHMP a jurisdiction may choose to adopt the LHMP into the Safety Element of their General Plan, however, when the LHMP expires, AB 2140 compliance will also expire.



Assembly Bill 2140 (AB 2140) Fact Sheet

Information for Counties and Cities

3. Safety Element Language

- a. The local agency must include language specific to the LHMP within the Safety Element of their General Plan **and** make the LHMP easily accessible in its entirety as a weblink, appendices, or attachment (see step 4).
- b. Jurisdictions should follow their own internal procedures for Safety Element language, however, below is sample language that may be used:
 - i. "The Local Hazard Mitigation Plan (LHMP) for the [Add Jurisdiction Name] planning area was developed in accordance with the Disaster Mitigation Act of 2000 (DMA 2000) and followed FEMA's Local Hazard Mitigation Plan guidance. The LHMP incorporates a process where hazards are identified and profiled, the people and facilities at risk are analyzed, and mitigation actions are developed to reduce or eliminate hazard risk. The implementation of these mitigation actions, which include both short and long-term strategies, involve planning, policy changes, programs, projects, and other activities. (Add a web link or language directing to the LHMP attachment or appendix within the Safety Element. Discussed further in step #4 below.)"

4. LHMP Accessibility and Links

- a. The current, approved LHMP must be easily accessible and available to the public viewing the Safety Element. This requirement can be met by linking the LHMP electronically to the General Plan Safety Element or by including the LHMP in its entirety as an attachment or appendix in the Safety Element and referencing its location with the plan.
- b. Web links should be monitored so that they are in working condition and bring the viewer to the most recent approved version of the LHMP.

5. E-mail the link to the updated General Plan Safety Element web page along with the signed adoption resolution(s) to the Cal OES AB 2140 inbox ab2140@caloes.ca.gov for review and approval.



Assembly Bill 2140 (AB 2140) Fact Sheet

Information for Counties and Cities

Frequently Asked Questions

- Q: Who do I contact if I have additional questions regarding my LHMP or AB 2140 status?
- A: For questions regarding AB 2140 compliance please contact ab2140@caloes.ca.gov. For questions pertaining to your LHMP, please contact the Cal OES Local Hazard Mitigation Planning team at mitigationplanning@caloes.ca.gov.
- Q: If a county is AB 2140 compliant, are its cities automatically covered?
- A: No. Each county and city must:
1. Have either your own stand-alone LHMP or have an annex in a MJHMP.
 2. Have adopted your approved stand-alone LHMP or annex into your own General Plan Safety Element.
- Q: Can a jurisdiction obtain AB 2140 compliance before their LHMP is approvable pending adoption (APA) from FEMA?
- A: No. The LHMP must be either APA or officially "approved" by FEMA before you may adopt to obtain AB 2140 compliance.
- Q: Are special districts covered under their county's LHMP since they do not have their own general plan?
- A: No. Special districts are not qualified for additional cost share under AB 2140 because they do not have a General Plan.
- Q: If a county or city becomes AB 2140 compliant, does this compliance last forever?
- A: No. AB 2140 compliance expires on the day the LHMP expires. You must re-adopt your LHMP into your General Plan Safety Element each time you update your LHMP.
- Q: Once a county or city becomes AB 2140 compliant, are they guaranteed funding?
- A: No. You will be eligible to be considered for additional CDAA funding upon approval of the legislature. There is no guarantee of funding.
- Q: Can a city or county adopt their LHMP to obtain AB 2140 compliance at the same time they adopt their LHMP to fulfill the FEMA requirement when the LHMP is approvable pending adoption?
- A: Yes, this is a viable option. It is crucial, however, that Cal OES receives a copy of the adoption resolution to ensure compliance. Your jurisdiction is



Assembly Bill 2140 (AB 2140) Fact Sheet

Information for Counties and Cities

not compliant until Cal OES has documentation and has issued a compliance letter.

Q: If the actual LHMP is added to the General Plan, but not within the Safety Element, is language still required in the Safety Element?

A: Yes, language specific to the LHMP and a web link, appendix, or language within the Safety Element that directs the public to the most current, approved LHMP in its entirety is required to be in the Safety Element.

AB 2140 Compliance Checklist

In order to issue a letter of AB 2140 compliance, Cal OES will review and verify that your jurisdiction has performed the following:

- ✓ Has a current, FEMA-approved or approvable pending adoption (APA) LHMP.
- ✓ Formally adopted the LHMP via resolution.
- ✓ Formally adopted the most current, approved LHMP into the Safety Element of your General Plan via resolution.
- ✓ Included language within the Safety Element of your General Plan that references your LHMP.
- ✓ Included a web link, appendix, or language within the Safety Element that directs the public to the most current, approved LHMP *in its entirety*.
- ✓ E-mailed the link to the updated General Plan Safety Element web page along with the signed, adoption resolution(s) to the Cal OES AB 2140 inbox ab2140@caloes.ca.gov for review and approval.

For AB 2140 Questions: ab2140@caloes.ca.gov

For LHMP Questions: mitigationplanning@caloes.ca.gov

For Public Assistance and CDAA Questions: DisasterRecovery@caloes.ca.gov

ATTACHMENT D

Notice of Exemption

Appendix E

To: Office of Planning and Research
P.O. Box 3044, Room 113
Sacramento, CA 95812-3044

County Clerk

County of: Santa Barbara

105 East Anapamu Street

Santa Barbara, CA 93011

From: (Public Agency): City of Carpinteria

5775 Carpinteria Ave

Carpinteria, CA 93013

(Address)

Project Title: 24-2308-GPA Amendment to Safety Element

Project Applicant: City of Carpinteria, Community Development Department

Project Location - Specific:

Citywide

Project Location - City: Carpinteria Project Location - County: Santa Barbara

Description of Nature, Purpose and Beneficiaries of Project:

Amendment to the Safety Element of the City of Carpinteria General Plan to incorporate in its entirety, the City's adopted Local Hazard Mitigation Plan (LHMP), pursuant to California (State) Assembly Bill (AB) 2140, thereby making the City eligible for additional State Public Assistance funding.

Name of Public Agency Approving Project: City of Carpinteria

Name of Person or Agency Carrying Out Project: City of Carpinteria, Community Development Department

Exempt Status: **(check one):**

- ☐ Ministerial (Sec. 21080(b)(1); 15268);
- ☐ Declared Emergency (Sec. 21080(b)(3); 15269(a));
- ☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- ☒ Categorical Exemption. State type and section number: CEQA Guidelines Section 15308
- ☒ Statutory Exemptions. State code number: CEQA Guidelines Sec. 15061(b)(3) / PRC Sec. 21065

Reasons why project is exempt:

The proposed amendment is exempt from review under CEQA pursuant to CEQA Guidelines Section 15061(b)(3), which exempts projects that would have no potential for causing a significant impact on the environment. The language being added and amended in the Safety element incorporates the LHMP document into the General Plan document and does not in itself propose any change to the environment. Additionally, the General Plan amendment is categorically exempt from review under CEQA pursuant to CEQA Guidelines Section 15308, which exempts projects undertaken by a regulatory agency to implement certain procedures which maintain, restore, enhance, or protect the environment. The LHMP contains goals and objectives for not only responding to hazards and emergencies, but proactively mitigating harmful effects to the built and natural environment.

Lead Agency

Contact Person: Mindy Fogg Area Code/Telephone/Extension: 805-755-4408

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? Yes No

Signature: _____ Date: _____ Title: Principal Planner

▪ Signed by Lead Agency Signed by Applicant

Authority cited: Sections 21083 and 21110, Public Resources Code.
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

Date Received for filing at OPR: _____



City of Carpinteria

COUNCIL AGENDA STAFF REPORT November 12, 2024

ITEM FOR COUNCIL CONSIDERATION

Consideration of Fiscal Sponsorship Application through the Santa Barbara Foundation, Acceptance of a \$35,000 Grant from La Centra-Sumerlin Foundation for Building Appraisal and Consultant Services, and Review and Approval of Scope of Services for a Request for Proposal (RFP) to Solicit Consultant Services for a Potential Community Center in Carpinteria.

STAFF RECOMMENDATION

Staff recommends that the City Council:

1. Authorize submission of an application to the Santa Barbara Foundation for the purpose of fiscal sponsorship;
2. Authorize acceptance of \$35,000 grant from La Centra-Sumerlin Foundation to use for building appraisal and consultant services related to identification of a site for use as a community center; and
3. Review and approve scope of services for RFP.

Sample Motion: I move to approve staff recommendation as listed.
(Requires a roll call vote.)

BACKGROUND

On January 24, 2024, City Manager Michael Ramirez (Ramirez) met with U.S. Congressman Salud Carbajal (Carbajal) who shared information about a federal grant funding opportunity (i.e., the Community Project Funding grant) that could be utilized to establish a community center in the City of Carpinteria (City). Subsequently, the John Welty Family Trust expressed interest in selling the property at 801 Linden Avenue to the City for \$5 million for the purpose of a community center.

On April 26, 2024, City staff submitted a Community Project Funding request to Carbajal's Office requesting \$5 million for the acquisition of the property located at 801 Linden

Avenue for the development and operation of a future Community Center. Prior to submitting the request, Ramirez consulted with representatives of the philanthropic community, and multiple foundations expressed interest in supporting the development of a community center in Carpinteria.

On July 22, 2024, the City was informed that it is tentatively set to receive \$850,000 in federal funding to be used for the establishment of a community center¹. At this same meeting, the Council discussed budgetary concerns related to the proposed community center, particularly in light of recent reductions and deferments during the FY 2024/25 budget adoption process. In addition to real property costs, the Council discussed additional costs related to improvements, maintenance, and expanded programming. After discussion, no action was taken; however, the Council directed staff to return with an update on the potential acquisition of 801 Linden Avenue, including options for securing additional outside funding to offset the funding gap of \$4.15 million to purchase the property located at 801 Linden Avenue.

On August 26, 2024, it was stated that the City is not in a financial position to provide gap funding² for the purchase of the Property, nor to fund improvements and ongoing costs related to maintenance and expanded programming. In addition, Ramirez informed the Council that he had submitted a grant request to a local foundation in an effort to close the funding gap. The foundation had expressed interest in providing financial support for an appraisal of 801 Linden Avenue and for consultant services to assist with a comprehensive needs assessment, including consideration of alternative locations in the event 801 Linden Avenue was no longer a viable or preferred location for the potential Community Center. City Council directed staff to continue working with the philanthropic community and to proceed with development of a Request for Proposal (RFP) for said consultant services. Lastly, City Council directed staff to return at a future meeting to present the RFP for feedback prior to release.

The purpose of this agenda matter is for City Council to consider: (1) acceptance of a \$35,000 grant from La Centra Sumerlin to be used for an appraisal of 801 Linden Avenue and for consultant services to assist with a comprehensive needs assessment; (2) submission of an application to the Santa Barbara Foundation for fiscal sponsorship; and (3) to review and approve the scope of services for an RFP to solicit consultant services for a potential community center in Carpinteria.

DISCUSSION

Although the City is not in a fiscal position to provide supplementary funding for the establishment of a community center, the City is set to receive \$850,000 in earmarked

¹ The staff report from this meeting is available here:
https://carpinteria.granicus.com/MetaViewer.php?view_id=2&clip_id=1480&meta_id=94274.

² In this case, gap funding is the amount of funding to cover the difference between the amount of the federal award and cost of the Property, plus additional costs associated with total Project cost.

federal funding for this purpose. The submitted grant application states funds will be allocated for the purchase of 801 Linden Avenue. While the property is listed for sale, the owner confirmed it is still available and welcomes an appraisal of the property. If the property is sold, or should the City decide not to pursue that location, the U.S. Department of Housing and Urban Development (HUD) may allow funds to be redirected, provided the original intent of the Community Project Funding request to establish a community center is maintained.

In September, the City received word that the La Centra-Sumerlin Foundation approved a \$35,000 grant for building appraisal and consultant services for the community center project. La Centra-Sumerlin's preferred method is to provide the grant funds through a non-profit 501(c)(3). This is also the typical and preferred method for receipt of general donations. For this reason, Ramirez has been in contact with the Santa Barbara Foundation regarding fiscal sponsorship service, which include: (1) the provision of non-profit status to a project (thus making contributions tax-deductible), (2) the receipting and managing of contributions, and (3) the authorization and payment of grants and expenses from the fund created for the project. Sponsorship services do not include extensive administrative or fundraising support, or financial support. In order to be considered for fiscal sponsorship, the City would need to submit Santa Barbara Foundation's Application for Accepting Fiscal Sponsorship Funds (Attachment A).

The primary beneficiaries of sponsorship services are typically new charities without an IRS determination letter and community groups planning a specific, finite project that is clearly charitable in nature and in furtherance of the charitable purposes of the foundation. The City may apply to other funding sources under the auspices of Santa Barbara Community Foundation, but the foundation is not in any way responsible for actual fundraising or for providing financial support for the project. Foundation staff must review in advance all fundraising plans and requests for funding. In addition, all materials used in marketing or fundraising must be approved by foundation staff. There are also administrative costs associated with fiscal sponsorship. Fees are negotiated individually and range between 3% and 6% of funds collected. Also, the foundation reserves the right to modify this fee, should administration of the Fund prove to be more time-consuming than anticipated.

Should the City decide to accept the grant funds from La Centra-Sumerlin for the purpose stated, an RFP will be issued for consultant services. At the City Council meeting on August 26, 2024, the Council requested to review and provide feedback on the RFP prior to issuance. The draft RFP is included as Attachment B and the scope of service is listed below for reference.

SCOPE OF SERVICES

To conduct a thorough and detailed community needs assessment for potential establishment of a community center in Carpinteria, including:

Property Analysis: Research of existing space and buildings in Carpinteria, to assess:

- Suitability of property at 801 Linden Avenue as a community center.
- Suitability of the Veterans Memorial Building as a community center.
- Capacity in buildings and/or land owned by non-profits, private entities, or other organizations in Carpinteria that could be used for a community center.

Engagement of Local Stakeholders: Including residents, local businesses, and community organizations, with a focus on low-income youth and seniors, individuals with disabilities, and the Spanish-speaking community, to assess:

- Likely core programs and uses/needs of any such center.
- Whether identified programs are currently provided in Carpinteria by other organizations, and if so, to what degree.
- Advantages and disadvantages of a central location versus services spread throughout the community.

Identification of Potential Partners: Exploring mutually beneficial partnerships with organizations that could contribute to the community center's development, programs and services, and sustainability, including specific detail of what the partnership and contribution would entail in terms of staffing, services and finances. Potential organizations include, but may not be limited to: Santa Barbara City College, the Carpinteria Arts Center, The Alcazar Theatre, and the Family Service Agency.

Gauging Overall Community Support: Conducting surveys, focus groups, and public meetings to measure community interest and support for the development of a center, including community fundraising opportunities to fund:

- Building/property acquisition and improvements.
- Ongoing funding for maintenance and operations.

With City Council approval, City staff will submit an application for fiscal sponsorship to the Santa Barbara Foundation and proceed with issuance of the described RFP.

POLICY CONSISTENCY

The future development of a Carpinteria Community Center aligns with the following City Council policies:

1. City Council Primary Goal #4: Strengthen Community Institution Collaboration.
2. City Council Primary Goal #3: Take Steps to Address the Fiscal Sustainability of the City.

FINANCIAL CONSIDERATIONS

No Additional Funding Requested. Minimal staff time to prepare the report and prepare the draft RFP is included in the Adopted FY 2024-25 General Fund Budget.

LEGAL AND RISK MANAGEMENT CONSIDERATIONS

None.

OPTIONS

1. Approve staff recommendation as listed.
2. Approve staff recommendation with amendment(s).
3. Do not approve staff recommendation and provide direction to staff as desired.

PRINCIPAL PARTIES EXPECTED AT MEETING

Various community stakeholders.

ATTACHMENTS

Attachment A: Santa Barbara Foundation's Application for Accepting Fiscal Sponsorship Funds

Attachment B: Draft RFP

Staff contact:
Michael Ramirez, City Manager
(805) 755-4450, michaelr@carpinteriaca.gov



Signature

Reviewed by:
Ryan Kintz, Assistant City Manager
(805) 755-4400; ryank@carpinteriaca.gov



Signature

ATTACHMENT A



Application for Accepting Fiscal Sponsorship Funds

The Santa Barbara Foundation may choose to provide fiscal and project sponsorship for charitable projects that further the purposes of the foundation. Sponsorship services include the provision of non-profit status to a project (thus making contributions tax-deductible), the receipting and managing of contributions, and the authorization and payment of grants and expenses from the fund created for the project. Sponsorship services do not include extensive administrative or fundraising support, or financial support.

The primary beneficiaries of sponsorship services are typically new charities without an IRS determination letter and community groups planning a specific, finite project that is clearly charitable in nature and in furtherance of the charitable purposes of the foundation.

Procedures: The foundation will be guided by the following guidelines, which are designed to protect the interest(s) of both donors and the foundation. The foundation reserves the right to either accept or decline any fund. It also reserves the right to close out a fund. *The foundation will consider each situation individually.* Exceptions to this policy may be made in extenuating circumstances and upon approval by the foundation's Board.

1. The foundation requests that interested groups complete a detailed application form that includes (a) a description of the project; (b) its purpose, goals, and expected life span; (c) fundraising plans; (d) a list of advisory group members; (e) current and future budgets, bylaws and other organizational documentation; (f) and a concise statement of how the proposed fund meets the charitable purposes of the foundation. The application should also explain if any feasible alternative is available for the fund, (i.e.) why does the donor believe it is necessary to use the foundation as a fiscal sponsor, and what are the alternatives. Applicants are encouraged to discuss their projects and applications with foundation staff prior to submittal. (See Attachment A - "Application for Fiscal Sponsorship" attached).
2. The foundation will review the application and decide whether to create a simple "special project" fund or if it is necessary to adopt the project as a foundation project. Depending on what is decided, an appropriate fund agreement between the applicant and the foundation will be completed and a fund bearing the project's name established. If it is a sponsored project, then the project is accounted for as "*The XYZ Fund, a project of The Community Foundation*" for IRS auditing, financial reporting, marketing, and fundraising purposes. It is requested that groups credit the foundation

in publications and news releases or stories. Likewise, the foundation may give the project mention in newsletter and annual reports of the foundation.

3. When the foundation resolves to adopt the project, it retains the right to approve payments from the fund created to carry out the purposes of the project. The project advisory group makes recommendations for the specific expenditures. The foundation staff reviews the recommendations, and if staff concurs, authorizes payments.
4. The foundation prepares receipts and acknowledgments for gifts to the project fund in accordance with the IRS requirements.

Groups may apply to other funding sources under the auspices of Santa Barbara Community Foundation, but the foundation is not in any way responsible for actual fundraising or for providing financial support for the project. Foundation staff must review in advance all fundraising plans and requests for funding. In addition, all copy used in marketing or fundraising must be approved by foundation staff.

Fees: See Attachment B - “Administrative Fee Schedule” for administrative costs associated with handling a fiscal sponsorship fund. Fees are calculated and deducted quarterly. The foundation reserves the right to modify this fee, should administration of the Fund prove to be more time-consuming than anticipated.

The Basic Legal Rules: When any donor makes a gift or grant to a secondary grantee (such as a charitable project), by first routing it through an intermediary grantee (such as the foundation), the IRS, the Internal Revenue Code and the relevant Treasury regulations consistently apply a basic legal principle.

If the gift or grant is “earmarked” and the intermediary grantee does not “exercise control” over the funds, then the gift or grant is treated as if it had been made directly by the donor to the secondary grantee.

A gift or grant is “earmarked” if it is subject to an agreement, either written or oral, whereby the donor binds the intermediary grantee to transfer the funds to the secondary grantee (or to use the funds to assist a specific individual). To say it another way: a donor cannot do indirectly what he or she cannot legally do directly. The intermediary grantee (the foundation) must, by law, be vigilant to confirm the charitable nature of the secondary grantee(s), and not simply a passive conduit for such funds.

Improper Use of Fiscal Sponsorship: While this list is not exclusive, improper use of a fiscal sponsor, or intermediary grantee, includes making gifts or grants: to individuals; by a private foundation to a new charity without an IRS determination letter; to non-charities doing charitable work; to a foreign charity; from one private foundation to

another, or designed to avoid the two percent limit on private foundations. *Misusing fiscal sponsorship can result in: denial of donor's tax deduction; penalty tax on private foundations; loss of fiscal sponsor's public charity status; damage to public reputation of donor(s) and fiscal sponsor; and liability to directors and officers.*

ACKNOWLEDGEMENT:

While serving as your fiscal sponsor, Santa Barbara Foundation must ensure that the outcomes of your project are charitable. By signing this request, you are agreeing that, to the best of your understanding, the outcomes of your project are charitable and that you will provide the foundation with written notification of all meetings of your board or steering committee and will respond in writing to periodic questions from the foundation regarding the activities of your project. You will obtain approval from the foundation of all communications naming the foundation.

Organization: _____ (Dated) _____

Signature: _____

Name: _____

Position: _____

Attachment A – Application for Fiscal Sponsorship

Organization Information

1. Individual, organization or group submitting request:

Organization Name: _____

Mailing Address: _____

Phone: _____ Fax: _____

Contact: _____ Position: _____

Employee ID No. (Tax ID) _____

2. What type of group is this and what is its purpose? _____

3. For what period of time is SBF being asked to serve as fiscal sponsor; how long do you expect the project to last? Begin date: _____ End date: _____

How did you arrive at that “end date”? _____

4. Has your group incorporated with the State of California as a separate legal entity responsible for its own actions? (Circle one) Yes ☐ No ☐

If not, please explain your organizational structure in an attachment and attach a list of your advisory group members, their affiliations, and contact information.

5. Does your group plan to become recognized as a non-profit organization by the IRS by obtaining its own 501(c)(3) status? (Circle one) Yes ☐ No ☐

If you circled “no” above, why not? _____

If you circled “yes” above, what has been done to date in preparation for securing 501(c)(3) status? _____

6. Do you have liability insurance? Yes ☐ No ☐ If so, please attach a copy of the policy.

7. Please attach a revenue and expense budget for the current year of operations.

If you have a written plan of activity and fundraising for your program, please attach a copy

Project Description

8. What specific, measurable charitable or educational outcomes does your group hope to bring about and when? _____

9. Who else is currently providing this service to the community? _____

10. SBF's primary service area is the County of Santa Barbara. What geographic "community(ies)" do you expect to benefit? _____

11. SBF strives to work with all sectors of the community. Please describe the specific group(s) of citizens you expect to benefit. _____

12. What other individual or groups have been involved in planning this effort? When did they begin? (Please include approximate number of people and tell

why they have been involved.)

SBF Services Requested

13. How much money do you anticipate being directed to this fund within the first twelve months after the first deposit has been made? \$_____ How much over the life of the fund (or the next three years, whichever is shorter?) \$_____
14. When do you expect the first deposit to be made? (month and year)_____
15. How do you plan to raise the money? Will you hold event? _____

16. How many checks to you think SBF will be asked to process as fiscal sponsor?

Per month _____ or Per year _____
17. When do you expect to ask SBF as fiscal sponsor to make the first disbursement? _____
18. Who will submit invoices or requests for reimbursements to SBF (as fiscal sponsor) for payment, and why does this person or group of people have this authority? _____

19. If you need (or may need) services from SBF beyond accepting, managing and disbursing funds, please tell us what those services are: _____

Attachment B – Special Project Fund Administrative Fee Schedule

Basic Special Project Fund Administration includes:

- Gift processing – Acknowledgment in writing of gifts per IRS requirements, tracking all historical purposes, and banking transactions; and
- One statement per quarter on the Fund's status summarizing beginning balance, all additional gifts, any disbursements or fees, and ending balance.

Administrative Fees shall be negotiated individually and shall range between 3% and 6% of funds collected. Fees may be charged up front or collected quarterly.

Any unusual bank charges – including but not limited to Stop Payment, Returned Checks, Certified Checks, and Wires – shall be added to the Administrative Fee.

Any additional services requested – including but not limited to processing gifts of real estate, illiquid marketable securities, or closely held stock or acting as fiscal agent for grants received or contracts on behalf of the organization – shall require payment of additional Administrative Fee to be determined by the foundation depending on the circumstances.

Direct Project Sponsorship fees are negotiated at the time of signing the fund agreement.

_____ Donor

_____ (Dated)

Santa Barbara Foundation

_____ (Dated)

By _____

Title _____

ATTACHMENT B

CITY OF CARPINTERIA
REQUEST FOR PROPOSAL
TO CONDUCT A COMMUNITY NEEDS ASSESSMENT
FOR
POTENTIAL ESTABLISHMENT OF A COMMUNITY CENTER IN CARPINTERIA



NOVEMBER 2024

Proposals must be submitted via email, in PDF format, to:
XXXX-XXXX

Submission Deadline: XXXX-XXXX

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INTRODUCTION

The City of Carpinteria (City) is requesting proposals from qualified organizations to provide a Needs Assessment for potential establishment of a community center in Carpinteria (Project). The consulting services will be administered by the General Government Department and under the supervision of the XXXX-XXXX. The award will be made to the most qualified firm / organization based on the responsiveness to this Request for Proposal (RFP).

BACKGROUND

On January 24, 2024, City staff met with U.S. Congressman Salud Carbajal who shared information about a federal grant funding opportunity (i.e., the Community Project Funding grant) that could be utilized to establish a community center in the City of Carpinteria. Subsequently, the John Welty Family Trust expressed interest in selling the property at 801 Linden Avenue to the City for \$5 million for the purpose of a community center.

On April 26, 2024 City staff submitted a Community Project Funding request to Carbajal's Office requesting \$5 million for the purpose of purchasing the property located at 801 Linden Avenue for the development and operation of a future Community Center. Prior to submitting the request, City staff conversed with representatives of the philanthropic community, and multiple foundations expressed interest in supporting development of a community center in Carpinteria.

On July 22, 2024, the City was informed that it is tentatively set to receive \$850,000 in federal funding for the purpose of a community center. At this same meeting, the Council discussed budgetary concerns related to the proposed community center. In addition to real property costs, the Council discussed additional costs related to improvements, maintenance, and expanded programming.

On August 26, 2024, it was stated that the City is not in a financial position to provide supplementary funding for the purchase of the Property, nor to fund improvements and ongoing costs related to maintenance and expanded programming. City staff informed the Council that a local foundation had expressed interest in providing financial support for an appraisal of 801 Linden Avenue and for consultant services to assist with a thorough needs assessment, including consideration of alternative locations. City Council directed staff to continue working with the philanthropic community and to proceed with development of a Request for Proposal (RFP) for said consultant services.

PROPOSAL SUBMISSION INSTRUCTIONS

Proposals must be submitted via email, in PDF format, to the address provided on the cover of this RFP by the date and time listed. The email subject line should be listed as follows:

“Consulting Services for Community Center Project”

The name and address of the firm / organization shall appear in the body of the email. **All emails will receive notice of receipt within one business day.** If you do receive a notice of receipt, your proposal was not received and you must contact City Hall prior to the submission deadline at 805-684-5405 for further instruction.

Proposal in the form of telephone calls, facsimiles, or regular mail will not be accepted.

LATE PROPOSALS WILL NOT BE ACCEPTED.

Questions

All questions regarding this RFP must be submitted via email to the following contact:

XXXX-XXXX

Questions must be submitted at least four (4) days before the proposal deadline. Questions submitted after this time will not be responded to.

SCOPE OF SERVICES

To conduct a thorough and detailed community needs assessment for potential establishment of a community center in Carpinteria, including:

Property Analysis: Research of existing space and buildings in Carpinteria, to assess:

- Suitability of property at 801 Linden Avenue as a community center.
- Suitability of the Veterans Memorial Building as a community center.
- Capacity in buildings and/or land owned by non-profits, private entities, or other organizations in Carpinteria that could be used for a community center.

Engagement of Local Stakeholders: Including residents, local businesses, and community organizations, with a focus on low-income youth and seniors, individuals with disabilities, and the Spanish-speaking community, to assess:

- Likely core programs and uses/needs of any such center.
- Whether identified programs are currently provided in Carpinteria by other organizations, and if so, to what degree.
- Advantages and disadvantages of a central location versus services spread throughout the community.

Identification of Potential Partners: Exploring mutually beneficial partnerships with organizations that could contribute to the community center's development, programs and services, and sustainability, including specific detail of what the partnership and contribution would entail in terms of staffing, services and finances. Potential organizations include, but may not be limited to: Santa Barbara City College, the Carpinteria Arts Center, The Alcazar Theatre, and the Family Service Agency.

Gauging Overall Community Support: Conducting surveys, focus groups, and public meetings to measure community interest and support for the development of a center, including community fundraising opportunities to fund:

- Building/property acquisition and improvements.
- Ongoing funding for maintenance and operations.

PROJECT DELIVERABLES

- List of viable and fully vetted locations for programming hub, with ranked recommendations, based on needs (e.g., space, accessibility, affordability, etc.), stakeholder feedback, and other important factors such ability to expand, opportunities for partnership, and space types. Must include detailed rationale and cost-benefit analysis.
- List of potential partners that could contribute to the community center's development, programs and services, and sustainability, including specific detail of what the partnership and contribution would entail in terms of staffing, services and finances.
- Written, verbal, and visual report/presentation to City Council including a description of utilized tools and methodology for community engagement and property analysis, and a detailed summary of collected data.

PROPOSAL REQUIREMENTS

The proposal shall demonstrate the qualifications, competence, and capacity of the Consultant to provide the services in accordance with the requirements of this RFP. The proposal shall specify an approach that will meet the RFP requirements.

The proposal shall contain the information as set forth in this section. Failure to include this information, or an incomplete response, may be cause for disqualification. The proposals will be used to evaluate and select the most qualified firm / organization/s.

The proposal shall include the following information as a minimum:

- ✓ Transmittal cover letter signed by the person or persons authorized to represent the firm / organization.
- ✓ Executive summary.
- ✓ The firm / organization's name, background, and contact person, including office address, city, state, zip code, telephone number, email address, web site address (if any.)
- ✓ All existing and past financial relationships including agreements between the firm / organization and proposed subconsultants, with current Members of the City Council and City staff, and entities for which said members are employed, or have an interest, both past and present. If there are none, the proposal shall clearly state this. The Members of the City Council can be viewed at <https://carpinteria.ca.us/city-hall/city-council/>.

- ✓ Descriptions of the proposed service organization and specific experience and capabilities of the personnel related to the scope of services. Include licenses and affiliations, if any. Résumés for personnel shall be included and attached separately in an appendix to the proposal. Copies of résumés will not count as part of the page limitation.
- ✓ At least three (3) relevant contacts to serve as references.
- ✓ A summary of the firm / organization's approach to the services. Address the scope of services as presented, but include other approaches, items, or considerations; or exceptions and additions. The approach should demonstrate a thorough understanding of the issues that may be anticipated in the services.
- ✓ Project timeline, including objectives, important milestones, and estimated completion dates.
- ✓ Estimated hours for each major task including those of all subconsultants to complete the scope of services. If tiered subconsultants are part of the project organization, they shall be listed under the task performed.
- ✓ Number of hours required per person to complete each project objective, with proposed hourly rate/s and total project cost.
- ✓ Proposed payment schedule.

The proposal shall be a maximum of twenty (20) pages.

A proposal may be amended only if the City receives such amendment before the deadline stated herein for receiving proposals.

A proposal may be considered non-responsive if conditional, incomplete, or if it contains alterations of form, additions not called for, or other irregularities that may constitute a material change to the proposal.

PREFERRED EXPERIENCE & QUALIFICATIONS

- 5 or more years of experience in the area of community services or similar field.
- Demonstrated ability to collect and analyze quantitative and qualitative data, and produce research-based recommendations.
- Experience in the public and/or nonprofit sectors, or as an organizational development specialist is highly desirable.

EVALUATION CRITERIA

From the proposals received, the City will select the three (3) highest rated firm / organizations for interviews. Evaluation of the proposals including the interviews will be based on the following criteria:

1. The Consultant's qualifications and ability to perform the work as outlined above based on information provided by the Consultant and client references. [25 Points]
2. The Consultant's key personnel and subconsultant's qualifications, knowledge of local conditions and ability to perform the work as outlined in the RFP, based on information provided by the Consultant. [25 Points]

3. The Consultant's responsiveness and availability to City staff, and the ability of the Consultant's key personnel to effectively and efficiently complete the project. [20 Points]
4. The Consultant's understanding of the Project as demonstrated by its approach, the proposal's responsiveness to the RFP and project needs, and its demonstrated ability to meet the Project schedule. [20 Points]
5. Based on client references, the Consultant's performance on similar projects. [10 Points]

The successful firm / organization is required to obtain insurance, as set forth in Exhibit A, with an insurer or insurers that are satisfactory to the City. Failure to meet the insurance requirements will result in the Consultant's disqualification. By signing and submitting a proposal, the Consultant is certifying that it has reviewed the City's insurance coverage requirements, and that the said insurance coverages will be obtained and be in force upon execution of the Agreement with the City. The successful firm / organization shall submit a completed certificate of insurance with the signed Agreement.

Failure to respond to the RFP requirements will result in the disqualification of the proposal as non-responsive to the RFP.

The tentative schedule for selection is as follows:

Proposals Due	XXXX
Interviews	XXXX
Selection	XXXX

RIGHT TO REJECT ANY OR ALL PROPOSALS

The City reserves the right to reject any or all proposals or to select the proposal most advantageous to the City. The City reserves the right to verify all information submitted in the proposal. The City reserves the right to amend the RFP or issue a notice of amendment. The City reserves the right to reject any and all proposals and to waive any informality, irregularity, or technicality in any proposal. The posting of this RFP is not a guarantee that services will be purchased by the City.

The City may reject a proposal from any firm / organization who previously failed to perform properly, or complete on time, contracts of similar nature, or to reject a proposal from the firm / organization who is not in a position to perform such a contract satisfactory. The City may reject a proposal from any firm / organization who is in default of payment of taxes, licenses, or other monies due to the City.

No compensation will be made for the cost of preparing any proposal. All submitted materials of a proposal will become the property of the City. The City will retain all proposals submitted and may use any idea in a proposal regardless of whether that proposal is selected.

Evaluations of the proposals will be available for public inspection at the conclusion of the selection process.

Submission of a proposal constitutes acceptance of the conditions contained in the RFP unless clearly and specifically noted in the proposal submitted and confirmed in the Agreement.

INSURANCE REQUIREMENTS

Prior to the beginning of and throughout the duration of the Work, Consultant will maintain insurance in conformance with the requirements set forth below. Consultant will use existing coverage to comply with these requirements. If that existing coverage does not meet the requirements set forth here, Consultant agrees to amend, supplement or endorse the existing coverage to do so. Consultant acknowledges that the insurance coverage and policy limits set forth in this section constitute the minimum amount of coverage required. Any insurance proceeds available to City in excess of the limits and coverage required in this agreement and which is applicable to a given loss, will be available to City.

Consultant shall provide the following types and amounts of insurance:

Commercial General Liability Insurance using Insurance Services Office "Commercial General Liability" policy form CG 00 01 or the exact equivalent. Defense costs must be paid in addition to limits. There shall be no cross-liability exclusion for claims or suits by one insured against another. Limits are subject to review but in no event less than \$1,000,000 per occurrence.

Business Auto Coverage on ISO Business Auto Coverage form CA 00 01 including symbol 1 (Any Auto) or the exact equivalent. Limits are subject to review, but in no event to be less than \$1,000,000 per accident. If Consultant owns no vehicles, this requirement may be satisfied by a non-owned auto endorsement to the general liability policy described above. If Consultant or Consultant's employees will use personal autos in any way on this project, Consultant shall provide evidence of personal auto liability coverage for each such person.

When applicable, Workers Compensation on a state-approved policy form providing statutory benefits as required by law with employer's liability limits no less than \$1,000,000 per accident or disease.

Excess or Umbrella Liability Insurance (Over Primary) if used to meet limit requirements, shall provide coverage at least as broad as specified for the underlying coverages. Any such coverage provided under an umbrella liability policy shall include a drop-down provision providing primary coverage above a maximum \$25,000 self-insured retention for liability not covered by primary but covered by the umbrella. Coverage shall be provided on a "pay on behalf" basis, with defense costs payable in addition to policy limits. Policy shall contain a provision obligating insurer at the time insured's liability is determined, not requiring actual payment by the insured first. There shall be no cross-liability exclusion precluding coverage for claims or suits by one insured against another. Coverage shall be applicable to City for injury to employees of Consultant, subconsultants or others involved in the Work. The scope of coverage provided is subject to approval of City following receipt of proof of insurance as required herein. Limits are subject to review but in no event less than \$1,000,000 per occurrence.

Professional Liability or Errors and Omissions Insurance as appropriate shall be written on a policy form coverage specifically designed to protect against acts, errors or omissions of the consultant and "Covered Professional Services" as designated in the policy must specifically include work performed under this agreement. The policy limit shall be no less than \$1,000,000 per claim and in the aggregate. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend. The policy retroactive date shall be on or before the effective date of this agreement.

Insurance procured pursuant to these requirements shall be written by insurers that are admitted carriers in the state of California and with an A.M. Best rating of A- or better and a minimum financial size VII.

General conditions pertaining to provision of insurance coverage by Consultant. Consultant and City agree to the following with respect to insurance provided by Consultant:

1. Consultant agrees to have its insurer endorse the third-party general liability coverage required herein to include as additional insureds City, its officials, employees, volunteers and agents, using standard ISO endorsement No. CG 2010-0413. Consultant also agrees to require all contractors and subcontractors to do likewise.
2. No liability insurance coverage provided to comply with this Agreement shall prohibit Consultant, or Consultant's employees or agents, from waiving the right of subrogation prior to a loss. Consultant agrees to waive subrogation rights against City regardless of the applicability of any insurance proceeds, and to require all contractors and subcontractors to do likewise.
3. All insurance coverage and limits provided by Contractor and available or applicable to this agreement are intended to apply to the full extent of the policies. Nothing contained in this Agreement or any other agreement relating to the City or its operations limits the application of such insurance coverage.
4. None of the coverages required herein will be in compliance with these requirements if they include any limiting endorsement of any kind that has not been first submitted to City and approved of in writing.
5. No liability policy shall contain any provision or definition that would serve to eliminate so-called "third party action over" claims, including any exclusion for bodily injury to an employee of the insured or of any contractor or subcontractor.
6. All coverage types and limits required are subject to approval, modification and additional requirements by the City, as the need arises. Consultant shall not make any reductions in scope of coverage (e.g., elimination of contractual liability or reduction of discovery period) that may affect City's protection without City's prior written consent.
7. Proof of compliance with these insurance requirements, consisting of certificates of insurance evidencing all of the coverages required and an additional insured endorsement to Consultant's general liability policy, shall be delivered to City at or prior to the execution of this Agreement. In the event such proof of any insurance is not delivered as required, or in the event such insurance is canceled at any time and no replacement coverage is provided, City has the right, but not the duty, to obtain any insurance it deems necessary to protect its interests under this or any other agreement and to pay the premium. Any premium so paid by City shall be charged to and promptly paid by Consultant or deducted from sums due Consultant, at City option.
8. Certificate(s) are to reflect that the insurer will provide 30 (thirty) days' notice to City of any cancellation of coverage. Consultant agrees to require its insurer to modify such certificates to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation imposes no obligation, or that any party will "endeavor" (as opposed to being required) to comply with the requirements of the certificate.

9. It is acknowledged by the parties of this agreement that all insurance coverage required to be provided by Consultant or any subcontractor, is intended to apply first and on a primary, non-contributing basis in relation to any other insurance or self-insurance available to City.
10. Consultant agrees to ensure that subcontractors, and any other party involved with the project who is brought onto or involved in the project by Consultant, provide the same minimum insurance coverage required of Consultant. Consultant agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Consultant agrees that upon request, all agreements with subcontractors and others engaged in the project will be submitted to City for review.
11. Consultant agrees not to self-insure or to use any self-insured retentions or deductibles on any portion of the insurance required herein and further agrees that it will not allow any contractor, subcontractor, Architect, Engineer or other entity or person in any way involved in the performance of work on the project contemplated by this agreement to self-insure its obligations to City. If Consultant's existing coverage includes a deductible or self-insured retention, the deductible or self-insured retention must be declared to the City. At that time the City shall review options with the Consultant, which may include reduction or elimination of the deductible or self-insured retention, substitution of other coverage, or other solutions.
12. The City reserves the right at any time during the term of the contract to change the amounts and types of insurance required by giving the Consultant ninety (90) days advance written notice of such change. If such change results in substantial additional cost to the Consultant, the City will negotiate additional compensation proportional to the increased benefit to City.
13. For purposes of applying insurance coverage only, this Agreement will be deemed to have been executed immediately upon any party hereto taking any steps that can be deemed to be in furtherance of or towards performance of this Agreement.
14. Consultant acknowledges and agrees that any actual or alleged failure on the part of City to inform Consultant of non-compliance with any insurance requirement in no way imposes any additional obligations on City nor does it waive any rights hereunder in this or any other regard.
15. Consultant will renew the required coverage annually as long as City or its employees or agents face an exposure from operations of any type pursuant to this Agreement. This obligation applies whether or not the Agreement is canceled or terminated for any reason. Termination of this obligation is not effective until City executes a written statement to that effect.
16. Consultant shall provide proof that policies of insurance required herein expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Proof that such coverage has been ordered shall be submitted prior to expiration. A coverage binder or letter from Consultant's insurance agent to this effect is acceptable. A certificate of insurance and/or additional insured endorsement as required in these specifications applicable to the renewing or new coverage must be provided to City within five days of the expiration of the coverages.
17. The provisions of any workers' compensation or similar act will not limit the obligations of Consultant under this Agreement. Consultant expressly agrees not to use any statutory immunity defenses under such laws with respect to City, its employees, officials and agents.

18. Requirements of specific coverage features or limits contained in this section are not intended as limitations on coverage, limits or other requirements nor as a waiver of any coverage normally provided by any given policy. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be limiting or all-inclusive.
19. These insurance requirements are intended to be separate and distinct from any other provision in this agreement and are intended by the parties here to be interpreted as such.
20. The requirements in this Section supersede all other sections and provisions of this Agreement to the extent that any other section or provision conflicts with or impairs the provisions of this Section.
21. Consultant agrees to be responsible for ensuring that no contract used by any party involved in any way with the project reserves the right to charge City or Consultant for the cost of additional insurance coverage required by this agreement. Any such provisions are to be deleted with reference to City. It is not the intent of City to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against City for payment of premiums or other amounts with respect thereto.
22. The City's failure to comply with reporting requirements should not affect coverage required under the Agreement.
23. The consultant's insurance is primary to that of any insurance claimed by the City.

Consultant agrees to provide immediate notice to City of any claim or loss against Consultant arising out of the work performed under this agreement. City assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve City.

WORKERS' COMPENSATION REQUIREMENTS

The Consultant is required to sign and file either a statement acknowledging its obligation to secure payment of Workers' Compensation before beginning work, or a declaration confirming that as a sole proprietor consultant is exempt from Workers' Compensation Requirements.

ACKNOWLEDGEMENT OF WORKERS' COMPENSATION OBLIGATION

I, _____, hereby acknowledge my obligation to secure payment of Workers' Compensation before beginning work.

FIRM / ORGANIZATION

By: _____

Name and Title of Signatory

Dated: _____