



COUNCIL POLICY AND PROCEDURES COMMITTEE

AGENDA

SPECIAL MEETING - TUESDAY, NOVEMBER 30, 2021
VIDEO CONFERENCE WITH NO PHYSICAL MEETING LOCATION
5:00 P.M.

This meeting will be conducted in accordance with City of Mountain View City Council Resolution No. 18618 in accordance with Assembly Bill 361. All members of the Council Policy and Procedures Committee will participate in the meeting by video conference, with no physical meeting location.

Members of the public wishing to comment on an item on the agenda may do so in the following ways:

1. Email comments to city.manager@mountainview.gov by 2:00 p.m. on the meeting date. Emails will be forwarded to the Council Policy and Procedures Committee. Please identify the Agenda Item number in the subject line of your email. Emails received after 2:00 p.m. will not be read during the meeting but will be entered into the record for the meeting. Members of the public may provide oral comments by phone or online as detailed below.
2. Provide oral public comments during the meeting:
 - Online: You may join the Zoom Webinar using this link: <https://mountainview.gov/meeting> and entering Webinar ID: 837 2376 3703. You may be asked to enter an email address and a name. Your email address will not be disclosed to the public.

When the Chair announces the item on which you wish to speak, click the "raise hand" feature in Zoom. Speakers will be notified of their turn shortly before they are called on to speak. For instructions on using the "raise hand" feature in Zoom, visit https://mountainview.gov/raise_hand.

- By phone: Dial: 669-900-9128 and enter Webinar ID: 837 2376 3703. When the Chair announces the item on which you wish to speak, dial *9. Phone participants will be called on by the last two digits of their phone number.

When called to speak, please limit your comments to the time allotted (up to three minutes, at the discretion of the Chair).

1. **CALL TO ORDER**

2. **ROLL CALL** – Committee members Alison Hicks, Lucas Ramirez, and Chair Lisa Matichak.

3. **MINUTES APPROVAL**

Minutes for the June 2, 2021 meeting have been delivered to Committee members and copies posted on the City Hall bulletin board. If there are no corrections or additions, a motion is in order to approve these minutes.

4. **ORAL COMMUNICATIONS FROM THE PUBLIC**

This portion of the meeting is reserved for persons wishing to address the Committee on any matter not on the agenda. Speakers are limited to three minutes. State law prohibits the Committee from acting on nonagenda items.

5. **DISCUSSION/ACTION ITEMS**

5.1 **COUNCIL POLICIES A-13 – CITY COUNCIL MEETINGS, AND K-2 – COUNCIL ADVISORY BODIES**

The Committee will discuss updates to the policies regarding Councilmember leave and the addition of minute summaries from Council Study Sessions as well as minor clean-up items.

5.2 **COUNCIL POLICY K-5 – PUBLIC ART AND CAPITAL IMPROVEMENT PROGRAM PROJECTS**

The Committee will consider revisions to the Policy concerning the types of applicable capital improvement program (CIP) projects, construction cost threshold level for applicable projects, and the percentage contribution toward public art.

6. **COMMITTEE/STAFF COMMENTS, QUESTIONS, COMMITTEE REPORTS**

No action will be taken on any questions raised by the Committee at this time.

7. **ADJOURNMENT**

AGENDAS FOR BOARD, COMMISSIONS, AND COMMITTEES

- The specific location of each meeting is noted on the agenda for each meeting which is posted at least 24 hours in advance of the meeting.
- Questions and comments regarding the agenda may be directed to the City Manager's Office at 650-903-6301.
- The agenda and staff reports may be viewed at the City Clerk's Office, 500 Castro Street, Third Floor, beginning the evening before each meeting. Agenda materials may be viewed online at *mountainview.legistar.com*.
- **SPECIAL NOTICE – Reference: Americans with Disabilities Act, 1990**
Anyone who is planning to attend a meeting who is visually or hearing-impaired or has any disability that needs special assistance may call the City Manager's Office at 650-903-6301 48 hours in advance of the meeting to arrange for assistance. Upon request by a person with a disability, agendas and writings distributed during the meeting that are public records will be made available in the appropriate alternative format.
- The Board, Commission, or Committee may take action on any matter noticed herein in any manner deemed appropriate by the Board, Commission, or Committee. Their consideration of the matters noticed herein is not limited by the recommendations indicated herein.
- **SPECIAL NOTICE** – Any writings or documents provided to a majority of the Council Policy and Procedures Committee regarding any item on this agenda will be made available for public inspection in the City Clerk's Office, located at 500 Castro Street, during normal business hours and at the meeting location noted on the agenda during the meeting.

ADDRESSING THE BOARD, COMMISSION, OR COMMITTEE

- Interested persons are entitled to speak on any item on the agenda and should make their interest known to the Chair.
- Anyone wishing to address the Board, Commission, or Committee on a nonagenda item may do so during the "Oral Communications" part of the agenda. Speakers are allowed to speak one time on any number of topics for up to three minutes.



COUNCIL POLICY AND PROCEDURES
COMMITTEE

MINUTES

SPECIAL MEETING - WEDNESDAY, JUNE 2, 2021
VIDEO CONFERENCE WITH NO PHYSICAL MEETING LOCATION
4:00 P.M.

1. **CALL TO ORDER**

The meeting was called to order at 4:02 p.m. with Chair Matichak presiding.

2. **ROLL CALL**

Present: Committee members Alison Hicks, Lucas Ramirez, and Chair Lisa Matichak.

Absent: None.

Also Present: Kimbra McCarthy, City Manager; Krishan Chopra, City Attorney; Nicole Wright, Senior Assistant City Attorney; Heather Glaser, City Clerk; Wanda Wong, Deputy City Clerk; John Marchant, Community Services Director; Allison Flynn, Executive Assistant – Community Services Department; Dawn Cameron, Public Works Director; Angela LaMonica, Real Property Program Administrator; Sue Rush, Human Resources Director; Lindsey Bishop, Senior Human Resources Analyst; Jesse Takahashi, Finance and Administrative Services Director; Suzy Niederhofer, Assistant Finance and Administrative Services Director; and Kimberly S. Thomas, Assistant to the City Manager.

3. **MINUTES APPROVAL**

Motion – M/S Ramirez/Matichak – Carried 2-0-1; Hicks abstained – To approve the minutes for the October 28, 2020 meeting without modification.

4. **ORAL COMMUNICATIONS FROM THE PUBLIC** – None.

5. DISCUSSION/ACTION ITEMS

5.1 COUNCIL POLICY A-15—CITY OF MOUNTAIN VIEW TICKET DISTRIBUTION

Community Services Director John Marchant presented the report. Mr. Marchant provided an overview that Council Policy A-15 is drafted to comply with the Fair Political Practices Commission (FPPC) regulations that allow tickets distributed in accordance with an adopted policy, meeting specified requirements, to not be considered gifts to the individual recipient under the Political Reform Act (PRA).

Mr. Marchant advised that the FPPC had recently further amended the regulations, which require an update to the Council Policy.

Mr. Marchant explained that during the course of any year, the City receives and distributes tickets to Councilmembers, staff, appointed officials, volunteers, and local nonprofits. These tickets are typically for Shoreline Amphitheatre events received under the City's lease agreement with Live Nation. This Policy can also be utilized for other types of tickets the City may receive and distribute to City officials.

Mr. Marchant recommended changes to Council Policy A-15 to meet the revised FPPC regulations and make several clean-up clarifications and edits to existing definitions in the Policy.

Public comment opened on this item at 4:30 p.m.

No speakers.

Public comment closed at 4:30 p.m.

The Committee discussed: A number of clarifying questions were responded to by Mr. Marchant and Ms. Flynn. Senior Assistant City Attorney Nicole Wright also responded to questions. The Committee requested that staff further clarify the limitations on the transfer of tickets and, going forward, include the Policy in internal communications.

Motion—M/S Ramirez/Hicks—Carried 3-0—To move the staff recommendation with additional clarifications and incorporate the Policy as a part of communications.

5.2 CITY COUNCIL POLICY D-10—CITY MANAGER APPROVAL OF OVERHIRE POSITIONS

Senior Human Resources Analyst Lindsey Bishop presented the report regarding City Council Policy D-10, which allows City Manager approval of overhire of positions. Ms. Bishop provided a brief summary of the Policy, current authority, and the recommended revisions.

Ms. Bishop noted the Policy was intended to provide for the City Manager's ability to address staffing needs, proactively plan for anticipated vacancies, and facilitate onboarding before the vacancy to allow for training and transfer of institutional knowledge required for the success of the new employees.

Ms. Bishop noted the current Policy limits the number of concurrent overhires to up to two per department. In some cases, the limit of two overhires per department creates barriers to the most efficient staffing strategies and impacts succession planning and continuity of services when key positions are anticipated to be vacant concurrently in the same department.

Ms. Bishop provided an overview of the recommendations to include a new set of criteria looking at the context of budget balances, assumed permanent vacancy of an existing position, and the duration.

Public comment opened on this item at 4:49 p.m.

No speakers.

Public comment closed at 4:49 p.m.

The Committee discussed: A number of clarifying questions were responded to by Ms. Bishop, including questions about retired annuitants, recruitment contingencies, and recruitment challenges.

Motion— M/S Hicks/Ramirez—Carried 3-0—To move the staff recommendation.

5.3 COUNCIL POLICY A-10— AUTHORIZATION TO EXECUTE CITY CONTRACTS AND AGREEMENTS AND INCREASE CERTAIN LIMITED APPROPRIATIONS

Public Works Director Dawn Cameron presented the report and recommended modifications to Council Policy A-10, Authorization to Execute City Contracts and Agreements and Increase Certain Limited Appropriations (proposed revisions to Categories 5 and 6).

Ms. Cameron advised that there were some inadvertent inconsistencies discovered between previous intended Policy changes and what was provided to Council for approval in the resolution. The December 2018 actions were intended to clarify authorization to execute contracts and agreements and to increase the City Manager's authority regarding the acquisition of property and leases.

Ms. Cameron noted that staff brought this item seeking clarification and corrections to clarify the intent of the 2018 changes related to City Manager (delegated authority for Category 5 and the bidding requirements for Category 6).

Public comment opened on this item at 4:54 p.m.

No speakers.

Public comment closed at 4:54 p.m.

The Committee approved the staff recommendation without discussion.

Motion— M/S Ramirez/Hicks—Carried 3-0—To move the staff recommendation.

5.4 COUNCIL POLICY K-2— COUNCIL ADVISORY BODIES

City Clerk Heather Glaser presented the report recommending a discussion of whether to amend Council Policy K-2 to add additional guidance regarding third (or more) consecutive terms for Council advisory bodies; staggering recruitments and terms for Council advisory bodies to spread the interview process out over the year; and/or adding guidance for how Council advisory body interviews shall be conducted.

Ms. Glaser recommended a discussion for feedback on these provisions and/or other areas where cleanup is needed.

Public comment opened on this item at 5:03 p.m.

No speakers.

Public comment closed at 5:03 p.m.

The Committee discussed: As a part of the discussion, other suggested clarifications of the policy were discussed section by section. The Committee direction was summarized after substantive discussion of additions and removals to include the following changes:

- Add language that would give interviewing bodies the opportunity to consider second-term applicants for an additional term in the event a sufficient number of new applications for Council advisory body vacancies or seats with expiring terms are not received.
- Add the Rental Housing Committee and Public Safety Advisory Board as bodies the entire City Council shall interview during a Council Study Session.
- Add a new section outlining the selection process for all Council advisory bodies, including direction on the conduct of interviews and voting procedures.
- Add a new requirement that all Council advisory bodies adopt an annual schedule of meetings.
- Remove advertisement language that includes references to incumbents.
- Remove Attachment A regarding the Environmental Planning Commission Members Selection Process.

Motion – M/S Ramirez/Hicks – Carried 3-0 – To incorporate the summarized changes noted above.

6. COMMITTEE/STAFF COMMENTS, QUESTIONS, COMMITTEE REPORTS

Assistant to the City Manager Kimberly S. Thomas noted a follow-up email to the Committee on the item related to former Councilmembers serving on external boards (due to nonaligned terms in office with the external board term), and an update about upcoming agenda items was provided.

7. ADJOURNMENT

The meeting was adjourned at 6:32 p.m.

HM/6/MGR
611-06-02-21mn

**MEMORANDUM**

City Clerk's Office

DATE: November 30, 2021

TO: Council Policy and Procedures Committee

FROM: Heather Glaser, City Clerk

SUBJECT: **Council Policies A-13—City Council Meetings, and K-2—Council Advisory Bodies**

BACKGROUND

Council Policy A-13, *City Council Meetings*, establishes policies and procedures governing the conduct of City business. Among other things, the Policy outlines the preparation of minutes of City Council meetings and states that: “the City Clerk shall be required to make a record only of business actually passed upon by a vote of the Council and shall not be required to record any remarks of Councilmembers or of any other person except at the special request of a Councilmember.”

At its May 25 meeting, the Council directed that a brief summary, as stated by the Mayor or Mayor’s designee, of direction provided by the Council during Study Sessions be included in Council meeting minutes and referred the matter to the Council Policy and Procedures Committee. It is appropriate and in keeping with the guidance provided in Robert’s Rules of Order that minutes of City Council proceedings be a record of what was done, or the action taken by the Council, and not a record of what was said.

Since Study Session items are not the only time at which the Council may provide direction to staff in lieu of a formal vote, staff recommends the Committee add the following language to Council Policy A-13:

“... the City Clerk shall be required to make a record only of business actually passed upon by a vote of the Council and shall not be required to record any remarks of Councilmembers or of any other person except at the special request of a Councilmember. In the case of items where no vote is taken, a brief summary, as stated by the Mayor or Mayor’s designee, of direction provided by the Council shall also be recorded.”

Additionally, Council Policy A-13 provides guidance on Councilmember attendance at City Council meetings and defines the parameters by which a Councilmember may be absent from a meeting, which are:

The Council consents to the absence either before, or at the meeting immediately after the absence, for the Councilmember to attend to official duties of the City, including, but not limited to, representing the City at conferences or official functions; the Councilmember is ill; the Councilmember is on bereavement leave due to the death of a family member which would qualify an employee for bereavement leave under the City's Employer/Employee Relations Resolution; the meeting was not on the Council's formally adopted annual schedule of meetings if an annual schedule was adopted.

At its June 22 meeting, the Council added maternity leave as a qualified excuse for absence from an Advisory Body meeting to Council Policy K-2. In keeping with this, staff recommends updating Council Policy A-13 to include: "Family leave for the birth or adoption of a child" as an additional reason for absence from a Council meeting.

Clean-up changes to Council Policies A-13 and K-2 are recommended and attached in redline version (Attachments 1 and 2) to align Policy language and resolve discrepancies. Proposed changes to the language prescribed in Council Policy K-2 for the Council advisory body application process are suggested to accommodate recruitment for the Public Safety Advisory Board and the Rental Housing Committee. Additionally, staff recommends removing language in Council Policy A-13 requiring staff to post draft minutes to the City's bulletin board. Draft minutes are posted to the City's website as part of the legal requirements for posting a meeting agenda outlined in Government Code Section 54954.2.

RECOMMENDATION

Staff recommends the Committee consider whether to recommend to the Council amending Council Policy A-13 to: (1) add language for an additional reason for a Councilmember's absence from a Council meeting; (2) add language requiring a brief summary of Council direction be recorded in minutes when no formal vote is taken; and (3) remove the requirement to post draft minutes to the City's bulletin board. Additionally, staff recommends the Committee consider whether to recommend to the Council amending Council Policy K-2 to: (1) align with Council Policy A-13 on an additional reason for a Council advisory body member's absence from a meeting; and

(2) to clean up wording prescribed for the Council advisory body application process. Staff can take the Committee's recommendations directly to the Council's December 14 meeting.

HG/2/CLK
428-11-30-21M

- Attachments:
1. Council Policy A-13 (redline)
 2. Council Policy K-2 (redline)

CITY COUNCIL POLICY

SUBJECT: CITY COUNCIL MEETINGS

NO.: A-13

PURPOSE:

In accord with Section 512 of the City Charter, this policy will set forth Rules of Procedure for the conduct of City business. The Council shall be governed by the Rules of Procedure as follows.

POLICY:

1. Meetings

a. Time of Meetings

The regular and special meetings of the City Council shall be held at the time and place, and called in the manner as specified by ordinance adopted pursuant to Article 5, Section 507 of the City Charter. The Council shall adopt an annual schedule of meetings each year.

b. Attendance

Pursuant to Section 503 of the City Charter, a Councilmember is absent with the consent of or on order of the Council if any of the following apply:

The Council consents to the absence either before, or at the meeting immediately after the absence, for the Councilmember to attend to official duties of the City, including, but not limited to, representing the City at conferences or official functions;

The Councilmember is ill;

The Councilmember is on family leave for the birth or adoption of a child;

The Councilmember is on bereavement leave due to the death of a family member which would qualify an employee for bereavement leave under the City's Employer/Employee Relations Resolution;

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The meeting was not on the Council's formally adopted annual schedule of meetings. ~~if an annual schedule was adopted.~~

2. Council Agenda

a. Preparation

The agenda and its supporting information is prepared by the City Manager and City Clerk.

b. Council Request for Agendizing

A Councilmember request for an item to be agendized will be done as an action item with support work of up to one hour by staff. If more than one hour is required, then the item will be agendized to ask Council if time should be spent on preparing a full report on the proposed agenda item.

c. Items for Agenda

Any person may request the placement of a matter on the Council agenda by submitting a written request with the agreement of a sponsoring Councilmember. This may be done in advance through a written request identifying the sponsoring Councilmember, or by appearing at Oral Communications at a Council meeting. If the request is made during Oral Communications, the Mayor shall determine if any Councilmember is willing to sponsor the agenda item. The request must fully identify the person making the request and the action requested by the Council along with all pertinent background information. The City Manager and the Mayor shall reasonably determine when agenda requests will be placed on the agenda and how much meeting time shall be scheduled. Upon a majority vote of a Council advisory board, an item can be agendized requesting Council authorization of a work item, as provided for in Council Policy A-23, Work Item Referral Process for Council Advisory Bodies and Councilmember Committees.

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d. Order of Agenda Items

The City Manager or City Clerk may change the order of items on the written agenda from that normally followed in order to better facilitate the meeting. The Mayor with consensus, or Council, by majority motion, may change the order of agenda items during the Council meeting.

3. Public Input

- a. An individual speaker shall have up to three minutes to address the Council. If requested in advance of the public input portion of the agenda item to the Mayor or City Clerk, a speaker who represents five or more members of the public in attendance who complete cards but elect not to speak may have up to 10 minutes to address the Council, if the Mayor determines that such extension will reduce the total number of speakers who planned to speak.

Public Input on Agendized Items and Nonagendized Items (Oral Communications section of the agenda): If there appears to be a large number of speakers, the Mayor may reduce speaking time to no less than 1.5 minutes per speaker unless there is an objection from Council, in which case majority vote shall decide the issue without debate.

Pursuant to Government Code Section 54954.3(b)(1), at least twice the allotted speaking time will be provided to a member of the public who utilizes a translator.

- b. An applicant and/or appellant for a zone change, precise plan or quasi-judicial hearing or appeal to the Council shall have up to 10 minutes to address the Council and, with the consent of the Council, two minutes of rebuttal at the conclusion of all public speakers.
- c. The Mayor may extend the speaker time limits as deemed necessary if there is no objection from Council. If there is an objection, a majority vote shall decide the issue.

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d. Speaker Cards

Members of the public who wish to address the Council may complete a speaker card provided giving their name and city of residence. If the speaker wants further notification from the City, the speaker may include a mailing or e-mail address.

4. Order of Business

The Council shall conduct business in the following order, except as the order may be adjusted pursuant to Section 2(d) of this policy:

1. Call to Order/Pledge of Allegiance

2. Roll Call

~~2A. Proclamations/Presentations~~

~~3. Presentations~~

~~Minutes Approval~~

4. Consent Calendar

Items that have been reviewed by the staff and considered to be noncontroversial, requiring only routine action by the Council shall be listed on the "Consent Calendar." The presiding officer shall advise the audience that the Consent Calendar matters will be adopted by one motion unless any Councilmember or any individual or organization interested in one or more Consent Calendar matters has any question or wishes to make a statement. In that event, the remainder of the Consent Calendar may be approved and the presiding officer will open the items pulled from the Consent Calendar, unless the Council requests they be considered elsewhere on the Agenda.

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SUBJECT: CITY COUNCIL MEETINGS

NO.: A-13

5. Oral Communications from the Public on Nonagendized Items

Any person may address the Council on any matter within the City's subject matter jurisdiction that is not scheduled elsewhere on the agenda. Under State law, the Council may take no action on items raised under this item unless the item is then scheduled on a future agenda.

6. Public Hearings

Recess (ten minutes)

7. Unfinished Business

8. New Business

9. Items Initiated by Council

10. Council, Staff/Committee Reports

Councilmembers may provide a brief report on their activities, including reports on their committee activities, report on inquiries they received and any member, or the Council itself may provide a reference to staff or other resources for factual information, request staff to report back to the Council at a subsequent meeting concerning any matter, take action to direct staff to place a matter of business on a future agenda, or refer a work item to a Council advisory body or Councilmember committee.

11. Closed Session Report

12. Adjournment

CITY COUNCIL POLICY

SUBJECT: CITY COUNCIL MEETINGS

NO.: A-13

5. Minutes of the Meeting

a. Preparation

The minutes of the Council shall be kept by the City Clerk in ledgers provided for that purpose with a record of each particular type of business with proper subheads; and written minutes shall become the official records of the City of Mountain View provided that the City Clerk shall be required to make a record only of business actually passed upon by a vote of the Council and shall not be required to record any remarks of Councilmembers or of any other person except at the special request of a Councilmember. In the case of items where no vote is taken, a brief summary, as stated by the Mayor or Mayor's designee, of direction provided by the Council shall also be recorded.~~the City Clerk shall be required to make a record only of business actually passed upon by a vote of the Council and shall not be required to record any remarks of Councilmembers or of any other person except at the special request of a Councilmember.~~ A record shall be made of the names and cities of residence of persons addressing the Council, if same are voluntarily provided, the title of the subject matter to which their remarks are related and whether they spoke in support of or in opposition to such matter. The City Clerk shall secure the necessary equipment for recording Council meetings and make recordings available in the current medium when determined to be practical by the City Clerk or as directed by the Council.

As soon as possible after each Council meeting, the City Clerk shall provide Council with a copy of the draft minutes in the agenda packet for approval at the next regularly scheduled Council meeting. ~~The draft minutes will also be posted on the City's bulletin board and website.~~

b. Reading of Minutes

Unless the reading of the minutes of a Council meeting is requested by a Councilmember, the minutes may be approved without reading if the City Clerk has previously furnished each member a copy.

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6. Presiding Officer

a. Mayor/Vice Mayor; Substitutions

The presiding officer of the Council shall be the Mayor, and in his/her absence the Vice Mayor, as provided in Article 5, Section 505 of the City Charter. In the absence of the Mayor and Vice Mayor, the City Clerk shall call the Council meeting to order. Upon the arrival of the Mayor or Vice Mayor, the temporary Mayor Pro Tempore shall immediately relinquish the Chair upon the conclusion of the matter of business then before the Council. The Council has usually handled this by the most tenured Councilmember taking the chair as temporary Mayor Pro Tempore.

7. Conduct of Business

At the time fixed for public hearings or when any subject or question is presented to the Council, and before any motion is made, any persons present who desire to speak to the subject will be permitted to address the Council, and may voluntarily state his/her name and city of residence to the Clerk and upon addressing the Honorable Mayor and members of the City Council. All remarks shall be addressed to the Council as a body and not to any member thereof, except with the permission of the presiding officer. Discussion of a subject may be limited by the presiding officer to a reasonable time, for the expedience of Council business.

Members of the Council desiring to address another member of the Council, or a member of the public, shall only do so upon recognition by the Chair.

8. Consideration and Debate of Matters by Council

Except as otherwise provided, after a public hearing or any other matter has been closed to public input, the Council may debate the matter. During such time, no member of the audience may speak on the subject, except upon being asked a question by a member of the Council through the presiding officer. During such debate, a member of the Council desiring to speak or to address another member of the Council shall address the Chair and, upon recognition by the Chair, may speak

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or address other members of the Council but shall be confined to the question under debate.

a. Subject of Discussion

The Mayor may stop any discussion which does not relate to a specific agenda item or the motion made and may also stop the discussion of the matter if the Council has previously agreed to limit the time for discussion and the allotted time has been used.

b. Council Discussion; Motion

Councilmembers discuss the item and move to dispose of any item.

- (1) Councilmembers shall address the Mayor for recognition.
- (2) The Mayor shall recognize the Councilmember next in turn.
- (3) The Mayor shall endeavor to allow each member a chance to speak once before calling on a member to speak a second time.
- (4) The Mayor shall not speak on the item until all members wishing to speak have had a chance to speak at least once.
- (5) Councilmembers may ask clarifying questions of a member of the public following his/her comments to the Council; however, Councilmembers shall not join in a debate or discussion with members of the audience.
- (6) Councilmembers may make a motion at any time.

c. Motion Contents

The motion shall clearly set out the action to be taken and omit supporting reasons or discussion.

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d. Second to Motion

The Mayor must receive a second to the motion before any discussion or comment may be made on the motion.

e. Restatement of Motion

After discussion and just prior to the vote, the maker of the motion may be asked by the Mayor to restate the motion. If the motion is before the Council in writing, the maker of the motion need state only the main points of the motion and any change in the written recommendation.

f. Conflicting Out

Any Councilmember who is disqualified from voting because of a conflict or potential conflict of interest shall inform the Council of the conflict or potential conflict prior to the consideration of the item. After a member so advises the Council he/she shall exit the Council meeting room prior to consideration of the item, except as permitted under the Political Reform Act.

g. Tie Votes

Any motion receiving a tie vote fails, and the status quo prevails as though the motion were not made. A majority of the Council may continue a tie vote item to the next regular or adjourned regular meeting at which it is anticipated that a full Council will be present. Such an item may be similarly continued again by the presiding officer if the full Council does not attend.

9. General Policies Regarding Meetings and Procedure

a. Starting of Meeting

The Council meeting will start at the published time, or as soon thereafter as a quorum is present.

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b. Disposition of Motions

A main motion is disposed of:

- (1) By no action when it fails to get a second.
- (2) By adopting or rejecting it.
- (3) By adopting a subsidiary motion such as:
 - (a) To postpone to a specific date (continue)
 - (b) To refer to committee.
 - (c) To table the item.

c. Amendments to Motion

- (1) Amendments to main motions are in order during discussion. An amendment may:
 - (a) Add to the main motion.
 - (b) Subtract from the main motion.
 - (c) Both add and subtract from the main motion.
- (2) An amendment may not totally negate the intent of the main motion or change its general purpose.
- (3) A motion to amend must be voted on before a main motion. If the motion to amend passes, the amended motion becomes the main motion which can then be discussed further, amended again and voted upon.

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- (4) A modification of a motion can be made by the maker of the original motion if there is no objection by any other member. (If there is an objection, a formal motion to amend is in order.)

d. Straw Motions

- (1) On complex matters or matters with several component parts, the Council may make “straw” or “trial” motions in an effort to build consensus. These motions are not official motions.

10. Order of Precedence of Items of Business

a. Privileged Motions (Recess or Adjourn)

	<u>2nd</u>	<u>Debate</u>	<u>Amend</u>	<u>Vote</u>
(1) Fixed time to adjourn	Yes	Yes	No	M
(2) Adjourn	Yes	No	No	M
(3) Take recess	Yes	No	No	M

b. Incidental Motions (Information or Question of Procedure)

	<u>2nd</u>	<u>Debate</u>	<u>Amend</u>	<u>Vote</u>
(1) Preliminary questions	No	No	No	C
(2) Request for information	No	No	No	C
(3) Point of order	No	No	No	C
(4) Suspension of the rules	Yes	Yes	No	M

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c. Subsidiary Motions (Procedural Action to Dispose of Other Motions)

	<u>2nd</u>	<u>Debate</u>	<u>Amend</u>	<u>Vote</u>
(1) Table/postpone indefinitely	Yes	Yes	No	M
(2) Call for the question (end debate)	Yes	No	No	2/3 of M
(3) Limit or extend debate	Yes	No	Yes	2/3 of M
(4) Postpone to a certain time	Yes	Yes	Yes	M
(5) Amend	Yes	Yes	Yes	M
(6) Reconsider	Yes	Yes	No	M†
(7) Change order of agenda items	Yes	Yes	No	M
(8) Adding new items to agenda	Yes	Yes	No	**
(a) Emergency situation	Yes	Yes	Yes	M
(b) Immediate action necessary arising after agenda posting	Yes	Yes	Yes	2/3 of M
(c) Item continued from meeting 5 days earlier	No	No	No	None

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- d. Main Motion (Principal Motions on Substantive Items for Council Consideration)

	<u>2nd</u>	<u>Debate</u>	<u>Amend</u>	<u>Vote</u>
(1) Main motion	Yes	Yes	Yes	M
(a) Introduce ordinance	Yes	Yes	Yes	M
(b) Adopt ordinance or resolution	Yes	Yes	Yes	4
(c) Adopt emergency ordinance	Yes	Yes	Yes	5
(2) Main motion allocating unbudgeted funds or amending the adopted budget	Yes	Yes	Yes	5

M = Majority of members present.

2/3 of M = Two-thirds of members present, i.e., three out of four; four out of five or six; five out of seven.

C = Chair, or Mayor.

† = Motion must be made by person on the prevailing side of previous motion. Four votes are required to change action or item previously adopted.

** = See Ralph M. Brown Act, Government Code § 54950, *et seq.*, 54954(b).

11. Reconsideration

A motion acted upon by a majority of the members voting may be reconsidered upon motion of a person who voted on the prevailing side of the prior motion at the same time or at the next regular or adjourned regular meeting. The motion for reconsideration may be made by any person who voted in the affirmative on a motion which was adopted, or any person who voted in the negative when the

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motion was defeated. Any member may second. The question of reconsideration may be voted upon immediately after the motion is made and, if successful, the main question shall be acted upon at the meeting where action was taken or at the next meeting. Reconsideration may be acted upon at the same meeting at which the original action was taken if all parties appearing for the matter in question remain present. After the normal time for reconsideration, a matter which has been acted upon shall not again be placed on the agenda within one year except upon the request by two or more Councilmembers, with one of them being a member who voted in the majority when the item was last considered. Matters for which finality is required in order to meet the requirements of law shall not be reconsidered.

12. Decorum

While the Council is in session, all persons shall conduct themselves with reasonable decorum.

Any person who is so disorderly or who so persistently disrupts the business meeting so as to interfere with the proper conduct of the business may be ordered removed from the meeting place. At such time, the Mayor will call a recess.

The Police Chief or authorized representative shall be Sergeant-at-Arms of the Council meeting. The Sergeant-at-Arms shall carry out all orders and all instructions of the presiding officer for the purpose of maintaining order and decorum at the Council meetings.

13. Rules of Procedure

The presiding officer: (a) shall maintain strict order and decorum at all meetings of the Council; (b) shall announce the decision of the Council on all subjects and decide all questions of order; subject, however, to an appeal to the Council, in which event a majority vote of the Council shall govern and conclusively determine such question of order.

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14. Study Sessions

From time to time, the Council may meet in a Study Session at a time and place to be designated by the Mayor. Such Study Sessions shall be noticed and will be open to the public as provided by law and may be conducted as part of an agenda for a meeting at which action will be taken. Study Sessions shall be devoted to matters regarding the exchange of information preliminary to consideration of an item at a regular or special meeting. No official action or formal vote shall be taken at such Study Session on any matter under discussion; provided, however, that the Councilmembers in attendance shall be entitled to express opinions on any matter under discussion and provide direction to staff for further investigation or development of the item.

15. Time of Adjournment of Council Meetings

It is the policy of the Council that all evening meetings of the Council, including Study Sessions, be adjourned not later than 10:00 p.m., which time is referred to as the normal time of adjournment. No new item of business shall be taken up by the Council after the normal time unless the Council has determined by majority vote to set aside this policy. In the event it appears that the entire agenda cannot be completed by the normal time of adjournment, the Council may take up and act upon the more pressing agenda items. All agenda items not considered at the meeting shall be on the agenda of the next regular, special or adjourned regular meeting unless the Council shall otherwise direct.

16. Councilmember Committees

All actions of the Councilmember committees shall be reported to the Council.

a. Standing Committees

1. Creation. The Council may create or dissolve standing committees at any time by the affirmative vote of a majority of the Council.

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2. Appointment. The Mayor shall annually appoint members to the standing committees.
- b. Special or Ad Hoc Committees
1. Creation and Dissolution. Special or ad hoc committees may be created by the Mayor or a majority vote of Council. A special or ad hoc committee may be dissolved by the Council.
 2. Appointment. The Mayor shall appoint members to special or ad hoc committees.

c. Attendance by Other Members

To the extent permitted by the Ralph M. Brown Act, other members of the Council not assigned to a Councilmember committee may attend meetings of a committee, as an observer, and shall be seated with the audience and may not participate in any manner or address the committee.

d. Appointment of Alternates

If an absence is anticipated on a committee and that absence may impede the work of the committee, the committee chair or other member may request that the Mayor designate another member of the Council to attend for the absent member and serve as an alternate member of the committee, provided that the member's attendance will comply with the Brown Act. The term for service by the alternate member shall be the term designated in the appointment, or for one meeting, if no term is specified.

e. Work Items

Generally, work items will be specific and direct referrals from the City Council, except as provided for in City Council Policy A-23, Work Item Referral Process for Council Advisory Bodies and Councilmember Committees.

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17. Ordinances, Resolutions, Motions and Contracts

a. Preparation of Ordinances

All ordinances shall be prepared by the City Attorney. No ordinance shall be prepared for presentation to the Council unless ordered by a majority vote of the Council, or requested in writing by the City Manager, or prepared and initiated by the City Attorney.

b. Approval by Administrative Staff

All ordinances, resolutions, and contract documents shall, before presentation to the Council, have been approved as to form and legality by the City Attorney or authorized representative and shall have been examined and approved for administration by the Finance and Administrative Services Director or authorized representative or by the City Manager or authorized representative, where there are substantive matters of administration involved. If the City Manager does not agree with the proposed ordinance, he/she shall advise the Council in writing and give the reasons for withholding approval.

18. Administrative Matters

a. Agenda Packets

- (1) Agenda packets are to be made available at the City Clerk's Office, the Library, the City's website, and at the Council meeting.
- (2) Agenda packets are to be delivered to Councilmembers on the Thursday prior to (Tuesday) Council meetings. Councilmembers are encouraged to reduce time taken at Council meetings by contacting staff in advance for answers to questions.
- (3) Agenda packets may be released to the press or members of the public directly after release to Council.

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b. Written Communications

- (1) Written communications addressed to the City Council are to be referred to the City Clerk for: (a) forwarding to the Council with their agenda packet; (b) placing on agenda with or without a staff report; or (c) direct response to citizen with copy of communication and staff letter to Council.
- (2) Written communication from one Councilmember to the other Councilmembers on agenda items is not encouraged. If a Councilmember wishes to send such a memo, he or she should consider the Brown Act implications and consult the City Manager and City Attorney. If a Councilmember wishes to send such a memo following this consideration and consultation, the memo shall be provided to the City Clerk in time for forwarding to the Council with their agenda packet and electronic posting of the agenda packet.

c. Rules of Procedure: In General

- (1) This policy is to provide general guidance for the preparation of the agenda and the conduct of Council meetings. From time to time, the Council may depart from its specific requirements for the convenience of the public, Council consideration and debate or to expedite the processing of business. The Council by majority vote, however, may at any time reinvoke this policy's specific requirements.
- (2) Formal written amendments to this policy may be adopted by a majority vote of the Council. The proposed change must be placed on an agenda and adopted as part of the regular business of the City Council.
- (3) In situations not addressed by these rules, *The Modern Edition of Robert's Rules of Order* may be used for reference and/or guidance. To the extent that these rules of procedure conflict with any previously adopted, these rules shall prevail.

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- (4) The provisions of this Policy are designed to comply with and implement the Ralph M. Brown Act. The Act shall prevail over this policy to the extent of any inconsistencies, amendments or judicial determinations.

d. Titles of Staff and Members of the Council

Members of the City Council shall be referred to individually as "Councilmember" and collectively as "Councilmembers." Staff members shall be referred to as "Mr." or "Msby title and last name."

Revised: April 2, 2019, Resolution No. 18305

Revised: January 3, 2019, Resolution No. 18293

Revised: November 20, 2012, Resolution No. 17733

Revised: May 8, 2012, Resolution No. 17685

Revised: March 22, 2011, Resolution No. 17592

Revised: June 23, 2009, Resolution No. 17421

Effective Date: June 10, 1974, Resolution Nos. 10093, 10094, and 10095

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CITY COUNCIL POLICY

SUBJECT: COUNCIL ADVISORY BODY APPOINTMENTSNO.: K-2

PURPOSE:

To establish policies and procedures governing the appointment of City commission, board, and committee members (collectively, "Council advisory bodies").

POLICY:

1. The Mayor shall appoint three Councilmembers to the Council Appointments Review Committee, one of whom shall be designated as Chair. The responsibility of the Council Appointments Review Committee is to systematically screen candidates and make recommendations to the entire City Council.
2. Per the City Charter, it is the policy of the City Council to appoint qualified electors (i.e., registered voters) of the City to the Environmental Planning Commission, Library Board of Trustees, Parks and Recreation Commission, and Rental Housing Committee. For all other non-Charter advisory bodies, members are not required to be registered voters and may serve regardless of immigration status. It is also the policy of the City Council to appoint members to all advisory bodies who will provide, as nearly as possible, a representative balance of the broad population of the City. Appointees to Council advisory bodies serve at the pleasure of the City Council.

Charter Section 900 prohibits members of any board or commission established by the City Charter (the Environmental Planning Commission, Library Board of Trustees, Parks and Recreation Commission, and Rental Housing Committee) from holding any employment in the City government. For all other non-Charter advisory bodies, appointments may include individuals employed by the City of Mountain View if there is no conflict between the duties, functions, or responsibilities of the Council advisory body position and the roles and duties of the City employment position, and if the individual is also a resident of the City of Mountain View.

The overriding criterion for appointment, however, must be the City Council's belief that the person appointed can bring skill, integrity, knowledge, interest, and especially an understanding of the basic obligation to evaluate issues in the broad context of the public interest.

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Appointed persons shall be limited to two consecutive terms prior to reappointment on a given advisory body with the exception of the Downtown Committee. However, where the City Council expressly determines it to be in the best interest of the community or in the event an insufficient number of new applications are received, the City Council may reappoint beyond this limit.

3. A person appointed to an advisory body can only serve on one advisory body at a time. Unless appointed to an unexpired term of less than two years caused by resignation or other such vacancy, the term of office for each advisory body member shall normally be four years or until a successor is appointed and shall, where possible, commence on the first day of January.
4. The City Clerk shall provide application forms and shall maintain a composite listing of all applications on file which have been received. The names of applicants on file in the City Clerk's Office shall be available to the public. An application may be submitted at any time, but must be renewed every year ~~on or before September 30.~~
5. Persons being considered for appointment (or reappointment) must be interviewed at least once to qualify for appointment.
6. Each Council advisory body shall adopt an annual schedule of meetings each year.

PROCEDURES:

1. Appointments/Reappointments
 - a. ~~During August of each year~~Five months prior to term expirations, the City Clerk shall poll all incumbents eligible for reappointment regarding their interest in being reappointed.
 - (1) Incumbents must update their applications.
 - (2) In NO case shall automatic reappointment of an incumbent be assumed.

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- (3) The Council Appointments Review Committee will consider the actual performance, contribution, and record of incumbents in determining whether the person should be reappointed.
- (4) The City Clerk will provide the Council Appointments Review Committee Chair with a listing of all eligible incumbents interested in being appointed.
- b. ~~During September of years when any advisory body terms are expiring~~Four months prior to term expirations, the City Clerk shall, in coordination with the Council Appointments Review Committee Chair, be responsible for ensuring that there is suitable advertisement of upcoming appointments. This shall include appropriate display ads in local newspapers, as well as other special ads where possible, including a suitable ad (e.g., one-half page in *The View*) providing informative descriptions of the various advisory bodies, their responsibilities, etc.; and other possible methods, such as cable television announcements, a special, reusable television production on commission membership, etc.
- ~~Also~~Additionally, during the month of September, the City Clerk shall send all current applicants a new application form and a brief synopsis of this City Council Policy. In the event an insufficient number of new applications for Council advisory body vacancy(ies) or seats with expiring term(s) are not received by the end of the advertised application period, the City Clerk shall provide an application form to incumbents serving a second term.
- c. ~~During the first week of October~~Three months prior to term expirations, the City Clerk shall provide the Council Appointments Review Committee with copies of applications received for all advisory body openings.
- ~~Also, during the first week of October~~Additionally, the City Clerk shall coordinate with the Council Appointments Review Committee Chair to schedule interviews with all applicants for each advisory body opening.
- d. ~~Between October 15 and November 30~~Two to three months prior to term expirations, or when a vacancy occurs, the Council Appointments Review Committee shall interview all applicants, with the exception of the

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Environmental Planning Commission, Rental Housing Committee, and Public Safety Advisory Board applicants, ~~which will be interviewed by. The entire City Council.~~ ~~will interview Environmental Planning Commission, Rental Housing Committee, and Public Safety Advisory Board candidates during the month of November and, at~~ At the conclusion of the interviews, the City Council shall determine their appointment recommendations and take final action at its ~~the next Regular Meeting of the Council.~~

At the conclusion of the interviews, the Council Appointments Review Committee shall determine its appointment recommendations. The Appointments Review Committee (or City Council for Environmental Planning Commission, Rental Housing Committee, and Public Safety Advisory Board appointments) may appoint alternates to fill vacancies, for any reason, for unexpired terms.

In the event an insufficient number of applications are received for a Council advisory body with expiring terms, an incumbent may be recommended for appointment by the Council Appointments Review Committee without being interviewed again. If a majority of the Council Appointments Review Committee determines that a sufficient number of or cross-section of suitable applicants was not available to be considered, no recommendation need be made. In this case, the opening(s) shall be readvertised and recommended qualified appointments forwarded to the City Council at the earliest possible date.

- e. The Council Appointments Review Committee shall make a written recommendation to the City Council at a City Council meeting in November or December preceding term expirations, or when a vacancy occurs, at which time ~~the~~ appointments shall be made.

In the event of delay or other inability to make a prompt appointment, the departing incumbent may, unless otherwise directed by the City Council, continue to serve until replaced.

- f. Upon City Council adoption of the resolution of appointment, the Council Appointments Review Committee Chair shall notify each appointee in writing and include a statement concerning the legal requirements that the appointee

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must meet. A copy of the notice of appointment shall be sent to the ~~secretary~~ staff liaison of the appropriate advisory body.

- g. All persons appointed to an advisory body must take either the loyalty oath required by the State Constitution as set forth in Attachment A or, if they are not a U.S. citizen, the alternative oath in Attachment B. The City Clerk shall administer and file the oath of office and determine that all other legal requirements have been met and shall then notify the ~~secretary~~ staff liaison of the advisory body that the appointee is ready to act in official capacity.

2. Selection Process

- a. Interviews conducted by the City Council and interviews conducted by the Council Appointments Review Committee shall be performed within equal time limits for each candidate.
- b. Core interview questions shall be selected by the interviewing body.
- c. Candidates will be asked the same question all at once in a panel format, with answers provided in turn by each candidate in a randomized round-robin order. Each question may start and end with a different candidate.
- d. Within the time limits of each interview, the interviewing body may ask a limited number of clarifying questions as a follow-up to a candidate's answers to the core interview questions in the event a candidate's answer was unclear or otherwise not understood. Clarifying questions should not be used to allow a candidate an additional opportunity to expand on the original response.
- e. Each member of the interviewing body shall vote for as many candidates as there are open seats (e.g., if three seats are available, vote for no more than three; if three seats plus one alternate seat are available, vote for no more than four). In the case that a variety of terms are open, the candidate(s) with the highest number of votes shall be granted the longest term(s). In the event there is a tie vote, each member of the interviewing body shall revote for the candidate(s) of their choice and the candidate with the highest number of votes wins. The interviewing body may choose another voting method by majority vote.

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3. Vacancies

- a. The ~~secretary~~ staff liaison of each advisory body shall notify the City Clerk promptly in the event that any advisory body member is absent without excuse for three regularly scheduled meetings consecutively or within a calendar quarter.
- b. The City Charter requires an office to become vacant if an advisory body member has been absent from three regular consecutive meetings without a qualified excuse. A qualified excuse occurs if any of the following apply:
 - The advisory body consents to the absence either before, or at the meeting immediately after the absence, for the advisory board member to attend to official duties of the City, including, but not limited to, representing the City at conferences or official functions;
 - The advisory board member is ill;
 - The advisory board member is on family leave for the birth or adoption of a child~~maternity leave~~;
 - The advisory board member is on bereavement leave due to the death of a family member as defined in the City's Personnel Rules and Regulations; or
 - The meeting was not on the advisory board member's formally adopted annual schedule of meetings.
- c. The expectation shall be specified that members are expected to attend all meetings on the adopted annual schedule of meetings.
- d. When an advisory body member knows in advance that the member will be absent from a meeting, the member shall give advance notice to the Chair and/or staff liaison.

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- e. The advisory body Chair, in consultation with the staff liaison, shall propose that each absence be defined as “excused” or “unexcused” at the meeting at which the advisory body member is absent. Each advisory body will then determine by general consent (or, failing to achieve general consent, by majority vote) the status of the absence as excused or unexcused and include that record in the meeting minutes.
- f. It shall be specified that failure to inform the chair or the staff liaison of an absence prior to the meeting will result in an unexcused absence, unless extenuating circumstances prevent advance notice.
- g. The City Council will take into consideration attendance records when evaluating the overall performance of advisory body members.
- h. Staff will submit annual attendance reports to the City Council.
- i. In that event or if the advisory body member is convicted of a crime involving moral turpitude or ceases to be eligible, the City Clerk shall notify the City Council, who shall then declare that such office is vacant.
- j. Resignations may be submitted at any time to the City Council, either directly or through the advisory body chair.
- k. Whenever a vacancy occurs for any reason except for the expiration of the term, the City Clerk shall post a special notice of vacancy in the City Clerk’s Office and other places as directed by the City Council no earlier than twenty (20) days before or later than twenty (20) days after the occurrence of the vacancy.
- l. Upon notice of the vacancy, the City Clerk’s Office shall initiate Steps 1.d and 1.e, leading to a recommendation to the City Council for a successor to such vacancy, and a successor shall be appointed to serve only to the date of the unexpired term pursuant to Section 905 of the City Charter.
- m. Notwithstanding the foregoing, the City Council shall not make a final appointment to an advisory body for at least ten (10) working days after the posting of the notice of vacancy in the City Clerk’s Office, City Hall bulletin board, Library bulletin board, and other places as directed by the City Council.

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However, upon a finding that an emergency exists, the City Council may fill the unscheduled vacancy immediately with a person appointed to serve only on an acting basis until the final appointment to the advisory body is made.

4. Removal

An advisory body member is subject to removal by motion of the City Council adopted by at least four affirmative votes.

Revised: June 22, 2021, Resolution No. 18574

Revised: January 26, 2021, Resolution No. 18534

Revised: February 27, 2018

Revised: December 13, 2016

Revised: March 3, 2015, Resolution No. 17945

Revised: January 14, 2014, Resolution No. 17832

Revised: November 17, 2009, Resolution No. 17441

Revised: October 28, 1997

Effective Date: January 26, 1976

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**MEMORANDUM**

Public Works Department

DATE: November 30, 2021

TO: Council Policy and Procedures Committee

FROM: Rey S. Rodriguez, Senior Project Manager
Robert Gonzales, Principal Civil Engineer
Dawn S. Cameron, Public Works Director

VIA: Kimbra McCarthy, City Manager

SUBJECT: Council Policy K-5 – Public Art and CIP Projects

BACKGROUND

In 1987, the City Council approved Council Policy K-5 to include public art for major City capital improvement program (CIP) projects, defined as projects costing \$1 million or more, and set an art budget of 1% of the project cost. The Policy was revised by Council on May 21, 2013 to clarify that the project cost threshold and 1% calculation are based on the construction budget and to add the role of the Visual Arts Committee (VAC) to advise Council on art and artists for qualifying projects. The policy as revised in 2013 consists of the following single paragraph:

“One percent of the construction budget of all major capital improvement projects (\$1 million or more) shall be devoted to the selection and purchase of a significant appropriate piece of art which shall be incorporated as an integral piece of the design of the project. This artwork may consist of works integrated into the project; acquisitions; art commissioned for the building exterior, interior, or site; or other appropriate installations. The Visual Arts Committee is responsible for advising the City Council on the selection of art and artists for qualifying capital improvement projects.”

Originally, the Policy was primarily applied to City buildings. However, as the construction costs of new parks projects began to exceed \$1 million, the application of Policy K-5 expanded beyond buildings to include new parks. Recently, staff has incorporated public art budgets into other capital projects, such as the new U.S. 101/Shoreline Bicycle/Pedestrian Bridge currently in preliminary design.

In addition, Council recently began to approve public art at 2% of the construction budget for new parks projects due to the lower construction costs to ensure that there was an adequate amount of funding for art. Staff was also requested to bring to Council a potential policy revision to increase the public art budget from 1% to 2% for all projects.

Public Art Strategy

The Fiscal Year 2021-22 and Fiscal Year 2022-23 Strategic Roadmap Action Plan includes a Council priority project to continue to work with the VAC to encourage public art. City staff is working with the VAC on the Public Art Strategy that will build on Council Policy K-5 to allow more public art opportunities throughout the community. Various potential mechanisms are being considered as part of the Public Art Strategy, including partnerships, public art in private development, public art decommission policy, and additional public art programming and processes.

It was originally planned that revisions to Council Policy K-5 related to CIP projects would be included in Council's deliberations related to the Public Art Strategy. Development of the Strategy, however, was delayed due to the COVID-19 pandemic. The current schedule is to bring the proposed Strategy goals and framework to Council for discussion in early 2022.

There are several CIP projects that are potentially subject to Council Policy K-5 that will soon begin preliminary design. To provide staff with clear direction related to applying Council Policy K-5 to these and future CIP projects, staff is bringing forward recommended revisions related to CIP projects separately from the new Public Art Strategy.

ANALYSIS

There are five components to Council Policy K-5:

1. Types of projects for which the Policy is applicable;
2. The construction cost threshold level for applying the Policy to a CIP project;
3. Amount (percentage) of funding to dedicate to public art;
4. When to integrate the art in the project; and
5. Role of the Visual Arts Committee.

This report is focused on the first three components: applicable projects for public art, threshold level, and amount (percentage) to budget.

Applicable Projects

The current policy language about applicable projects is not specific and simply states “all major capital improvement projects.” As stated above, the Policy was originally applied to just building projects and has since been expanded to apply to new parks that exceed \$1 million in construction costs. In the 2013 Council report, it was noted that the Policy would not apply to routine maintenance and utility infrastructure projects, such as streets, sidewalks, sewer, and water lines, although this was not specified in the Policy itself.

To address the ambiguity of the project types in the current policy, **staff recommends that the Policy specify the following applicable capital projects: new parks, new buildings, major renovations of buildings, new bridges, new or renovated public plazas, new trails or trail extensions, and new bicycle/pedestrian over- or undercrossings.**

Consistent with the intentions in the 2013 Council report, maintenance, replacement, and repair projects for streets, sidewalks, sewer, and water lines would not be included. Other routine maintenance, replacement, and repair projects that can have high construction costs would also not be included, such as reroofing City buildings, replacing Heating, Ventilation, and Air Conditioning (HVAC) systems, and synthetic turf replacements in athletic fields. In addition, projects that add bicycle and pedestrian improvements within existing right-of-way would not be included, such as the El Camino Real and Stierlin Road bicycle and pedestrian improvements projects. These types of projects do not provide opportunities for public art as part of the project, and many have restricted funding sources.

Construction Cost Threshold Level

In 1987, Council Policy K-5 defined a major project as having a minimum construction cost of \$1 million and set a 1% public art budget (equal to a \$10,000 minimum art budget). When factoring for inflation, a \$1 million project in 1987 is equivalent to a \$2.4 million project today (or a \$24,000 minimum art budget).

During the last few years, as project costs increased and construction budgets for small parks exceeded \$1 million, the VAC reviewed and recommended public art to Council for placement in new parks. A 1% public art budget for most of these parks projects would have only been \$13,000 to \$18,000. As there was concern that this amount was too

small for a meaningful art budget, Council approved public art at 2% of the construction budget for these parks projects.

Although Council has recently approved art selections with 2% budgets, the art budget for a project with a construction cost of \$1 million remains small (\$20,000). The public art budget covers expenses for the artist and include materials, structural engineering (when necessary), permits, transportation, installation, and insurance premium costs to meet City requirements. It is very challenging to secure artwork suitable for an outdoor setting for only \$20,000.

Staff recommends increasing the project construction hard-cost threshold for determining applicable CIP projects to \$1.5 million to provide a minimum public art budget of \$30,000 at the 2% budget rate. A construction cost of \$1.5 million is more reflective of a “major” capital project in terms of staff time and project process. In addition, a minimum of \$30,000 for public art will better support artists to provide an art piece suitable for a public setting and to cover associated expenses. In the case where the art is indoors and part of a building, \$30,000 could be used to purchase multiple paintings and photographs or sculptures for display. Outdoor settings that require durable public art may require the full \$30,000 for a single piece of artwork.

Percentage of Construction Budget for Public Art

Since the Policy revisions were approved in 2013, public art has been included in the following building projects based on 1% of the construction budget: Fire Station No. 5, The View Teen Center, Library renovation, and the new Community Center. Prior to 2018, park projects did not qualify for public art because construction budgets were below \$1 million. In 2018, park construction costs rose to levels exceeding the threshold, and, ultimately, Council approved budgets and art for Wyandotte, Mora, and Pyramid Parks based on 2% of the construction costs due to the relatively low construction cost basis. Table 1 shows the 1% calculation used for these building projects and what a 2% budget would have been. It also provides the 2% used for park projects in recent years and what it would have meant if a 1% factor was used.

Table 1: Approved Capital Projects Public Art Budgets 2013-2021

<u>Project</u>	<u>Construction Budget</u>	<u>1% Public Art Budget</u>	<u>2% Public Art Budget</u>
Fire Station No. 5	\$6.7 million	<u>\$67,000</u>	\$134,000
Library Renovation	\$3 million	<u>\$30,000</u>	\$60,000
New Community Center	\$14 million	<u>\$140,000</u>	\$280,000
The View Teen Center	\$3 million	<u>\$30,000</u>	\$60,000
Wyandotte Park	\$1.8 million	\$18,000	<u>\$36,000</u>
Mora Park	\$1.0 million	\$10,000	<u>\$20,000</u>
Pyramid Park	\$3.0 million	\$30,000	<u>\$60,000</u>
Fayette Park	\$1.3 million	\$13,000	<u>\$26,000</u>

NOTE: **Bold underlined** numbers are the approved public art budgets.

Over the last several years, construction costs have increased at a much higher annual rate than inflation. This was occurring even before the supply chain issues created by the pandemic that have further increased construction costs. All the projects listed above would cost significantly more to construct today with proportionately higher art funding. It is unlikely that any future new park projects will cost less than the recommended threshold of \$1.5 million.

A 2% art budget can be included in most of the City’s CIP project costs without creating a significant funding issue. However, the City does have some very high-cost capital projects in the planning phases that will be challenging to fund and/or will be dependent on grants which will not cover public art. Examples of these projects include:

- Public Safety Building Project – Anticipated construction budget of around \$100 million.
- Transit Center (Castro) Grade Separation and Access Project – Estimated construction budget of \$87 million.

- Rengstorff Grade Separation Project – Estimated construction budget of nearly \$200 million.
- Stevens Creek Trail Extension to West Remington Drive and Mountain View High School – Anticipated construction budget of over \$35 million.

The City may be financing the costs of one or more of these projects and, for the grade separation projects, relying on grants for a large percentage of the construction costs. A 1% and 2% public art budget for projects at this scale would range from \$700,000 to \$4 million. Some of these higher-cost projects may be using funding sources with many competing demands, such as the CIP Reserve and Construction/Conveyance Tax Fund, and very high art budgets will affect funding for other projects reliant on these funding sources, such as building and street maintenance projects. Staff is, therefore, recommending an approach that sets a maximum budget for public art that will be adequate to provide for meaningful art installations balanced with avoiding increasing a project's funding challenges.

Staff recommends that the public art budget in Council Policy K-5 be revised to be 2% of the construction cost for all applicable CIP projects, up to a cap of \$400,000. Most of the City's applicable capital projects have construction costs of \$20 million or less, which would mean that most projects would receive the 2% art budget.

Table 2 lists a sample of upcoming CIP projects that would be subject to Council Policy K-5 as recommended in this memorandum. Also shown is what their public art budget would be based on current estimated construction costs and application of the recommendation of a 2% rate with a cap of \$400,000. All of these projects have either just completed preliminary design, are going to start design in the next year, or are planned to start design as part of the five-year CIP for Fiscal Year 2021-22 through Fiscal Year 2025-26. For the latter projects, the construction costs are order-of-magnitude estimates.

**Table 2: Sample of Future Capital Projects
 Art Budget Based on Recommended Policy Revisions**

<u>Project</u>	<u>Estimated Construction Cost</u>	<u>City Funded Art Budget</u>
New Public Safety Building	\$100 million	\$400,000
Shoreline Boathouse Kitchen Expansion	TBD (over \$3 million)	Over \$60,000
Fire Station No. 5 Classroom/Training Modular Building	\$2.4 million	\$48,000
Evelyn Avenue Mini-Park	\$1.57 million	\$31,400
Villa Street Mini-Park	\$1.5 million	\$30,000
Showers/California Park	\$3.5 million	\$70,000
Stevens Creek Trail Extension	\$35 million	\$400,000
U.S. 101/Shoreline Bike/Ped Bridge	\$20 million	\$400,000
Transit Center Grade Separation and Access (Measure B and other grants – \$82 million)	\$87 million	\$400,000
Rengstorff Avenue Grade Separation (Measure B and other grants – \$103 million)	\$197 million	\$400,000
Villa Bike/Ped Undercrossing of Caltrain/Central Expressway	\$20 million	\$400,000

As shown above, most of the projects are \$20 million or less. Combined, these projects would provide over \$2.6 million toward public art as part of City CIP projects. There are several other new parks projects and other applicable CIP projects that are in the queue to add to the CIP that will further increase the public art investment.

Public Art Policies in Neighboring Cities

Staff reviewed the public art policies of other cities in Santa Clara County. These cities include public art policies for public CIP and private development projects with varying requirements and thresholds.

The criteria used by cities to determine which public projects are subject to public art varies, including the total project cost, just the construction cost, land size, or visual impact of the project. Most cities calculate the art budget based on 1% of construction cost. Once funding is available, cities use the funds for the project generating the funds or create a public art fund with detailed procedures for its use. For example, the City of San Jose extracts 1% of the eligible portion of their Capital Improvement Program each fiscal year for a public art fund. The City of Palo Alto's public art policy is based on project criteria and not funding levels of the project and specifies:

“The City will budget one percent (1%) of its construction costs to include public art for City capital improvement projects that have a visual impact on the surrounding environment by altering a site through new construction or reconstruction, at the initial stages of design, thereby ensuring that art elements become an integral part of the overall design.”

In summary, while 1% of the construction budget was a fairly common calculation to determine the public art funding from public projects, each city had its own approach to defining applicable public projects and the use of the funds.

VAC Discussion

The VAC discussed staff's recommended revisions to Council Policy K-5 at their November 10, 2021 meeting. The VAC suggested that the list of applicable CIP projects include new trails and public plazas, which staff has added to the recommended Policy. The VAC supported increasing the percentage for public art dedication from 1% to 2% and did not raise concerns about the \$400,000 maximum budget for public art.

However, the VAC did not come to a consensus about increasing the project construction cost threshold from \$1 million to \$1.5 million. Some Committee members felt the threshold should remain at \$1 million because of a concern that an increase will reduce the number of eligible public art projects funded by CIP projects. Other Committee members supported a revised project threshold because the Public Art Strategy will bring additional opportunities.

RECOMMENDATION

Staff recommends that the Council Policy and Procedures Committee (CPPC) consider a recommendation to the City Council to approve the following revisions to Council Policy K-5:

- Specify the following applicable capital projects: new parks, new buildings, major renovations of buildings, new bridges, new or renovated public plazas, new trails or trail extensions, and new bicycle/pedestrian over- or undercrossings;
- Increase the project construction hard-cost threshold for determining applicable CIP projects to \$1.5 million; and
- Revise the public art budget to be 2% of construction cost for all applicable CIP projects, up to a cap of \$400,000.

These changes would provide for improved consistency in applying Council Policy K-5 to CIP projects and certainty for CIP project budgets. Approval of these revisions does not preclude the City Council from adding or increasing public art for specific projects as deemed appropriate.

Based on these recommended revisions, the revised policy would be as follows (redline version in Attachment 1):

“Capital improvement program (CIP) projects that include new parks, new buildings, major renovations of buildings, new bridges, new or renovated public plazas, new trails or trail extensions, or new bicycle/pedestrian over- or undercrossings with construction hard costs of \$1.5 million or greater shall allocate two percent (2%) of the construction budget, not to exceed \$400,000, for the selection, purchase, and installation of significant appropriate piece(s) of artwork. All artwork selected and purchased shall be incorporated as an integral part of the project design. This artwork may consist of associated works integrated into the project, acquisitions, art commissioned, or other appropriate installations. The Visual Arts Committee is responsible for advising the City Council on the selection of art and artists for eligible CIP projects.”

ALTERNATIVES

1. Modify the list of eligible CIP projects.
2. Do not increase the project construction hard cost threshold to \$1.5 million.
3. Maintain the 1% public art budget and set a minimum public art budget.
4. Do not establish a public art budget cap or modify the \$400,000 cap.

RSR-RG-DSC/TS/6/PWK
943-11-30-21M

Attachment: 1. Redlined Council Policy K-5—Public Art and CIP Projects

cc: PWD, APWD—Arango, APWD—Au, CSD, ACSD, EVM, EDS—Chew

CITY COUNCIL POLICY

SUBJECT: PUBLIC ART AND CIP PROJECTSNO.: K-5

POLICY:

~~One percent of the construction budget of all major capital improvement projects (\$1 million or more)~~ Capital improvement program (CIP) projects that include new parks, new buildings, major renovations of buildings, new bridges, new or renovated public plazas, new trails or trail extensions, or new bicycle/pedestrian over- or undercrossings with construction hard costs of \$1.5 million or greater ~~shall be devoted~~ allocate two percent (2%) of the construction budget, not to exceed \$400,000, for ~~to~~ the selection, and purchase, and installation of ~~a significant appropriate piece(s) of artwork. which~~ All artwork selected and purchased shall be incorporated as an integral ~~piece-part~~ of the ~~project design of the project~~. This artwork may consist of associated works integrated into the project, ~~acquisitions, art commissioned for the building exterior, interior, or site,~~ or other appropriate installations. The Visual Arts Committee is responsible for advising the City Council on the selection of art and artists for ~~qualifying eligible capital improvement~~ CIP projects.

Revised: May 21, 2013, Resolution No. 17776

Effective Date: June 30, 1987

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