

**CITY COUNCIL A G E N D A**

**MONDAY March 4, 2024**

**7:00 P.M. Regular Session**

**33 Church Street, Sutter Creek CA 95685**

**The Agenda can be found on the City's Website: [www.cityofsuttercreek.org](http://www.cityofsuttercreek.org)**

**THE CITY OF SUTTER CREEK CITY COUNCIL MEETING WILL BE AVAILABLE VIA ZOOM AND  
IN PERSON.**

**Join Zoom Meeting**

**<https://us02web.zoom.us/j/9568520224>**

*Please note: Zoom participation is only available for viewing the Council meeting.*

*\*Public comment will not be taken from Zoom.\**

**or**

**Dial by phone:**

**301-715-8592**

**Meeting ID: 956 852 0224**

**Unless stated otherwise on the agenda, every item on the agenda is exempt from review under the California Environmental Quality Act ("CEQA") per CEQA Guidelines Sections 15060(c), 15061(b)(3), 15273, 15378, 15301, 15323 and/or Public Resources Code Section 21065.**

**1. CALL TO ORDER AND ESTABLISH A QUORUM FOR REGULAR MEETING**

**2. PUBLIC FORUM**

*At this time, the public is permitted to address the City Council on items not appearing on the agenda. Comments may not exceed 5 minutes. In accordance with State Law, however, no action or discussion may take place on any item not appearing on the posted agenda. The City Council may respond to statements made or questions asked or may request Staff to report back at a future meeting on the matter. The exceptions under which the City Council may discuss and/or take action on items not appearing on the agenda are contained in Government Code §54954.2. Public comment on any item listed below shall be limited to five minutes, unless additional time is permitted by the Mayor/Council.*

**3. ORDINANCES & PUBLIC HEARING**

- A. Waive the second reading in full and enact Ordinance No. \_\_\_\_Amending Chapter 2.04.010 of the Sutter Creek Municipal Code regarding dates and times of City Council meetings.

**4. ADMINISTRATIVE AGENDA**

- A. Adopt Resolution 23-24-\* Approving an exemption for Tentative Parcel Map #2917

- B. Long Term financial forecast – LATE PACKET
- C. Sewer Collection System Overview – LATE PACKET
- D. Adopt Council Procedures and Protocols

**5. MAYOR AND COUNCIL MEMBER REPORTS**

*This section is to provide Council members an opportunity to present updates on their activities and to request items be placed on future agendas.*

**6. CITY ATTORNEY’S REPORT**

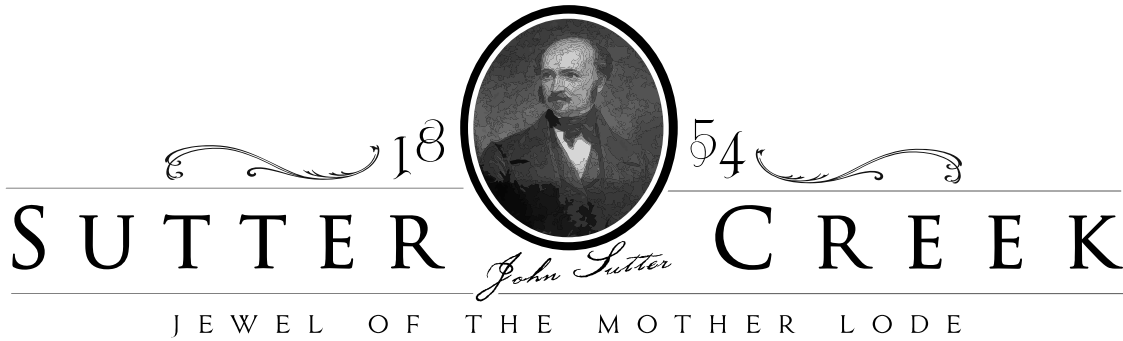
*This section provides an opportunity for the City Attorney to report on any activities or upcoming legislation of importance to the City. No action is expected to be taken by the Council.*

**7. FUTURE AGENDA ITEMS**

*This section provides an opportunity for Council members to request items to be added to the agenda in the future with a majority Council vote.*

**ADJOURNMENT**

**The next regularly scheduled meeting is MONDAY, MARCH 18th at 6:00 P.M**




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### STAFF REPORT

**TO:** THE HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

**MEETING DATE:** MARCH 4, 2024

**FROM:** DEREK COLE, CITY ATTORNEY

**SUBJECT:** ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUTTER CREEK AMENDING CHAPTER 2.04.010 OF THE SUTTER CREEK MUNICIPAL CODE REGARDING THE DATES AND TIMES OF COUNCIL MEETINGS

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#### **Background and Analysis**

The City Council has recently experimented with changing the start time for its bi-monthly meetings to 6 p.m. rather than the 7 p.m. start time that is stated in our Municipal Code. The Council has been scheduling these meetings as special meetings due to the technical non-conformity with the Code start time. The Council has expressed its support for making the time change permanent.

The proposed ordinance does two things. First, it amends the City Code (section 2.04.010) to change the start time for the Council's regular meetings to 6 p.m. Second, as a "clean up" matter and to conform to the City's longstanding practice, the ordinance notes regular Council meetings will be held on Tuesdays when—as with this meeting—the preceding Monday is a federal or state holiday.

#### **Fiscal Impact**

None.

#### **Recommendation**

The City Council should waive the second reading in full and enact Ordinance No. \_\_\_\_ Amending Chapter 2.04.010 of the Sutter Creek Municipal Code regarding dates and times of City Council meetings.

## ORDINANCE NO

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUTTER CREEK AMENDING CHAPTER 2.04.010 OF THE SUTTER CREEK MUNICIPAL CODE REGARDING THE DATES AND TIMES OF CITY COUNCIL MEETINGS

The City Council of the City of Sutter Creek, California does ordain as follows:

#### Section 1

Chapter 2.04.010 of the Sutter Creek Municipal Code is amended to read as follows:

#### **2.04.010 - Meeting days designated.**

The city council shall meet regularly at ~~seven~~six p.m. on the first and third Mondays of each month, except that if a meeting date would fall on a federal- or state-recognized holiday, the meeting shall be held at six p.m. on the following Tuesday.

#### Section 2

All ordinances and parts of ordinances in conflict herewith are hereby repealed.

#### Section 3

The City Council determines that the provisions of this Ordinance are exempt from the California Environmental Quality Act because the instant ordinance involves continuing administrative activities and thus is not a project, as the Act defines, pursuant to Section 15378(b)(2) of the California Environmental Quality Act Guidelines. To the extent the adoption of this Ordinance constitutes a project, the City Council finds pursuant to CEQA Guideline Section 15061(b)(3) that the project is exempt from environmental review because it can be seen with certainty that the adoption of the ordinance would not have any significant impact on the environment.

This ordinance shall be published and posted in the manner required by law by the City Clerk.

Introduced at a meeting of the City Council of Sutter Creek on February 20, 2024 and enacted by the City Council of the City of Sutter Creek at a regular meeting held on March 4, 2024.

PASSED, APPROVED AND ADOPTED at a regular meeting of the Sutter Creek City Council, held on this 4th day of March 2024, by the following vote, to wit:

AYES:

NAYS:

ABSENT:

ABSTAIN:

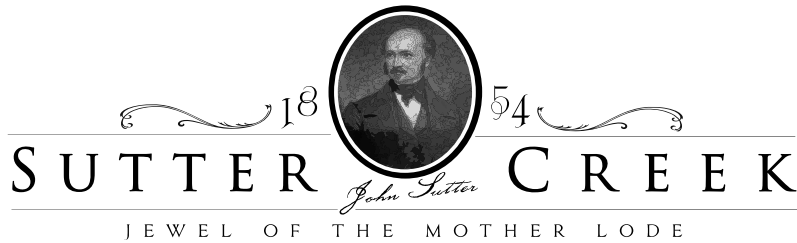
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Claire Gunselman, Mayor

ATTEST:

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Karen Darrow, City Clerk



**TO:** CITY OF SUTTER CREEK CITY COUNCIL

**MEETING DATE:** March 4, 2024

**FROM:** Erin Ventura, Planning Consultant

**SUBJECT:** Vesting Tentative Parcel Map #2917, 81 Spanish Street, Tom Bottorff (APN 180-152-053)

**RECOMMENDATION:**

1. Adopt Resolution 23-24-\* Approving an exemption for Tentative Parcel Map #2917

**BACKGROUND:**

The Project is located within the City of Sutter Creek, within the Historic District, on the west side of Spanish Street between Amelia Street and Hayden Alley as shown on the location map, Figure 1. The Project is within the General Plan Residential Single Family land use designation and the R-1 zone. The parcel is primarily flat, with Sutter Creek running through the rear portion. There is an existing home on the lot that will remain. (Figure 2). Portions of the lot are within a flood zone per FEMA. The site is surrounded by existing single-family residences.

The applicant is requesting the approval of a Vesting Tentative Parcel Map (Exhibit A) to divide one 0.59-acre (25,700 square feet) parcel zoned and designated R-1/RSF Residential Single Family, into two parcels (See Figure 2) zoned and designated R-1/RSF Residential Single-Family;

- Lot 1 – 0.26 acre (11,325 square feet), 50.34' lot frontage width.
- Lot 2 – 0.33 acre (14,375 square feet), 50.33' lot frontage width

**Table 1. General Analysis.**

Site Location	81 Spanish Street (APN 180-152-053)
Building Plan	N/A
Lot Size	0.59 acres to be split into two parcels: <ul style="list-style-type: none"> <li>• Lot 1 – 0.26 acre (11,325 square feet), 50.34' lot frontage width</li> <li>• Lot 2 – 0.33 acre (14,375 square feet), 50.33' lot frontage width</li> </ul>
General Plan Land Use Designation	RSF – Residential Single Family (no change)
Zoning	R-1 – One Family Dwelling (no change)
Main Street Historic District	No
Historic District	Yes





**Figure 1: Parcel Location Maps**



**Figure 2: Street View of 81 Spanish Street**

## **DISCUSSION:**

### General Plan and Zoning Compliance

The application, as proposed, is consistent with the General Plan Land Use Designation of RSF – Residential Single Family and Zoning designation of R-1. The minimum parcel or lot size is 7,000 square feet (0.16 acre) for lots within the R-1 zoning.

The proposed division of one parcel into two parcels is in compliance with the General Plan and zoning code of the City of Sutter Creek. No amendments are proposed or required for this application.

### Subdivision Code Compliance

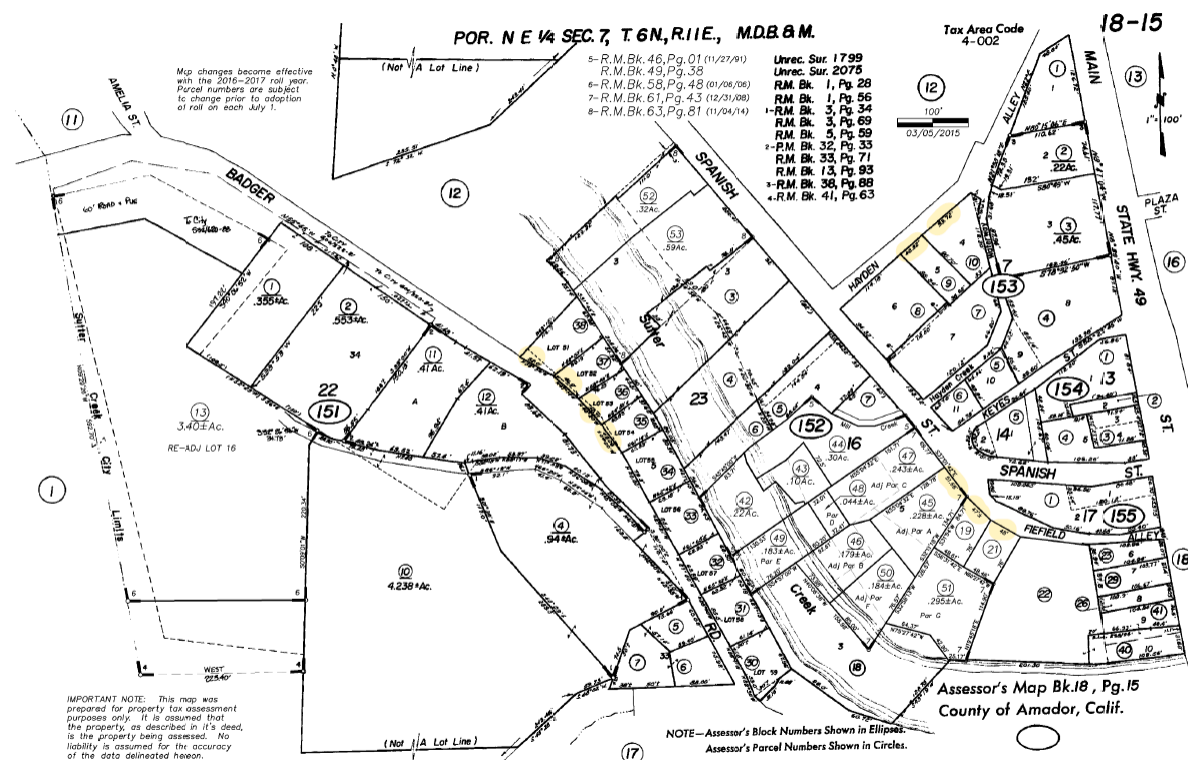
The applicant is requesting an exemption to comply with the Subdivision Code, Section 17.16.100 regarding lot size. Section 17.16.100 states:

#### **“17.16.100 Lots**

A. The design of lots shall be in conformance with Title 18 of this Code. Unless the proposed subdivision is part of a planned development (PD) project, no lot shall have less than sixty feet of street frontage except residential lots on curved or cul-de-sac streets, which may have a minimum street frontage of fifty feet, provided there is a minimum width at the established front yard setback line of sixty feet. The provisions above do not include flag lots.”

The parcel is not located in a cul-de-sac or curved street and the total frontage width of the existing parcel is 100.67 feet. Due to the overall frontage length of the existing parcel, it is not feasible to create two separate parcels and meet the above frontage width requirement of sixty feet, despite the ability to meet the overall square footage requirements. Each proposed lot under the 60-foot frontage requirement. A note on the submitted tentative map indicates, “Design Exception: Frontage widths for Lots 1 and 2 of 50’ is consistent with other properties in the neighborhood. Please see map attached with lots highlighted in yellow”.

A review of parcels within the neighborhood shows that there are other parcels within the vicinity of the project site that have frontage widths less than 60 feet and are similar to the widths proposed for these two lots. Other nearby lots with frontages less than 60 feet are identified in Figure 3 for reference.



**Figure 3: Lots with frontages less than 60 ft**

Exemptions can only be approved by the City Council after the Planning Commission has reviewed the proposed map. The Planning Commission made the following three findings per Subdivision Code 17.30.010, at their February 12, 2024 meeting:

- A. That there are special circumstances or conditions affecting the property.
 

While there is more than adequate square footage to meet the minimum lot area requirements for each lot, the total street frontage of 100.67 feet will not allow for two lots at 60-foot widths due to the existing dimensions. Allowing a smaller frontage width avoids the creation of a flag lot.
- B. That the exception is necessary for the preservation and enjoyment of a substantial property right of the petitioner.
 

The exception will allow for the creation of lots sized appropriately for the R-1 zone/ RSF land use designation rather than continuing an oversized lot for this designation/zoning.
- C. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the territory in which the property is situated.
 

The adjacent residences have frontages that are around the same size and configuration. The less than 60-foot frontage requirement would not be noticeable or detrimental to public welfare or other properties. Adjacent homes on Spanish Street and on nearby streets such have frontages under 60'. The overall minimum square footage of each lot would be met.



A General Plan review was conducted by City staff, and the General Plan policies are met. Conditions of Approval for the Project are attached as Exhibit B.

#### Planning Commission Review

The Planning Commission, at their regular schedule meeting on February 12, 2024, conditionally approved Venting Tentative Parcel Map #2917 by adopting Resolution 23-24-07 (attached). Condition #18 states “Authorization by the City Council for an exception to the requirements of Subdivision section 17.16.100, allowing a lot frontage of less than 60 ft.” Per the Subdivision Code 17.30.030 “the City Council may by resolution authorize the Planning Commission to approve the tentative map with the exceptions and conditions the Council deems necessary to substantially secure the objectives of this title.”

The Planning Commission made the following findings and staff recommends that the City Council also make the required findings per Subdivision Code 17.30.010 to allow lot frontage widths less than 60 feet:

#### **FINDINGS:**

1. The proposed split of the property into two parcels is essential or desirable to the public convenience or welfare;
2. The proposed action is in compliance with the Sutter Creek General Plan goals, policies, and RSF designation.
3. The proposed action will not impair the integrity and character of the zoning district because the use is consistent with activities within the R-1 Zone, which allows a lot split in which the area of the resulting lots is greater than 7,000 square feet.
4. The proposed action would not be detrimental to public health, safety or general welfare.
5. The proposed split of the property implements the Sutter Creek General Plan and the purposes of the Planning Title.

Findings per Subdivision Code 17.30.010 to allow lot frontage widths less than 60 feet:

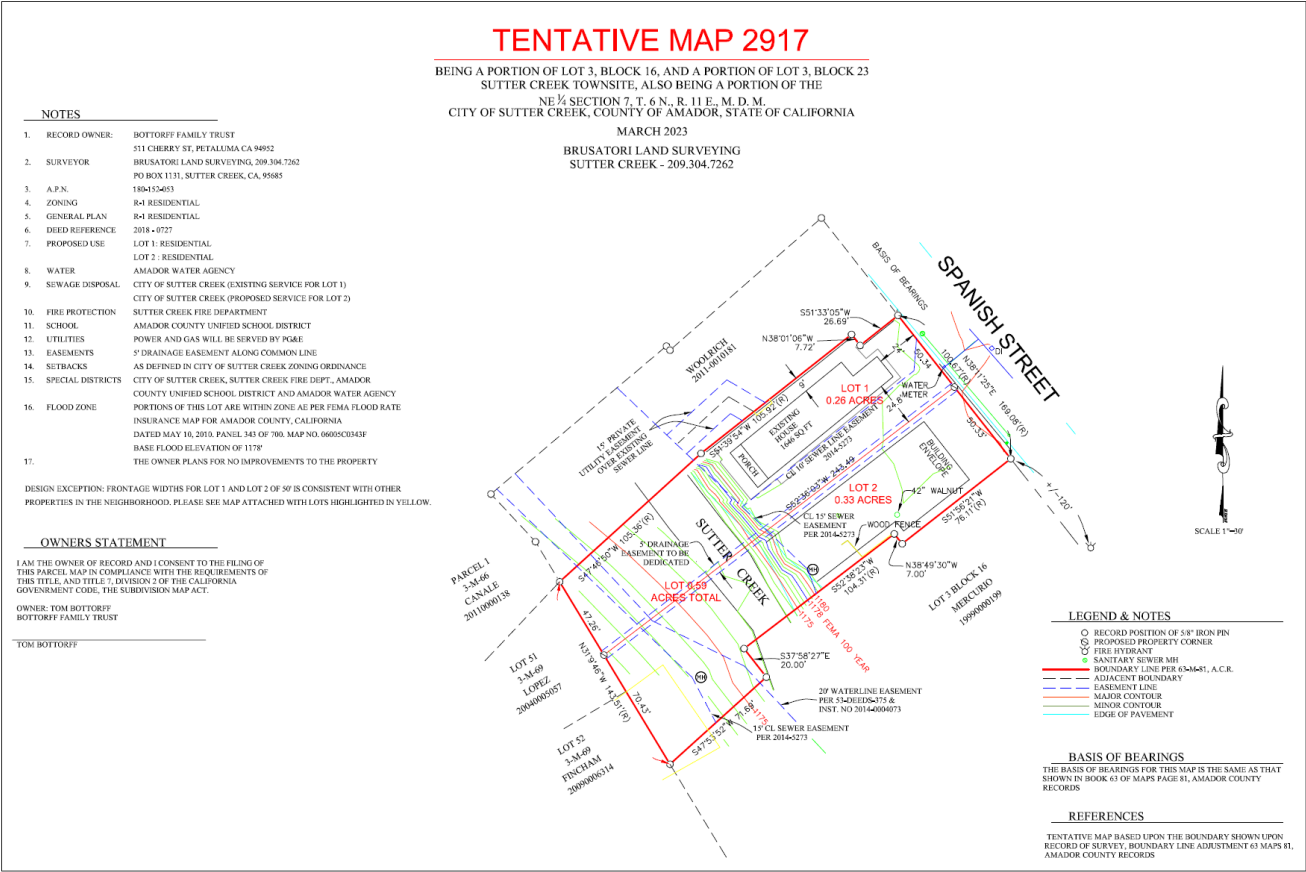
1. There are special circumstances or conditions affecting the property. While there is more than adequate square footage to meet the minimum lot area requirements for each lot, the total street frontage of 100.67 feet will not allow for two lots at 60-foot widths due to the existing dimensions. Allowing a smaller frontage width avoids the creation of a flag lot.
2. The exception is necessary for the preservation and enjoyment of a substantial property right of the petitioner. The exception will allow for the creation of lots sized appropriately for the R-1 zone/RSF land use designation rather than continuing an oversized lot for this designation/zoning.
3. Granting the exception will not be detrimental to the public welfare or injurious to other property in the territory in which the property is situated. The neighboring residences have frontages that are around the same size and configuration, and these sites would be consistent with other lots in the area. The reduced lot frontage would not be noticeable or detrimental to public welfare or other properties. Adjacent homes on Spanish Street and on nearby streets have frontages under 60'. The overall minimum square footage of each lot would be met.

#### **BUDGET IMPACT:**

There is no budget impact directly.

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EXHIBIT A  
TENTATIVE PARCEL MAP #2917



**RESOLUTION 23-24-07**

**A RESOLUTION OF THE PLANNING COMMISSION OF  
THE CITY OF SUTTER CREEK APPROVING VESTING TENTATIVE PAREL MAP 2917  
FOR APN 018-294-018 AT 81 SPANISH STREET**

**WHEREAS**, on the Planning Commission of the City of Sutter Creek did on Monday February 12, 2024, hold a public hearing for Vesting Tentative Map 2917 to split APN 180-294-018 into two separate lots to hear public comments regarding the proposed lot split; and

**WHEREAS**, the Planning Commission did at said public hearing receive a report from the planning staff, receive input from the Applicant and members of the public in attendance at said public hearing, and at the closing of said public hearing did deliberate and consider the same; and

**WHEREAS**, the Planning Commission does find the proposal is exempt from environmental review as a Class 153332 Infill under CEQA.

**NOW, THEREFORE BE IT RESOLVED** that the Planning Commission of the City of Sutter Creek hereby approves Vesting Tentative Parcel Map 2917 based on the following Findings:

1. The proposed split of the property into two parcels is essential or desirable to the public convenience or welfare;
2. The proposed action is in compliance with the Sutter Creek General Plan goals, policies, and RSF designation.
3. The proposed action will not impair the integrity and character of the zoning district because the use is consistent with activities within the R-1 Zone, which allows a lot split in which the area of the resulting lots is greater than 7,000 square feet.
4. The proposed action would not be detrimental to public health, safety or general welfare.
5. The proposed split of the property implements the Sutter Creek General Plan and the purposes of the Planning Title.

**BE IT FURTHER RESOLVED** that the Planning Commission of the City of Sutter Creek recommend that the City Council authorize the Planning Commission to approve Tentative Map 2917 with an exception to lot frontage based on the following findings per Subdivision Code 17.30.010:

1. There are special circumstances or conditions affecting the property. While there is more than adequate square footage to meet the minimum lot area requirements for each lot, the total street frontage of 100.67 feet will not allow for two lots at 60-foot widths due to the existing dimensions. Allowing a smaller frontage width avoids the creation of a flag lot.
2. The exception is necessary for the preservation and enjoyment of a substantial property right of the petitioner. The exception will allow for the creation of lots sized appropriately for the R-1 zone/RSF land use designation rather than continuing an oversized lot for this designation/zoning.
3. Granting the exception will not be detrimental to the public welfare or injurious to other property in the territory in which the property is situated. The neighboring residences have frontages that are around the same size and configuration, and these sites would be consistent with other lots in the area. The reduced lot frontage would not be noticeable or detrimental to public welfare or other properties. Adjacent homes on Spanish Street and on nearby streets have frontages under 60'. The overall minimum square footage of each lot would be met.

**BE IT FURTHER RESOLVED** the Planning Commission hereby approves Vesting Tentative Parcel Map 2917, subject to the following Conditions of Approval. All conditions shall be met as appropriate, prior to or concurrent with the recording of a Parcel Map.

1. The Parcel Map shall be in substantial compliance with the Tentative Parcel Map as approved by the Planning Commission and on file at the offices of the City of Sutter Creek.

2. Upon approval of the Planning Commission, a Parcel Map shall be prepared and processed in accordance with City Code Chapter 17.22 "Parcel Maps."
3. The Subdivider shall continue to meet the requirements of the City Subdivision Ordinance, Zoning Ordinance, Sign Ordinance, Noise Ordinance, Tree and Landscape Ordinance, and Park Dedication and In Lieu Fee Ordinance, unless otherwise specifically superseded by these Conditions of Approval.
4. The ordinance requirements of the Amador Water Agency shall continue to be met.
5. The Applicant shall obtain a Will Serve letter from AWA prior to the Final Map.
6. No sewer service exists for the proposed parcel creation. A new sewer service line shall be installed and marked per City standards, notes and details. Applicant shall obtain a permit and all work shall be inspected by City Public Works personnel.
7. The ordinance requirements of the Sutter Creek Fire District shall continue to be met.
8. The Applicant shall pay the \$50.00 Notice of Exemption filing fee to the Amador County Recorder.
9. This subdivision shall consist of a maximum of two Residential Single-Family parcels.
10. The Tentative Parcel Map is valid for an initial period of 24-months from the date of approval, with extension requests filed prior to the expiration of the map.
11. The ordinance requirements of the Amador Fire Protection District shall be met by participation in the annexation to the County's Community Facilities District No. 2006-1 for fire protection services.
12. All improvements shall be made to City Improvement Standards.
13. The applicant shall pay to the City all appropriate fees and shall submit to the City grading detail, drainage studies, tree removal plans, and any other documentation required by the City prior to the issuance of development permits.
14. Any structural development on the parcels shall comply with the CBC and Title 24 regulations, as well as demonstrate defensible space.
15. The FEMA 100-year flood limit shall be identified on the map.
16. All easements of record shall be noted on the Parcel Map.
17. A private, 5- foot wide drainage easement should be dedicated down the common lot line between the proposed parcels.
18. Authorization by the City Council for an exception to the requirements of Subdivision section 17.16.100, allowing a lot frontage of less than 60 ft.

**PASSED AND ADOPTED** by the Planning Commission of the City of Sutter Creek on Monday the 12th day of February 2024 by the following vote:

**AYES:** Macon, Padilla-Gordon and Ryan

**NOES:** Baggett and Kirkley

**ABSTAIN:**

**ABSENT:**

**THE CITY OF SUTTER CREEK**

*Michael Kirkley*

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**Michael Kirkley, Chairman**

**ATTEST:**

*Karen Darrow*

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**Karen Darrow, City Clerk**

**RESOLUTION 23-24-\***

**A RESOLUTION OF THE CITY COUNCIL OF  
THE CITY OF SUTTER CREEK APPROVING AN EXECPTION TO SUBDIVISION CODE  
17.16.100, FOR REDUCED LOT FRONTAGES, FOR VESTING TENTATIVE  
PAREL MAP 2917 FOR APN 018-294-018 AT 81 SPANISH STREET**

**WHEREAS**, the City Council of the City of Sutter Creek did on Monday March, 4, 2024, hold a public meeting for an exception to lot frontage for Vesting Tentative Map 2917 to split APN 180-294-018 into two separate lots; and

**WHEREAS**, the Planning Commission, on February 12, 2024, held a public hearing, received a report from the planning staff, received input from the Applicant and members of the public in attendance, and at the closing of said public hearing did deliberate and consider the same, approving Resolution 23-24-07; and

**WHEREAS**, the Planning Commission found the proposal is exempt from environmental review as a Class 153332 Infill under CEQA.

**NOW, THEREFORE BE IT RESOLVED** that the City Council of the City of Sutter Creek hereby authorize the Planning Commission's conditional approval of Tentative Map 2917 with an exception to lot frontage based on the following findings per Subdivision Code 17.30.010:

1. There are special circumstances or conditions affecting the property. While there is more than adequate square footage to meet the minimum lot area requirements for each lot, the total street frontage of 100.67 feet will not allow for two lots at 60-foot widths due to the existing dimensions. Allowing a smaller frontage width avoids the creation of a flag lot.
2. The exception is necessary for the preservation and enjoyment of a substantial property right of the petitioner. The exception will allow for the creation of lots sized appropriately for the R-1 zone/RSF land use designation rather than continuing an oversized lot for this designation/zoning.
3. Granting the exception will not be detrimental to the public welfare or injurious to other property in the territory in which the property is situated. The neighboring residences have frontages that are around the same size and configuration, and these sites would be consistent with other lots in the area. The reduced lot frontage would not be noticeable or detrimental to public welfare or other properties. Adjacent homes on Spanish Street and on nearby streets have frontages under 60'. The overall minimum square footage of each lot would be met.

**PASSED AND ADOPTED** by the City Council of the City of Sutter Creek on Monday the 4th day of March 2024 by the following vote:

**AYES:**

**NOES:**

**ABSTAIN:**

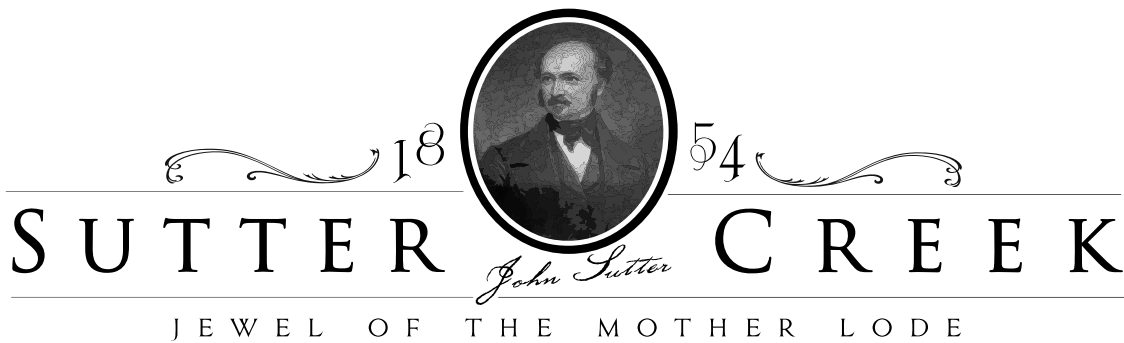
**ABSENT:**

**THE CITY OF SUTTER CREEK**

\_\_\_\_\_  
**Claire Gunselman, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Karen Darrow, City Clerk**




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**TO:** THE HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

**MEETING DATE:** MARCH 4, 2024

**FROM:** CITY MANAGER

**SUBJECT:** COUNCIL PROCEDURES

**TYPE:** ACTION ITEM

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**RECOMMENDATION:** Recommend the City Council discuss procedures and protocols and adopt the Council Procedures attached.

**BACKGROUND:**

This was discussed at the Feb 10<sup>th</sup> Council meeting and Council members were asked to submit comments. This update includes comments received from Council Member Riordan.

Staff intends to revisit this annually during the priority setting meeting to allow updates / modifications to procedures as needed.

**DISCUSSION:**

None

**BUDGET IMPACT**

None



# **COUNCIL PROCEDURES MANUAL FOR THE CITY OF SUTTER CREEK**

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## **1.0 Introduction**

The City of Sutter Creek staff and City Attorney have prepared a procedures manual to assist the City Council by documenting currently accepted and best practices. Through agreement of the City Council and staff to be bound by these practices, the effective administration of City Council affairs is greatly enhanced. While attempting not to be overly restrictive, procedures are established so that expectation and practices can be clearly articulated to guide Council Members in their actions. It is anticipated that this Procedures Manual will be reviewed regularly and may be revised from time to time.

## **2.0 Overview of City Documents**

This procedures manual provides a summary of important aspects of City Council activities. However, it cannot incorporate all material and information necessary for undertaking the business of a city council. Many other laws, policies, plans and documents exist which bind the City Council to certain courses of action and practices. A summary of some of the most notable documents that establish City Council direction is provided below.

**2.1 Municipal Code:** The Municipal Code contains laws and regulations adopted by ordinances. The code establishes the offices of the City Council, Mayor Pro Tempore, and other City officers. The Municipal Code is available from the City Clerk.

**2.2 California Government Code:** The State Government Code contains many requirements for the operation of city government. Many of these requirements are also replicated within the municipal code to ensure there is broad awareness of such requirements. Sutter Creek is a "general law" city, which means it is organized in accordance with provisions of the State Government Code. Also described within the government code is the Council-City Manager form of government. Basically, this form of government prescribes that a city council's role is to establish policies and priorities, while the role of the City Manager is to oversee the operations of the city government.

**2.3 Annual Budget:** The City's annual budget provides a description of city services and the resources used to provide services. The document contains both a broad overview of the budget as well as descriptions of programs and services organized for convenience by department. The City operates on a July 1 through June 30 fiscal year.

**2.4 General Plan:** The General Plan is comprised of a number of elements, such as land use, transportation, open space and housing, in accordance with State requirements, and provides a policy framework for various land use and planning matters that fall within these areas.

## **2.5 Orientation of New Council Members**

It is important that members of the Council have an understanding of the full range of services and programs provided by the organization. As new members join the City Council, the City Manager coordinates with staff to provide tours of City facilities and meetings with City employees. New Council Members are also encouraged to attend the League of California Cities New Council Member training seminar.

## **2.6 League of California Cities Guide**

A publication that provides additional useful information is the *Mayors and Council Members Resource Guide* published by the League of California Cities. The Guide contains general information on the role and responsibilities of city Council Members and on the specific requirements and laws that govern Council actions. The Guide is available from the City Clerk.

## **3.0 Sutter Creek City Council: Powers and Responsibilities**

### **3.1 City Council Generally**

The powers of a city council in California to establish policy are quite broad. Essentially, councils may undertake any action related to city affairs other than those forbidden or preempted by state or federal law. Specifically, *the Council shall have the power, in the name of the city, to do and perform all acts and things appropriate to a municipal corporation and the general welfare of its inhabitants and which are not specifically forbidden by the Constitution and laws of the State of California (California Government Code).*

It is important to note that the Council acts as a body. No member has any extraordinary powers beyond those of other members. While the Mayor and Mayor Pro Tem have some additional ceremonial and administrative responsibilities, as described below, in the establishment of policies, voting and in other significant areas, all members are equal. It is also important to note that policy is established by at least a majority vote of the Council. While individual members may disagree with decisions of the majority, a decision of the majority does bind the Council to a course of action. In turn, it is staff's responsibility to ensure the policy of the Council is upheld. Actions of staff to pursue the policy direction established by a majority of Council do not reflect any bias against Council Members who held a minority opinion on an issue.

The City Council has occasionally debated whether it should take positions of a broader nature or limit itself to purely municipal functions. Historically, Sutter Creek City Councils have chosen to not take positions on issues outside of their immediate authority to effect. The Propensity of the City Council to involve itself in such issues reflects the personalities and outlooks of the members who make up the two-year Council sessions.

Limitations are imposed on a Council member's ability to serve on appointed boards of the city. State law expresses that no member of the Council shall serve as a voting member of any city board, committee, or commission, whether composed of citizen volunteers, city employees, or a combination of both. This is not construed as prohibiting members of the

Council from serving on committees or subcommittees of the Council itself, or of agencies representing other levels of government. In fact, Council Members are strongly encouraged to report to the Council on matters discussed at subcommittees and other regional or state board/agency/group activities in which they have been involved.

### 1.5 Core Responsibilities

A. Demonstrate honesty and integrity in every action and statement

B. Comply with both the letter and spirit of the laws and policies affecting the operation operations of government.

C. Serve as a model of leadership and civility to the community

D. Inspire public confidence in Sutter Creek government

E. Work for the common good, not personal interest

F. Prepare in advance of Council meetings and be familiar with issues on the agenda

G. Fully participate in City Council meetings and other public forums while demonstrating respect, kindness, consideration, and courtesy to others

H. Participate in scheduled activities to increase Council effectiveness

I. Review Council procedures, such as these Council Protocols, at least annually

J. Represent the City at ceremonial functions at the request of the Mayor

K. Be responsible for the highest standards of respect, civility and honesty in ensuring the effective maintenance of intergovernmental relations

L. Respect the proper roles of elected officials and City staff in ensuring open and effective government

## 3.2 Role of Mayor & Mayor Pro Tempore

**3.2.1 Mayor:** As reflected in the Municipal Code, the Mayor is to preside at all meetings of the City Council and perform such other duties consistent with the office as may be imposed by the Council or by vote of the people. The Mayor does not possess any power of veto. As presiding officer of the Council, the Mayor is to faithfully communicate the will of the Council majority in matters of policy. The Mayor is also recognized as the official head of the city for all ceremonial purposes.

The Mayor, unless unavailable, shall sign all ordinances, and other documents that have been adopted by the City Council and require an official signature, except when the City Manager has been authorized by Council to sign documents. In the event the Mayor is unavailable, the Mayor Pro Tempore's signature may be used.

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Traditionally, the Mayor has also been assigned by the City Council to consult and coordinate with the City Manager in the development of agendas for meetings of the City Council. The scope of such review focuses on the timing of business items and the volume of business that can be considered at any one meeting. Such review does not allow for a unilateral unlimited delay of items to be considered by the Council or the introduction of new items not otherwise part of the Council's identified priorities or staff's work plan. Should any significant disagreement arise regarding the scheduling of items, these matters are to be resolved by the full City Council. The staff maintains a "tentative" Council Calendar that programs when matters will likely be considered at future meetings.

**3.2.2 Mayor Pro Tempore:** The City Council has specified that the Mayor Pro Tempore shall perform the duties of the Mayor during the Mayor's absence or disability. The Mayor Pro Tempore shall serve in this capacity at the pleasure of the City Council. The Mayor Pro Tempore title is often abbreviated to Mayor Pro Tem; and a more common and contemporary title of Vice Mayor may be substituted as well.

### **3.3 Appointment of City Manager, City Attorney**

The City Council appoints two positions within the city organization: the City Manager and City Attorney. Both positions serve at the will of the City Council. The City Manager is an employee of the City and has an employment agreement that specifies certain terms of employment including an annual evaluation by the City Council. The City Manager is responsible for all other personnel appointments within the City. For the past several years, the City Attorney has been a member of a law firm specializing in municipal law and has not been a City employee, but rather has provided legal services under contract.

### 3.4 Role in Disaster

The City Council has some special, extraordinary powers in the case of a disaster. Some meeting restrictions and expenditure controls are eased in such extreme situations. In critical situations the Council may be directed by the City Manager/Emergency Services Director to assemble wherever appropriate, to provide policy guidance and to receive information in an emergency. Should the City Council not be available during an emergency, state law specifies a hierarchy as to who may serve in place of the City Council.

### 3.5 Appointment of Advisory Bodies

The City has a number of standing advisory bodies. These procedures apply to all appointments to standing advisory bodies.

In addition, resident committees and task forces are occasionally appointed by the City Council to address issues of interest. A task force or other ad hoc body is a body created by Council for a specific task. Council subcommittees, when used, are to help the Council do its job. Committees ordinarily will assist the Council by preparing policy alternatives and implications for council deliberation. Council subcommittees will normally not have direct dealings with staff operations. Council subcommittees may not speak or act for the Council. Subcommittees will be used sparingly and ordinarily in an ad hoc capacity. This policy applies to any group that is formed by Council action, whether or not it is called a subcommittee. Unless otherwise stated, a subcommittee ceases to exist as soon as its task is complete. The Council may assign, and specify the role of, one or two Council Members to the task force (if more, it becomes a de facto Council meeting). Unless otherwise specified, Council Members have all the rights, and only the rights, of ordinary citizens with respect to task forces and other ad hoc bodies.

Note that both appointed advisory bodies ~~an ad hoc committees~~ ad hoc committees are usually subject to the open meetings laws commonly known as the Brown Act.

### 3.6 Council Relationship with Advisory Bodies

The City Council has determined that Council Members should not lobby commissioners for particular votes. It is inappropriate for a Council Member to contact a Board or Commission member to lobby on behalf of an individual, business, or developer, or to advocate a particular policy perspective. However, Council Members may attend meetings as residents and request that commissioners consider certain issues during their deliberations or in unusual instances as Council Members to reflect the views of the Council as a body. If attending a board or commission meeting, identify your comments as personal views or opinions. Council Members should take caution, however, in attending commission meetings to avoid concerns regarding prohibited “serial meetings” under the Brown Act and especially when a matter may subsequently be appealed from the commission to City Council.

Council Members choosing to attend commission or committee meetings also should be sensitive to the fact that they are not participating members of the body. Council Members have the rights, and only the rights, of ordinary citizens with respect to Commissions – including the right to write to and speak to the Commission during public comment periods. Council members should make a point to clearly state it is an individual opinion and not a representation of the

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feelings of the entire City Council.

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### 3.7 Role of Commission Liaison

Members of the Council are assigned to serve in a liaison capacity with one or more city commissions. The purpose of the liaison assignment is to facilitate communication between the City Council and the advisory body. The liaison also helps to increase the Council's familiarity with the membership, programs and issues of the advisory body. In fulfilling their liaison assignment, members may elect to attend commission meetings periodically to observe the activities of the advisory body or simply maintain communication with the commission chair on a regular basis.

Members should be sensitive to the fact that they are not participating members of the commission, but are there rather to create a linkage between the City Council and commission. In interacting with commissions, Council Members are to reflect the views of the Council as a body. Being a commission liaison bestows no special right with respect to Commission business.

Typically, assignments to commission liaison positions are made at the beginning of a Council term in January. The Mayor will ask Council Members which liaison assignments they desire and will submit recommendations to the full Council regarding the various committees, boards, and commissions which City Council Members will represent as a liaison. In the rare instance where more than one Council Member wishes to be the appointed liaison to a particular commission, a vote of the Council will be taken to confirm appointments.

## 4.0 City Council Meetings

### 4.1 General Procedures

The City hereby adopts a modified version of Roberts Rules of Order.

**4.1.1 Presiding Officer:** The Mayor is the presiding officer and acts as chair at Council meetings. In the absence or incapacity of the Mayor, the Mayor Pro Tempore serves as presiding officer.

**4.1.2 Seating arrangement of the Council:** The Mayor Pro Tempore is seated immediately next to the Mayor. The Mayor, with the approval of the individual Council Members, shall establish the seating arrangement for regular Council meetings.

**4.1.3 Quorum:** Three-fifths of the Council Members constitute a quorum for the transaction of business.

### 4.2 Meeting Schedule

Regular meetings are usually held in the Community Building, 33 Church Street, on the first and third Monday of each month at 6<sup>7</sup> p.m., with study and closed sessions generally being convened earlier, as needed, or at the end of the meeting at the conclusion of public business.

When the Monday on which a Council meeting would normally be held is a federal or state holiday, the Council meeting is held on the next Tuesday.

On occasion, the Council meeting may hold a meeting in an alternative location. Other meetings throughout the year may be cancelled as well. Council Members should inform the City Manager as soon as possible if they intend to be out of town on a set meeting date. On occasion, arrangements may be made in order for Council Members to remotely participate in Council meetings by telephone conference call when out of town.

#### **4.3 Special Meetings**

Special meetings may be called by the Mayor or by three members of the City Council. Written notice must be given to the City Council and to the media 24 hours prior to a special meeting. No business other than that officially notice may be discussed.

#### **4.4 Public Comment:**

At all regular and special meetings, public comments must be permitted before or during consideration of any item appearing on the agenda. Public comment is appropriate on any matter within the jurisdiction of the City Council.

#### **4.5 Meeting Notices and Minutes:**

Notice requirements of the Brown Act are complied with for all meetings; minutes of the meeting are taken by the City Clerk or designee and made available for public inspection.

#### **4.6 Development of Agenda**

A copy of the draft agenda is transmitted to the Mayor for review on the Tuesday one week prior to the meeting. Staff is required to submit reports for a Monday Council meeting to the City Clerk by noon on Wednesday of the week preceding the meeting. All agenda materials are available after 5:30pm on the Friday before the Monday Council meeting.

The ability to schedule new agenda items depends on the nature of the item itself, other agenda subjects that are already scheduled and the amount of time available.

#### **4.7 Placing Items on Agenda**

**4.7.1 City Council:** A Council Member may request an item be considered on a future agenda and, upon agreement of a majority of Council, staff will prepare a staff report if formal Council action is required. Council Members may make this request verbally during a meeting or may submit a written memorequests. Up to two council members may sign such a memo. Normally, the process involves two steps: initial consideration of the request by the full Council at the soonest possible regularly scheduled meeting; and, if a majority agrees, the matter is then scheduled for further consideration on an upcoming meeting agenda once staff has had the ability to analyze staff and fiscal impacts.

**4.7.2 Members of the public:** A member of the public may request that an item be placed on a future agenda in accordance with the policy the City Council has adopted for

considering such requests. Members of the public may request consideration of an agenda item by obtaining a copy of this policy and a request form from the City Clerk. The Mayor shall have discretion to approve or deny the request. If the Mayor denies the request, the member of the public making the request may appeal to the City Council to consider the request during the public comment portion of the next regular City Council meeting. If any member of the Council wishes to hear the request, it shall be considered at the next regular meeting. If no member of the Council indicates a willingness to hear the matter, the matter shall not be heard.

**4.7.3 Emergency and Non-Agendized items:** Emergency and non-agendized items may be added to an agenda only in accordance with state law. Emergency items are only those matters affecting public health or safety such as work stoppages, disasters and other severe emergencies. Adding an emergency item requires a majority vote. Emergency items are very rare. More likely, after the agenda is posted an item arises that the Council would like to act on. Non-agendized items may be added to the agenda only if the Council makes findings that (1) the need to consider the item arose after the posting of the agenda, and; (2) there is a need to take immediate action at this meeting of the City Council. These findings must be approved by a 4/5 vote; if less than five members of the Council are present, the findings require a unanimous vote of those present.

#### **4.8 Notification and Advertising**

The City attempts to well publicize matters of significant neighborhood or community public interest that appear on a City Council agenda, as well as all matters where advertising is required by law. Advertisements and notifications are intended to inform all interested individuals.

#### **4.9 Order of Business**

The City Council establishes the order of business for meetings through the adoption of this policy on meeting procedures. Closed sessions are generally held prior to the start of the regular City Council meeting at 6:00 p.m. Following determination of a quorum by the City Clerk, the Pledge of Allegiance, and any ceremonial matters, the consent ~~calendar-agenda~~ is considered. Thereafter, regular business matters are considered, following City Manager, Council Member, and Commission reports. Workshops, if held, are usually held at the end of a meeting, but from time to time may be held prior to the regular Council agenda, such as at 6:00 p.m.

**4.9.1 Closed Sessions (*closed to the public*):** The ability of the City Council to conduct sessions not open to the public is restricted by state law to ensure open proceedings. Certain defined circumstances exist wherein a city council may meet without the public in attendance. Such circumstances include:

**Real Property:** The purchase, sale, exchange or lease of real property with the City's negotiator; the real property and the person(s) with whom the City may negotiate, along with the matters under negotiation, must be announced in open session prior to the closed session (*Cal Govt Code §54956.8*).

**Litigation:** Pending or significant exposure to litigation or the decision to initiate litigation; for pending cases, the litigation title must be identified in open session prior to the closed session unless the Council states that to do so would jeopardize its ability to conclude existing settlement negotiations or effectuate service of process.

**Compensation:** Salaries and benefits of employees; Council meets in closed session to review its position and instruct designated representatives (*Cal Govt Code §54957.6*).

**Personnel:** A closed session is held to discuss the appointment, employment, evaluation of performance, or dismissal of public employee, or to hear a complaint against the employee unless the employee requests a public hearing (*Cal Govt Code §54957.6*).

It is critical to stress that there shall be no disclosure of closed session confidential information. Members of the Council, employees of the City, or anyone else present shall not disclose to any person, including affected/opposing parties, the press, or anyone else, the content or substance of any discussion which takes place in a closed session without Council direction and concurrence. Whenever possible, written reports received for closed session items will be turned in at the end of the meeting.

Typically, closed sessions will be scheduled prior to the public portions of the meeting or at the end of the meeting after public business has been concluded. This is done so public portions of the meeting are not interrupted by closed sessions. In addition, such sessions may require the attendance of special legal counsel and consultants. In an attempt to manage the costs of these professionals, it is beneficial to conduct closed sessions at a time certain. On occasion, during the course of a regular meeting, an issue arises that requires the Council to adjourn to a closed session on the advice of the City Attorney.

**4.9.2 Consent ~~Calendar~~Agenda:** Those items on the Council agenda that are considered to be of a routine and non-controversial nature by the City Manager are placed on ~~the~~ “Consent ~~Calendar~~.” These items shall be approved, adopted, accepted, etc., by one motion of the Council. Typical consent calendar items include the final reading and adoption of ordinances, various resolutions approving agreements, awards of contracts, minor budgetary adjustments, meeting minutes, status reports, and reports of routine city operations.

Council Members may request that any item listed under “Consent-~~Calendar~~” be removed from the Consent ~~Calendar~~Agenda, and Council will then take action separately on this item. A member of the public may request that an item listed under “Consent-~~Calendar~~” be removed and Council action taken separately on the item. Items that are removed (“pulled”) by members of the Council for discussion will typically be heard after other Consent ~~Calendar~~-items are approved unless the majority of Council chooses an earlier or later time.

Council Members are encouraged to contact the City Manager’s office prior to noon on the day of a Council meeting day to provide notification of items to be removed from ~~the~~-Consent ~~Calendar~~. This practice allows the City Manager to notify staff that may need to be

present to respond to removed items. Equally important, it also allows the City Manager to inform staff who do not need to be present at the meeting. Unless contacted in advance of the meeting with sufficient time, the presumption is that staff will not be present.

**4.9.3 Public Comment:** Following the Consent Calendar, the public is provided time to comment on matters within the City's jurisdiction not appearing on the agenda. Comments on agenda items should not be heard until the appropriate item is called. Individuals desiring to speak are to address the Council from the speaker podium after giving their name and place of residence. Speaker cards may be required and should be filled out, including the speaker's actual jurisdiction of residence, and given to the City Clerk prior to Public Comment.

Comments should focus on a specific matter within the Council's jurisdiction. Members of the public are encouraged to present written comments, preferable in advance of the meeting, as a way to fully communicate their thoughts on agenda or non-agenda items. When written materials are presented, they should be submitted to the City Clerk for distribution and record keeping ahead of time. Comments are typically limited to 5 minutes per speaker so that all have an opportunity to address the Council.

Videos, PowerPoint or similar presentations may be permitted, but only upon approval of the Mayor. Such presentations must be made within the 5-minute time limit permitted for public comment. The Mayor reserves the privilege to further limit such requests as necessary for the effective conduct of the meeting. If permitted to use videos, Powerpoints, or similar presentations, speakers are still to address their comments to the City Council from the podium. The speaker is also responsible for setting up the electronic presentation in advance of the meeting; set-up time shall not be provided once the meeting has begun.

Public comment on regular business items normally follows staff's presentation of the staff report, clarifying questions from Council Members and Applicant comments as necessary and appropriate. Typically, applicants or appellants are limited to a maximum of 10 minutes. Members of the public generally are limited to 5 minutes.

Members of the public shall generally be permitted to speak only once during public comment or as to a regular business item. The Mayor shall have discretion to permit members of the public one additional opportunity to speak on a regular business item, provided all others wishing to speak have first been provided an opportunity to address the City Council. Members of the public shall address their comments only to the Council. Dialogue with individual Council Members, the City Manager, the City Attorney, or Staff shall generally not be permitted. Should members of the public have questions of the Council or staff, they should state their questions during their allotted speaking time. Generally, all questions asked during public comments should be addressed at the same time, following the closure of public comment. The Mayor, however, shall have discretion to allow questions to be answered during public comment if, in his or her opinion, answering the question at that time would be in the best interests of the Council and public attending the meeting.

**4.9.4 City Manager Comments:** Provides an opportunity for the City Manager to provide updates to the public and the Council. By scheduling after Public Comments, the City Manager can respond to those comments when appropriate. Updates can highlight items on future agendas, provide information of general interest received from outside agencies, respond to

comments or inquiries received from the public, or other announcements of interest to the public.

**4.9.44.9.5 Public Hearing:** Sometimes the City Council is required by law to hold public hearings. Examples of such hearings include enactment of ordinances, consideration of certain land use applications, adoption of the annual City budget, and adoption of municipal fees

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and charges. For such hearings, once the Council has voted to close the hearing, no member of the public shall be permitted to address the Council or the staff from the audience, except at the discretion of the presiding officer (Mayor).

**4.9.54.9.6 Regular Business Items:** Regular items are shown on the agenda and are normally taken in the order listed.

**4.9.64.9.7 Written Communications:** The City Council has established a practice of placing written communication between Members requesting items to be agendaized and select letters sent by agencies to Council Members on the meeting agenda so that this correspondence receives wide distribution. If letters or emails from the public are received on the day of or just before a meeting, copies will be placed at the Council Members' positions on the dais.

**4.9.74.9.8 City Manager and Council Member Reports:** ~~The City Manager~~ and Council member reports provide the Council an opportunity to introduce matters not currently before the Council, including brief announcements, to pose questions of staff and make requests for items to be placed on the agenda at a future meeting. Examples of appropriate communications would be information of general interest received from outside agencies, comments or inquiries received from the public, requests to agendaize future items, or announcements of interest to the public.

State law provides that Council can take action only on such matters that have been noticed at least three days (72 hours) in advance of the regular meeting, or 24 hours in the case of a special meeting, unless special circumstances are found to exist (as mentioned above). Formal action or approval on non-agendaized items is not allowed, and such items should be placed on the agenda of the next available regular meeting.

**4.9.84.9.9 Commission Reports:** Commission reports provide an opportunity for designated members of appointed boards to address the Council on matters of importance or to update the Council and community on studies that are underway.

**4.9.94.9.10 Study Session:** From time to time, the Council will hold study sessions. These meetings are normally scheduled either at the end of a Council meeting or at a special time before the regular Council meeting. On occasion, dedicated study sessions may be held instead of a regular meeting on the first Monday of the month. The purpose of study sessions is to give the Council a less formal and more interactive forum to discuss issues in advance of any official action to be taken. Staff often presents policy alternatives and is more directly engaged in the dialogue. Official minutes are not generally kept, but meetings are open to the public when held in the Council Chambers and at the direction of the Council. While general direction may be given to staff or the proponent behind the topic of discussion, no formal action by the Council is taken in a study session.

#### **4.10 Discussion Rules**

To assist the City Council in the orderly discussion of items, rules are followed which represent accepted practices for the management of Council meetings.

**4.10.1 Obtaining the floor:** A member of the City Council or staff shall first address the Mayor and gain recognition. Comments and questions should be directed through the chair and limited to the issue before the Council. Cross-exchange between Council Members and public should be avoided.

**4.10.2 Questions to staff:** A Council Member shall, after recognition by the Mayor, address questions to the City Manager, City Attorney, department head or designated staff member. If a Council Member has questions on an agenda item, that member should preferably contact staff prior to the meeting in order to allow staff time to research a response for the meeting.

**4.10.3 Interruptions:** Once recognized, a Council Member is considered to have the floor, and another Council Member may not interrupt the speaker except to make a point of order or point of personal privilege. In such a circumstance, the Council Member holding the floor shall cease speaking until the point of order or privilege is resolved.

Upon being recognized by the Mayor, members of the staff shall hold the floor until completion of their remarks or until recognition is withdrawn by the Mayor.

**4.10.4 Discussion:** A Council Member should not speak more than once on a particular subject until every other Council Member has had the opportunity to speak. Council Members are encouraged to discuss items during the decision-making process and may ask staff to respond when appropriate. The Mayor normally allows other members to speak first, then will give his/her views and summarize.

**4.10.5 Tabling procedure:** Tabling an item immediately stops discussion and causes a vote to postpone a matter indefinitely or to time and date certain. A motion to “continue” an agenda item has the same effect, but is generally used when a scheduling problem arises or when insufficient time is available to address the matter thoroughly.

**4.10.6 Right of protest:** A Council Member is not required~~s~~ to state reasons for a dissenting vote.

**4.10.7 Calling for the question:** The purpose of calling for the question is to disallow further debate and put an issue to an immediate vote. A Council Member may move to “call for the question” on an item which is being considered. The motion requires a second, is not debatable, and must pass by a four-fifths vote. If the motion carries, the item is no longer debatable and the City Council must vote on it.

**4.10.8 Conducting business at a late hour.** All regular meetings of the Council are to end by midnight unless there is a three-fourths vote taken by 11:00 pm to extend the meeting. The motion to extend is to include the title of the items to be considered after 11:00 and a new ending time for the meeting.

#### **4.11 Voting Procedures**

When present, all Council Members are to vote. Failure of a seated member to orally express a vote constitutes an affirmative vote.

No ordinance, resolution or motion shall be passed or become effective without an affirmative vote by the majority with a quorum present.

A conflict of interest shall be declared whenever appropriate and in compliance with state law. The affected Council Member shall disclose the existence and nature of the conflict and then step down from the dais and leave the Chambers.

Council Members may declare general consensus at the direction of the presiding officer, if there are no negative votes or objections.

Upon request of any Council Member, a roll call vote will be taken and recorded.

A tie vote is equivalent to a motion that has failed. The presiding officer may publicly explain the effect of the tie vote for the audience or may direct a member of the staff to do so.

Reconsideration of an item shall be allowed in accordance with the following Council guidelines. A Member of the prevailing majority when the previous vote was taken must make a motion for reconsideration, which must be seconded and carried. The City Council has determined that any motion for reconsideration should be made at the meeting immediately following that at which the action was taken. No motion for reconsideration will be entertained after this time unless the City Council determines significant new information has arisen which warrants such action.

#### **4.12 Other Guidelines**

Other guidelines have been developed to ensure that meetings of the Council are conducted in a civil and professional manner. Council Members and staff shall:

- Work to preserve appropriate civility, order and decorum during all meetings.
- Discourage side conversations, disruptions, interruptions or delaying efforts.
- Inform the Mayor before departing from a meeting.
- Limit disruptive behavior. The Mayor will call persons demonstrating rude, boisterous, or profane behavior to order. If such conduct continues, the Mayor may call a recess, request the removal of such person(s) from the Council Chambers, adjourn the meeting, or take such other appropriate action. The Council has a policy to discourage applause, booing or other similar behaviors from the public during meetings.

- Demonstrate Effective Problem-Solving Approaches. Council Members have a public stage to show how individuals with disparate points of view can find common ground and seek a compromise that benefits the community as a whole. Council Members are role models for residents, business people and other stakeholders involved in public debate.
- Recognize that only the City Council, staff, advisory body chairs or designated representative, and those authorized by the presiding officer shall be permitted to sit at the Council or staff tables.
- Limit breaks of the City Council to 5-10 minutes. The Council has authorized the Mayor to resume the meeting if a quorum exists and other members have not returned from the break within the announced time period.
- Impose time limits on speakers. While the City Council encourages and embraces the need for and right of public participation, it acknowledges that public comments must, at times, be limited. Typically, speakers are limited to five minutes but a shorter time limit may be established as deemed necessary. ~~If needed, each speaker will be thanked for his or her participation.~~

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**4.13 Values of Respect:** The City Council has also recognized the importance of approaching the public's business in an environment of personal respect and courtesy, which places emphasis on the consideration of policy and avoids personalization of comments. Some guidelines utilized by the City Council include:

- Discussion should focus on policy matters
- Personal criticism of members is inappropriate
- Proper decorum should be displayed as other members express their views
- Treat members of the public equally, applying rules in a fair and consistent manner

**4.14 Enforcement of Order:** The City Attorney serves as the Sergeant-At-Arms. Any Council Member may request the Mayor to enforce the rules of protocol. Upon motion and majority vote, the presiding officer shall be required to do so.

## 5.0 Open Meeting Laws ("The Brown Act")

Operations and procedures of the City and City Council incorporate requirements of the state's open meeting law (commonly referred to as the Brown Act). Because this law is such an important part of local government operations, some specific requirements of the law are highlighted below.

**5.1 Overview:** The entire city organization conducts its business in compliance with the Ralph M. Brown Act, State Government Code Section 54950. The intent of the Act is to ensure that deliberation and actions of local public agencies are conducted in open and at public meetings.

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**5.2 Applicability:** The Act applies to Council and all commissions, boards, Council appointed subcommittees, and other bodies described in Government Code section 54952. Staff cannot promote actions that would violate the Act.

**5.3 Meetings:** All meetings shall be open and public. A City Council meeting takes place whenever a quorum (3 or more members) is present and information about the business of the body is received; discussions qualify as a meeting. Social functions (e.g., receptions, dinners) do not fall under the Act unless city business is discussed.

Serial meetings take place when any member of Council or city staff contact more than two Council Members for the purpose of deliberating or acting upon an item pending before the City Council. This restriction does not apply to the public or media who may contact Council Members. Correspondence that merely takes a position on an issue is acceptable. Note that the Brown Act applies to City Council Members immediately after their election and prior to their swearing in ceremony.

**5.4 Agendas:** Agendas for regular meetings must be posted 72 hours in advance of the meeting and must meet various requirements.

**5.5 Actions:** No action can be taken on any item not appearing on the posted agenda.

**5.5.1 Exceptions:** 1) An emergency situation exists (determined by a majority of the Council). 2) The need to take action arose subsequent to the agenda being posted and there is a need for immediate action (determined by 2/3 vote of the Council; or if less than 2/3 are present, by unanimous vote). 3) The item was continued to another meeting that was scheduled and posted within 5 days of the original agenda.

**5.6 Public Input:** The public, by law, has an opportunity to address the Council on any item of interest to the public that is within the jurisdiction of the Council, at the time the matter is heard. The Mayor has the right to establish a time limit on speakers and the total time allocated for a particular issue. Five minutes per speaker has been standard, but in unusual cases either shorter or longer time periods may be established by the Mayor or the Council.

**5.7 Public Disruptions:** A portion or all of the public may be removed if willful disruption makes conducting the meeting “unfeasible”; the press may remain unless they participate in the disruption.

**5.8 Correspondence:** All writings distributed for discussion or consideration at a public meeting are public records.

**5.9 Special Meetings:** Special meetings may be called by the Mayor or a majority of the Council with strict notification requirements for delivery to the media and Council 24 hours before the time of the meeting.

**5.10 Emergency Meetings:** Emergency meetings may be called without notification due to the disruption or threatened disruption of public facilities. Only work stoppages or crippling disasters that impair the public health and/or safety qualify for emergency meetings.



**5.11 Other Provisions:** The Act provides many other restrictions and requirements; this description is intended merely as a Council summary and overview of the Act, and nothing in this Chapter supersedes the provisions of the Brown Act. Please check with the City Attorney and/or the City Clerk for more information.

## **6.0 Council Communications**

### **6.1 Overview**

Perhaps the most fundamental role of a Council Member is communication – communication with the public to assess community opinions and needs – communication with staff to provide policy direction and to gain an understanding of the implications of various policy alternatives. Because the City Council performs as a body (that is, acting based on the will of the majority as opposed to individuals), it is important that general guidelines be understood when speaking as a Council Member. Equally important, when members are expressing personal views and not those of the Council, the public should be so advised.

### **6.2 Correspondence from Council Members**

Members of the City Council may occasionally be called upon to write letters to citizens, businesses or other public agencies. Typically, the Mayor will be charged with transmitting the City's position on policy matters to outside agencies on behalf of the City Council. Correspondence sent on behalf of the Council is placed on official City letterhead and is signed by the Mayor or City Manager. Individual members of Council may prepare letters to constituents in response to inquiries or to provide requested information. Staff can assist in the preparation of such correspondence. Council Members are required to place on file and to provide copies upon request of any correspondence sent.

On occasion, members may wish to transmit correspondence on an issue upon which the Council has yet to take a position or about an issue for which the Council has no position. In these circumstances, members should use their personalized letterhead and clearly indicate within letters that they are not speaking for the City Council as a whole, but for themselves as one member of Council.

After the City Council has taken a position on an issue, official correspondence should reflect this position. While members who may disagree with a position are free to prepare correspondence on such issues as private citizens, City letterhead, official Council title, and staff support should not be utilized in order to avoid confusion. In addition, City letterhead and staff support cannot be utilized for personal or political purposes.

Council Members may be asked to prepare letters of recommendation for students and others seeking appointment. It is appropriate for individual Council Members to utilize City letterhead and their Council titles for such letters. No review by the full Council is required; however, copies will be kept on file.

### **6.3 Speaking for “the City”**

Similar to written correspondence, when members are requested to speak to groups or are asked the Council’s position on an issue, the response should reflect the position of the Council as a whole. Of course, a member may clarify their vote on a matter by stating, for example, “While I voted against ‘X,’ the City Council voted in support of it.” When representing the City at meetings or other venues, it is important that those in attendance gain an understanding of the City Council’s position rather than that of an individual member.

When dealing with members of the media, it is usually the Mayor who represents the position and interest of the City Council. When the City Manager is contacted, they too will refer the media first to the Mayor for comment. Similarly, when the City issues a Press Release, the Mayor is consulted in terms of any Council Member quotes or references. The City Manager decides whether staff is available to respond to media requests directly or not.

### **6.4 Local Legislation, Propositions**

The City has been a member of the League of California Cities for many years. Either through the advisories received from these two organizations or as a result of City staff following key legislative bills of importance to the City, the Council is at times requested to take a position or an action on pending state legislation. Unless the Council has previously acted on a similar bill in the recent past, in which the City’s position is clear, the Council has a practice of requiring analysis and discussion of bills prior to taking an official position. The analysis includes a summary of the legislation’s purpose and a listing of those entities both in support of and against the proposed legislation. The City may enter into alliances with other entities to promote common goals.

### **6.5 Proclamations**

Ceremonial proclamations are often requested of the City in recognition of an event or individual. Proclamations are not statements of policy but a manner in which the city can make special recognition of an event (e.g., Recycling Week) or individual. As part of his/her ceremonial responsibilities, the Mayor is charged with administration of proclamations. Individual Council Members do not issue proclamations. Proclamations can be sent to the requestor or presented at a City Council meeting as arranged with the requesting body and at the Mayor’s discretion.

## **7.0 Interaction with City Staff**

### **7.1 Overview**

City Council policy is implemented on a daily basis through staff. Therefore, it is critical that the relationship between Council and staff be well understood by all parties so that policies and programs may be implemented successfully. The City of Sutter Creek has a long tradition of positive relationships between members of the City Council and staff. To maintain these effective relationships it is important that roles are clearly recognized.

## **7.2 Council-Manager Form of Government**

Like most California cities, Sutter Creek has adopted a City Council-City Manager form of government. The Council appoints a City Manager to implement policy, enforce its laws, to direct the daily operations of city government, and to prepare and monitor the municipal budget. The Municipal Code specifies roles and responsibilities and requires that Council Members work through the City Manager in dealing with City staff unless simply requesting information from department heads or other staff members. The City Manager is responsible to the City Council as a body rather than to individual Council Members.

## **7.3 Council-Manager Relationship**

The employment relationship between the City Council and City Manager reflects the fact that the City Manager is the chief executive officer of the City. The City Manager has an employment agreement with the City Council. Regular communication between the City Council and City Manager is important in maintaining effective interpersonal relations. All dealings with the City Manager, whether in public or private, should be consistent with the authority of the City Manager in administrative and personnel matters. Council Members should avoid situations that can result in City staff being directed, intentionally or unintentionally, by one or more members of the City Council. Further, Council Members should avoid involving themselves in matters regarding individual City employees or related affairs.

The City Council evaluates the City Manager's performance on a regular basis to ensure that both the City Council and City Manager are in agreement about organizational performance and priority goals that are based on mutual trust and common objectives.

As in any professional relationship, it is important that the City Manager keep the City Council informed. The City Manager respects that the final responsibility for establishing the policy direction of the City is held by the City Council. The City Manager communicates with City Council in various ways. In addition to the formal Council meetings, there are periodic briefing meetings with individual Council Members and written memoranda and email. Communication must be undertaken in such a way that all Council Members are treated similarly and kept equally informed. It is also important that the Council provide ongoing feedback, information and perceptions to the City Manager including responses to written communications and surveys requesting feedback.

## **7.4 City Manager Code of Ethics**

The City Manager is subject to a professional code of ethics that binds the City Manager to certain practices that are designed to ensure his or her actions are in support of the City's best interests. Violations of such standards can result in censure.

## 7.5 City Council-City Attorney Relationship

The City Attorney is the legal advisor for the Council, City Manager and departments. The general legal responsibilities of the City Attorney are to: 1) provide legal assistance necessary for formulation and implementation of legislative policies and projects; 2) represent the City's interest, as determined by the City Council, in litigation, administrative hearings, negotiations and similar proceedings; 3) prepare ordinances, resolutions, contracts and other legal documents to best reflect and implement the purposes for which they are prepared; and 4) keep City Council and staff apprised of court rulings and legislation affecting the legal interest of the City. It is important to note that the City Attorney does not represent individual members of Council, but the City Council as a whole.

## 7.6 Roles and Information Flow

**7.6.1 Objectives:** It is the intent of staff to ensure Council Members have free and easy access to information from the City and to ensure that such information is communicated completely, with candor and without bias. Individual Council Members may not intervene in staff decision-making, the development of staff recommendations, scheduling of work, or executing department priorities without the prior knowledge and approval of the City Council as a whole. This is necessary to protect staff from undue influence and pressure from individual Council Members, and to allow staff to execute the priorities given by management and the Council as a whole without fear of reprisal.

**7.6.2 Council roles:** The full City Council retains power to accept, reject, amend, influence, or otherwise guide and direct staff actions, decisions, recommendations, service levels, work loads and schedules, departmental priorities, and the performance of City business. If a Council Member wishes to influence the actions, decisions, recommendations, workloads, work schedule, and priorities of staff, that member must prevail upon the Council to do so as a matter of Council policy.

Should a Council Member become dissatisfied about a department, he/she should always talk it over with the City Manager, not the department head. Concerns about a department head must be taken to the City Manager only. Clear, honest communication that respects the abilities, experience, and dignity of each individual is expected. As with your Council colleagues, practice civility and decorum in all interactions with City staff. Never publicly criticize an individual employee. Criticism is differentiated from questioning facts or the opinion of Staff. All critical comments about staff performance should only be made to the City Manager through private correspondence or conversation.

**7.6.3 Access to Information:** Individual Council Members as well as the Council as a whole shall receive the full cooperation and candor of staff in being provided with any requested information. The City Manager or appropriate staff will inform council when a critical or unusual event occurs about which the public would be concerned.

To assist the City Manager in his or her ability to monitor the flow of information, requests for information are best tracked if submitted in writing, either in memorandum form or through email. And to ensure proper responsiveness, Council Members are asked to "cc" both the

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department head and the City Manager on all correspondence with staff.

There are limited restrictions when information cannot be provided. Draft documents (e.g., staff reports in progress, administrative draft EIRs) under review are not available for

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release until complete and after review by city management. In addition, there are legal restrictions on the City's ability to release certain personnel information even to members of the City Council. Certain aspects of Police Department affairs (access to restricted or confidential information related to crimes) may not be available to members of the Council.

City Council Members have a responsibility in this information flow as well. It is critical that they make use of staff reports and commission minutes. Council Members should come to meetings well prepared – having read staff reports and attachments, and requesting in advance any necessary and available information from staff. If a Council Member has questions on an agenda item, that member should preferably contact staff prior to the meeting in order to allow staff time to research a response for the meeting.

**7.6.4 Staff roles:** The Council recognizes the primary functions of staff as serving the community, executing Council policy and actions and in keeping the Council informed. Staff is obligated to take guidance and direction only from the Council as a whole or from the appropriate management supervisors. Staff is directed to report to the City Manager any attempts by individual members of the Council to unduly direct or otherwise pressure them into making, changing or otherwise influencing recommendations.

City staff will make every effort to respond in a timely and professional manner to all requests made by individual Council Members for information or assistance; provided that, in the judgment of the City Manager, the request is not of a magnitude, either in terms of workload or policy, which would require that it would be more appropriately assigned to staff through the direction of the full City Council. If a request by an individual Council Member is determined by the City Manager to take one hour or more of staff time to complete, that request may be included on the formal Council agenda for full Council discussion.

## **7.7 Dissemination of Information**

In Cases where a staff response to an individual Council Member request involves written materials that may be of interest to other Council Members, the City Manager will provide copies of the material to all other Council Members. In making this judgment, the City Manager will consider whether the information is significant, new, otherwise not available to the Council or of interest to the Council.

## **7.8 Magnitude of Information Request**

Any information, service-related request, or revised policy position perceived as necessary by individual Council Members, and that cannot be fulfilled based on the above guidelines, should be submitted by the individual Council Member in writing to the Council as a whole. When raised at a Council meeting, the full Council can decide whether and when to agendaize the request for further consideration. The City Manager will seek necessary clarification as to whether the Council desires staff research or a report prepared; and, if so, the relative priority that should be given to such a request in light of other priorities and potential workload impacts.

## **7.9 Staff Relationship with Advisory Bodies**

Staff support and assistance is typically provided to commissions and task forces. However, advisory bodies do not have authority over City employees. While staff may work closely with advisory bodies, staff members remain responsible to their immediate supervisors and ultimately the City Manager and City Council. The Members of the commission/board/committee are responsible for the functions of the advisory body, and the chairperson is responsible for committee compliance with City policies and practices.

Staff support often includes preparation of an agenda and its posting in compliance with the Brown Act. Staff may also prepare reports providing background on the issue, alternatives, a recommendation, and appropriate backup materials, if necessary. Advisory body members should have sufficient information to reach decisions based upon a clear explanation of the issues. The assigned staff person may serve as secretary, taking minutes as needed. Staff members are to assist the advisory body chair to ensure appropriate compliance with state and local laws and regulations.

It is important that advisory bodies wishing to communicate recommendations to the City Council do so through approved Council agenda procedures. In addition, if a commission wishes to correspond with an outside agency, that correspondence will be prepared by staff for review by the City Manager and possible approval by the City Council. Individuals who would like staff to perform research or for the commission to review a particular issue must gain the approval for such a request from the full City Council before any work is planned or done. The annual work plan for the City's commission is determined by the City Council at its priority-setting that precedes the adoption of the fiscal year budget.

## **7.10 Restrictions on Political Involvement by Staff**

Local governments are non-partisan entities. Professional staff, as reflected within the principles of the Council-Manager form of government, formulates recommendations in compliance with Council policy and for the good of the community and is not influenced by political factors. For this reason, it is very important to understand the restrictions of staff in any level of political involvement through campaigns, fund-raisers, or other means.

By working for the City, staff members do not surrender rights to be involved in local elections. Indeed, laws are in place to preserve those rights. However, there are limitations to such involvement. Different restrictions apply to management and to general employees.

General employees have no restrictions while off the job. No participation in campaigns or other activities may take place while on the job. No City resources may be used by staff in support of any campaign. Even while off the job, no employee may participate in campaign or other activities in City uniform. For example, posing for a promotional photograph for a candidate for local office while in uniform is inappropriate. The support of the City Council in these matters is requested. A Council Member asking staff to sign petitions or similar items can similarly create an awkward situation.

For management staff, the City Manager strongly discourages any involvement in a local campaign even while on personal time. Such involvement could erode the tenet that staff is to provide an equal level of service to all members of the City Council. The City Manager specifically prohibits any political involvement in local campaigns by department heads.

## **8. Support provided to City Council**

### **8.1 Staff Support**

Sensitivity to the workload of support staff members in the City Manager's Office is appreciated. Should requested tasks require significant time commitments, prior consultation with the City Manager is requested.

### **8.2 Office Equipment**

E-mail and other technologies facilitate efficient communication by Council Members. However, their use also raises important legal issues to which Council Members must pay special attention. First, the Brown Act prohibits members from using "technological devices" to develop a concurrence by a majority regarding an action to be taken by the Council. "Technological devices" under the Brown Act include phones, faxes, computer email, public access cable TV and video. Council Members should not use e-mail, faxed or phones for communicating with other Council Members in order to develop a majority position on any particular issue that may come before the full Council. Particular caution is advised when using or responding to email.

Second, be aware that most emails sent by Council Members probably are public records under the Public Records Act. Even though it does not create paper, sending email is more similar to mailing a letter than placing a telephone call. The information in the email is stored on the computer network until deleted, and may continue to exist on the network's back-up systems even after being deleted. As a result, emails can become records of the City maintained in the course of business, and thus available for public disclosure under the Public Records Act.

Finally, the City's email system is intended for the conduct of official business, and not for political reasons.

### **8.3 Mail, Deliveries**

Members of the City Council receive a large volume of mail and other materials from the public, private interests and staff. The City Clerk's Office staff maintains a mailbox for each member. Meeting agenda materials are available for pick up Friday evening at 5:30pm and are posted on the City's website. Members are encouraged to return unwanted reports and documents to staff for distribution to the public or for recycling.



## **8.4 Financial Matters**

### **8.4.1 Council Compensation**

State law and Municipal Code provide for modest compensation to members of the City Council. State law limits an increase in City Council salaries to 5% per year, effective only following the next election after adoption. Currently, Council Members receive a stipend of \$240 per month (the mayor receives \$300 per month).

### **8.4.2 Expenditure Allowance**

The annual city budget may include limited funding for members to undertake official City business. Eligible expenses include travel for attendance at conferences or educational seminars, and the purchase of publications and annual subscriptions. Travel expense reimbursement for meals does not allow reimbursement for alcohol. Donations to organizations are not eligible nor are meals for individuals other than Council Members. Available funds are disbursed on a first come first served basis, with the Mayor and City Manager monitoring expenses during the year.

### **8.4.3 Expenditure Guidelines**

It is important to note that any expense must be related to City affairs. Public property and funds may not be used for any private or personal purpose. Courts have ruled that this prohibition includes personal political purposes. For example, reimbursement could not be allowed to pay for meals at a meeting designed to discuss political or campaign strategies. It is also inappropriate for City funds to pay for a meal or other expenses of a private citizen.

City budgetary practices and accounting controls apply to expenditures within the City Council budget. Reimbursement requests should be made through the City Manager's Office monthly with receipts. Expenditure records are public information. Questions arising as to the proper application or interpretation of the adopted policy will result in the City Manager conferring with the Mayor.

## **9.0 Conflicts & Liability**

### **9.1 Conflict of Interest**

State laws are in place to prevent an action by a Council Member that would or may constitute a conflict of interest. The purpose of such laws and regulations is to ensure that all actions are taken in the public interest. At any ~~time~~time, a Member believes a potential for conflict of interest exists, he/she is encouraged to consult with the City Attorney or private legal counsel for advice. Staff may also request an opinion from the City Attorney regarding a member's potential conflict. Laws that regulate conflicts are very complicated. Violations may result in significant penalties including criminal prosecution.

There are two primary laws that govern conflicts of interest for public officials in California – the Political Reform Act and Government Code §1090. In general terms, the Political Reform Act prohibits a public official from having a financial interest in a decision before the official; §1090 prohibits a public official from having an interest in government contracts.

The Political Reform Act prohibits public officials from making, participating in, or in any way attempting to use their official position to influence a governmental decision in which they know, or have reason to know, that they have a financial interest. Therefore, if a public official has a conflict of interest, the official must disqualify himself or herself from acting on or participating in the decision before the City. Once a year Council Members and certain staff are required to file statement of economic interests.

Government Code §1090 is similar to the Political Reform Act, but applies only to City contracts in which a public official has a financial interest. The financial interests covered by §1090 are different from those in the Political Reform Act. A Member having an interest in a contract may preclude the City from entering into the contract at all. In addition, the penalties for violating §1090 are severe. If a Council Member believes that he or she may have any financial interest in a contract that will be before the Council, the Member should immediately seek advice from the City Attorney or the Member's personal attorney.

There are a number of other restrictions placed on Council actions that are highlighted in the League of California Cities' *Guide*. Such restrictions include prohibitions on secrecy and discrimination as well as assurance that all city funds are spent for public purposes. Violations of these restrictions may result in personal liability for individual Council Members.

## **9.2 City Attorney Advice**

The City Attorney has an affirmative duty to protect the City and City Council from conflicts of interest wherever possible. It is critical to note that while the City Attorney can render advice on the interpretation of State laws and regulations on conflict matters, such advice is solely and interpretation of the law. The only authority that can provide binding interpretations on such matters is the State Fair Political Practices Commission (FPPC). Members or the full Council may also solicit opinions on such matters directly from the FPPC; however, such opinions often take time to develop and may not readily respond to urgent matters. It is important to note that the City Attorney does not represent individual members of Council, but the City Council as a whole.

## **9.3 Conflict of Interest Forms**

Annual disclosure statements are required of all Council Members, designated commissioners and senior staff which indicate potential conflicts of interest including sources of income, ownership of property and receipt of loans and gifts. Council Members and the City Manager often serve on the governing board of other agencies as a result of their positions. These agencies also require submittal of disclosure forms. These forms require information including income, loans, receipt of gifts, and interest in real property among other items.

#### **9.4 Liability**

The City is a large institution offering a variety of services and may occasionally find itself subject to legal actions through lawsuits. For example, those involved in automobile accidents sometimes choose to take actions against a City since the accident occurred on a City roadway. The City must always approach its responsibilities in a manner that reduces risk to all involved; however, with such a wide variety of high-profile services all risk cannot be eliminated. The City belongs to an agency with other governments to manage insurance and risk activities

It is important to note that violations of certain laws and regulations by individual members of the City Council may result in that member's being personally liable for damages which would not be covered by the City's insurance. Examples may include discrimination, harassment or fraud.