



AB 1234 Training City of Watsonville

February 25, 2025



AB 1234 adopted in 2006 in response to City of Bell Scandal



AB 1234 & Council Protocols

Require **two hours** of training, every two years, for all elected officials who receive any salary, compensation or reimbursement for expenses, regarding:

- Laws relating to financial gain by public servants:
- Laws related to gifts
- Transparency laws (PRA, Brown Act)
- Laws relating to fair processes
- Campaign regulations

Cal. Code Regs. Title 2, Section 18371; City Council Protocols

Agenda



got ethics?

I. Transparency Laws

- a. Brown Act
- b. Public Records Act

II. Personal Financial Interests & Fair Processes

- a. Conflicts-of-Interest Rules: Political Reform Act
- b. Contractual Conflicts of Interest: Government Code section 1090
- c. Common law conflicts: Personal Interests and Bias
- d. Fair Process

III. Legal Limitations on Perks and Advantages of Office

I: Transparency Laws



The Brown Act

“Public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people’s business. ***It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.***”

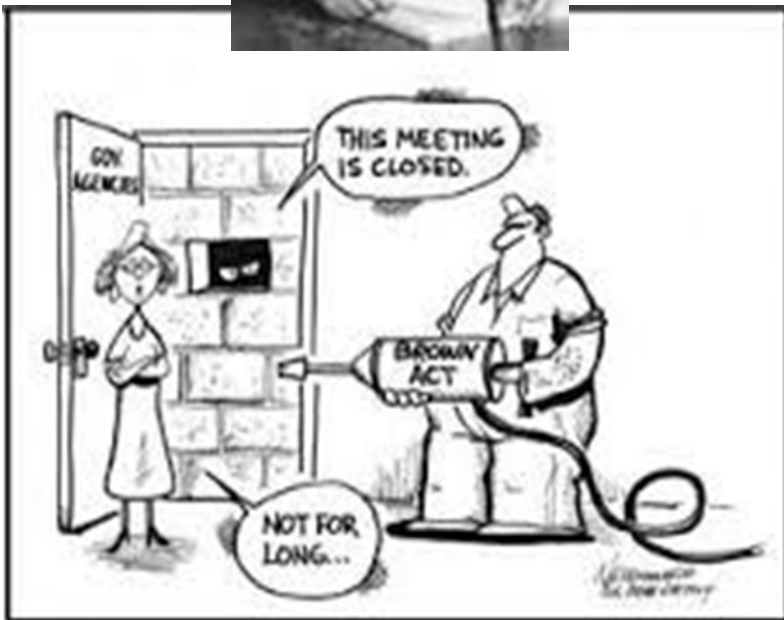
Gov. Code § 54950



The Brown Act



- All *meetings* of the *legislative body* of a *local agency* must be *open and public*
- All *persons* must be *permitted to attend* any meeting



The Brown Act

Basic Rule: Meetings of legislative body are covered by the Brown Act.

- What is a legislative body?
 - Governing body of the local agency (i.e. the City Council)
 - includes standing committees or commissions
 - advisory committee made up of less than quorum of the Council is not “legislative body”
- What is a **Meeting**?
 - any gathering of a **majority of the members** of a legislative body
 - at the **same time** and location
 - to **hear, discuss, deliberate** or **take action** upon any item which is within its subject matter jurisdiction

Brown Act: Requires Notice

Notice required for Council Meetings:

- Regular meetings – 72 hour notice required
- Special meetings – 24 hour notice required
- Emergency meetings – limited application, but can be as little as 1 hour notice to media

Brown Act: Emergency Meetings

- The City may call an emergency meeting under limited circumstances:
 - The Council determines a *work stoppage, crippling disaster, or other activity severely impairs public health or safety.*
 - The Council determines that a “*dire*” emergency exists, such as mass destruction, terrorist act or threat *that poses immediate and significant peril.*
- Council must adopt above findings in the meeting.
- One hour notice required.

Gov. Code § 54956.5



Brown Act: Requires Agenda

- Each meeting requires an agenda, circulated in advance of meeting
- Action or discussion on any item not appearing on the posted agenda is generally prohibited.
- For items not on agenda, Councilmembers may only:
 - Briefly respond to public statements or questions;
 - Ask a question for clarification;
 - Make a brief announcement;
 - Make a brief report on his or her activities;
 - Provide a reference to staff or other sources for factual information; or
 - Request staff to place the matter on a future agenda and report back to the legislative body in a subsequent meeting.

Gov. Code § 54954.2(a)(2)

Brown Act: Must Provide for Public Participation

- The public must be allowed to speak **on any item within the subject matter jurisdiction** of the City Council.
- City Charter sec. 409: “no person shall be denied the right personally, or through counsel, to present grievances or offer suggestions for the betterment of municipal affairs at any meeting of the Council.
- Comment on specific items must be permitted before or during the Council’s consideration of the item.
- At special meetings, comments can be **limited agenda items only**.
- Mayor may impose content-neutral time limit on comment.



Limits on Public Participation

- Chair may have individual removed for disrupting meeting.
 - Behavior that actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of the meeting and includes:
 - Failure to comply with reasonable and lawful regulations adopted by the body
 - Use of force or a true threat of force.
 - Content is irrelevant; it's the disruption that matters.
- Must warn that behavior is disruptive and removal may result
- No prior warning required if actual or threatened force.
- Behavior “disruptive” if actually disrupts or impedes orderly conduct of meeting.
- Public has a right to criticize government and staff.
- WMC sec. 2-1.120 prohibits the willful disruption of Council meetings

Disrupting Meetings – Case Study

- Silently raising Nazi salute = permissible, not disruptive
- Black Lives Matter protestors demanding the City defund the police and refusing to let others speak = disruptive
- Placing trash on the floor of school board meeting = disruption

Limits on Public Participation

- If order still cannot be restored, the meeting room may be cleared.
- Members of the news media who have not participated in the disturbance must be allowed to continue to attend the meeting.

Cal. Gov. Code § 54957.9



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But what about...

- Can we ban clapping in the audience?
- Filming the Council
- Yelling at the Council
- What do we do if it gets out of hand? (Clear the chambers...)

Brown Act: Remote Meetings

Options for remote participation by Councilmembers:

1. Traditional Rules
2. State of Emergency Rules
3. Just Cause or Emergency Rules

Traditional Remote Meeting Requirements

- Agenda must be posted at all locations, with teleconference locations specifically identified.
- All teleconference locations must be open to public and allow for public participation.
- Quorum of Council must participate from locations within City boundaries.
- All items must be by roll call vote.

Remote Meetings During a State of Emergency

- Only applicable if:
 - there is a Statewide state of emergency, declared by the Governor, AND
 - (1) State or local officials have imposed/recommended social distancing measures; OR
 - (2) meeting in person would present imminent risks to the health/safety of attendees.
- Council must adopt a Resolution making the above findings during a state of emergency. If holding a meeting remotely for the first time during the emergency, the reso should be adopted at the beginning of the remote meeting.

Just Cause or Emergency Remote Meetings

- Quorum must meet in person.
- Individual members can appear remotely if:
 - “Just Cause” OR
 - “Emergency Circumstances”
- Members may only appear remotely 5 meetings per year.
- Any remotely appearing member must disclose whether other adults are present and the general nature of that relationship.

“Just Cause”

- Includes
 - a childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely;
 - a contagious illness that prevents a member from attending in person;
 - a need related to a physical or mental disability as defined by statute; or
 - travel while on official business of the legislative body or another state or local agency.
- Each Councilmember may only appear remotely for just cause twice per year.
- No Council action required for a Councilmember to appear remotely for just cause.

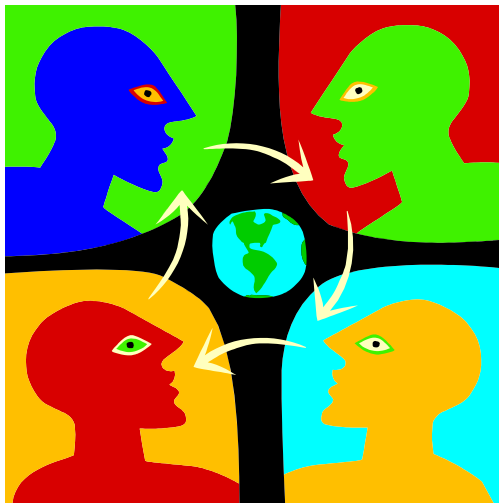
Emergency Circumstances

- “Emergency Circumstances” includes a physical or family medical emergency that prevents a member from attending in person.
- Action required for remote appearance due to emergency circumstances.
 - Remote member must request that the Body allow them to appear remotely and Council must approve the request.
 - Council may approve the request at the beginning of the meeting.

Can I participate remotely if...

- I'm on vacation in a rental house?
- I'm on vacation in a hotel room?
- I have COVID and want to attend from home?
- I don't want to come into the chambers for x reason?
- I'm driving?
- I'm in an airport?
- I'm on a cruise?

Brown Act Improper Meetings: Casual Meetups



“A majority of the members of a legislative body ***shall not...use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action*** on any item of business that is within the subject matter jurisdiction of the legislative body.

Gov. Code § 54952(b)(1)

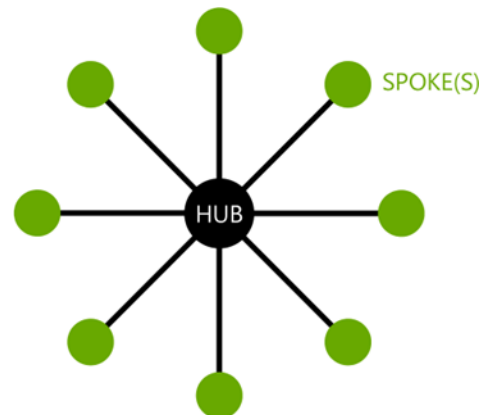
Brown Act Improper Meetings: Daisy Chain

- Daisy Chain: Member A contacts Member B, and Member B contacts Member C, and so on, until a quorum has been involved.



Brown Act Improper Meetings: Hub and Spoke

- Hub and Spoke: An intermediary contacts at least a quorum of the members to develop a collective concurrence on action to be taken by the Council.



Conference Exception

- Attendance by a majority of members at:
 - A **conference** that is related to the business of the City that is **open to the public**;
- *Provided that* a majority of the members do not discuss amongst themselves business “of a specific nature” that is within the subject matter jurisdiction of the agency.

Gov. Code § 54952.2 (c)(2)



Community Meetings Exception

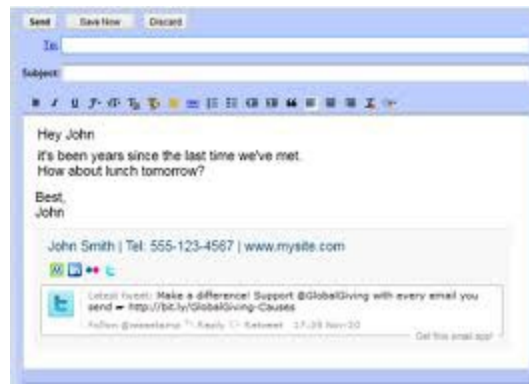
- A majority of the Council may attend an open and public meeting held by another organization to address a topic of local community concern.
- But a majority may not discuss business of a specific nature within the Council's subject matter jurisdiction.
- Example: a majority of the Council can attend a Pajaro Valley Arts Council meeting or candidates' night if open to the public.

2024 Clarification – Private Meetings/Conferences

- AG opined that a State of the City event was a Brown Act meeting, requiring notice and an agenda because:
 - It was attended by a majority of the Council in the same place and time;
 - The Mayor spoke about items on which the Council could take action and no other non-City specific items were discussed; and
 - The event was not free to the public.

Use of technology and the Brown Act

- Use of e-mail or other technology/media by a majority of the Council/ Commission to discuss, deliberate, or take action on items within the body's jurisdiction violates the Brown Act.
- Emojis or “liking” = discussion



Limited Social Media Exception



- A member of a legislative body may communicate on social media to answer questions, provide information to the public, or to solicit information from the public regarding a matter that is within the subject matter jurisdiction of the legislative body, ***provided that a majority*** of the members of the legislative body ***do not*** use the internet-based social media platform ***to discuss among themselves agency business***.
- A member of the legislative body may not respond directly to any communication on a social media platform regarding a matter that is within the subject matter jurisdiction of the legislative body that is made, posted, or shared ***by any other member of the legislative body***. Cal. Gov. Code § 54952.2(b)(1)(3)

Recommendations for E-mail/Technology

- **Avoid sending e-mails to the full Council/Commission.**
- **Be careful replying to e-mails.**
 - Do not communicate your position or make commitment on a pending matter.
 - Do not direct a reply to a majority of the body.
- **Think carefully before sending any e-mail.**
 - Remember, your e-mail can be forwarded by others to a majority of the body.
 - The Internet has a long memory.



Am I accidentally violating the Brown Act if. . .

- I post on social media and only one other member responds with comments?
- I post and another member “likes” my post?
- A member comments 😊 in response to my post?
- I respond to members of the public who comment on my post, and no other Councilmember participates in the post?
- Three Councilmembers respond to a member of the public’s post about a development project pending before the City?

Brown Act: Closed Sessions

- Closed sessions are an **exception** to the rule that City meetings must be open and public.
- Only topics authorized under the Brown Act may be discussed in closed session.
- Most common closed session topics :
 - Litigation (Existing or Potential);
 - Real Estate Negotiations;
 - Personnel Matters;
 - Labor Negotiations.

Gov. Code § 54954.3

Closed Sessions

- Disclosure of confidential information is prohibited unless the legislative body authorizes the disclosure of the information.
- “Confidential information” = communication made in closed session that is specifically related to the basis for the closed session meeting.
- Council Protocols: confidentiality supports Councilmembers’ fiduciary duties to the City
- Unauthorized disclosure could result in referral to a grand jury, disciplinary action by the City (censure, for example), or a court order enjoining disclosure

Brown Act Violations

CODE COMPLIANCE
NOTICE OF VIOLATION

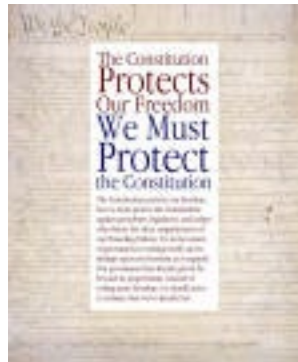
- Request to Cure/Action Invalidated or Cease and Desist allegedly wrongful practice
- Civil Action to prevent future violations
- Costs and Attorneys' Fees
- Intentional violations by Councilmembers are a misdemeanor

California Public Records Act ("PRA")



Access to Public Records

- Access to public records is a constitutional right.



Public Records

- **“Public Record” means:**
 - Any writing,
 - Containing information relating to the conduct of the public’s business,
 - Prepared, owned, used or retained by any state or local agency,
 - Regardless of physical form or characteristic.



Gov. Code § 7920.530

Personal Devices/Public Records

City of San Jose v. Superior Court

City employees' or officials' communications regarding official City business may be subject to disclosure as "public records" retained by the City under the PRA, even if the employees used personal e-mail or text message accounts in their preparation or transmission.



Searching Personal Accounts

Procedure recommended by CA Supreme Court:

- Inform officials of request and request that they search their personal accounts/devices
- City may reasonably rely on the officials' search
- A declaration from the official may be sufficient evidence that the City has complied with its duties to search for and collect from personal devices

Public Records

- Not every document is a “public record.”
- Test:
 - Does it relate in some substantive way to the conduct of the public’s business?
 - Or is it primarily personal?
- Factors: content; context; purpose; audience; was the individual acting within the scope of their employment or office.

Public Records



The City need not produce otherwise public records if they are:

- Preliminary drafts not ordinarily retained where the public interest in withholding *clearly outweighs* the public interest in disclosure;
- Relate to pending litigation,
- Personnel, medical, or similar files;
- Attorney-client privileged; or
- Catch-all (public interest balancing test).

Examples: Are these Public Records?

- a) A message sent from a City email account about an agenda item
- b) Texts between you and a pal setting dinner plans
- c) A twitter direct message from a local business owner regarding the City's business license tax
- d) Texts between Councilmember and a member of the public during a Council meeting regarding a public comment
- e) Texts between Councilmembers during a Council meeting regarding a presentation
- f) Texts between Councilmembers and City staff exchanged during a Council meeting regarding an item on the agenda
- g) Facebook messages between city staff members about a city project
- h) A calendar entry on your personal calendar regarding a meeting with a developer of a project in the City
- i) Notes you take during a meeting regarding an agenda item

Council Protocols and the PRA

- Councilmembers' personal social media accounts are subject to PRA requests if used for City business
- Councilmembers should work with Clerk to incorporate their social media accounts within City's social media archiving system

PRA Litigation and Defense

- The PRA requires courts to award attorney's fees to the "prevailing party"
- A prevailing plaintiff is one who obtains a public record as a result of litigation (even 1 record)
- A public agency prevails *only if* the litigation was frivolous
 - Only one recorded case of a city winning its fees

II: Personal Financial Interests & Fair Processes



Disclosure of Financial Interests

- Statements of Economic Interests “Form 700”
- Purpose:
 - alert officials of personal interests that might be affected
 - inform the public about potential conflicts

CALIFORNIA FORM 700
FAIR POLITICAL PRACTICES COMMISSION
A PUBLIC DOCUMENT

STATEMENT OF ECONOMIC INTERESTS Date Initial Filing Received
Official Use Only

COVER PAGE

Please type or print in ink.

NAME OF FILER (LAST) (FIRST) (MIDDLE)

1. Office, Agency, or Court

Agency Name (Do not use acronyms)

Division, Board, Department, District, if applicable Your Position

► If filing for multiple positions, list below or on an attachment. (Do not use acronyms)

Agency: Position:

2. Jurisdiction of Office (Check at least one box)

State Judge or Court Commissioner (Statewide Jurisdiction)

Multi-County County of

City of Other

3. Type of Statement (Check at least one box)

Annual: The period covered is January 1, 2017, through December 31, 2017.

Leaving Office: Date Left (Check one)

The period covered is January 1, 2017, through the date of leaving office.

Assuming Office: Date assumed The period covered is through the date of leaving office.

Candidate: Date of Election and office sought, if different than Part 1:

4. Schedule Summary (must complete) ► Total number of pages including this cover page: _____

Schedules attached

Schedule A-1 - Investments – schedule attached Schedule C - Income, Loans, & Business Positions – schedule attached

Schedule A-2 - Investments – schedule attached Schedule D - Income – Gifts – schedule attached

Schedule B - Real Property – schedule attached Schedule E - Income – Gifts – Travel Payments – schedule attached

-or-

None - No reportable interests on any schedule

5. Verification

MAILING ADDRESS STREET CITY STATE ZIP CODE
(Business or Agency Address Recommended - Public Document)

DAYTIME TELEPHONE NUMBER E-MAIL ADDRESS
()

I have used all reasonable diligence in preparing this statement. I have reviewed this statement and to the best of my knowledge the information contained herein and in any attached schedules is true and complete. I acknowledge this is a public document.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date Signed (month, day, year) Signature (File the originally signed statement with your filing official)

[Clear Page](#) [Print](#)

FPPC Form 700 (2017/2018)
FPPC Advice Email: advice@fppc.ca.gov
FPPC Toll-Free Helpline: 866/275-3772 www.fppc.ca.gov

The Who, What, When and Where of Disclosure

- **Who?** All “designated” officials under Government Code 87200.
- **What?** Interests in real property, investments, business positions, sources of income and gifts.
- **When?** Upon assuming office, annually (by 4/2), and upon leaving office.
- **Where?** File with the FPPC.

Purpose of Conflict Rules

- Public officials owe paramount loyalty to the public.
- Personal or private financial interests should not be allowed to enter into the decision making process.



Conflict of Interest Rules

- **Political Reform Act**
 - Government Code § 87100, *et seq.*
 - FPPC Regulations, title 2, division 6, section 18109, *et seq.*
- **Contractual Conflicts**
 - Government Code § 1090
- **Common Law Conflicts**



Disqualifying Financial Conflicts

Political Reform Act



General Rule of Disqualification

- A public official may not:
 - make/participate in the making/or influence
 - a governmental decision
 - that will have a reasonably foreseeable material financial effect on
 - the official's or his or her immediate family's financial interests
 - that is distinguishable from the effect on the public generally
- Must consider financial interests of “immediate family,” which includes spouse and dependent children

Four Steps to Identify Financial Conflicts:

1. Is the official “making, participating in making, or attempting to influence” the decision?



2. Is it reasonably foreseeable that the decision will have a financial effect on the official’s economic interests?



3. Will the effect be material?



4. Is the effect indistinguishable from the effect on the public generally?

Economic Interest: Business Entity

Any business entity, as defined in Section 82005, in which the public official has a direct or indirect investment worth at least \$2,000 or in which the public official is a director, officer, partner, trustee, employee, or holds any position of management.

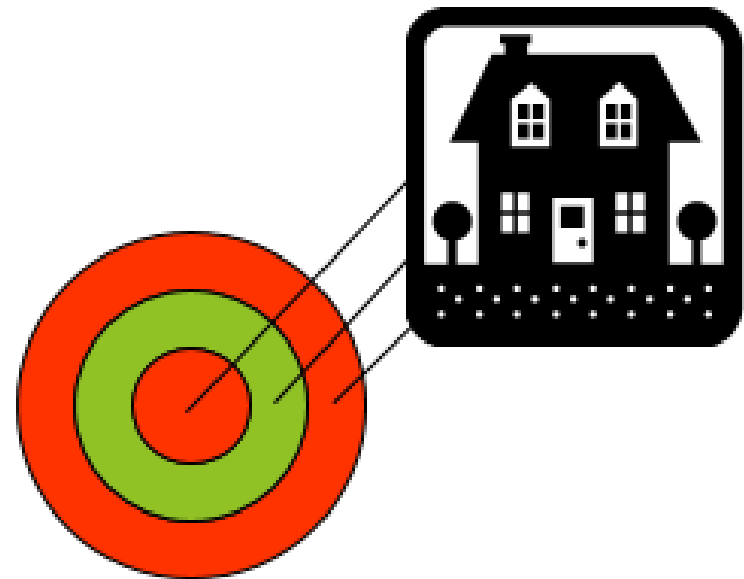
Economic Interest: Real Property

Any real property in which the public official has a direct or indirect interest of at least \$2,000.



500-foot rule

- Different depending on the type of financial interest
 - Ownership
 - Leasehold
- For an official's financial interest (other than leaseholds), there are 3 categories based on how far the property is from the property subject to the governmental decision



Within 500 feet

- Where the official's property is located ***within 500 feet*** of property that is the subject of a governmental decision
- Presumption that a decision that involves property within 500 feet of the official's property ***will have a material impact*** on the official's financial interest
- Public official is ***disqualified*** unless there is clear and convincing evidence to rebut the presumption of a conflict

Between 500 and 1,000 Feet

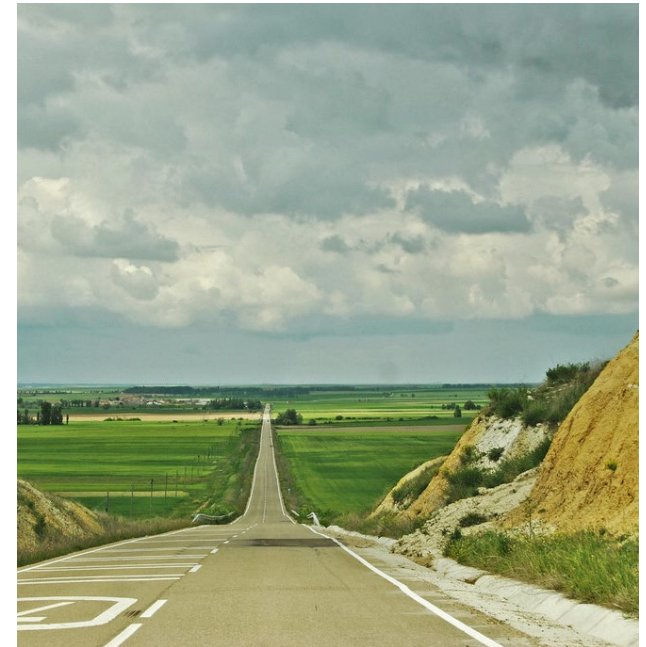
Under FPPC Regulation 18702.2, a decision involving property between 500 and 1,000 feet will have a material impact on an official's financial interest (other than leaseholds), if the decision would change:

- The development potential of the official's parcel;
- The income producing potential of the official's parcel;
- The highest and best use of the official's parcel;
- The character of the official's parcel by substantially altering traffic levels, intensity of use, parking, view, privacy, noise levels, or air quality; **or**
- The market value of the official's parcel.

More than 1,000 Feet Away

Where the official's property is located ***more than 1,000 feet of property*** that is the subject of a governmental decision

- Presumption that decision ***will NOT have a material impact*** on the Councilmember's financial interest, so Councilmember may participate ***unless*** clear and convincing evidence that shows a substantial effect on the public official's property



Leasehold Interests

The reasonably foreseeable financial effects of a decision on leased real property is material only if the governmental decision will:

- Change the termination date of the lease;
- Increase or decrease the potential rental value of the property;
- Change the official's actual or legally allowable use of the property; or
- Impact the official's use and enjoyment of the property.



Economic Interests: “Indirect Investment”

- Investment or interest of:
 - spouse or dependent child of a public official,
 - an agent on behalf of a public official, or
 - a business entity or trust in which the official, the official's agents, spouse, and dependent children own at least a 10-percent interest

Economic Interests: Source of Income

Any source of income, including commission income and incentive income, amounting to a total of at least \$500, provided or promised to, and received by the public official within 12 months before the decision is made.

Economic Interests: Source of Gifts

Any gift amounting to a total of at least \$630, provided or promised to, and received by the public official within 12 months before the decision is made.

FPPC Enforcement Example

Richard F, **City Councilmember**, violated conflict of interest laws by **voting to obtain a \$491,520 state grant to extend a water and sewer line to an area of the city where he owned real property and operated an inn and restaurant.**

Fine: \$4,000



Exceptions to Potential Economic Interest Conflicts

- Two exceptions to potential financial conflicts:
 - The “**public generally**” (Section 18703)
 - The “**legally required participation**” (Sections 87101, 18705)

Public Generally

- Decisions that affect a **broad range of persons or interests** may be exempted: 25% of (i) all businesses, (ii) all real property, or (iii) all individuals.

Example: Decisions involving rates or fees; changes to Zoning Code; placing a tax measure on the ballot.



Legally Required Participation

- May apply if a conflict disqualifies so many officials that there is no longer a quorum to make a decision.



Note: Does not apply if: (1) quorum could later be met (ie Councilmembers who could otherwise vote are absent); (2) to break a tie vote.

What Happens If Disqualified?

- If disqualified:
 - Identify the financial interest (with specificity).
 - Step down from the dais and leave the room (unless on consent calendar).
 - Refrain from any discussion or participation on the item, including with staff and other Councilmembers before it goes on the agenda.



Exception: You can participate as a member of public from the audience on matters affecting *personal* economic interests.

FPPC Enforcement Example

FPPC Enforcement Decisions:

Robert S, a member of a city council, attempted to use his official position to influence a governmental decision in which he had a financial interest, by **speaking before the Planning Commission** regarding the approval of an application for the **subdivision of land owned by a client**.

Councilmember had disqualifying interests in his personal finances and in his business (client makes money from development and pays him). Since the item could come before the Council, on appeal from Planning Commission, he should not have participated in Commission meeting.

Fine: \$3,000

Conflicts Created by Future Employment

- Delaying the revolving door
 - May not participate in decisions involving a *prospective* employer (includes interviews and negotiations).
 - Officials and senior management may not represent parties before their former agency for **one year** after leaving office.



Disqualification Rules Regarding Campaign Contributions

- Officials are disqualified from decisions regarding contracts, licenses, permits, or other entitlements if you have received a campaign contribution of more than \$500 from that developer within 12 months prior to the decision.
- If received more than \$500 within 12 months of decision, must state on the record and recuse.
- Also prohibits accepting, soliciting or directing a contribution of over \$500 within 12 months *after* the decision is made.

Contractual Conflicts of Interest Government Code § 1090

Prohibition on
“Self Dealing”



Contractual Conflicts of Interest

- Section 1090 prohibits **officials** and **employees** from having **financial interests in contracts made by them in their official capacities** or any board of which they are members.



The Rule: Contractual Conflicts of Interest

- **Rule:** Public officials are absolutely prohibited from having a financial interest in a contract made by them or their body. (Gov. Code § 1090.)
 - **Purpose:** Prohibits contractual self-dealing.

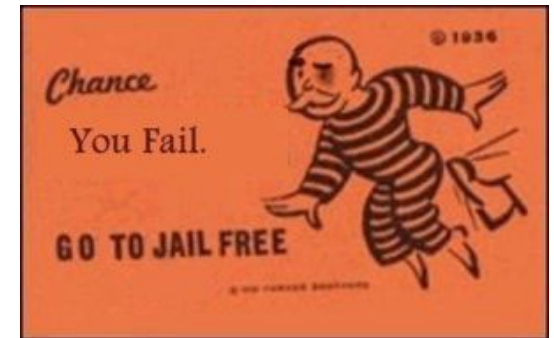


Contractual Conflicts of Interest: Application

- **“Public officials”** - Virtually all City officers and employees.
- **“Financial interest”** - One penny is enough.
- **“Absolutely prohibited”** – the individual’s conflict extends to entire Council and his/her participation is presumed.
- **Exceptions** - may apply under a “rule of necessity,” or if the financial interest is minor or remotely involved.

Contractual Conflicts of Interest: Violations and Consequences

- Contract is void and unenforceable.
- Remedies are against the *Councilmember*.
 - Official must return any money, but City keeps the benefits received.
 - Violation is a felony (if willful):
 - Fine,
 - Imprisonment, and
 - Lifetime bar from holding office in California.



Contractual Conflicts of Interest: Exceptions

- “***Remote interests***” (§ 1091)
(landlord or tenant
of contracting party)
Must still abstain from voting.

- “***Non-interests***” (§ 1091.5)
(non-compensated officer
of a non-profit)

**Must state interest for the record; but may
vote**



Common Law Conflicts: Personal Interests or Bias

- Personal interests or biases (positive or negative) about the facts or the parties may cast doubt on your ability to make a fair decision.
- Need to exercise power with at least the appearance of ***disinterested*** skill, zeal, and diligence.



Due Process Considerations

- Quasi-judicial or "administrative" hearings are subject to the fair process requirements of CCP § 1094.5(b); and
- If a vested property or liberty interest is implicated, the hearings are subject to due process requirements of the 14th Amendment to the United States Constitution.
- Example: appeal of permit denial/approval



Due Process Considerations

The 14th Amendment Requires:

- Proper notice
- Right to present case
- Fair unbiased decision makers



These due process requirements do not apply to purely legislative actions.

Social Media and Conflicts

- Concern re showing bias on quasi-judicial hearings
 - Officials must remain neutral and unbiased re quasi-judicial matters prior to their vote
 - Posting on social media re quasi-judicial matters or parties subject to those matters raises specter of bias



Other Fairness And Process Laws

- Public Bidding Requirements:
 - Public Contract Code
 - Grant Requirements - Federal Regulations Regarding Procurement
- Nondiscrimination Requirements
- Embezzlement (Penal Code section 424)

Incompatible Offices

- Gov. Code Section 1099 – codifies common law prohibition.
- May not simultaneously hold two public offices if:
 - One office exercises a supervisory, auditing, or removal power over the other office
 - there is a significant clash of duties or loyalties between the offices
 - there are public policy considerations that make it improper.
- The consequence of holding an incompatible office is that the person is “deemed to have forfeited the first office upon acceding to the second.”

III: Legal Limitations on Personal Advantages & Perks



General Prohibitions

- Officials may not accept bribes
 - 2-4 year jail sentence, fine, and lifetime bar from public office
- Officials may not accept gratuities or rewards
 - Constitutes a misdemeanor
- Discounts on travel (holdover from railroad monopolies, but still good law)
- Receipt of honoraria for speaking or writing articles as a public official

Expense Reimbursement



General Rule: *Actual* and *Necessary* Expenses

Reporting: Timely use of report forms (with receipts documenting the expenses); oral report at subsequent meeting (only for attendance at Brown Act “meetings”)

Penalty: Loss of reimbursement privilege; restitution; civil penalties and 3x value of misused resources; jail; ban from public office

Remember...

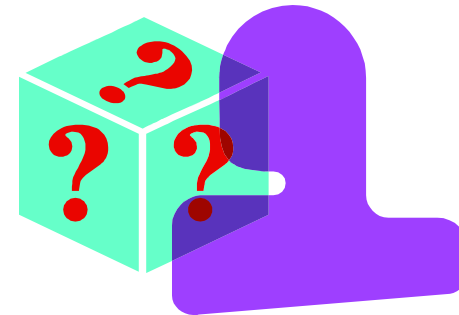
Your expense report forms are
PUBLIC RECORDS



Gifts

- What is a Gift?

- Anything of value you receive for which you do not provide monetary or other consideration of equal or greater value.
- May include discounts and rebates if not also given to the general public.



Report - \$50 or more in
a year/source

Limit - \$630/year/source
1/1/2025-12/31/2026



Gifts



Options when you receive a gift over \$50:

- Decide if you want to report it on your Form 700.
- If so, report it within 30 days of receipt.
- If not, then within 30 days:
 - Reimburse the donor for the fair market value,
 - Return the gift unused, or
 - Donate the gift to charity (no deductions).
- If the gift exceeds \$630, you have a duty to reject it.
 - Or “buy down” the value.

Disclosure of Gifts

- Must report gifts on your Form 700 if:
 - Total value of all gifts from that source during the calendar year is at least \$50.
 - Gift are reportable regardless of the location of the donor.



Tip: If the amount is unknown, you must make a good faith estimate of the item's fair market value.

Gifts and Reporting

Many exceptions to general gift limitations:

- Gifts from family members and long-time friends (where unrelated to official's duties)
- Trophies/plaques less than \$250
- Inheritance
- Acts of Neighborliness (loaning an item, an occasional ride, etc)
- Reciprocal holiday/birthday gifts

Not a "gift" but still reportable

- Free admission to a ticketed event for the official and one guest where the official performs a ceremonial role (Throwing out first pitch at Giants game)
 - Different reporting requirement! Form 802 – available on City website

Are these Reportable Gifts?

1. Tickets to the Oscars
2. Coffee brought to a meeting by a fellow councilmember
3. Box tickets to a 49ers game
4. Girl scout cookies from a neighbor
5. Five \$200 gift cards from a developer provided throughout the year

Misuse of Public Resources



- **Rule:** No use of public funds or resources for personal, non-public purposes, including campaigns.
- **“Public Resources”** includes staff time, office equipment and supplies, but excludes incidental or minimal uses.



- **Penalties:** disqualification from office, jail, civil penalties up to \$1000/day plus 3x the value of the unlawful use.

Tip: Ensure that expense or use is consistent with the City’s adopted policy.

Rule Against Advocacy When Conducting Official Activities

- In your official capacity, you may present information in an even-handed manner.
- You cannot conduct advocacy activities in your official capacity.



Permissible Conduct

- Endorse a measure or candidate in you *private/individual* capacity (not your official capacity)
 - “I support Measure X. This opinion is my own and does not reflect the opinion of the Watsonville City Council”
- Provide information about Measures during meetings/in official capacity

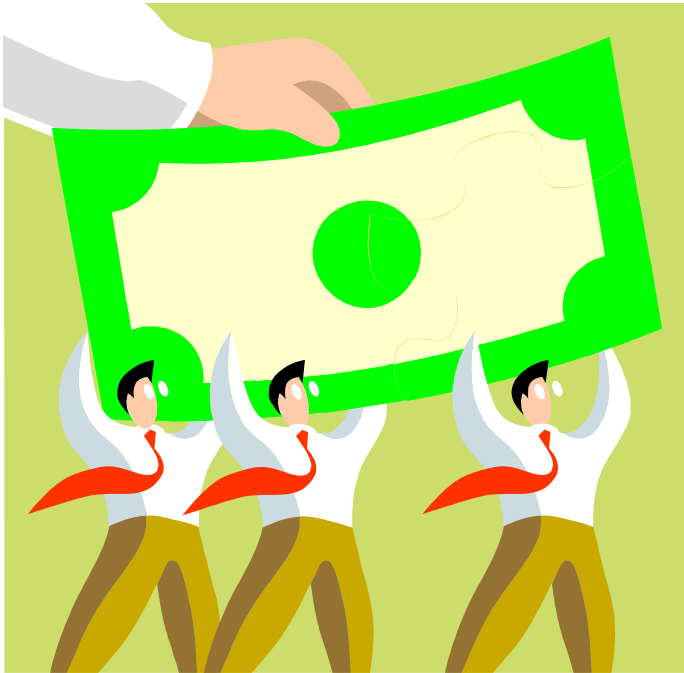
Impermissible Conduct

- Ask for endorsement in your official capacity
- Promise to appoint someone in exchange for endorsement
- Campaign for/against a measure while “on duty”
 - “Cast your vote for Measure X!”
 - “Measure Y will be valuable to our community.”
- Wear a campaign sticker in capacity as Councilmember
- Make campaign calls from City Hall
- Pose for candidacy photo wearing City of Watsonville pin

Solicitations of Political Support

- Soliciting campaign funds from City officers or employees is unlawful (except when included as part of a communication to a significant segment of the community).
- Watsonville Municipal Code sec. 2-4.14 prohibits engaging or participating in political activities:
 - During working hours and while assigned to work
 - On any part of City premises except where those premises are open and available to the public generally for such activities
- Conditioning employment and compensation decisions on political support is also prohibited.
- Watsonville Municipal Code section 2-4.17 specifically prohibits discrimination due to political opinion or affiliation

Gifts of Public Funds



- Local agencies are prohibited from making a “gift” of public money or anything of value.
- Expenditures for ***public purposes*** are not considered gifts even if a private party incidentally benefits.

Mass Mailing Prohibition

A mailing is generally prohibited if each of the following criteria is met:

- 1) Delivery - A tangible item, such as a newsletter or brochure, is delivered, by any means, including by transmission of a fax, to a person's residence, place of employment or business, or post office box.
- 2) Item Features an Elected Officer- The item sent either features an elected officer affiliated with the agency.
- 3) Public Money is Used for Mailing- Any of the costs of distribution are paid for with public moneys, or if public funds are not used for the actual distribution, in excess of \$50 in public moneys is used to design, produce, or print the item.
- 4) Mass Mailing- More than 200 substantially similar items are sent in a calendar month, excluding any item sent in response to an unsolicited request.

Mass Mailing Prohibition

The Public Eye: Rocklin fined \$2,000 for newsletter containing prohibited photos

Richard Chang / *The Sacramento Bee*

Rocklin was fined \$2,000 by the California Fair Political Practices Commission last week for blanketing households with a newsletter that contained photos of City Council members, a violation of the Political Reform Act.

The State considers such activities a prohibited form of campaigning with taxpayer funds that gives incumbents an unfair advantage.

City officials said the inaugural newsletter, *Inside Rocklin*, was a well-intentioned effort to keep citizens informed and that they were unaware of the state rules.

MAYOR'S MESSAGE . . .

Welcome to the inaugural issue of *Inside Rocklin*. We hope this guide helps you enjoy the best that Rocklin has to offer. Whether you are a long-time resident or new to the area, I invite you to take a look and see what's happening in Rocklin. Rocklin is a thriving city of 60,000 residents consisting of a vibrant and historical downtown, friendly neighborhoods, unique shopping and strong businesses that offer diverse employment. Rocklin residents and visitors alike enjoy numerous hometown community events, scenic parks and rustic open spaces. Public safety is our top priority. We are fortunate to have a highly-ranked fire department, and an accredited police department in part responsible for keeping our crime rate among the lowest in the region. Rocklin is also a center for educational excellence, proudly home to the #1 ranked unified school district in the region—Rocklin Unified. Sierra College and William Jessup University round out higher-education choices. Something extra special that makes Rocklin a great

place to live, visit or work stems from our caring community. People get involved—and stay involved—by volunteering numerous hours and support in a variety of important ways. And most noticeable, Rocklin people are nice. It's what sets Rocklin apart and maintains a small-town feel in a mid-size city.

Hang on to this guide, refer to it often to find out what's going on and how you can stay connected to your wonderful community.

You can also find the latest information and updates on the City's website at **rocklin.ca.us**, or 'like' us on Facebook (City of Rocklin, California Government). Explore and enjoy all that Rocklin has to offer!



Scott Yuill
Mayor, City of Rocklin



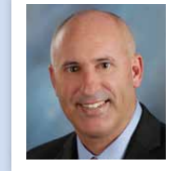
George Magnuson
Vice Mayor



Diana Ruslin
Councilmember



Dave Butler
Councilmember



Greg Janda
Councilmember



Restrictions on Loans

- Officials cannot receive loans:
 - from anyone within the city or with whom the city contracts; or
 - greater than \$500 (except in writing and with clear terms)

Exceptions: Loans received by the official's campaign committee; normal bank and credit indebtedness; and loans from family members.

Nepotism

- Council may not appoint a relative by blood or marriage to a salaried position (Charter sec. 810.)
- Department heads with appointing power may also not appoint any relative by blood or marriage to any salaried position (Charter sec. 810.)

Resources

- FPPC: 1-866-ASK-FPPC and on the web at www.fppc.ca.gov
- Attorney General: www.ca.ag.gov
- League of California Cities: www.cacities.org
- Institute for Local Government: www.ca.ilg.org

Questions?