



## **Handbook for**



## **City Advisory Body Members**

*February 2022*

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### INTRODUCTION AND OVERVIEW

Congratulations! You have been selected to serve your community as a member of a City of El Cerrito Board, Commission or Committee (Advisory Bodies). The City Council and City staff believe that citizen participation is vital to the ongoing business and future progress of our community. We commend you on your commitment to the City and encourage you to become acquainted with all phases of your municipal government.

The primary purpose of this handbook is to provide general guidelines in the conduct of meetings to ensure compliance with laws and policies; inform members of the responsibilities and duties of the specific advisory bodies; and clarify relationships between appointed members and the City Council, City staff and the community.

City advisory bodies serve in various capacities and are managed by department assigned staff liaisons, in conjunction with the City Clerk's Office.

### Public Records and Disclosure

The [California Public Records Act](#), Government Code Sections 6250 *et seq.* ("Public Records Act"), governs public access to most government records. As a member of a city advisory body, all documentation provided to or exchanged with the city, including email and written correspondence, may be subject to public disclosure unless otherwise exempt under the act. The California Supreme Court has ruled that emails from personal devices or personal email accounts that relate to the City's business are public records subject to disclosure.

### Types of Advisory Bodies

The City has Boards, Commissions and Committees. For ease of reference, this manual categorizes all three as advisory bodies, however they each have different functions. Boards and Commissions are directly responsible to the City Council and fill advisory and/or quasi-judicial roles. Commissions are composed of lay citizens while members for boards are selected for their special expertise. Committees sponsored by the city do not formally represent the city, have no official responsibility and do not fill quasi-judicial roles. Pursuant to El Cerrito Municipal Code (ECMC) §2.04.220(B)(10), regardless of the type of advisory body, provisions of the Brown Act must be following unless otherwise noted in the advisory body enabling legislation.

The city prohibits individuals residing at the same address from serving on the City Council and an advisory body, on the same advisory body, or advisory bodies with overlapping subject matter jurisdiction ([Resolution 2013-68](#)).

### Ad-Hoc Committees

An ad-hoc committee is a **temporary** committee established for a specific purpose and for a limited duration and is comprised of less than a quorum of members. The advisory body chair together with city staff shall determine the scope and approximate length of time the ad-hoc committee shall be needed.

The advisory body chair shall formally announce the formation of the committee, state the scope, and make all appointments. Once the ad-hoc committee has completed its task, the issue shall be agendaized and reported out before the full advisory body. Although not subject to the requirements of the Brown Act, ad-hoc committees may meet openly and post agendas if desired.

### Standing Committees

A Standing Committee is an **ongoing** group formed for continuous discussion or work on a topic or need within the subject matter jurisdiction of the advisory body and may be comprised of less than a quorum of members. Even if comprised of less than a quorum of members, standing committees **are subject to the Brown act** and must be noticed and held in accordance with the Act. If there is any clarity needed on the appropriate type of committee for a given need, city staff shall consult with the City Clerk's Office for direction.

### **Formation and Structure**

Formation and/or enabling legislation for advisory bodies are typically in the form of a city ordinance or resolution. General requirements for all advisory bodies are contained in ECMC § 2.04.220. Formation documents outline topics such as the number of members, attendance rules, quorum, background and qualifications requirements, as well as powers and duties.

### **El Cerrito Advisory Bodies**

The City of El Cerrito currently has 13 advisory bodies which are managed by various departments. Each advisory body has a dedicated webpage that provide information for members, as well as the public. This includes powers and duties, enabling legislation, membership information, meeting schedules, agendas and minutes.

The following descriptions, linked to the applicable advisory body website, provides a brief overview of the membership, roles and responsibilities and training or disclosure requirements of each advisory body and are arranged by responsible departments.

### City Management

[Arts and Culture Commission](#) is comprised of seven members who demonstrate a commitment to various arts disciplines, including but not limited to fine arts, visual arts, performing arts, literary arts, art history, and arts education. The Commission is charged with oversight of the Arts in Public Places Program, which requires certain development projects to contribute 1% of construction costs to public art, and is responsible for acquisition, funding, and placement of public art in the City on public property. The Commission also juries the [City Hall Gallery Space](#), located on the second floor of City Hall at 10890 San Pablo Avenue.

Members of this commission are required to complete an oath of office, sexual harassment prevention training, ethics training, orientation training and file a Statement of Economic Interests Form 700.

### Community Development Department

**Design Review Board** is comprised of five members who review new Tier II developments and major Tier III renovations of existing properties in the San Pablo Specific Plan area. They serve as the appeal hearing body for administrative Tier I design review actions and make recommendations to the Planning Commission regarding Tier IV projects located in the Plan area. They also have final design authority for new residential developments, from duplexes to multi-family units outside of the Plan area. Their purview includes the consideration of the proposed architecture, site layout, landscaping as well as master sign programs for the purpose of encouraging quality design. In this role, they work collaboratively with applicants to refine their projects in terms of materials, finishes and landscaping. Finally, they are the approving authority for necessary environmental documentation required by the California Environmental Review Act (CEQA) related to projects under their review.

Members of this board are required to complete an oath of office, sexual harassment prevention training, ethics training, orientation training and file a Statement of Economic Interests Form 700.

**Economic Development Committee** is comprised of up to fifteen members who act in an advisory capacity to perform tasks and duties identified by the Economic Development Strategy and Action Plan. Advises the Council on economic development matters, makes recommendations on the annual economic development work plan, and oversees the work of subcommittees established to concentrate on creating plans for high-priority areas. Provides input to other City boards and commissions on economic development matters and reviews progress towards achieving the annual work plan goals and long-range economic development goals. Encourages community involvement in economic development.

Members of this committee are required to complete an oath of office, ethics training, orientation training, and sexual harassment prevention training.

**Planning Commission** is comprised of seven members whose primary functions is as an advisory body to the City Council in matters relating to current and advance planning and the development of the built environment. This includes the review and stewardship of the City's long-range planning goals, policies and programs on a broad array of issues related to land use, including concessions under state density law. In addition, this body hears and takes action on Tier IV development projects located inside the San Pablo Avenue Plan area, after receiving the recommendation of the Design Review Board. They also hear appeals of administrative decisions of the Zoning Administrator as well as appeals of actions made by the Design Review Board.

In addition, the Commission takes action on conditional use permits, variances, development agreements and serves as the approving authority for necessary environmental documentation required by the California Environmental Review Act (CEQA) for any project under their purview.

Members of this commission are required to complete an oath of office, sexual harassment prevention training, ethics training, orientation training, and file a Statement of Economic Interests Form 700.

### Finance Department

**Financial Advisory Board** is comprised of five members who conduct a review of the proposed annual budget and long-term financial plan for the City to assist the City Council in making decisions on major expenditures and revenue sources; develops a long-term financial plan for the City; conducts an annual review of the City's investment policies and gives consideration to the managing of the City's financial reserves to assure maximum returns on approved investments; reviews the annual audit and management letter and provides the City Council with recommended changes in financial practices; and reviews and makes recommendations on all proposed bonds or other debt instruments to be issued by the City.

Members of this board are required to complete an oath of office, sexual harassment prevention training, ethics training, orientation training, and file a Statement of Economic Interests Form 700.

### Human Resources

**Civil Service Commission** is comprised of five members who hear appeals submitted by any City of El Cerrito civil service employee relative to any disciplinary action, dismissal, demotion, or alleged violation of the municipal code or the personnel rules and certifies its findings and recommendations. The Commission holds hearings and makes recommendations on any matter of personnel administration requested by the Council or the City Manager.

Members of this committee are required to complete an oath of office, ethics training, orientation training, and sexual harassment prevention training.

**Human Relations Commission** is comprised of five member who develop positive human relations through education, encouragement of greater respect and understanding between people, their equal opportunity rights under the law and the recognition of the racial, ethnic, religious and cultural diversity of the El Cerrito community. The purpose of the Commission is to initiate educational and cultural programs, promote tolerance and mutual respect between all persons.

Members of this committee are required to complete an oath of office, ethics training, orientation training, and sexual harassment prevention training.

### Police Department

**Crime Prevention Committee** is comprised of up to fifteen members who develop and promote crime prevention programs, promotes cooperation with local law enforcement and awareness of methods to prevent crime, as well as advises the City Council regarding crime prevention programs.

Members of this committee are required to complete an oath of office, ethics training, orientation training, and sexual harassment prevention training.

### Public Works Department

**Citizens Street Oversight Committee** is comprised of five members who monitor the expenditures of revenue collected pursuant to ECMC Chapter 4.60 (the "Pothole Repair and Local Street Improvement and Maintenance Transactions and Use Tax") to determine whether such funds are expended for the purposes specified in the then-current Street Repair and Maintenance Expenditure Plan, and issues reports on their findings to the City Council and public at least annually. The Committee may also review the annual financial or performance audits performed by an independent auditor.

Members of this committee are required to complete an oath of office, ethics training, orientation training, and sexual harassment prevention training.

**Environmental Quality Committee** is comprised of up to fifteen members who work to involve the community directly in understanding and reducing our impact on the environment. This includes acting as ambassadors for citywide environmental quality efforts; reviewing requests for policies pertaining to the environment; develop programs to reduce citywide environmental impacts; and educating and involving residents in City environmental programs and activities.

Members of this committee are required to complete an oath of office, ethics training, orientation training, and sexual harassment prevention training.

**Urban Forest Committee** is comprised of up to fifteen members who serve in an advisory capacity to the City Council, other commissions, and the citizens of the City with regard to the growth, maintenance, and location of trees within the City; recommends programs, policies, and ordinances to implement and promote the City's Master Street Tree List and Urban Forest Management Plan; promotes and fosters public awareness, education, interest and support for urban forestry efforts; educates residents regarding selecting, planting and maintaining trees; and promotes public awareness and education concerning potential hazards about above ground and underground utilities and provides information about appropriate tree species and varieties.

Members of this committee are required to complete an oath of office, ethics training, orientation training, and sexual harassment prevention training.

### Recreation Department

**Committee on Aging** is comprised of up to fifteen members whose primary duties are to identify El Cerrito's older and/or disabled adults; establish regular communication and consultation among individual older and/or disabled adults; document needs and wants of individuals and available benefits from all agencies; develop comprehensive plans for programs and for utilizing the resource of talents among El Cerrito's older and/or disabled adults for inclusion in the General Plan and other plans and programs as may be developed; review and evaluate existing and proposed programs within their responsibility and make recommendations to the Council on City action and funding; and establish liaisons with other interested and concerned groups.

Members of this committee are required to complete an oath of office, ethics training, orientation training, and sexual harassment prevention training.

**Park and Recreation Commission** is comprised of seven members who act in an advisory capacity to the City Council on all matters pertaining to public recreation, including parks, playgrounds, landscaping, childcare, the arts, educational courses and entertainment. The Commission considers the annual budget of the Recreation Department during its preparation and makes recommendations; assists in the planning of a recreation program for the City-promoting and stimulating public interest; and solicits to the fullest possible extent the cooperation of special authorities and other interested public and private agencies.

Members of this commission are required to complete an oath of office, sexual harassment prevention training, ethics training, and orientation training.



### GENERAL MEMBER PROVISIONS

General provisions for members of city advisory bodies, in large part, are contained in the city's municipal code [Section 2.04.220](#). This includes the appointment process, terms, vacancies, absences, removal of members, quorum, minutes, staff assistance, and meeting schedules. In the event that a resolution or separate ordinance is in place for a specific advisory body, the provisions in those documents would prevail. If the advisory body's formation documents do not include an area covered by the municipal code, then the following general provisions would apply.

#### Term Length and Limits

Unless otherwise specified in the formation documents, term lengths are for a period of four years, commencing on March 1 (ECMC 2.04.220 (B)(3)). Board, Commission, and Citizen Street Oversight Committee members are limited to two consecutive full terms on each advisory body. City Committees are limited to three consecutive full terms on each committee ([Resolution 2021-54](#) and [Resolution 2021-04](#).) At the end of the term, the incumbent shall reapply for their seat if they wish to continue serving on the advisory body. The term of the individual seat is fixed. Therefore, if a seat is vacated before the end of the term, the new member would serve the remainder of the current term. This is considered a "partial term" and does not count towards the two term limits.

All city advisory bodies have staggered terms so that an entire advisory body is not replaced at any given time. Generally, half of an advisory body's membership expires on a set date, with the other half expiring several years later. This method keeps informed members on the advisory body and allows the advisory body to function with a continued level of continuity and institutional knowledge as members are replaced.

#### Filling Vacancies

The City Clerk's Office manages the application process to fill expired and/or vacated advisory body seats. All applicants are required to attend two of the last three meetings of the advisory body applied for prior to submitting an application to the City Clerk ([Resolution 2021-55](#).) Applicants for Citizens Street Oversight Committee and Civil Service Commission are exempt from this requirement. All applicants (including applicants for re-appointment) for boards, commissions, and the Citizens Street Oversight Committee will be invited to interview with the City Council at a noticed and open public meeting. After all candidates have been interviewed, the City Council will take action to make an appointment to fill the vacancies.

Applicants for committees will be directed to the staff liaison to coordinate the committee conducting an informal interview and consideration of a recommendation to City Council to appoint. The staff liaison will work with the City Clerk's Office to agendize the appointment of the individual at a subsequent City Council meeting. Incumbents interested in re-appointment shall submit a new application and the committee will be required to take action to recommend that City Council re-appoint the individual.

All applications on file with the City Clerk shall remain valid for a period of one year from the date received.

### Attendance

Meeting attendance is essential as it establishes a quorum of the membership and permits the advisory body to conduct business. Regular and continued attendance also allows an advisory body to progress without having to continually bring absent advisory body members up to speed.

Unless otherwise specified in formation documents, the following attendance rules apply (ECMC § 2.04.220(4)).

1. If a member notifies the staff liaison of intended absence at least 24 hours prior to the scheduled meeting time, the absence is considered **excused**.
2. If a member is absent for an unforeseeable and unavoidable circumstance, and reports and explains such in writing to the staff liaison prior to the next meeting of the advisory body, the absence is considered **excused**.
3. If the member does not communicate their absence, it is considered **unexcused**.
4. Excused absences for **medical reasons** shall not exceed a period of 120 calendar days.

ECMC section 2.04.220 (B)(4)(a) provides presumption that failure of any member to attend three consecutive regular meetings without cause, or half of the regular meetings in a calendar year, or who no longer resides in the city, has resigned. If the member cannot regularly attend, the member is encouraged to respectfully resign. Annually in January, the City Clerk will review attendance reports for all advisory bodies to determine if any action is needed regarding removal of members.

### Resignation

At any point, if a member wished to resign from their position on the advisory body, it shall be provided in writing. This is necessary as the seat cannot be filled until a resignation is on file with the City Clerk's Office, the member is removed by act of the City Council, or the member's term has expired. The member may send an email to the City Clerk's Office or announce his/her resignation openly at a meeting of their advisory body. If the latter occurs, the staff liaison will record such announcement in the meeting minutes and provide a copy of the minutes to the City Clerk's Office for verification. Confirmation, as well as notice of any required actions upon resignation, will be sent to the member by the City Clerk's Office.

### Filing and Training Requirements

When the appointment of a member is confirmed, the City Clerk's Office will send formal notification as well as instructions for any applicable filing or training requirements. In general, filing and training requirements are required within 30 days of appointment. [Resolution 2021-48](#) authorizes the City Clerk to process a member for removal if, within 30 days of specific written notice of non-compliance, the member fails to complete any of

the filing or training requirements outlined below. City Council will be notified of this pending action, however City Council action is not required to remove a member for failure to complete the requirement(s). Any member removed from office for non-compliance will be eligible to apply for a future vacancy after a period of one year.

### Oath of Office

The City of El Cerrito considers all advisory body members to fall under the definition of a “public officer” and therefore all members are required to subscribe to the Oath of Office pursuant to Article XX of the California Constitution, and California Government Code (GC) §36507. The Oath is required as a condition of entering into office and therefore shall be subscribed to prior to a member participating in their first advisory body meeting. The oath will also be required upon re-appointment of any additional terms, or subsequent appointment of an individual to a different advisory body. The signed oath shall be filed with the City Clerk, **an original signature is required**.

### Sexual Harassment Prevention Training

The City of El Cerrito has made the determination that all advisory body members are required to complete one hour of Sexual Harassment Prevention training pursuant to GC §12950.1(a)(1). A free [on-line course](#) available from the California Department of Fair Employment and Housing provides a course in compliance, and a completion certificate. If a member has completed training through an employer or other organization within two years, a certificate of completion may be submitted in lieu of completing new training.

The City Clerk’s Office monitors this program and informs members of the requirement to take this training. Completion is required within 30 days of appointment. Once completed a certificate will automatically post in the user’s training account, a hard copy is not required.

### Ethics Training

All Advisory Body members are required to complete two hours of local ethics training pursuant to GC §53235.1(b) and [Resolution 2021-56](#). Members are also required to take an additional two hours of training every two years thereafter for the duration of their term. A free [on-line course](#) available from the State Fair Political Practices Commission (FPPC) provides a course in compliance, and a completion certificate. If a member has completed training through an employer or other organization within two years, a certificate of completion may be submitted in lieu of completing new training.

The City Clerk’s Office monitors this program and informs members of the requirement to take this training. Completion is required within 30 days of appointment. Once complete, a signed copy of the certificate shall be submitted to the City Clerk, an original signature is not required.

### Statement of Economic Interests Filings (Form 700)

Advisory bodies designated by the city's Conflict of Interest Code (COI Code) have a requirement to file the Statement of Economic Interests Form 700 (Form 700). The COI Code is adopted every two years, with the current version available online at [www.elcerrito.org/COI](http://www.elcerrito.org/COI). Additionally, members of the Planning Commission are required to file with the State pursuant to Government Code section 87200.

The Form 700 is required within 30 days of appointment (assuming), annually by April 1st (annual) and within 30 days of leaving the advisory body (leaving). The City Clerk's Office is the official filing officer for this form and communicates directly with advisory body members regarding this requirement. The signed statements shall be filed with the City Clerk, **an original signature is required.**

The City Clerk's Office is always available to assist members with filing resources but cannot provide legal advice. In the event a member is late or refuses to file, the City Clerk's Office has an obligation to forward the case to the Fair Political Practices Commission (FPPC) for enforcement. All efforts will be taken to avoid enforcement referrals. In addition, failure to file may lead to imposition of fines, and potential removal from membership on the advisory body.

The following advisory body members are currently subject to this requirement:

1. Arts and Culture Commission
2. Design Review Board
3. Financial Advisory Board
4. Planning Commission

### Orientation and Member Handbook Acknowledgement Form

Mandatory training is provided to introduce new advisory body members to their role as a member of a city advisory body, as well as provide an overview of the content of this handbook. Real time training will be provided by the City Clerk annually, following the March 1<sup>st</sup> term appointments. Those appointed to fill an unexpected vacancy (or partial term) throughout the year, will be required to review a recording of the training. After attending or reviewing the training, members are required to submit the *Orientation and Member Handbook Acknowledgement Form* confirming the date the training was attended/viewed, along with acknowledging receipt of this handbook. Completion of the training, and receipt of the form are required within 30 days of appointment ([Resolution 2021-56.](#)) The form shall be filed with the City Clerk, an original signature is not required.

### ROLES AND RESPONSIBILITIES

Most roles and responsibilities are common to all advisory body members. The following are guidelines to assist members in realizing their full potential as a member of a city advisory body. This section is also intended to provide a better understanding of specific roles played by some advisory body members, and certain city staff.

#### Common Member Responsibilities

Understand your role and the scope of your responsibility. Generally, the role of advisory body members is to advise the City Council on specific City program areas and related policies. Members should not become involved in the administrative or operational matters of City departments unless specifically provided in the statement of the powers and duties of the Board, Commission or Committee. Members should take every opportunity to learn about related City programs and be sure to read any and all material that City staff provides.

Follow rules and procedures. All advisory body members are governed by city rules and procedures that apply to their area of assignment. Members must also adhere to the Brown Act, which is discussed in a subsequent section, and follow any adopted procedural rules for the conduct of meetings.

Represent the community rather than any special interest. In making appointments to citizen advisory bodies, the City Council often seeks to ensure that there is a diversity of backgrounds and interests. All advisory body members should welcome citizen input and strive to serve the broader community. Members should be committed to promoting, listening and giving serious consideration to a full range of opinions. Decisions should be fair and impartial and be based on the greater public good.

Maintain good working relationships with all advisory body members. Although the members often represent divergent interests, they must work as one to accomplish the goals of the advisory body. Cooperation is crucial to the success or failure of the advisory group. In order to build consensus and reach common goals and objectives, members should demonstrate a willingness to give objective consideration to matters before them and an ability to work to reconcile contradictory viewpoints to the extent feasible.

Understand your relationship to the City Council and City staff. The ability of any advisory body to accomplish its goals depends in part upon establishing and maintaining good working relations with the City Council and City staff. Members should never portray themselves as responsible for a decision or recommendation that rightfully belongs to the advisory group as a whole. When a member of an advisory body addresses the City Council on a matter, the member must represent the viewpoint of the advisory group as a whole (not a personal opinion), unless a proper qualification is made. Advisory body members occasionally make recommendations or decisions that ultimately are reversed by the City Council. It is important to show respect for the authority of City Council members, who in their capacity as elected officials are charged with making decisions for the community.

City staff may have authority to make administrative decisions or recommendations, with which you may disagree. In this case, staff's authority should also be recognized. Advisory body members should be careful to avoid the appearance of influencing a staff member or placing a staff member in a compromising position. Staff has technical expertise that may be made available to the advisory body. It is especially important that members do not ask staff to commit to work that has not been budgeted or approved, or in any way try to direct the priority of work for the department providing technical advisory staff.

### Limitations

If an advisory body wishes to request staff to pursue projects that will require an excessive amount of staff time, they must first request council permission. Staff liaisons are not employees of the advisory body but are directly responsible to the department director and/or the City Manager (Administrative Policy (AP) I A 6).

Unless specifically authorized by City Council, advisory bodies may **not** represent the policy of the city and may not directly communicate with outside agencies. They may not take any financial actions such as endorsing grant applications, receiving donations, fundraising, approving use of city property, or any other action which commits or indicates the intention to commit the city (AP I A 6).

Advisory body members may not ask for individual reports, favor or special consideration. Requests and communication shall be restricted to the framework of the advisory body's assignment. Any citizen complaints should be referred back to the staff liaison and not personally acted upon (AP I A 6).

### Code of Conduct

On February 15, 2022, the City Council adopted revisions to the 2005 version of a Code of Conduct for Appointed Officials ([Resolution 2022-12](#)). Individuals appointed to a city board, commission, or committee are considered an appointed official and are expected to abide by the following code of conduct. Any violation of this code may result in removal by the City Council.

Advisory Body members shall:

1. Work for the City Council and the common good of the people of El Cerrito and not for any private or personal interest.
2. Endeavor to treat all members of the public and issues before them in a fair and equitable manner.
3. Make impartial decisions free of bribes, unlawful gifts, narrow political interests, and financial or other personal interests that impair independence of judgment or action.
4. Make decisions that are fair, objective, made in public, and understandable.

5. Fully participate in their meetings and other public forums while demonstrating respect and courtesy to others, practicing civility and decorum in discussions and debate, listening courteously and attentively, and engaging in effective communication. Advisory Body members are expected to contact their staff liaison if they cannot attend a scheduled meeting.
6. Act in an efficient manner, making decisions and recommendations based upon research and facts in accordance with the Brown Act to allow full and equal participation in the public process.
7. Refrain from abusive conduct, personal charges, or verbal attacks upon the character, motives, ethics, or morals of other members of their board, other boards, City staff, or members of the public.
8. Refrain from negative comments regarding any person or group based on their race, ethnicity, sex, gender identity, sexual orientation, national origin, immigration status, religion, disability, age, marital status, or membership in any other protected category.
9. Respect and preserve the confidentiality of information provided to them concerning confidential matters of the City, and refrain from disclosing any information received confidentially without proper legal authorization nor use such information to advance the personal, financial, or private interests of themselves or others.
10. Use their title only when conducting official City business, and carefully consider whether they are exceeding or appearing to exceed their authority. This includes use of their title in any personal setting, community event, speech, or other activity not facilitated by the individual's Advisory Body.
11. Respect established channels of communication with City staff, treat staff members professionally, and not attempt to pressure or influence discussions, recommendations, workloads, schedules, or department priorities without the approval of the City Council. This includes refraining from portraying personal opinions or views as the view of the Advisory Body and respecting the role of the Advisory Body Chair who is responsible for conveying recommendations of the advisory body to City Council.
12. Not attempt to solicit any type of political support from the City Council or City staff.
13. Comply with all rules and regulations established by state and local law, as well as those established by City Council.

### **Conflict of Interest**

Participation in any agency action by a member who has a conflict of interest may not only invalidate the agency's action but may also expose the individual to penalties and sanctions.

The most common conflict of interest issues arise with respect to financial conflicts of interest (under the Political Reform Act, Government Code Section 87100 et seq.) and financial interests in contracts per Government Code Section 1090 et seq., which are briefly summarized below. In addition, the city attorney has provided a guide for [Conflict of Interest and Ethics for Local Government Officials: Political Reform Act and Common Law Conflicts of Interest](#).

### Political Reform Act

The basic prohibition under the Political Reform Act ("PRA") is that public officials are disqualified from participating in government decisions in which they have a financial interest. Generally, a public official or employee has a disqualifying conflict of interest when all of the following occur:

1. The official makes, participates in, or uses his or her official position to influence a government decision;
2. It is foreseeable that the decision will affect the official's economic interest;
3. The effect of the decision on the official's economic interest will be material;
4. The effect of the decision on the official's economic interest will be distinguishable from its effect on the public generally.

If the answer to all of these questions is yes, a conflict of interest exists and disqualification is required. Disqualified public officials are also required to leave the meeting room during action on the item; however, the law also permits them to remain in the room if they intend to participate in the matter as a member of the public, once they have left the dais. Each matter must be determined on a case-by-case basis. Because of the complexity and potential consequences of conflicts issues, it is critical that if any member becomes aware of even a possibility of a conflict, they should immediately contact the City Clerk for guidance.

### Financial Interest in Contracts

Government Code Section 1090, et seq., involves conflicts of interest in contracts. Section 1090 prohibits officers or employees from having financial interests in contracts made by them in their official capacity or by any board or body of which they are members. Section 1090 was enacted to codify the common law prohibition against self-dealing. Although the term "financial interest" is not specifically defined in the statute, an examination of case law and statutory exceptions to the basic prohibition indicates that the term is to be liberally interpreted and can include both direct and indirect interests in a contract.

Even if the public official only has a "remote interest" (as defined in Government Code Section 1091 and case law) in a contract, the public official must nonetheless disclose the interest, have it noted in the official record, and abstain from voting. Failure to do so makes the contract void. If the public official is found guilty of willfully violating any of the provisions of Section 1090 et seq., such willful violations are punishable by a fine of not more than \$1,000 or imprisonment in state prison as well as the individual forever being disqualified from holding any office in the state.

If it is determined that the public official has a "non-interest" (as defined by Government Code Section 1091.5 et seq.), the public official is not required to abstain from voting and disclosure is generally not required (although in some instances disclosure is required).



For example, a public official who is a non-salaried member of a non-profit corporation is not deemed interested in contracts of that corporation in accordance with Government Code Section 1091.5(a)(7). Nonetheless, that section requires disclosure of the public official's interest at the time the contract is first considered and noting of the interest in the official records.

### Other Conflict of Interest Laws

Separate and apart from the Political Reform Act and Government Code Section 1090 et seq., other laws may require disqualification from decision making and even forfeiture of office in certain circumstances. Some of the other conflict of interest laws to consider are as follows:

1. **Bias**. Whenever a City official will participate in a quasi-judicial decision, the common law prohibition against biased decision-making must be considered. The official should disqualify themselves if the official is biased in favor of or against a party involved in a quasi-judicial decision. The City official must be prepared to apply the law to the particular fact situation presented during the hearing regardless of what pre-hearing opinions the official may hold.
2. **No Free Rides**. A person who holds a public office may not accept a free pass or discount from a transportation company. If this prohibition is violated, the person forfeits the office. (California Constitution Article XII, Section 7.)
3. **Incompatibility of Offices**. Whenever a person holding a public office intends to simultaneously hold a second public office, the doctrine of incompatible public offices should be considered. If the duties of two offices are incompatible, a public official assuming the second such office vacates the first office. (California Government Code Section 1099.)
4. **Incompatibility of Outside Activity**. Whenever a person holding a position as a local agency official or employee intends to engage in any other employment, activity, or enterprise for compensation, the provisions of Government Code Section 1126 should be considered where the agency has adopted rules related to this subject. Agency rules implementing this section impose a duty on every local agency official and employee not to engage in any outside activity for compensation that is inconsistent, incompatible, in conflict with, or inimical to his/her:
  - a. Duties as a local agency officer or employee;
  - b. The duties, functions, or responsibilities of his/her appointing power or the agency by which he/she is employed.

### **Chair and Vice Chair Roles**

Each advisory body annually in April, elects a Chair and Vice Chair. The advisory body chair (or in their absence, the vice chair) is responsible for the following:

1. Presides over all meetings of the commission and ensures that the work of the commission is accomplished. To this end the chairperson must exert sufficient control of the meeting to eliminate irrelevant, repetitious or otherwise unproductive

discussion. At the same time the chair must ensure that all viewpoints are heard and are considered in a fair and impartial manner.

2. Appoints members to temporary subcommittees subject to the approval of the advisory body.
3. Works with the staff liaison to determine the contents of the agenda prior to distribution.
4. Represents the commission before the City Council.
5. Signs correspondence and meeting minutes on behalf of the advisory body.
6. Performs other duties necessary or customary to the office.

The City Clerk will offer annual training in May, following annual appointment of Chairs and Vice Chairs, on the roles and responsibilities of these positions in facilitating meetings. The annual training will be recorded for later viewing should a chair or vice chair appointment be made throughout the year.

### **Council Liaison**

A member of the City Council is assigned to each advisory body with the responsibility of reporting on council actions and activities. The council liaison is required to attend and deliver this report to the advisory body quarterly. They shall remove themselves to the audience, or leave the room, and not participate in the meeting after said report is delivered, as outlined in [Resolution 2013-68](#).

### **Staff Liaison**

Staff liaisons are responsible for several areas including generating meeting materials, management of advisory body records, facilitating meetings, advising members, and ensuring compliance with the Brown Act and Parliamentary Procedure.

All contact from advisory body members to any staff (other than the liaison), and any communication with advisory body members shall exclusively be through the staff liaison (AP I A 6). The staff liaison is responsible for ensuring adequate communication with advisory body members, as well as the City Council assigned liaison.

### **MEETING ADMINISTRATION**

All members are responsible for understanding areas of meeting conduct required of city advisory bodies and are expected to understand the provision of the Ralph M. Brown Act and Parliamentary Procedure.

### **The Ralph M. Brown Act**

All city advisory bodies are subject to the provisions of the [Ralph M. Brown Act](#) (Brown Act). The Brown Act provides statutory rules for how meetings are conducted, how advisory body members conduct themselves, as well as agenda and posting requirements.

The Brown Act 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 GC § 54953), to hear, discuss, deliberate, or take any action on any item that is within the subject matter jurisdiction of the legislative body.” The Brown Act is clear that the body does not need to take action in order for the gathering to be defined as a meeting.

Definition of a meeting does not extend to individual contact by members, attendance at conferences and seminars, attending an open meeting of another public agency, community meetings, social or ceremonial events; even if a quorum of members are present, provided that they are not discussing or taking action on any item within the subject matter jurisdiction. There are several types of meetings defined under the Brown Act.

### Regular Meetings

Regular meetings are defined as meetings held on the dates, times and in the location set by resolution, ordinance or other formal action by the legislative body. At least 72 hours prior to a regular meeting, all pages of the agenda must be physically posted at the meeting location. The agenda shall contain a brief general description of each item to be discussed or transacted at the meeting. The Brown Act makes it clear that discussed items must be placed on the agenda, as well as items which may be the subject of action.

The agenda shall specify the time, date and location of the regular meeting and shall be posted in a location that is freely accessible to the members of the public for the full 72 hours immediately preceding the meeting. No action or discussion shall be had on any item not appearing on the posted agenda, except that members or staff may briefly respond to statements made or questions posed by persons commenting under the *Public Comment-Matters Not on the Agenda* section of the agenda.

### Special Meetings

Special meetings are those meetings that have not been pre-approved by the advisory body as a regular meeting. A meeting not held at the regular meeting location is also considered a special meeting and requires that the agenda be posted both at the regular location and the current location. A *Public Comment-Matters Not on the Agenda* section is **not** to be included on a special agenda. All other requirements with regard to the content of a special meeting agenda are the same as the requirements of a regular meeting.

At least 24 hours prior to a special meeting, the agenda must be posted, containing a brief general description of each item to be discussed or transacted at the meeting. The city’s general practice is, when possible, to post at least 72 hours in advance for all meetings, including special meetings.

### Joint Meetings

Joint meetings fall under the category of special meetings. At a joint meeting, only those items that are of interest to both advisory bodies may be discussed. Meeting minutes of the individual advisory bodies may not be agendized at a joint meeting. All other requirements with regard to the content of a joint meeting agenda are the same as the requirements of a special meeting.

### Adjourned Meetings

A notice of Adjournment shall suffice for the posting of an adjourned meeting. The items of unfinished business on the posted agenda of which the notice of adjournment was ordered shall suffice for the official notice of business to be conducted. The notice shall include a time, date and location specific for the holding of the Adjourned meeting and be posted on or near the door of place where meeting was held within 24 hours of adjournment.

### Common Violations

It is important to understand what a serial meeting is in order to avoid inadvertently violating the Brown Act.

A serial meeting occurs when a majority of members of a legislative body “uses 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.” This can happen when discussions and opinions are expressed with only a portion of a legislative body, but eventually involves a majority. There are two scenarios in which this commonly occurs.

1. **Daisy Chain** - 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.
2. **Hub and Spoke** - Member A (the hub) sequentially contacts Members B, C, and D and so on (the spokes), until a quorum has been contacted.

A second scenario is when a staff member (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. Legal action may be sought to nullify an agency decision because of any violation of the Brown Act. Some easy ways to ensure that you are not inadvertently violating the Brown Act in communications outside of a public meeting, is to send any communication directly to the Chair and staff liaison only. If you receive any communication which includes all other members of your advisory body, ensure that if you have a need to respond, you do so without using the “reply all”

feature. In any verbal conversation with another member, do not share the opinions of or conversations with other members.

### Teleconferencing

The Brown Act specifically allows teleconferencing to meet, receive public comment and testimony, deliberate or conduct a closed session. A member may teleconference as long as the following requirements are met:

- Teleconference location must be identified on the agenda
- Agenda must be posted at all locations (physical and teleconference)
- Each teleconference location must be accessible to members of the public
- At least a quorum of members must participate from within the jurisdiction
- All votes must be done by roll call

If a member wants to participate in a meeting from a non-qualifying teleconferencing location, they are permitted to call in and listen, but cannot ask questions, comment or participate in the discussion, or vote.

### Meeting Agenda and Discussion

Discussion at each meeting is limited to what is on the agenda. Brief responses to statements or questions, announcements, request for report back, or future agenda items is the limited acceptable dialogue for items not on the agenda.

### Meeting Materials

Materials distributed to the advisory body less than 72 hours prior to the meeting must be simultaneously made available to the public. If materials are distributed by the agency during the meeting, copies for the public must be available during the meeting. If materials are provided by the public during the meeting, they must be made available after the meeting.

### **Parliamentary Procedure**

Parliamentary procedure is a set of rules that govern the conduct of business at public meetings. City advisory bodies may choose to establish and adopt Rules of Procedure. In the absence of, the advisory body shall follow [Rosenburg's Rules of Order](#) for conduct of business at meetings (ECMC 2.04.220(B)(7)). Parliamentary procedure rules are a standard set of procedures for conducting public meetings. An additional resource for members, [Motions-at-a-Glance](#), is available on the city's website and provides a condensed version of the information outlined in the following section.

### Quorum

A quorum is the number of members required to be present in order to hold the meeting. For some advisory bodies, the quorum is established in the formation documents as a

specific number of members. This number cannot change, even when there are vacant seats. For other advisory bodies, the quorum is a majority of members currently serving. In this instance, the quorum can change with the number of seats officially filled. For advisory bodies that establish a quorum on the number of seats filled, the staff liaison shall carefully monitor vacancies and resignations. This is important to ensure that the proper quorum is established before calling any meeting to order. A majority is established as more than half.

For city committees, while quorum is a majority of members currently serving, a meeting may be conducted with two members for purpose of doing the work of the committee, however formal action requires at least three members to be present to take action (ECMC 2.04.220(B)(5)(b)).

If a quorum is not established, the meeting must be cancelled. The advisory body chair or vice-chair shall call for a quorum and wait a reasonable length of time to determine if a quorum can be established. Each advisory body may establish a reasonable waiting time based on the logistics of the particular advisory body; generally, not more than 15-30 minutes. If a quorum cannot be established, the meeting is adjourned.

### Motions

Motions are a way that advisory body members communicate their ideas and/or positions. Motions also allow the advisory body to progress through popular ideas and get past unpopular ideas without excessive discussion on ideas that are not supported by the majority.

Unless otherwise noted, when a member makes a motion, another member should verbally “second” the motion in order for the advisory body to vote on the proposed action. While it is good practice for a motion to require a second, it is not an absolute requirement, and the Chair can proceed with consideration and vote on a motion with no second. This is a matter left to the discretion of the Chair.

No more than **three** motions shall be on the floor at any given time. When there are two or three motions to consider at the same time, the vote shall first be on the most recent motion made. The three basic motions are as follows:

- Basic Motion– This motion is the first idea introduced for consideration by the advisory body. A main motion cannot be made when another motion is before the advisory body. Main motions are introduced with “**I move that....**”
- Motion to Amend – This motion amends a basic motion and seeks to change it in some way but does not change the basic premise of the motion. This motion may also be referred to as a friendly amendment and may be handled informally. If the members who make and second a motion agree with the minor change (and state so verbally), then a motion may be amended without a vote. Amended motions can be introduced with “**I move to amend that motion by adding/removing/modifying ....**”

- Substitute Motion – This motion introduces a second idea for consideration that is completely different from the main motion. Substitute motions are introduced with “**I move a substitute motion to...**”
- Withdrawal of a Motion - A motion may be withdrawn by the member who moved it and is introduced with “**I move to withdraw my motion.**” This does not require the consent of the member who seconded and can only be done **before** the motion is voted on.

### Rules of Debate

The basic rule of motions is that they are subject to discussion and debate. The debate can continue as long as advisory members 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. A motion to adjourn, motion to recess, motion to table or motion to limit debate 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 officially ends the agenda after all business has been heard. If there are no items of business left on the agenda, an official motion is not required. The chair simply calls the meeting to adjournment by stating “**This meeting is now adjourned.**” If items remain on the agenda, a motion and second is required and can be introduced with “**I move to adjourn**”
- 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. This can be introduced with “**I move that we recess until...**”
- 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 date/time in which the item can come back to the body or no specific time, 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. This can be introduced with “**I move that we table this item until....**”

### Majority Vote

An issue must receive a majority of affirmative votes to pass. A majority is more than half of the members present and voting. This is the same math that is used to establish a quorum but is not necessarily the same number. For example: A majority **quorum** of a nine-member advisory body is five ( $9 / 2 = 4.5$  or 5 rounding up). A member cannot be split in half, so the majority is always rounded up to the next whole number. If five members are present a quorum is reached. With five members **present and voting**, a

majority vote is three ( $5 / 2 = 2.5$  or 3 rounded up). Some advisory bodies have a set number of votes that are required to affirmatively pass an issue. This number would be in the advisory body's formation documents. However, most advisory bodies calculate the affirmative vote threshold on the majority of members present once a quorum is established.

### Tie Vote

A tie vote is not a vote in the affirmative. A tie is when an even number of members vote yes and no. Tie votes may also occur when there are an odd number of members voting, but one member abstains. Motions with tie votes fail.

### Abstention

A vote of abstention is counted as a no vote. For example: in the scenario above, 5 members **present and voting** receives 2 yes, 2 no, and one abstention, the vote is not a vote in the affirmative. It is the same as 2 yes and 3 no.



**ORIENTATION TRAINING AND HANDBOOK ACKNOWLEDGEMENT FORM**

**Instructions:**

This form is used to submit the Acknowledgement Form confirming 1) completion of Orientation and Handbook Training; and 2) receipt and understanding of the Handbook for members of city advisory bodies.

**To submit this form electronically [CLICK HERE](#)**

Alternatively, the form can be printed, signed and submitted to the City Clerk’s office at 10890 San Pablo Avenue or via email to [cityclerk@ci.el-cerrito.ca.us](mailto:cityclerk@ci.el-cerrito.ca.us). **An original signature is NOT required.**

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First Name: \_\_\_\_\_

Last Name: \_\_\_\_\_

Advisory Body(ies) Appointed to:

\_\_\_\_\_

Date Orientation Training Completed:

\_\_\_\_\_

By typing my name below and submitting this form, I confirm that I attended the mandatory Orientation and Handbook Training (or watched the training video in its entirety) on the date indicated above.

I further acknowledge that I have received a copy of the El Cerrito Handbook for City Advisory Body Members and understand that it is my responsibility to read and comply with the policies contained in this handbook and any revisions made to it.

Signature: \_\_\_\_\_