

**RESOLUTION NO. 2016-65**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELL, CALIFORNIA AMENDING SECTION 6.1 OF THE MANUAL OF PROCEDURAL GUIDELINES FOR THE CONDUCT OF CITY COUNCIL AND CONSTITUENT BODY/COMMISSION MEETINGS CHANGING THE ORDER OF THE AGENDA AND ADDING A SECTION FOR THE CITY MANAGER TO PROVIDE A VERBAL REPORT**

**WHEREAS**, on June 25, 2014 the City Council adopted Resolution 2016-22, adopting the Manual of Procedural Guidelines for the Conduct of City Council and Constituent Body/Commission Meetings ("Procedural Manual"); and

**WHEREAS**, by adopting the Procedural Manual, the Council established clear guidelines and policies for Councilmember conduct during public meetings, and a clear description of the agenda process and format; and

**WHEREAS**, the Procedural Manual provides guidance to the Council, constituent bodies, commissions, staff, and the public on the procedures of the City's legislative bodies; and

**WHEREAS**, on August 10, 2016, the City Council requested to amend the order of the agenda that is listed in the Procedural Manual; and

**WHEREAS**, the City Manager also requested to amend the Procedural Manual to include a section titled "City Manager's Report" which will allow him to provide a verbal report on upcoming events, deadlines and follow-up on any pending items.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF BELL DOES HEREBY FIND, DETERMINE, AND RESOLVE AS FOLLOWS:**

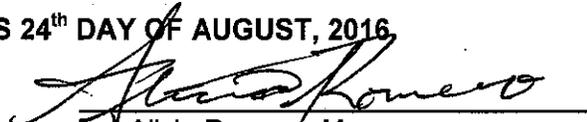
**SECTION 1.** The foregoing Recitals are true and correct and are incorporated herein.

**SECTION 2.** The Procedures Manual, as reflected in Exhibit "A" attached hereto, is hereby amended and adopted.

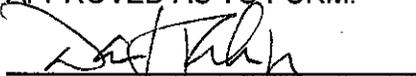
**SECTION 3.** The Councilmember Policies and Procedures adopted on June 25, 2014 is hereby repealed.

**SECTION 4.** The City Clerk shall certify to the adoption of this Resolution.

**ADOPTED AND APPROVED THIS 24<sup>th</sup> DAY OF AUGUST, 2016.**

  
Alicia Romero, Mayor

APPROVED AS TO FORM:

  
David J. Aleshire, City Attorney

**CERTIFICATE OF ATTESTATION AND ORIGINALITY**

I, Angela Bustamante, Interim City Clerk of the City of Bell, hereby attest to and certify that the foregoing resolution is the original resolution adopted by the Bell City Council at its regular meeting held on the 24<sup>th</sup> day of August, 2016, by the following vote:

AYES: Councilmembers Quintana, Saleh, Vice Mayor Gallardo and Mayor Romero

NOES: None

ABSENT: Councilmember Valencia

ABSTAIN: None

  
Angela Bustamante, Interim City Clerk

MANUAL OF PROCEDURAL GUIDELINES  
FOR THE CONDUCT OF CITY COUNCIL AND  
CONSTITUENT BODY/COMMISSION MEETINGS

CITY OF BELL

## **OUTLINE OF PROCEDURAL MANUAL PROVISIONS**

### **Manual Applies to Council; Agency; Housing Authority; All Commissions**

#### **A. Agendas (3.1-3.4; 5.1-5.10; 6.1, 6.3, 6.6)**

1. City Manager generally has the authority to set the agenda. (5.1)
2. Any Councilmember may request a matter be put on an agenda. City Manager can bring it to an agenda under pending items and Council can decide whether they want it agendaized for discussion. (5.1)
3. Permits consent calendars and defines what is not permitted on consent calendar: ordinances; matters involving split votes or public controversy; excluded consent calendar. (6.3)
4. List order of agenda. (6.1)
5. Permits an agenda item for "Council Agenda – New Business" and where announcements permitted with no discussion. (6.1, 6.6)
6. No action unless listed on agenda. (5.7)
7. Add items if arose subsequent agenda and 2/3 vote or unanimous of those present. (5.9)

#### **B. Minutes, Ordinances and Resolutions and Contracts (5.3 - 5.6, 6.5)**

1. Minutes are the record of actions and dispositive decisions; revisions factual and not to change intent. (5.10)
2. Defines matter appropriate for ordinance vs. resolution. (5.4, 5.5)
3. Defines vote requirements--ordinances and resolutions generally require three (3) votes. Certain items require supermajority. (5.4, 5.5)
4. Urgency circumstances defined where resolution can be prepared at a meeting. (5.4)
5. Contracts may be put in final form by legal counsel. (5.6)
6. Approval budget does not authorize expenditures. (6.5)

#### **C. Boards and Commissions (1.2, 6.4)**

1. Defines legislative bodies and advisory bodies subject to the Brown Act. (1.2(a))
2. Committees established by official action, continuing jurisdiction more than 180 days, majority of officials from City or other bodies, is standing committee subject to Brown Act.
3. Permits creation of ad hoc council subcommittees (less than majority) not subject to the Brown Act.
4. Permits formation of advisory boards and commissions subject to the Brown Act.
5. Provides that appointments are by Mayor with the consent of Council; removed by majority vote of Council. (Charter § 802)
6. Commissions make reports to Council; not permitted to create subcommittees.

**D. Study Sessions/Closed Sessions (2.5; 4.1 - 4.4)**

1. Study Sessions informal but subject to Brown Act; no action taken. (2.5)
2. Public comments permitted before closed session, report on any action taken. (4.1, 4.4)
3. Those persons not relevant to the closed session matter are excluded. (4.2)
4. A minute book may be kept of the closed session proceedings. (4.3)
5. Revealing any matter from closed session can subject the person to censure. (4.3)

**E. Public Comments (5.8, 7.1 - 7.4)**

1. Public comment period; comment on agenda items. (7.1, 7.5)
2. Fact based informational inquiry; no debate (7.1)
3. Speaker cards provided, but voluntary. (7.3)
4. Time limit for speakers is: 3 minutes. (7.2)

**F. Hearings (8.1 – 8.4)**

1. Before the hearing, Councilmembers limited to factual questions of staff and speakers. Not to engage in debate. (8.4)
2. Presiding Officer to make it clear when hearing is opened or closed. No questions of speakers or public comment after hearing closed. (8.3)
3. Hearing must be fair and impartial with decision based on findings required by law. (8.1, 8.3)
4. No expression of opinion until hearing is closed. (8.4)
5. Avoid extra meeting contact with interested persons. Encourage participation in hearing. (8.4)
6. Presiding Officer can control conduct of hearing--representative speakers, etc. Set any rules at beginning and keep fair to each side. (8.3, 9.1)
7. Be attentive during hearings. (8.1, 8.3)

**G. Conduct of Members (9.1 – 9.10; 10.3)**

1. Mayor presides; determinations can be appealed. (9.1)
2. Mayor speaks officially for City rather than councilmembers. (9.2)
3. Don't represent position of City or promise City action. (9.2; 9.10)
4. Councilmembers may use letterhead in correspondence but represent their own position rather than City unless authorized by Council. (9.2)
5. Don't speak in derogatory fashion concerning colleagues, employees, citizens. (10.1(f))
6. Commissioners do not speak for City. (9.2)
7. Use of City email account to conduct City business; but no collective action under the Brown Act. Also subject to Public Records Act. (9.3)
8. Formal process for censure for wrongful conduct involving noticed hearing before City Council. (10.3)

## **H. Officials (9.5 – 9.9)**

1. City Manager sets agenda, prepares staff report, budget and year-end fiscal report and administers City. (9.5) (Charter 604)
2. City Manager appoints/removes employees and, with consent of Council, Departments heads.
3. City Manager establishes central purchasing and advises Council on financial conditions.
4. City Manager sees to enforcement of all laws.
5. City Manager controls all administrative departments and establishes necessary and proper rules and regulations for general conduct of administration of City.
6. City Attorney prepares all ordinances, resolutions, contracts, deeds, easements and other legal instruments. (9.6(a))
7. City Attorney client is City not individual council members. City Attorney will advise councilmembers of conflicts but advice not binding and no attorney-client confidentiality. (9.6 (b))
8. City Attorney can file amicus briefs not conflicting with City interests. (9.6 (d))
9. City Attorney shall undertake or defend all litigation against the City keeping the Council informed as to the status of such litigation and seeking direction on all major actions. City Attorney may take all necessary and proper action on routine and procedural actions and discovery matters. (9.6(e))
10. No Conflicts of Interest and no financial interest in contracts. Reporting and Disclosure. No participation where conflict. Highest ethical standards (9.7, 9.8, 9.9)

## **I. Decorum/Procedures (10.1 – 12.3)**

1. Presiding officer responsible to maintain decorum and Chief of Police or designee is Sergeant at Arms. (9.1, 10.1, 10.4)
2. Persons engaging in disruptive behavior may be excluded if the disruption continues after being warned. Disruption includes demonstrations, speaking when not recognized, interrupting speakers, violating time limits, being unduly repetitious and similar conduct. It does not include silent gestures, criticizing public officials or similar speech. (10.4)
3. Abstentions discouraged but permitted where appearance of impropriety even if no financial conflict. (11.6)
4. Motions to rescind clarified so that matter can be rescinded if later legislative session. (11.4)
5. Defines process to correct an earlier action in violation of Brown Act. (12.1-12.3)
6. Includes Table of Motions and Procedural Actions. Exhibit A

# MANUAL OF PROCEDURAL GUIDELINES FOR THE CONDUCT OF CITY COUNCIL AND CONSTITUENT BODY/COMMISSION MEETINGS

## ARTICLE I – SCOPE

### **1.1 Application of Rules; Rescission of Prior Resolutions**

This Manual (the “Manual”) shall establish the procedures for the conduct of all meetings of the City of Bell City Council, Successor Agency to Bell Community Redevelopment Agency, Bell Housing Authority, Bell Public Finance Authority, Planning Commission and other constituent, governing bodies and commissions.

This Manual rescinds and supersedes all prior City resolutions setting forth rules of procedure for the conduct of meetings by City Legislative Bodies (defined below). Wherever there is a conflict between this Manual and any prior City resolution, the terms and rules in this Manual shall govern. Resolutions more specifically superseded by this Manual include, without limitation, the following: \_\_\_\_\_.

### **1.2 Definitions**

The following definitions shall apply to these rules and procedures:

- a) “Legislative Body” means any quorum of any council, board, agency, commission or standing committee (as defined in Gov’t Code § 54952), or other governing body of the City of Bell that is subject to the Brown Act (Gov’t Code § 54950 *et seq.*). This includes the Bell City Council, Successor Agency to Bell Community Redevelopment Agency, Bell Housing Authority, Bell Public Finance Authority, Planning Commission, and any standing committee subject to the Brown Act. The term “Legislative Body” does not include Non-Governing Bodies, as defined below.
- b) “Presiding Officer” means the chairperson of the Legislative Body. For example, this refers to the Mayor when read in the context of the City Council, the Board Chair in the cases of the Successor Agency to Bell Community Redevelopment Agency, Bell Housing Authority, Bell Public Finance Authority, and the Chair of any Commission.
- c) “Vice Chair” means the vice chairperson to the Presiding Officer. For example, the Vice Chair means the Vice Mayor in the case of the City Council, the Vice Chairperson in the cases of the Successor Agency to Bell Community Redevelopment Agency, Bell Housing Authority, Bell Public Finance Authority, and the Vice Chairperson of any Commission.
- d) “Clerk/Secretary” means the person responsible for taking and maintaining the record of proceedings for all meetings, preparation of agenda, calendar clerk and custodian of rules, resolutions, ordinances and Legislative Body records. For example, the Clerk/Secretary refers to the City Clerk in the case of the City and the Agency Secretary in the cases of the Successor Agency to Bell Community

Redevelopment Agency, Bell Housing Authority, and Bell Public Finance Authority.

- e) “General Counsel” means the legal advisor to the Legislative Body, such as the City Attorney in the case of a City Council meeting, or Agency Counsel in the cases of the Successor Agency to Bell Community Redevelopment Agency, Bell Housing Authority, and Bell Public Finance Authority.
- f) “City Manager” means the Chief Executive Officer (or Executive Director) of the City, Successor Agency to Bell Community Redevelopment Agency, Bell Housing Authority, and Bell Public Finance Authority . The City Manager may serve as the Secretary to the Successor Agency to Bell Community Redevelopment Agency, Bell Housing Authority, and Bell Public Finance Authority, and may designate appropriate staff to serve as the clerk/secretary to any Commission of the City.
- g) “Non-Governing Bodies” means wholly advisory committees and bodies that are not subject to the provisions of the Brown Act.
- h) “Sub-Legislative Bodies” means such advisory committees which are subject to the Brown Act but are not “governing” Legislative Bodies.

These rules and procedures are enacted pursuant to authority granted by Government Code §§ 36813 and 54954. The purpose of this Manual is to provide that the Legislative Bodies’ procedures will be consistent with the Brown Act and also to establish procedures which will be convenient for the public and contribute to the orderly conduct of any Legislative Bodies’ business. The procedures herein are in addition to, and not in place of, applicable ordinances and statutes and in the event of conflict between this Manual and applicable ordinances or statutes, the ordinances and/or statutes shall govern. In the event that any state statute referenced herein is renumbered, the reference herein shall be deemed to refer to the successor statute dealing with the same subject matter.

## **ARTICLE II – MEETINGS**

### **2.1 Regular Meetings**

Unless otherwise specified by a resolution or ordinance applicable to a specific Legislative Body, the regular meetings of City Council shall be held on the second and fourth Wednesday of each month at the time designated by the Legislative Body, in the City of Bell Community Center, 6250 Pine Avenue, Bell, California 90201, or at such other locations as the Legislative Body may from time to time designate by resolution, in the order of adjournment, or in the notice or call of any special meeting. In the event a day of meeting is a legal holiday, said meeting shall be held on the next business day.

### **2.2 Special Meetings**

The Presiding Officer may, when he or she deems it expedient, or upon the written request of a majority of the Legislative Body, call a special meeting of the Legislative Body for

the purpose of transacting the business designated in the call. The means and method for calling such special meeting shall be as set forth in Bell City Charter Section 507 as it now exists or may hereafter be amended. At such special meeting, no business shall be considered other than as designated in the call. (Gov't Code § 54956.) Notwithstanding any other provision herein, a special meeting may not be called regarding the salary, salary schedule or other form of compensation for any City officer, official of department head unless the special meeting is being called to discuss the City's budget. (Gov't Code §§ 54954.2(a), 54956.)

### **2.3 Special Emergency Meetings**

A special emergency meeting may be called by the Presiding Officer or by a majority of the Legislative Body where an emergency exists:

(a) A work stoppage, terrorist act or threat, crippling disaster or other activity which severely impairs public health or safety as determined by the majority of the Legislative Body; or

(b) Such other circumstance specified by State law as authorizing the conduct of an emergency meeting. Any special emergency meeting shall be called, noticed, and conducted only in accordance with the procedures set forth in State law.

### **2.4 Attendance**

A majority of members of the Legislative Body shall constitute a quorum. Less than a majority may adjourn from time to time, and may compel the attendance of absent members. If a member of the City Council is absent from all regular meetings of the City Council for a period of 90 days consecutively from and after the last regular City Council meeting attended by such member, unless by permission of the City Council expressed in its official minutes, or is convicted of a crime involving moral turpitude or a felony, or ceases to be domiciled in and a voter of the City, the office shall immediately become vacant and shall be so declared by the City Council. (Bell City Charter § 501.)

### **2.5 Study Sessions**

The Legislative Body may meet informally in conference or "study" sessions regarding concerns of the Legislative Body to interchange information and such meetings shall be subject to the Brown Act, provided that all discussions and conclusions shall be informal. Such meeting shall be called in the same manner as for special meetings or adjourned meetings, as applicable. Each notice shall indicate that an opportunity for public comment shall be provided before any matter shall be determined. When a meeting has been designated a Study Session, the Legislative Body shall not take any action with respect to the matter under study except with prior public notice, appearing on a properly posted agenda, of such intent to take action.

## **ARTICLE III–NOTICE AND AGENDA**

### **3.1 Notice and Agenda for Regular Meetings**

For every regular Legislative Body meeting, the Clerk/Secretary or his or her designee shall post a notice of the meeting, specifying the time and place at which the meeting will be

held, and an agenda containing a brief description of all the items of business to be discussed at the meeting as set forth in Article V. The notice and agenda may be combined in a single document.

The notice and agenda must be posted at least seventy-two (72) hours before the regular meeting in a location freely accessible to public twenty-four (24) hours a day during the seventy-two (72) hour period and where the notice and agenda is not likely to be removed or obscured by other postal material. In addition, the notice and agenda must be posted on the City's website. Specifically, the notice and agenda shall be posted at the places indicated below, and/or at such other location(s) as the Clerk/Secretary may designate:

CITY HALL COUNCIL CHAMBER  
CITY LIBRARY  
CITY COMMUNITY CENTER

CITY WEBSITE

### **3.2 Notice and Agenda for Special Meetings**

For every special meeting, the Clerk/Secretary or his or her designee shall post a written notice specifying the time and place of the special meeting and the business to be transacted must be sent to each member of the Legislative Body (unless the member has filed a written waiver of notice with the Clerk/Secretary) and to each local newspaper of general circulation, and radio or television station that has requested such notice in writing. The notice shall serve as the agenda for the special meeting and shall contain a brief description of all the items of business to be discussed at the meeting as set forth in Article V.

The notice for a special meeting shall be conspicuously posted at least twenty-four (24) hours prior to the special meeting in a location that is freely accessible to the public twenty-four (24) hours a day and where the notice are not likely to be removed or obscured by other posted material. In addition, the notice and agenda must be posted on the City's website. Specifically, the notice shall be posted at the place indicated below, and/or at such other location(s) as the Clerk/Secretary may designate:

CITY HALL COUNCIL CHAMBER  
CITY LIBRARY  
CITY COMMUNITY CENTER

CITY WEBSITE

### **3.3 Notice and Agenda for Adjourned Meetings**

The Legislative Body may adjourn any regular, adjourned regular, special, or adjourned special meeting to a time and place specified in the order of adjournment. If a quorum is not present, less than a quorum may so adjourn. If all members are absent from any regular or adjourned regular meeting, the Clerk/Secretary may declare the meeting adjourned to a stated time and place and shall cause a written notice of the adjournment to be delivered personally to each member of the Legislative Body at least twenty-four (24) hours before the adjourned

meeting. A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the regular, adjourned regular, special, or adjourned special meeting was held, within twenty-four (24) hours after the time of adjournment. When a regular or adjourned regular meeting is adjourned as provided herein, the resulting adjourned regular meeting shall be a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings. If the subsequent meeting is conducted within five (5) days of the original meeting, matters properly placed on the agenda for the original meeting may be considered at the subsequent meeting. If the subsequent meeting is more than five (5) days from the original meeting, a new agenda must be prepared and posted pursuant to Government Code Section 54954.2.

### **3.4 Affidavit of Posting**

Immediately following the posting of the notice and agenda, the Clerk/Secretary or his or her designee shall complete an Affidavit of Posting, in a form to be developed by the Clerk/Secretary. The Affidavit of Posting shall indicate the time of the posting, the location(s) of the posting, and shall be signed under penalty of perjury. The Clerk/Secretary shall retain all such affidavits, together with a copy of each notice and agenda so posted. The affidavit, notice, and agenda shall be retained at least two (2) years subsequent to the date of posting, and pursuant to Government Code § 34090, shall not be destroyed by the Clerk/Secretary thereafter except in accordance with the City's record retention policies.

## **ARTICLE IV– CLOSED SESSIONS**

### **4.1 Generally**

The Legislative Body may hold closed sessions during a regular or special meeting, or at any time otherwise authorized by law, to consider or hear any matter which it is authorized by State law to hear or consider in closed session. Public comment shall be permitted on closed session matters prior to the closed session. If a closed session is included on the agenda, the description of the item shall meet the requirements of and shall identify the statutory basis for the closed session. During closed session, the Legislative Body shall exclude all persons which it is authorized by State law to exclude from a closed session. No minutes of the proceedings of the Legislative Body during a closed session are required. There shall be no closed session during any special emergency meeting unless approved by a 2/3 vote of the members present (or unanimous if less than 2/3 present) pursuant to Govt. Code § 54956.5. Closed session may not be held regarding a matter not listed on a properly posted agenda for closed session except upon the Legislative Body first taking action to place the item on the agenda as a closed session item as permitted by law.

### **4.2 Persons Authorized**

Persons present in the closed session shall be only those persons necessary to the discussion of the matter under consideration. All other persons shall be excused. The Clerk/Secretary shall attend each closed session of the Legislative Body and keep and enter into a minute book a record of any reportable decisions made at the meeting, unless attendance is excused.

### **4.3 Confidentiality**

The minute book for any closed session is not a public record and shall be kept confidential and shall be available only to members of the Legislative Body or as otherwise provided by law. (Govt. Code § 54957.2(a).) No person attending a closed session shall publicly discuss or otherwise reveal the proceedings in the closed session unless such publication has been approved by the vote of the Legislative Body taken during the closed session or as otherwise required by law. Violation of this rule shall subject the violator to censure by the Legislative Body as provided in Section 10.5 herein.

### **4.4 Public Reports**

Before recessing into closed session, the Presiding Officer or General Counsel shall announce that the Legislative Body is recessing into closed session and shall name each closed session topic that will be discussed in closed session in at least as much detail as shown on the agenda.

Upon leaving closed session, the Presiding Officer or General Counsel shall report publicly any reportable actions taken on a closed session matter and, if any vote was taken, shall announce that the matter was put to a vote, the results of the vote, and how each Legislative Body member voted.

## **ARTICLE V - AGENDA CONTENTS**

### **5.1 Preparation of Agendas**

Barring insurmountable difficulties, the agenda shall ordinarily be delivered to the members of the Legislative Body each Friday preceding the meeting to which it pertains. The agenda shall also be available to the general public at the time it is delivered to the members of the Legislative Body, or in any case as required by the Brown Act.

Any Legislative Body member desiring to present a subject for the Legislative Body's consideration shall advise the City Manager's office and the City Clerk of that fact not later than **5:00 pm one week before** the meeting at which the member wishes the subject to be considered. The matter shall then be listed on the next agenda for discussion of whether it should be a future agenda item. The City Manager shall advise the Legislative Body member of constraints affecting staff's ability to produce an agenda report, and when the matter should be scheduled.

Notwithstanding the foregoing, the City Manager generally has responsibility for setting the agenda for the Legislative Body (except for any Commission where the responsibility may be assigned to the City Manager's designee), and may place matters on the agenda in accordance with the Manager's evaluation of administrative priorities and resource capacities of City.

### **5.2 Description of Matters**

All items of business to be transacted or discussed at a meeting of the Legislative Body, shall be briefly described on the agenda. The description may, but need not, set out the specific action or alternatives which will be considered by the Legislative Body, but should contain

sufficient detail so that a person otherwise unaware could determine the general nature or subject matter of the item by reading the agenda. The description of closed session matters shall meet the requirements of Government Code §§ 54954.2 and, where applicable, § 54954.5. Matters may be designated as “pending” and listed for the sole purpose of determining if they will be on a future agenda.

### **5.3 Action Items**

(a) Matters may formally be adopted by an ordinance, a resolution, minute order, or other motion (thereafter recorded by minute entry). Technically, all three are equally as legally effective and binding but vary in the formality of respective memorialization. While most actions will be presented to the Legislative Body in a written form prior to, or at, the meeting, the Legislative Body may amend any proposed action as written by carried motion of the Legislative Body at the time of its presentation for adoption. If an action as written is so amended by the Legislative Body, it shall be revised to reflect the Body’s amendments for later execution by the Presiding Officer.

(b) Besides ordinances and resolutions, action can be taken by motion and recorded as a minute order. A “minute order” denotes a Legislative Body action which is recorded simply by an item entered in the minutes of the meeting at which it was accomplished, and no separate document is made to memorialize it.

(c) Except for emergency resolutions or ordinances, all resolutions, and ordinances as applicable, shall be presented to the Legislative Body in printed or typewritten form. This requirement does not prevent the Legislative Body from adopting a resolution, or ordinance as applicable, which has been amended by motion of the Legislative Body at the time of its presentation for adoption.

(d) As a general rule, a recorded majority of the quorum for a Legislative Body may take an action. However, for the City Council, resolutions, orders for the payment of money, and all ordinances (except urgency ordinances) require a recorded majority vote of the total membership of the City Council. (Govt. C §36936.) Also, other actions, such as the passage of an urgency ordinance or adoption of a resolution of necessity to condemn property, require a super-majority vote. (Govt. Code §§ 36937, 65858; Code Civ. Proc. § 1245.240.)

(e) Under the Political Reform Act of 1974, a member with a financial conflict of interest regarding a matter before the member’s board must leave the room while that matter is being discussed, heard, or acted on, so that member cannot be counted towards the quorum for that matter. (Govt. Code § 87105; 2 Cal. Code Regs. § 18702.5.)

### **5.4 Resolutions**

(a) A “resolution” is a formal action with findings taken by the Legislative Body, generally prepared in writing, designated by sequential number, and reference to which shall be inscribed in the minutes and an approved copy of each resolution filed in the official book of resolutions of the Legislative Body. A resolution is less formal and does not demand the legal processing required of an ordinance.

(b) Resolutions are used when specifically required by law, when needed as a separate evidentiary document to demonstrate findings or to be transmitted to another governmental agency, or where the frequency of future reference back to its contents warrants a separate document (with the additional preambles/ explanatory material it often recites) to facilitate such future reference and research.

(c) A resolution is generally introduced and adopted at the same meeting. Where a resolution has been prepared in advance, the procedure shall be: motion, second, discussion, vote pursuant to methods prescribed in Article XI, and result declared. It shall not be necessary to read a resolution in full or by title except to identify it.

(d) Where a resolution cannot reasonably be prepared in advance of a meeting, the Legislative Body may instruct the City Manager or General Counsel to prepare a resolution for presentation at the next Legislative Body meeting. Where urgent, a resolution may be presented verbally in motion form together with instructions for written preparation for later execution. After the resolution has been verbally stated, the voting procedure in Article XI, shall be followed. Any decision within the city's police power may be evidenced by resolution unless there is a statutory or other requirement providing otherwise.

## **5.5 Ordinances (City Council Only)**

(a) The City Council is the only Legislative Body empowered to legislate the Bell Municipal Code by adoption of ordinances. Ordinances are the laws of the city.

(b) Ordinances, other than urgency ordinances, require at least two readings at different meetings held at least five days apart with the first reading considered to be introduction and the second adoption. With few exceptions, ordinances take effects on the 31<sup>st</sup> day after adoption.

(c) Ordinances are required to be read in their entirety at the time of introduction or at the time of passage, unless a motion waiving further reading is adopted by a majority vote of the Councilmembers present and voting. The waiver of further reading may be accomplished by one vote for all ordinances presented on the agenda of the present meeting. Government Code Section 36934.

(d) The Clerk/Secretary shall prepare copies of all proposed ordinances for distribution to all members of the City Council at the meeting at which the ordinance is introduced, or at such earlier time as is expedient. Ordinances shall be numbered and kept by the clerk/secretary with the same formality as resolutions as described above in Section 5.4.

(e) An urgency ordinance is an ordinance adopted for the immediate preservation of the public peace, health and safety, containing a declaration of facts constituting the urgency. An urgency ordinance takes effect immediately and requires four-fifths vote of the City Council for passage pursuant to Government Code § 36937.

(f) Ordinances may only be passed at a regular meeting or at an adjourned regular meeting, except for urgency ordinances. Ordinances may not be passed at a special meeting. (Govt. Code§ 36934; Bell City Charter § 511)

## **5.6 Contracts and Agreements**

When any contract or agreement is to be considered by the Legislative Body, the complete contract and agreement, if complete in form for execution, shall be made a part of the agenda package presented to the Legislative Body and shall be made available for viewing by the public within the time frames required under the Brown Act and/or the California Public Records Act (Govt. Code §§ 6250 through 6276.48). The Legislative Body may choose to leave the final form of the contract to the discretion of General Counsel if the Legislative Body has determined the general conditions of the contract.

## **5.7 Limitation of Actions by Agenda**

No action or discussion shall be taken by the Legislative Body, on any item not appearing on a posted agenda, subject only to the exceptions listed in Section 5.9 below. "Action taken" as used herein shall mean a collective decision made by a majority of the Legislative Body present, a collective commitment or promise by a majority of the Legislative Body to make a positive or a negative decision, or an actual vote by a majority of the Legislative Body present upon a motion, proposal, resolution, order, or ordinance.

## **5.8 Public Comment Period**

Pursuant to Government Code § 54954.3, every agenda posted for any meeting shall contain an item entitled "Public Comment" in order to provide for an opportunity for the public to address the Legislative Body on items of interest to the public within the Legislative Body's subject matter jurisdiction. The public comment period should be conducted in accordance with Article VII.

## **5.9 Exceptions to Agenda Requirement for Action Taken**

The Legislative Body may take action at a meeting on an item not appearing on the agenda for that meeting only under one of the following circumstances:

(a) Upon a majority determination that an "emergency situation" that is either (i) a work stoppage, crippling activity, or other activity that severely impairs public health, safety, or both, or (ii) a dire crippling disaster, mass destruction, terrorist act, or threatened terrorist activity that poses peril so immediate and significant that requiring a Legislative Body to provide one-hour notice before holding an emergency meeting may endanger the public health, safety, or both. All discussion of such emergencies must be in open session.

(b) Upon a determination by a two-thirds (2/3) vote of the Legislative Body, or if less than two-thirds of the Legislative Body are present by a unanimous vote of those members present, that the need to take action arose subsequent to the agenda posting. For the purposes of this subsection, the term "need to take action" shall mean those circumstances whose occurrence creates a situation which is materially different from that which existed at the time the agenda was posted, and which requires the immediate attention of the Legislative Body. The mere failure of any person to notify the Legislative Body or staff of a pre-existing situation requiring Legislative Body attention until after the time for the posting of the agenda shall not be deemed to constitute a "need to take action" hereunder. If the Legislative Body makes a

determination pursuant to this subsection, the minutes of the meeting at which the determination is made shall reflect what circumstances gave rise to the “need to take action” and why the item could not be placed on the agenda.

### **5.10 Minutes and Recordings**

(a) An account of all proceedings of Legislative Body in open meetings shall be kept by the Clerk/Secretary. The Clerk/Secretary shall prepare a record of all actions and dispositive decisions taken at meetings proceedings (“Action Minutes” or “Minutes”) for approval by the Legislative Body which when adopted by the Legislative Body shall be the official Minutes of the meeting. Amendment of the Minutes may be made only as to factual accuracy and not as to a change of intent. The Minutes of the meeting will not be verbatim, but shall list the speaker's name, the item and actions taken on the item. Only the best and most complete available recording of the meeting shall constitute the official record of the Legislative Body, but the Minutes shall constitute the official record of the Legislative Body meeting where a verbatim record of the meeting is not available.

(b) Any recording of a meeting made by or at the direction of the Legislative Body is a public record that must be retained and made available to the public for at least 30 days. The Legislative Body must provide to the public, without charge, equipment to review the record.

## **ARTICLE VI – ORDER OF BUSINESS**

### **6.1 Order of Business**

The order of business of each meeting shall be as contained in the agenda prepared by the Clerk/Secretary unless the majority of the Legislative Body members consent to take items out of order. The order of business at meetings of the Legislative Body may be as follows, in accordance with the procedures specified below:

- (a) Call to Order.
- (b) Roll Call.
- (c) Public Comment period on Closed Session, if applicable
- (d) Announcement of Closed Session Items, if applicable.
- (e) Recess to Closed Session.
- (f) Reconvene Regular Meeting.
- (g) Roll Call
- (h) Pledge of Allegiance.
- (i) Closed Session Report, if applicable.
- (j) Presentations.
- (k) Public Comment period.
- (l) Mayor and Council Communications.
- (m) City Manager's Report
- (n) Public Hearings, if applicable.
- (o) Business Calendar.
- (p) Consent Calendar. (See Section 6.3 below)

- (q) Adjournment.

## **6.2 Call to Order**

The meeting of the Legislative Body shall be called to order by the Presiding Officer, or the Vice-Chair in the Presiding Officer's absence. In the absence of both the Presiding Officer and Vice Chair, the meeting shall be called to order by the Clerk/Secretary and the three Legislative Body members present shall elect by majority vote a Presiding Officer for that meeting.

## **6.3 Consent Items**

Matters of a routine or generally uncontested nature and non-controversial, shall be placed on the agenda as Consent Items and may be approved by the Legislative Body in a single motion by adoption of the Consent Calendar. The approval of the Consent Calendar shall signify the approval of each matter or recommendation included therein. All matters on the Consent Calendar shall be the subject to public comment procedures in Article VII. Upon the request of any member of the Legislative Body or upon the request of a member of the public made through the Presiding Officer, a matter may be removed from the Consent Calendar for separate discussion and/or action. Any such item shall be considered as part of the Excluded Consent Calendar. Each matter proposed for consideration as part of the Consent Items, including any recommended action, shall be described on the notice and agenda posted for the meeting. The following matters are not appropriate for the Consent Calendar:

- (a) Ordinances shall not be placed on the Consent Calendar for approval unless it is the second reading of the ordinance and the reading of the ordinance has been waived as required by law.

- (b) Any matter where the City Manager believes (i) it unlikely that there would be unanimous approval by the Legislative Body, or (ii) there is likely to be public comment on the matter, or (iii) a public presentation of the matter would be beneficial to the community.

## **6.4 City Representatives and Advisory Bodies (City Council Only)**

- (a) From time to time the Council may be required to assign a representative of the City to non-City boards, commissions or organizations (e.g., boards or commissions of another agency or joint powers authority). Except as otherwise required by law or by the policies of the non-City organization, the Mayor shall make all such appointments of City representatives on non-City organizations after consultation with the City Council.

- (b) The City Council shall have the power to establish advisory committees, commissions, other Legislative Bodies and Non-Governing Bodies. Any committee which is (i) established by ordinance, resolution or other formal action required by law, or (ii) has a fixed regular meeting schedule, or (iii) has continuing subject matter jurisdiction over a non-temporary issue, or (iv) which continues to conduct business in excess of 180 days, or (v) has a majority membership of officials from other Legislative Bodies, shall be subject to the provisions of the Brown Act.

(c) Advisory bodies and committees may take the following form:

(1) The Council may, as the need arises, authorize the appointment of “ad hoc” Council committees composed of two members. Except where otherwise specifically provided by law, the Presiding Officer shall appoint the members of the Council committees, subject to the approval of the Council. Any committee so created shall cease to exist upon the accomplishment of the special purpose for which it was created or when abolished by a majority vote of the Council.

(2) The Council may, subject to the Brown Act, create other committees, boards, and commissions, whether Legislative Bodies or Non-Governing Bodies, to assist in the conduct and operation of the City government with such jurisdiction and duties as the Council may specify. Except where otherwise specifically provided by law, the Mayor shall make appointments of members to such committees, boards or commissions subject to the approval of the Council. The procedure of filling vacancies and provision of notice thereof shall be subject to the provisions of the Maddy Act. (Govt. Code §§ 54970-54974). Absent any other provision to the contrary, members of committees, boards and commissions may be removed by the Council without cause by a majority vote of the whole Council body. Any member of the City Council may place the question of such removal on the agenda. (Bell City Charter § 802.) Any committees, boards, or commissions so created may be abolished by a majority vote of the whole Council body by repeal of the enacting ordinance or resolution.

(c) Sub-Legislative Bodies, including Non-Governing Bodies, shall be responsible for reporting the Body’s activities to the City Council. The members of a Sub-Legislative Body or Non-Governing Body shall operate within the jurisdiction established by the Council and shall not have authority to make subcommittees unless specifically granted such authority by action of the full City Council. Staff members may be assigned to assist any Council-created committee by the by the City Manager; staff members so assigned shall not be members of the committee unless specifically appointed as such by action of the full Council.

## **6.5 Budgets**

The City Council shall have the power to approve the City budget, and each Legislative Body shall have the power to approve the budget of funds specifically apportioned to control of that Legislative Body (e.g., the Successor Agency Board shall approve the budget of the Successor Agency to the Bell Community Redevelopment Agency and the Housing Authority Board shall approve the budget of the Bell Housing Authority). Approval of the budget constitutes approval of a proposed plan of expenditures and revenues. With respect to each given expenditure the applicable procedure and laws must be followed. Further adoption of the budget does not constitute authorization for any specific employment class or position.

## **6.6 Items from Members**

(a) There is a specific item on the agenda for receiving general comments, announcements, and/or suggestions from members of the Legislative Body. This can be used to inform the public concerning upcoming events, report on members’ attendance at conferences and seminars, for requests by members that staff review specific matters or similar matters.

These matters may not be discussed, opined upon or deliberated, and if they do not concern a matter on the agenda, shall be handled by the Presiding Officer according to the same procedures set out for Public Comment in Section 7.3. No action may be taken on such matters without being placed on a subsequent agenda.

(b) There is an agenda item referred to as New Business. Matters are listed under this item pursuant to Section 5.1 where a member has asked that the matter be scheduled for discussion of whether a future staff report should be prepared. The listing of the matter allows a discussion of whether a staff report should be prepared, or it may be held on the pending agenda to keep track of when it will be assigned to a future agenda.

(c) There is an agenda item referred to as City Manager Reports. This may be used by the City Manager similarly to the item for members of the Legislative Body in Subsection (a) above to make announcements without separately listing the matter on the agenda, and subject to the same restriction that there may be no discussion or action on such matter.

## **ARTICLE VII– PUBLIC COMMENT**

### **7.1 Public Comment**

At the beginning of any Legislative Body meeting the public shall be afforded the right to comment on any and all issues, including items on the agenda, within the subject matter jurisdiction of the Legislative Body. Public comment shall be taken at the beginning of the meeting under a “Public Comment” heading. With regard to matters not on the agenda, the Legislative Body may ask questions of persons who raise new matters during the Public Comment period or otherwise, and the Presiding Officer should handle such matters as provided in Section 7.3, below. However, all Legislative Body questions must be limited to facts-only informational inquiries, and the Legislative Body may not discuss the merits, express any opinions or ask questions that convey opinions or thought processes with respect to any non-agendized issue.

### **7.2 Time Limitations**

The Presiding Officer has the full prerogative to maintain meeting order and decorum as provided in Section 9.1 and Article X generally. Time limits for public comments shall be three minutes per speaker. The Legislative Body may modify the time limits to accommodate a lengthy agenda or allow additional time for discussion on a complicated matter.

### **7.3 Speaker Cards and Procedures**

(a) Any member of the public desiring to address the Legislative Body must stand at the podium and wait to be recognized by the Presiding Officer. Upon being recognized, each speaker must identify the subject or subjects (whether agendized or not) upon which she or he intends to speak, and state his or her name, but shall not be required to give any information as a condition of speaking. All remarks and questions shall be addressed to the Presiding Officer and not to any individual Legislative Body member, the audience, staff member or other person.

(b) At the close of the speaker's comments, or the close of the period for public comment the Presiding Officer may ask staff to respond to the speaker's comments. Thereafter, the Presiding Officer may refer the matter to staff for investigation and/or response; or request that the matter be placed on an agenda for a subsequent meeting for action by the Legislative Body.

#### **7.4 Reserved**

#### **7.5 Additional Procedures for Public Comment on Agenda Items**

(a) Members of the public shall have the opportunity to address the Legislative Body on each and every item listed on the agenda. Public comments on an agenda item may be heard during Public Comment period at the start of the meeting.

(b) The purpose of the public comment period is to receive input from the public, not to create a debate between the Members and the public. Members should generally refrain from debating members of the public during the period for public comment, but if Members desire to clarify comments by members of the public, they may ask factual questions, and if necessary, should do so during the public comment period.

(c) The Presiding Officer should clearly open and close the public comment period. After the close of the public comment period or after a motion has been made, no member of the public shall address the Legislative Body.

### **ARTICLE VIII- NOTICED PUBLIC HEARINGS**

#### **8.1 Public Hearings; Notice; Fairness**

(a) Matters noticed to be heard by the Legislative Body shall commence at the time specified in the notice of hearing, or as soon thereafter as is reasonably possible, and shall continue until the same has been completed or until other disposition of the matter has been made.

(b) Legislative Body members shall not overtly or implicitly promise a particular action by City staff or by any Legislative Body. Where a Legislative Body member is contacted about an issue that will be presented to any Legislative Body of the City, it is appropriate to give a brief overview of City policy, to refer to City staff for further information, or to suggest that the concern be brought to the whole Council at the hearing or Council meeting, as appropriate.

(c) All public hearing notices shall be issued and published in compliance with any statutory notice requirements applicable to the particular hearing at issue and such notice shall inform interested persons of the Statute of Limitations to challenge the validity of any action taken by the Legislative Body on such matter.

(d) In all matters before a Legislative Body, whether public hearing or otherwise, the Body must judge the matter fairly and without personal bias. Although every

Legislative Body member has a right to their own personal opinions, Legislative Body members should by their demeanor show an ability to listen to a variety of viewpoints and demonstrate a reasonable willingness to consider all sides of an issue before them. For quasi adjudicative matters involving public hearings, the members of the Legislative Body shall not prejudice the matter prior to the public hearing, shall be fair and impartial, and shall decide the matter based upon the evidence and the statutorily required findings. For such matters, Legislative Body members should avoid expressing an opinion or divulging their thought process until after the public hearing has been closed and brought back to Council for discussion.

## **8.2 Continuance of Hearings**

(a) Any hearing being held or noticed or ordered to be held by the Legislative Body may, by order or, notice of continuance, be continued or re-continued to any subsequent meeting in the manner provided for adjourned meetings.

(b) When it is the decision of the Legislative Body to continue an item which appears on the agenda, prior to hearing any report, testimony or taking evidence on the item, the Legislative Body may make such intent known at the beginning of the meeting. At that time the public shall be offered the opportunity to speak regarding the intent to continue the item. At the time regularly scheduled for the hearing of the item, the Legislative Body shall then take action to continue the item after again informing the public of the intent to continue the matter. No testimony or evidence shall be taken at that time unless the speaker will not be available at the continued hearing date.

(c) When the Legislative Body has continued the public hearing on an item after its commencement, persons testifying at the first public hearing shall be permitted to again address the Legislative Body on the item at the renewed hearing subject to the finding of the Presiding Officer that the testimony is redundant. Upon such finding the time allotted for testimony by the individual may be summarily reduced.

(d) Continuances of a public hearing to a date certain need not be re-noticed unless (i) the hearing has not been continued to a date certain, or (ii) has been continued three or more times and the Presiding Officer believes confusion may be created as to the time of the hearing.

## **8.3 Conduct of Hearings**

(a) When a matter for public hearing comes before the Legislative Body, the Presiding Officer shall request that staff present the staff report and any other relevant evidence, but the presentation of the staff report prior to the formal opening of the public hearing shall not prevent its consideration as evidence. Any such evidence shall be made a part of the record of the public hearing. The Presiding Officer shall permit members of the Legislative Body to ask questions of staff, but should prevent expressions of opinion by members of the Legislative Body before the conduct of the hearing.

(b) The Presiding Officer shall thereafter open the public hearing and inquire if there are any persons present who desire to address the Legislative Body on the matter. Any person desiring to speak or present evidence upon being recognized, may speak or present

evidence relevant to the matter being heard. Generally the Presiding Officer should allow speakers in favor of the matter, then those opposed, and then rebuttal. Any testimony shall be truthful.

(c) Members of the Legislative Body who wish to ask questions of the speakers, during the public hearing portion, may do so but should be mindful that the purpose of the public hearing is to obtain testimony and evidence from the speakers, and not to debate the merits of the matter with speakers. Members should avoid debate and expressions of personal opinion until after the close of the public hearing. Unlike public comment periods, generally there should be no response to speaker comments until after the close of the hearing. The Presiding Officer shall conduct the hearing in such a manner as to afford due process to all affected persons.

(d) All persons interested in the matter being heard by the Legislative Body shall be entitled to submit written evidence or remarks, as well as other graphic evidence. All such evidence presented shall be retained by the Clerk/Secretary as part of the record. Each speaker may only speak once during the public hearing unless the Legislative Body requests additional clarification, answers or rebuttal later in the process.

(e) Upon closing of the public hearing by the Presiding Officer, no additional public testimony shall be solicited or received by the Legislative Body without reopening the public hearing. If, however, the Legislative Body receives relevant new evidence after the close of the public hearing and such new evidence may impact the Legislative Body motion or vote, the Legislative Body may re-open the public hearing to obtain public comments upon such new evidence.

(f) The Presiding Officer has the prerogative to establish special rules, such as to require group spokesmen, to limit the number of speakers to limit the total time for testimony to allow speakers to give time to others, or otherwise control the hearing, provided that (i) speakers are treated fairly and uniformly, and that (ii) any such special rules are announced in advance of their application. The Presiding Officer always retains the prerogative to cut-off speakers who are unduly repetitious, and to permit the extension of time to speakers.

#### **8.4 Extra-Meeting Contacts on Matters Set for Public Hearing**

(a) Legislative Body members should minimize their contacts with developers, applicants, or other persons who will be the subject of a quasi-adjudicative public hearing matter to be heard before the Legislative Body. Legislative Body members should avoid extra-meeting contacts with persons who will be the subject of a public hearing before the Body or with advocacy groups or special interests.

(b) If a Legislative Body member is contacted directly by such person outside the meeting setting, the member shall refrain from expressing any viewpoints or thought processes to the person until after the public hearing. The Legislative Body member may explain that they are unable to express any viewpoint on the matter until all evidence has been heard in the course of a public hearing and should encourage any such person to present their position in writing or orally at the public hearing.

(c) At the commencement of the public hearing, the Legislative Body member must disclose publicly any extra-meeting contacts or discussions had which may be relevant to the decision.

(d) The limitations set forth in this Section shall not be read as preventing a Legislative Body member from inspecting a site that will be relevant to a public hearing, although such sight inspection should be disclosed on the record at the beginning of the public hearing.

## **ARTICLE IX - OFFICERS**

### **9.1 Presiding Officer**

(a) The meeting shall be presided over and chaired by the Presiding Officer, or, in the Presiding Officer's absence, the Vice Chair. The Presiding Officer shall have the authority to rule any speaker out of order, including speakers during the public comment period if the subject raised is not within the subject matter jurisdiction of the Legislative Body, or during a public hearing if the speaker is not presenting testimony or evidence relevant to the matter which is the subject of the public hearing. The Presiding Officer shall have the responsibility for the conduct of meetings in an orderly manner and to prevent the obstruction of business, and in carrying out this responsibility shall have the authority to give the floor to any member of the Legislative Body or public by recognizing them, to prevent the misuse of legitimate forms of motions or privileges, to take matters up out of order, to caution speakers as to disruptive behavior, and to order any persons willfully interrupting the meeting to be removed from the room, including as provided in Article X.

(b) The Vice Chair shall generally take the place of the Presiding Officer in the absence of the Presiding Officer. The Legislative Body shall designate one of its members as Vice Chair. In the absence of the Vice Chair, the Legislative Body may call any other member to take his or her place as Presiding Officer, such substitution not to continue beyond adjournment.

(c) Any determination made by the Presiding Officer may be appealed by the making of a Motion to Appeal the Ruling by any other member of the Legislative Body. The Presiding Officer's determination will stand unless a majority of the Legislative Body members vote in favor of the Motion to Appeal the Ruling, in which case the ruling of the Presiding Officer will be overridden. The Motion to Appeal the Ruling is governed by the Chart of Motions attached as Exhibit A.

### **9.2 Representation of Legislative Body**

(a) The Mayor is the designated representative of the City and the City Council for purposes of presenting and expressing the official City position on an issue. If individual members of the Council or other Legislative Bodies are contacted by the media for a statement of official City position, the member should refer such inquiries to the Mayor. Otherwise public or media statements by a Legislative Body member should be clearly characterized as comments upon a personal viewpoint.

(b) Members of the City Council may use official City letterhead to correspond with other public officials and with consultants but any such correspondence shall state that the views expressed therein are personal and not the position of the City unless the City Council has officially adopted such position. No commission or Sub-Legislative Body may take a position officially representing the City unless authorized to do so by the City Council.

### **9.3 Email Policy**

(a) Members of the Legislative Body are provided with City email accounts which may be utilized for the conduct of City business, including communications with constituents. Members should be aware that all such communications may be subject to the Public Records Act. (Govt. Code § 6200.) .

(b) Members of the Legislative Body are subject to the Brown Act in the use of email. Email communications may not be used to develop a collective consensus or decision on any matter. Email communications to the entire Body should be avoided but may be permitted to provide factual information, for example such as arranging an event, where no discussion or exchange of opinions on a matter within the jurisdiction of the Legislative Body is initiated or occurs.

### **9.4 Clerk/Secretary**

The Clerk/Secretary or his/her deputy shall attend all meetings of the Legislative Body unless excused, and shall keep the official minutes and perform such other duties as may be requested by the Legislative Body. (Bell City Charter § 704.)

### **9.5 City Manager**

The City Manager, or designee, shall attend all meetings of the Legislative Body unless excused. The City Manager may make recommendations to the Legislative Body and shall have the right to take part in all discussions of the Legislative Body, but shall have no vote. The City Manager, shall provide the Legislative Body with a staff report providing sufficient information to be the basis for any action by the Legislative Body at its meeting. Any officer or employee of the City, when directed by the City Manager, shall attend any meeting of the Legislative Body and may present information relating to matters before the Legislative Body. (Bell City Charter §§ 604 and 605.)

### **9.6 General Counsel**

(a) The General Counsel, or deputy, shall attend all meetings of the City Council unless excused and shall upon request of any member give an opinion, either written or oral, on questions of law. The General Counsel, or deputy, shall attend all meetings of such other Legislative Bodies as directed by the City Council or City Manager. The General Counsel serves as advisory parliamentarian for the City and is available to answer questions or interpret situations according to parliamentary procedures. Final rulings on parliamentary procedure are made by the Presiding Officer, subject to the appeal to the Legislative Body pursuant to Section 10.1 (c), below. All ordinances and resolutions and all contracts, deeds, easements or other legal instruments shall be approved as to form and legality by General Counsel. In any case of

ambiguity or uncertainty in the interpretation or application of this Manual to any procedure, the Presiding Officer may direct such question to the General Counsel for a ruling. (Bell City Charter § 703.)

(b) Any member of the Legislative Body may request from the General Counsel a legal opinion regarding any matter related to the interests of the City. Where a legal opinion involves substantial cost, the request for the opinion must first be approved by the City Manager or by a majority of the Legislative Body. The General Counsel is the legal representative of the City acting through its Legislative Body. There is a continuing legal question as to whether the General Counsel may have an attorney-client relationship with any individual member of the Legislative Body or the City staff. As a consequence any discussion with the General Counsel which leads to the conclusion that the interests of the City are at risk must be revealed to all relevant members of the Legislative Body and the City staff by the General Counsel. The General Counsel shall not have an attorney-client relationship with individual Councilmembers. The General Counsel is required to maintain the confidentiality of such communications from persons outside the City to the extent required or permitted by law and the code of ethics.

(c) The General Counsel has no statutory duty or authority under the Political Reform Act to provide Political Reform Act advice to any Legislative Body member but should provide advice to members when requested. However, a Legislative Body member may not rely on advice from the General Counsel to provide him or her with immunity from FPPC enforcement or prosecution. Such immunity may be obtained only through a written advice letter obtained from the FPPC, on the question in issue, by the Legislative Body member. A Legislative Body member enjoys no privilege of attorney-client confidentiality in reviewing these matters with General Counsel. Any advice given to an individual member of a Legislative Body cannot be withheld from the rest of the City or Legislative Body. If, after receipt of an opinion of the General Counsel, the Legislative Body member wishes to participate in the decision making process with immunity from prosecution or enforcement, the General Counsel shall assist the Legislative Body member in making direct contact with the FPPC for informal or formal advice upon which the Legislative Body member can rely.

(d) *[This Section Applicable to City Council Only]*. It often happens that other jurisdictions or the League of California Cities or other regional or statewide association will ask the City to participate in the filing of a letter or brief before a court in a matter deemed to be of concern to all or a great many cities. These “friend of the court” or “amicus” briefs have the effect of informing the court how widespread will be its opinion and how that opinion will affect cities. Such participation is normally without direct cost to the City. In considering whether to direct General Counsel to file an amicus brief, the City Council shall consider whether such brief would represent or propose a position that conflicts with, or causes strife amongst, other City-related interests such as, without limitation, the interests of employee organizations, law enforcement or public safety.

(i) Upon receipt of the request, the General Counsel shall make the request available through the City Manager to the Council. Upon a determination by any Council Member that there is an interest in participating in the action in the manner proposed, the Council Member shall inform the City Manager or General Counsel who shall place the

matter as an item for discussion in closed session on the agenda of the next Legislative Body meeting. General Counsel may otherwise place an amicus request on the agenda on his or her initiative.

(ii) In lieu of the foregoing process, where there is urgency to the matter, General Counsel is authorized to undertake the filing of the letter or brief where (i) in the opinion of General Counsel the legal matter significantly affects the interests of the City, (ii) the General Counsel has consulted with and received the approval of the City Manager, (iii) the cost to the City will not exceed \$5000, and (iv) the General Counsel makes a written report of the action to the Legislative Body.

(iii) Approval given to General Counsel to defend, or seek or refrain from seeking, appellate review or relief, or to enter as an amicus curiae in any form of litigation as the result of a closed session consultation shall be reported in open session at the public meeting during which the closed session is held. The report shall identify, if known, the adverse party or parties and the substance of the litigation. In the case of approval given to initiate or intervene in an action, the announcement need not identify the action, the defendants, or other particulars, but shall specify that the direction to initiate or intervene in an action has been given and that the action, the defendants, and the other particulars shall, once formally commenced, be disclosed to any person upon inquiry, unless to do so would jeopardize the agency's ability to effectuate service of process on one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

(e) The Legislative Body shall have control of the goals and objectives of any litigation involving the City, but the General Counsel shall have the discretion and authority over litigation strategy and tactics, and be able to take action on routine or procedural matters such as stipulating to reasonable time extensions, executing tolling agreements, and conducting discovery.

## **9.7 Conflicts of Interest**

All Legislative Body members are subject to the provisions of California Law, such as Chapter 1, Title 9, of the California Government Code, relative to conflicts of interest, and to conflicts of interest codes adopted by the Legislative Body. Any Legislative Body member prevented from voting because of a conflict of interest shall refrain from in any way participating in the matter giving rise to the conflict. Where abstention from a matter is made on the basis of a conflict of interest arising from a financial interest in the decision, the Legislative Body member shall announce their abstention from the matter when it is first opened, and then shall set forth the reason for the abstention with the degree of specificity at least equal to the disclosure of the Legislative Body member's financial interests on the Legislative Body member's annual statement of financial interests; immediately after such announcements, the Legislative Body member shall leave the room. The Legislative Body member shall not overhear the staff report, participate in the discussion or deliberations and shall not otherwise make or participate in making the decision or in any way attempt to use his or her official position to influence the decision. This shall not prevent the conflicted Legislative Body member from coming before the Legislative Body solely during the public comment period as an affected citizen to state his/her opinion on how the matter impacts their disqualifying interests. Reserved

## **9.8 No Financial Interest in Contracts**

A member of a Legislative Body shall not have a financial interest in a contract within the meaning of (Gov't Code §1090 *et seq.*) made in their official capacity and such contract shall be null and void whether the member participates in the making of the contract or not.

## **9.9 Ethical Standards**

A member of a Legislative Body shall maintain the highest ethical standards and shall adhere to all laws and the ordinances and regulations of the City in carrying out their duties.

# **ARTICLE X- DECORUM AND ORDER**

## **10.1 Decorum and Order – Legislative Body Members**

(a) Any member of the Legislative Body wishing to speak, or any member of the public wishing to address the Legislative Body must first obtain the floor by being recognized by the Presiding Officer. The Presiding Officer must recognize any member of the Legislative Body who seeks the floor when appropriately entitled to address the Legislative Body. The Legislative Body member shall confine himself or herself to the question under debate.

(b) Any member of the Legislative Body, including the Presiding Officer, may bring a matter of business properly before the Legislative Body for decision by making a motion. Any Legislative Body member, including the Presiding Officer, except the Legislative Body member making the motion, may second a motion. Once a motion is seconded, it may be opened for discussion and debate.

(c) The Presiding Officer shall determine all points of order, subject to the right of any member to appeal to the majority Legislative Body.

(d) A Legislative Body member, once recognized, shall not be interrupted while speaking unless called to order by the Presiding Officer, unless a Point of Order is raised by another Legislative Body member, or unless the speaker chooses to yield to questions from another Legislative Body member. Any Legislative Body member called to order while speaking shall cease speaking immediately until the question of order is determined. If ruled to be in order, the member shall be permitted to proceed. If ruled to be not in order, the member shall comply with ruling of the Presiding Officer.

(e) Legislative Body members shall accord the utmost courtesy to each other, to City or Legislative Body employees, and to the public appearing before the Legislative Body and shall refrain at all times from rude and derogatory remarks, reflections as to integrity, abusive comments and statements as to motives and personalities, which disrupt, disturb or otherwise impede the orderly conduct of the Legislative Body meeting.

(f) Any Legislative Body member may move to require the Presiding Officer to enforce the rules and the affirmative vote of a majority of the Legislative Body shall require the member to so act.

(g) The members of the Legislative Body shall not engage in communications between themselves during the Legislative Body meeting (including breaks) regarding matters being considered on the agenda unless and until the Legislative Body has opened that agenda item. In order to minimize exposure to a Brown Act violation, Legislative Body members are discouraged from discussing any City business during breaks or before and after meetings; City business may only be discussed by a quorum of Legislative Body members when it is opened as a duly-noticed agenda item.

(h) The members of the Legislative Body shall always be attentive and show respect to those addressing the Legislative Body provided that nothing shall prevent the enforcement of the rules of decorum herein.

(i) No Legislative Body member attending a meeting of another City commission or committee shall make any statement or give the appearance or indicate in any way that they are representing the Legislative Body unless they have been authorized to do so by the Legislative Body. When making a comment at such a meeting, the Legislative Body member should make it clear that they are speaking solely as an individual. Unless officially appointed to participate on a committee, Legislative Body members should make an effort not to insert themselves into or take positions on matters which will ultimately be decided upon by the Legislative Body.

(j) The Legislative Body may punish its own members for misconduct pursuant to Section 10.5.

## **10.2 Decorum and Order – Employees**

(a) Members of administrative staff and employees of the Legislative Body shall observe the same rules of procedure and decorum applicable to Legislative Body members. The City Manager shall ensure that all staff and employees observe such decorum. Any staff members, including the City Manager, desiring to address the Legislative Body or members of the public shall first be recognized by the Presiding Officer. All remarks shall be addressed to the Presiding Officer and not to any one individual Legislative Body member or member of the public.

(b) Questions of City staff and/or requests for follow-up or additional background information should be directed only to the City Manager, General Counsel, Assistant City Manager, or Department Heads. The Office of the City Manager should be copied on any request, except those to the General Counsel. When in doubt about what staff contact is appropriate, Legislative Body members should ask the City Manger for direction. Materials supplied to a Legislative Body member in response to a request will be made available to all members of the Legislative Body so that all have equal access to information.

(c) Legislative Body members should not solicit any type of political support (financial contributions, display of posters or lawn signs, name on support list, etc.) from City staff. City staff may, as private citizens with constitutional rights, support political candidates but all such activities must be done away from the workplace.

### **10.3 Decorum and Order – Public**

(a) Members of the public attending Legislative Body meetings shall observe the same rules of order and decorum applicable to the Legislative Body. All remarks and questions should be addressed to the Presiding Officer and not to any individual Legislative Body member, staff member or other person.

(b) Any person conducting their public remarks or behavior before the Legislative Body in such a way as to actually cause disruption to the conduct of the meeting may be removed from the room by the sergeant-at-arms as directed by the Presiding Officer. Unauthorized remarks from the audience, stamping of feet, whistles, yells and similar disruptive demonstrations shall not be tolerated nor permitted by the Presiding Officer, who may direct the sergeant-at-arms to remove such offenders from the room or call a recess of the meeting whereby the Council will leave the chamber. Aggravated cases may be prosecuted on appropriate complaint signed by the Presiding Officer.

(c) Members of the public shall be allowed to video or audio record a public meeting unless such recording becomes an actual and unreasonable disruption to the Legislative Body's ability to carry-out the meeting.

### **10.4 Enforcement of Decorum**

(a) The Bell Police Chief or designee shall be ex-officio sergeant-at-arms of the Legislative Body. He shall carry out all orders and instructions given him by the Presiding Officer for the purpose of maintaining order and decorum in the Legislative Body meeting. Upon instructions from the Presiding Officer, it shall be the duty of the sergeant-at-arms to eject any unruly person from the Legislative Body meeting chamber or place him or her under arrest or both for conduct actually disrupting to the Legislative Body proceedings. Such person may be barred from further participation in the meeting.

(b) Generally, if the Presiding Officer intends to eject a person for disruption of a meeting, a public warning should be issued. Examples of remarks or behavior that cause actual disruption of the Legislative Body proceedings include:

- (i) Unauthorized remarks from the audience, stamping of feet , whistles, yells, outbursts, catcalls, cursing, applause, offensive or obscene gestures or similar demonstrations which disrupt, disturb or otherwise impede the Legislative Body proceedings
- (ii) Interrupting speakers or speaking when not recognized
- (iii) Calling members of the audience names or threatening them
- (iv) Extended discussion of matters beyond the jurisdiction of the Legislative Body
- (v) Physical threats to any person
- (vi) Shouting into the microphone
- (vii) Dumping objects on the floor of the chamber where the proceeding is held for symbolic or other reasons
- (viii) Speaking beyond the time limits

(ix) Being unduly repetitious

(c) Examples of non-disruptive conduct include:

- (i) Silent gestures by members of the audience, such as a thumbs up or thumbs down or Nazi salute that are not otherwise disruptive of the meeting
- (ii) Catcalls or booing during a time allowed for applause that does not otherwise disrupt the meeting
- (iii) Criticisms of public officials or staff during a time reserved for public comment that does not otherwise violate Council procedures and does not disrupt the meeting

(d) As set forth in Government Code § 54957.9, in the event that any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting infeasible and order cannot be restored by the removal of individuals who are willfully interrupting the meeting, the Legislative Body members may order the meeting room cleared and continue in session. Only matters appearing on the agenda may be considered in such a session. Duly accredited representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this Section. Nothing in this Section shall prohibit the Legislative Body from establishing a procedure for readmitting an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting.

### **10.5 Censure of Legislative Body Members**

(a) It shall be a violation of this section for any sitting member of a Legislative Body to violate any general law or regulation or ethical standard, and any, rule, law, ordinance or resolution of the City of Bell. It shall also be a violation of this section for any sitting member of a Legislative Body to violate an administrative policy of the City which has been adopted following a vote of the Legislative Body or the City Council on the matter and which by its terms is expressly made applicable to the Legislative Body.

(b) Any violation of the foregoing paragraph by a Legislative Body member may be punished through the administration of a public censure of the member by the member's Legislative Body. Such censure may be in addition to any other punishment applicable to the violation. For purposes of this section, "censure" shall mean the adoption of a motion setting forth a statement of disapproval of a Legislative Body member's conduct.

(c) When evaluating a request for defense or indemnification made by the censured member in litigation arising from the censured conduct, the record of the censure shall be considered by the Legislative Body. Such record shall not be determinative. Failure of the Legislative Body to censure the conduct of a member does not constitute waiver of the Body's right to refuse to indemnify or defend the member in an action.

(d) A Legislative Body member may not be made the subject of a motion for censure without first being given notice of the violation and an opportunity to correct the

violation, if it can reasonably be corrected. Upon a continued violation or failure to correct, the charged member shall be given notice and an opportunity to be heard as follows:

(i) Only a sitting member of the Legislative Body whose member commits the violation may initiate proceedings for the censure of one of its members.

(ii) Proceedings shall be commenced by the presentation of a written statement of charges to the subject Legislative Body member with a copy delivered concurrently to the Clerk/Secretary by the member initiating the charge. Initiation shall not require the prior approval of the Legislative Body. The statement of charges shall be given at least ten days prior to the meeting at which the censure motion is proposed to be brought. The notice shall contain, at a minimum, the designation of the specific rule, law regulation, etc. which the member is claimed to have violated and a statement of the date, place and time at which the violation occurred. The statement shall further contain a description of the conduct of the member which is alleged to constitute the violation. The statement of charges shall be delivered to all other Legislative Body persons.

(iii) Within seven (7) days after delivery of the statement of charges, the charged member should deliver a written response to the other members of the Legislative Body unless the charged member chooses to defer to response to the hearing.

(e) The motion for censure shall be agendized and considered at the first regular meeting occurring 10 days following the delivery of the statement of changes to the member and Clerk/Secretary. The hearing may not be continued except upon the absence from the meeting of a member of the Legislative Body other than the member bringing the charge or the member who is the subject of the charge.

(i) The hearing shall be conducted in an open session by the Presiding Officer unless the Presiding Officer is a party to the action, in which case the Vice Chair or some other member shall conduct the proceedings.

(ii) The hearing shall generally proceed by a reading of the charges by the charging member. The charging member may present witnesses; the charged member may answer in rebuttal; members of the public may speak in favor or opposed to the charge; and the remaining members may speak to the charges in that order.

(iii) Passage of the motion for censure shall require a majority vote of the members of the total Legislative Body. The voting members shall not recess to closed session for deliberation.

(f) If the motion for censure does not pass, the proceedings shall be at an end. A new motion for censure on the same grounds of violation may not thereafter be commenced against the same Legislative Body member for a period of 1 calendar year from date of the vote. However, new proceedings may be commenced on the same charges within the 1 year period on the vote of 4 members of the Legislative Body.

(g) If the motion for censure does pass, such motion shall become a part of the public record a copy of which shall be made available upon demand to any member of the

public, subject to the City's Uniform Schedule of Fees, and notice of same shall be placed in the administrative file of the Legislative Body member.

(h) Either with or without the formal process of Censure, the Legislative Body may impose sanctions on its members whose conduct does not comply with these procedures, including loss of seniority or committee assignments, and may remove members from any committee, commission, agency or authority to which they have been appointed as a member of the Legislative Body.

#### **10.6 Persons Authorized To Be Within Platform/Dais**

No person except Legislative Body officials or authorized Legislative Body staff shall be permitted behind the Legislative Body dais without permission or consent of the Presiding Officer.

#### **10.7 Personal Privilege**

If a Legislative Body member is personally offended by the remarks of another member, the offended Legislative Body member should make notes of the actual words used and call for a "point of personal privilege" that challenges the other member to justify or apologize for the language used. The Presiding Officer will maintain control of this discussion. The right of a member to address the Legislative Body on a question of personal privilege shall be limited to cases in which his integrity, character, or motives are assailed, questioned or impugned.

### **ARTICLE XI – PARLIMENTARY PROCUEDRES**

#### **11.1 Procedures In Absence Of Rules**

(a) Unless otherwise specified in this Manual or by ordinance or resolution, meetings of the Legislative Body shall be conducted in accordance with the most recently revised edition of Robert's Rules of Order. In the event of any conflict between Robert's Rules and this Manual, the provisions of this Manual shall govern.

(b) Any provision of these rules not governed by the Government Code may be temporarily suspended by a two-thirds vote of all members of the Legislative Body. Such suspension may be moved at any time by a member. The vote on any such suspension shall be taken by yeas or nays and entered upon the record.

(c) Motions, motion procedures and precedence of motions shall be conducted in accordance with Exhibit "A" hereto.

#### **11.2 Voting**

(a) After a full opportunity for debate if it appears that there is a consensus of opinion among the members of the Legislative Body on the matter to be voted upon, the Presiding Officer may state the consensus of the Legislative Body and ask if there is any objection. If there is no objection, the consensus as so stated shall become the order of the

Legislative Body. The Presiding Officer may also determine that a consensus exists following a call for a vote by any member of the Legislative Body by a Motion to Call the Question.

(b) Except as in Subsection (a) above, otherwise, all votes of the Legislative Body shall be taken by electronic vote. In the event the electronic voting machine is not functioning or otherwise unavailable, vote shall be by roll call vote. The order voting shall be alphabetical with the Presiding Officer voting last. The Clerk/Secretary shall call the names of all members seated when a roll call vote is ordered or required. Members shall respond ‘aye’, ‘no’ or ‘abstain.’ After every vote the Legislative Body shall declare the result and, on all but consensus votes, shall note for the record the number of votes for or against the question. The ayes and noes shall be taken upon the passage of all ordinances and resolutions and entered upon the official record of the Legislative Body.

### **11.3 Votes Needed**

(a) Usually, in the absence of a contrary statutory provision (such as urgency measures), a majority of a quorum which constitutes a simple majority of the Legislative Body may act for that body. However, resolutions, orders for the payment of money, and all ordinances require a recorded majority vote of the total membership of a Legislative Body.

(b) State law may dictate certain instances in which the number of votes required is greater than a majority of all Legislative Body members. As a matter of convenience, questions on which the voting requirement is varied by the State statutes and these rules, include, without limitation, the following:

- (i) Levying Taxes - Ordinances providing for the Assessment and collection of taxes require the approval of two-thirds of the members of the whole Council.
- (ii) Assessment - Assessments require a two-thirds vote of the members of the whole Council.
- (iii) Bonds and Certificates of Participation - Authorizing these financial instruments the issuing requires a two-thirds vote of the members of the whole Council.
- (iv) Eminent Domain - The exercise of Eminent Domain requires a two-thirds vote of the members of the whole Council.
- (v) Certain Parliamentary Motions – Motions requiring a supermajority vote are noted in the Motions Chart attached hereto.

(c) Any official with a conflict of interest is not counted for purposes of establishing a quorum, and must not vote on, make, participate in any way in, or attempt to influence the decision. A Legislative Body member abstaining on any other grounds than a conflict under the Political Reform Act shall be counted as present for purposes of a quorum and such abstentions are counted with the majority. The Legislative Body member who leaves the

dais solely to avoid participating in a specific item shall, in absence of a conflict, be counted as if they were present but abstaining and such abstentions are also counted with the majority.

#### **11.4 Reconsider**

Any Legislative Body member who voted with the majority may move to reconsider any action at the same meeting or, within sixty (60) calendar days, request in writing to the Clerk/Secretary that it be agendaized for consideration at the following meeting, provided that reconsideration shall not be permitted where a party other than the City has acted in reliance on the Legislative Body's action and would be substantially prejudiced by such reconsideration. The Clerk shall apprise the City Attorney of any facts constituting substantial prejudice and may rely upon the determination of the City Attorney. In the event that the subject of the reconsideration is a motion that failed as the result of a tie vote, any Legislative Body member who voted against the earlier motion may move for reconsideration at the following meeting. The member seeking reconsideration must have the matter agendaized unless the motion will be made at the same meeting where the original action was taken. If the motion to reconsider passes, then the original item may be reconsidered at that time or agendaized for the next meeting which meets any applicable noticing requirements. After a motion for reconsideration has once been acted upon, no other motion for reconsideration thereof shall be made without unanimous consent of the Legislative Body.

#### **11.5 Tie Votes**

Tie Votes shall be lost motions unless an additional Motion is made which obtains a majority vote to break the tie. When all Legislative Body members are present, a tie vote on whether to grant an appeal from official action shall be considered a denial of such appeal. In such case the findings in support of the decision shall be those of the lower body. If a tie vote results at a time when less than all members of the Legislative Body are present, the matter shall automatically be continued to the agenda of the next regular meeting of the Legislative Body, unless otherwise ordered by the Legislative Body.

#### **11.6 Abstentions**

Members of the Legislative Body are discouraged from abstaining from a vote for reasons other than a legally-disqualifying, financial conflicts of interest. However, if a member chooses to abstain from voting as a result of what he/she perceives as a personal or non-financial conflict of interest, the member may do so after stating for the record the nature of the perceived conflict. In the event of such a perceived conflict (as opposed to a legally-disqualifying conflict), the member is not required to leave the dais.

(a) A Legislative Body member shall generally express their positions on all matters except those where they are required to abstain due to legally recognized conflict of interest.

(b) A Legislative Body member who has appealed the action of any person or body of the City on a matter which does not constitute a conflict of interest for the member under any law, may participate in the hearing on the appeal, unless there is clear and convincing evidence that such member is not objective or the member feels that they are unable to remain

neutral, or as may be otherwise advised by the General Counsel. Notwithstanding any contrary provisions herein, in bringing an appeal, the Legislative Body member need not give reasons for making the appeal.

(c) A Legislative Body member may abstain from action on a matter where, in the member's opinion, there might be a public perception that participation in the discussion or decision would be inappropriate even though the member has no disqualifying financial interest within the meaning of FPPC rules and regulations.

### **11.7 Votes Of Members Previously Absent**

(a) A Legislative Body member who was not present at a meeting should generally not vote on the approval of minutes for that meeting, but the voting on such minutes shall have no effect on the validity of the minutes.

(b) A Legislative Body member may vote on a continued item after an absence from the earlier public hearing of the matter if, prior to the vote, the member affirms on the record that they have familiarized themselves with the record of the earlier meeting and are prepared to vote on the issue. If the member shall abstain from the vote, the member shall be counted towards the quorum on the issue and the abstention shall be counted with the vote of the majority of the quorum.

(c) The forgoing shall not apply to the matter of a vote on the minutes of a meeting at which the member was not in attendance. In that instance, the member abstaining on the grounds of non-attendance at the meeting to which the minutes pertain shall not be counted towards the quorum on the issue and the abstention shall not be counted with the votes of the majority of the quorum.

### **11.8 Appeals by Members of Legislative Body**

Except where otherwise provided by ordinance, a member of the Legislative Body shall be deemed an interested person in any matter by a subordinate body and shall have standing to appeal to the Legislative Body any decision by a Sub-Legislative Body, or any determination made by any official of City by filing a written appeal. The appeal shall not state any grounds for the appeal and the resulting hearing shall be *de novo*. The appeal must be filed within 10 days of the making of the decision being appealed and shall be filed with the Clerk/Secretary who shall give written notice to the applicant, and provide written notice to other persons as required for the original action. The hearing shall be held at the first regular meeting of the Council for which notice can be legally given. No appeal fee shall be required to be paid for such appeals.

### **11.9 Findings and Decisions**

Decisions of a Legislative Body, when acting as a quasi adjudicative body (public hearings) should be framed in terms of "findings" of fact, potentially relevant conclusions of law, and ultimate decisions showing the basis for the decision and the nexus between the findings, the conclusions and the decision. The Legislative Body members must consider any legally-

mandated findings applicable to a matter and consider the evidence presented to them in light of such findings in making their decisions.

## **ARTICLE XII- PROCEDURES FOR CONSIDERATION OF DEMANDS FOR CORRECTIVE ACTION**

### **12.1 Requirement of Written Demand**

Prior to any person commencing a judicial action for injunction or mandamus to declare any action taken by the Legislative Body void because of failure to observe Brown Act requirements, such person must first serve upon the Clerk/Secretary a written demand clearly describing the challenged action, the nature of the claimed violation, and the corrective action sought. Such demand must be served upon the Clerk/Secretary within ninety (90) days of the alleged violation or thirty (30) days if the action was taken in open session but in violation of § 54952.2 of the Government Code. Failure to serve any such demand within this thirty (30) day period shall result in the loss of any right to challenge any action alleged to have been taken in violation of §§ 54953, 54954.2, 54954.5, 54954.6, 54956, or 54956.5 of the Government Code.

If the written demand is timely served, the Legislative Body has up to thirty (30) days to cure and correct its action. If the Legislative Body does not act, any lawsuit must be filed within the next fifteen (15) days.

### **12.2 Consideration of Corrective Action**

Upon receipt of such a demand, consideration of the demand shall immediately be placed on the agenda for the next meeting of the Legislative Body. If the demand is received less than 72 hours prior to the time set for the next meeting, the Legislative Body may determine that the notice constitutes the initiation of litigation, and that the need to take action on the threatened litigation arose subsequent to the posting of the agenda, and may consider it at that meeting pursuant to Section 5.9, above. A description of any item so placed on the agenda shall include both consideration of the demand, and the possibility of corrective action by the Legislative Body.

In considering such demands, the Legislative Body shall first determine by motion whether to reconsider the prior action. The motion to reconsider shall be in order as long as made by a party on the prevailing side. If no motion to reconsider is carried the Clerk/Secretary shall inform the demanding party in writing of the Legislative Body's decision not to cure or correct the challenged action. (See, § 11.4 hereof.)

### **12.3 Implementing Corrective Action**

If a motion to reconsider passes, the Presiding Officer may entertain a motion to take corrective action. Any motion taking corrective action shall address the concerns raised in the consideration of corrective action. The motion taking corrective action may include a motion to rescind prior action taken, as appropriate. Passage of a motion to rescind invalidates prior action only as of the time of the passage of the motion, and not from the date of the initial action. A motion implementing corrective action resulting from a written demand is out of order if the action complained of: (i) was in connection with the sale or issuance of notes, bonds, or other

evidences of indebtedness, or any contract, agreement, or incident thereto; (ii) gave rise to a contractual obligation upon which a party has, in good faith, detrimentally relied; or (iii) was taken in connection with the collection of any tax.

In any event, the Legislative Body shall notify the party making the demand in writing of its decision to take corrective action, and shall describe any corrective action taken. This notice shall be given to the demanding party as soon as possible after the meeting, but in no event more than 30 days after receipt of the demand.

## **ARTICLE XIII – MISCELLANOUS**

### **13.1 Interpretation**

This Manual shall be liberally construed to effectuate its purpose and no ordinance, resolution, proceeding or other action of the Legislative Body shall be invalidated or the legality thereof otherwise affected by the failure or omission of the Legislative Body to technically comply with, observe or follow the within rules. The City Council may, by resolution, adopt further rules of interpretation or practice.

### **13.2 Amendments**

This Manual may be amended from time to time as necessary by resolution passed by a majority vote of the City Council at any regular or special meeting, provided that no such amendment shall be adopted unless at least seven days' written notice thereof has been previously given to all Legislative Body members serving the City. Such notice shall identify the section or sections of the Manual proposed to be amended.

### **13.3 Power to Issue Subpoenas**

The Legislative Body may issue subpoenas requiring attendance of witnesses or production of books or other document for evidence or testimony any action or proceeding pending before it. (Gov't Code § 37104.) Subpoenas shall be signed by the Presiding Officer and attested by the Clerk. They may be served as subpoenas are in civil actions.

[END]