

RESOLUTION NO. 6812

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UPLAND REPEALING RESOLUTION NO. 6702 AND ADOPTING RULES OF PROCEDURE OF THE UPLAND CITY COUNCIL

**WHEREAS**, on February 12, 2001, the City Council of the City of Upland adopted Resolution No. 5211, repealing certain prior resolutions, and delegating to the City Manager the establishment of the form and format of public meetings of the City Council; and

**WHEREAS**, on October 8, 2012, the City Council of the City of Upland adopted Resolution No. 6137, repealing Resolution No. 5211 and adopting a policy regarding Council rules of procedure and placement of items on the agenda; and

**WHEREAS**, on September 13, 2021, the City Council of the City of Upland adopted Resolution No. 6611, repealing Resolution No. 6137 and adopting a policy regarding Council rules of procedure and placement of items on the agenda; and

**WHEREAS**, on December 12, 2022, the City Council of the City of Upland adopted Resolution No. 6702, repealing Resolution No. 6611 and adopting revised Council rules of procedure and placement of items on the agenda; and

**WHEREAS**, this Resolution shall repeal Resolution No. 6702 and re-state those procedures set forth in Resolution No. 6702, regarding Council rules of procedure and placement of items on the agenda; and

**WHEREAS**, all legal prerequisites to the adoption of this Resolution have occurred.

**NOW, THEREFORE**, the City Council of the City of Upland hereby finds, determines and resolves as follows:

**Section 1.** The above recitals are true and correct and are incorporated herein by this reference.

**Section 2.** Repealed. Resolution No. 6702 is hereby repealed.

**Section 3.** The City Council of the City of Upland adopts the Rules of Procedure of the Upland City Council dated December 9, 2024, attached to this Resolution as Exhibit A.

**Section 4.** Compliance with California Environmental Quality Act. The City Council finds that this Resolution is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the State CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. Further, if the activity is deemed a project this City Council finds that

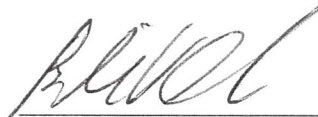
this Resolution is exempt pursuant to Section 15061(b)(3) of the State CEQA Guidelines.

**Section 5.** Certification. The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original resolutions.

**Section 6.** Severability. If any section, subsection, subdivision, sentence, or clause or phrase in this Resolution or any part thereof is for any reason held to be unconstitutional, invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Resolution or any part thereof. The City Council hereby declares that it would have adopted each section irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, or phrases are declared unconstitutional, invalid, or ineffective.

**Section 7.** Effective Date. This Resolution shall become effective immediately.

**PASSED, APPROVED and ADOPTED** this 9th day of December 2024.



Bill Velto, Mayor

I, Keri Johnson, City Clerk of the City of Upland, do hereby certify that the foregoing Resolution was adopted at a regular meeting of the City Council held on the 9th day of December 2024, by the following vote:

AYES: Mayor Velto, Councilmembers Breitling, Garcia, Maust, Zuniga  
NOES: None  
ABSENT: None  
ABSTAINED: None

ATTEST:



Keri Johnson, City Clerk

# Rules of Procedure of the **Upland City Council**



Approved by the Upland City Council on December 9, 2024

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# C H A P T E R 1

## Introduction

The Upland City Council establishes policies and priorities for the community and is responsible for the fiscal health of a public corporation.

### **Purpose of the Procedures Manual**

City of Upland staff prepared this procedures manual to assist the City Council by documenting currently accepted practices. Through agreement of the City Council and staff to be bound by these practices, with the City Manager having overall responsibility, the effective administration of City Council affairs is greatly enhanced. While attempting not to be overly restrictive, procedures are established so that expectations and practices can be clearly articulated to guide Council Members in their actions. It is anticipated that this Procedures Manual may be revised from time to time.

### **Overview of City Documents**

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

**Municipal Code:** The Municipal Code contains local laws and regulations adopted by ordinances. The administration and personnel chapter of the code addresses the time and place of meetings and compensation of council members. It also describes the organization and appointment of advisory commissions. In addition to these administrative matters, the Municipal Code contains a variety of laws. The Municipal Code is available on the City's website.

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

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

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

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

It is important that members of the Council have an understanding of the full range of services and programs provided by the organization. As new members join the City Council, the City Manager coordinates each Council Member meeting with Department Heads to provide tours of City facilities and meetings with key staff.

## CHAPTER 2

# Powers and Responsibilities

### City Council Generally

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

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

Limitations are imposed on a Council Member's ability to serve on appointed boards of the city. State law expresses that no member of the Council shall serve as a voting member of any city board, committee, or commission, such as the Planning Commission, and Airport Land Use Committee, whether composed of citizen volunteers, city employees, or a combination of both.

This is not to be construed as prohibiting members of the Council from serving on committees or subcommittees of the Council itself, such as standing legislative committees, council ad hoc committees, or of agencies representing other levels of government including San Bernardino County Transportation Authority and OmniTrans, among others. In fact, Council Members participate and provide leadership in these regional meetings. Council Members should report to the Council on matters discussed at subcommittees and other regional or state board/agency/group activities in which they have been involved.

### Role of Mayor & Mayor Pro Tem

**Mayor:** The Mayor is to preside at all meetings of the City Council and perform such other duties consistent with the office as may be imposed by the Council or by vote of the people. As presiding officer of the Council, the Mayor is to faithfully communicate the will

of the Council majority in matters of policy. The Mayor is also recognized as the official head of the city for all ceremonial purposes. As such, the Mayor shall be the chief spokesperson for the City, representing the City at all ceremonial events and functions, and shall issue all ceremonial proclamations, and certificates.

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

**Mayor Pro Tem:** The Mayor Pro Tem of the city shall preside over City Council meetings or serve in a ceremonial role as Mayor Pro Tem only during the Mayor's absence. The purpose of the Mayor Pro Tem is to ensure the continuity of leadership and the efficient conduct of city affairs in the absence of the Mayor.

The Mayor Pro Tem is a rotational position (Resolution No. 6478), and the new Mayor Pro Tem is ratified by the Council every December. The individual occupying this role should refrain from utilizing the title except when performing the above mentioned duties in the absence of the Mayor. Given that the position of Mayor Pro Tem is a rotational role that changes annually, no business cards, apparel, or other city-purchased items featuring the Mayor Pro Tem title shall be procured or used.

### **Appointment of City Manager and City Attorney**

The City Council appoints two positions within the city organization: the City Manager and City Attorney. Both positions serve at the will of the City Council. The City Manager is an employee of the City and has an employment agreement that specifies certain terms of employment. The City Manager is responsible for all other personnel appointments within the City.

### **Appointment of Legislative and Advisory Bodies**

The city has a number of standing advisory bodies. The City Council has adopted, by Resolution, policies on the appointment, roles and responsibilities of the various Boards, Commissions and Committees. These procedures apply to all appointments and reappointments to standing legislative and advisory bodies.

Note that both appointed advisory bodies and legislative committees are subject to the open meetings laws commonly known as the Brown Act. A complete list of these advisory bodies and committees are maintained by the City Clerk. There is one exception to subcommittees being subject to the Brown Act: ad hoc committees consisting solely of less than a quorum of the legislative body, provided they are composed solely of members of the legislative body and provided that these ad hoc committees do not have some "continuing subject matter jurisdiction," and do not have a meeting schedule fixed by formal action of a legislative body. Ad hoc committees serve only a limited or single purpose, they are not perpetual, and they are dissolved when their specific task is completed.

## CHAPTER 3

# City Council Meetings

### Agenda items

It is the responsibility of the City Manager to oversee the addition and deletion of items on the City Council agenda. The scope of such review focuses on the timing of business items and the volume of business that can be considered at any one meeting. Such review does not allow for a unilateral unlimited delay of items to be considered by the Council or the introduction of new items not otherwise part of the Council's identified priorities or staff's work plan.

### General Procedures

By resolution, the City Council adopts this document as a modified version of Roberts Rules of Order.

**Presiding Officer:** The Mayor is the presiding officer and acts as chair at Council meetings. In the absence or incapacity of the Mayor, the Mayor Pro Tem serves as presiding officer. In the absence of both, the Council Members present shall elect a Presiding Officer for that meeting.

**Seating arrangement of the Council:** The Mayor, shall establish the seating arrangement for regular Council meetings.

**Quorum:** Three-fifths of the Council Members constitute a quorum for the transaction of Council business. If a quorum is not in attendance, those attending will be named in the minutes and the meeting will be adjourned due to lack of quorum. The City Clerk will ensure proper notice of the adjournment.

**Council Member Attendance:** Members of the City Council are expected to attend all meetings. If a Council Member is unable to attend a meeting they should inform the Mayor and City Manager as soon as possible.

Additionally, if a Council Member has unexcused absences from three (3) consecutive regular meetings or half or more of all regular meetings held in a given calendar quarter of the calendar year, then the City Council may declare the absent Member's seat abandoned and vacant [California Government Code § 36513(a)]. An absence will be considered unexcused unless the City Council finds that at the time of the absence the Council Member was performing services for the city, was ill or on sequestered jury duty or the absence was due to a hardship deemed acceptable by the City Council.

**City Manager Attendance:** The City Manager shall attend all meetings of the Council unless excused. In his/her absence, the City Manager shall designate a substitute. The

City Manager may make recommendations and have the right to take part in all discussion of the Council when recognized by the Mayor to do so, but shall have no vote.

**City Attorney Attendance:** The City Attorney shall attend all meetings of the Council unless excused. In his/her absence, the City Attorney shall designate a substitute. The City Attorney shall give opinions, either written or oral, on questions of law and shall act as the Council's parliamentarian.

**City Clerk Attendance:** The City Clerk shall attend all meetings of the Council unless excused by the City Manager. In his/her absence, the Deputy City Clerk will attend as the substitute. The City Clerk shall prepare and post the agenda, record, prepare and maintain the official record of the Council, and perform other related duties as prescribed.

**Department Heads/Employee Attendance:** Department Heads and City employees, as directed by the City Manager, shall attend Council meetings.

**Media Attendance:** In accordance with the Brown Act, all meetings of the City Council and City Boards/Commissions (except closed sessions as authorized by State law) shall be open to the media, and may be recorded and/or broadcast by tape, radio, television or photography, provided that the manner in which such recording or broadcast is made does not unreasonably disrupt the meeting.

**Minutes of Proceedings:** An account of all public proceedings of the City Council shall be recorded by the City Clerk and entered into official minute books of the Council. The minutes shall publicly report any action taken and the vote or abstention on that action of each member present for the action. The minutes shall be available for inspection by the public.

**Right of Floor:** A Council Member desiring to speak shall first be recognized by the Mayor and shall confine his/her remarks to the subject under consideration.

**Preservation of Order:** The Mayor shall preserve strict order and decorum, and shall confine debate to the item under discussion.

**Point of Order:** The Mayor shall determine all points of order, subject to the right of any member to appeal the decision to the full Council. If an appeal is taken, the question to the Council may be: "Should the decision of the Mayor be sustained?"

**Rules of Order:** Except in cases of conflict with these Rules or the Brown Act, the current official edition of Robert's Rules of Order shall govern the proceedings of the City Council.

**Motion and Vote to be Stated:** The Mayor, or a Council Member designated by the Mayor, shall state any motion submitted for a vote, and the Mayor shall announce the result of all votes. A roll call vote shall be taken by the City Clerk upon the request of any Council Member.

**No Secret Ballots or Voting:** Except as otherwise allowed by the Brown Act, all votes shall be conducted in public and the Council shall not take any action by secret ballot, whether preliminary or final. All actions of the Council require a majority affirmative votes.

### **Meeting Schedule**

All meetings of the City Council (except closed sessions authorized by State law) shall be open to the public. No member of the public may be required, as a condition of attendance at a Council meeting, to register his or her name, to provide other information, to complete a questionnaire, or otherwise to fulfill any other condition precedent to his/her attendance.

Regular meetings are usually held in the Council Chamber, 460 N Euclid Avenue, on the second and fourth Mondays of the month. If Closed Session is required the meeting is called to order at 4:00 p.m. (this may be adjusted to a later time based on the number of items on the Closed Session portion of the agenda) and regular sessions convene at 6:00 p.m. The second Council meeting in August and December are permanently cancelled by Resolution of the City Council.

If a Council meeting falls on a City recognized holiday, the meeting will be held the following day. Council Members should inform the City Manager as soon as possible if they intend to be out of town on a set meeting date. On occasion, arrangements may be made in order for Council Members to remotely participate in Council meetings by telephone conference call when out of town, as spelled out in the Brown Act.

### **Special Meetings**

Special meetings may be called by the Mayor or by a majority of the City Council, in accordance with the Brown Act. The call for a special meeting shall specify the date, place, and time of the meeting, and all items of business to be considered. At least twenty-four (24) hours written notice of the special meeting shall be delivered to and received by all Council Members, to each local newspaper of general circulation, and to each radio and television station that requested such notice in writing. The notice of special meeting shall also be posted outside of City Hall, at the Public Library, and on the City website. Only those matters specified in the call for the special meeting may be discussed at the meeting. Every notice of a special meeting at which action is proposed to be taken on an item shall provide an opportunity for members of the public to address the Council directly on that item before action is taken.

### **Adjourned Meetings**

Any meeting of the City Council may be adjourned by a majority vote to a later date, place, and time, provided that no adjournment is for a period beyond the next regular meeting. The Clerk shall conspicuously post the notice or order of adjournment at the front entrance of City Hall and send a copy thereof to the Public Library within 24 hours of adjournment of the meeting.

## **Development of Agenda**

The City Clerk will provide staff with a yearly meeting calendar identifying meeting dates and agenda deadlines to aid staff with planning and scheduling. Staff reports for agenda packets must be completed and approved by the Department Head no later than seven days before the meeting. The staff reports are then routed through the Finance Manager, City Clerk, and Assistant City Manager for review, before final approval by the City Manager.

Given this agenda development schedule, it is extremely difficult when Council requests at a Monday meeting that a report be prepared for consideration at the following regular meeting. Preparation of an agenda item which includes vetting by the appropriate staff and possibly the City Attorney takes a considerable amount of time. Complex reports, of course, will require even greater time to prepare. As such, new agenda items requested by Council will be brought back to Council no less than two council meetings later. Among other considerations, the ability to schedule new agenda items depends on, the nature of the item itself, required public noticing, other agenda subjects that are already scheduled, and the amount of time available in a Council meeting. On occasion there will be an item of an extraordinary nature necessitating quick resolution. Staff will strive to bring that item back to Council as soon as possible.

A draft of the agenda for each regular Council meeting shall be prepared by the City Clerk under the direction of the City Manager. The final agenda shall be posted and delivered to the Mayor, Council Members, and the members of the public requesting agenda notifications, the Wednesday preceding the regular Monday meeting.

## **Placing Items on Agenda**

**City Council:** A Council Member may request an item be considered on a future agenda and, a minimum of one other Council Member supporting the request is required before placement of the item on an agenda. Council Members may make this request verbally during a meeting or may submit written requests. A Council Member request made outside of a meeting shall be made to the City Manager. Each Council Member requesting or supporting placement of an item on the agenda may contact the City Manager, or, one Council Member may contact the City Manager and name any other Council Member supporting the request, for verification. The City Manager shall determine on which meeting agenda the item will be placed. The City Manager has the authority and discretion to determine selection and scheduling of agenda items other than Council Member requests.

**Emergency and Subsequent Need Items:** Emergency and subsequent need items may be added to an agenda only in accordance with state law. Emergency items are only those matters affecting public health or safety such as work stoppages, disasters and other severe emergencies. Adding an emergency item requires a majority vote. Emergency items are very rare. After the agenda is posted an item (subsequent need) arises that requires Council action. Subsequent need items may be added to the agenda only if the Council makes findings that (1) the need to consider the item arose after the

posting of the agenda; and, (2) there is a need to take immediate action at this meeting of the City Council. These findings must be approved by two-thirds (2/3) vote; if less than five members of Council are present, the findings require a unanimous vote of those present.

### **Notification and Advertising**

The City Clerk and City Attorney shall provide any and all assistance required to assure that all necessary legal requirements are satisfied.

The process of publication includes posting the agenda near the front entrance of Upland City Hall, on the bulletin board at the Upland Public Library, on the City website, and the requested public distribution email list at least 72 hours before any regular meeting and 24 hours before a special meeting. Included in this publication is the time, date, and location of the meeting and a brief description of each item of business to be transacted or discussed at the meeting, including closed session items, and any other information required by law.

### **Order of Business**

The order of the agenda is as follows:

Normally, at 4:00 pm, or later based on the number of items on the Closed Session portion of the agenda the Council will convene, with a public Call to Order; Roll Call; and Oral Communications regarding Closed Session agenda items. The Council will then recess to Closed Session. If any Closed Session agenda item has not been completed in the time allotted, then the Council may carry it over to a later time during the meeting, and/or to another regular or special meeting of the Council.

Normally, at 6:00 p.m., the Council will reconvene in Open Session. Regular meeting agenda items are listed on the agenda in the following order (which may be changed at the discretion of the Mayor):

1. Call to order and roll call
2. Additions – deletions to the agenda
3. Oral Communications. Public comment on closed session agenda items only
4. Closed Session items
5. Invocation
6. Pledge of Allegiance
7. Presentations

8. City Attorney, the City Attorney will announce any reportable Closed Session actions at this time.
9. Oral Communications. This is the time for citizens to comment on items listed or not listed on the agenda. Speakers requesting to speak on Public Hearing items will be called during the public hearing.
10. Consent Calendar.
11. Public Hearings.
12. Council Committee Reports. The Chair of any legislative committee that has met since the previous Council meeting will report out on the meeting. This is an information item only. Any items from the legislative committee meeting that has been forwarded to the City Council for action will be placed under an appropriate agenda category for action by the City Council. Each Council Member will also provide a report out on any regional meeting or conference they may have attended using agency funds (Government Code Section 53232.3.(d)).
13. Business items.
14. Council Communications. Each Council Member will be called on by the Mayor and given the opportunity to provide information on their activities in the community.
15. City Manager.
16. Adjournment.

The following section describes the various types of meeting components

**Closed Sessions (*closed to the public*):** The ability of the City Council to conduct sessions not open to the public is restricted by state law to ensure open proceedings. Certain defined circumstances exist wherein a city council may meet without the public in attendance. While the Government Code allows for various reasons permissible for closed session, some of the major reasons include:

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

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

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

**Personnel:** A closed session is held to discuss the appointment, employment, evaluation of performance, or dismissal of a public employee, or to hear a complaint against the employee unless the employee requests a public hearing (*Cal Govt Code §54957*).

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

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

**Public Comment:** During the oral communications portion of the meeting, any person may address the Council on any item listed on the agenda (with the exception of public hearing items) or any item of interest to the public, provided that the item is within the subject matter of the jurisdiction of the Council. Except as allowed by the Brown Act, no action shall be taken by the Council on any item not on the agenda.

When written materials are presented, they should be submitted to the City Clerk for distribution and record keeping. Comments are typically limited to three minutes per speaker so that all have an opportunity to address the Council. However, the Mayor may reduce the time depending on the number of speakers wishing to address the City Council. Speakers will be given five minutes during public hearings.

All remarks shall be directed to the Mayor and the Council as a body, and not to any particular Council Member, or member of staff. No person, other than members of the Council and the person having the floor shall be permitted to enter into the discussion unless requested by the Mayor to speak. No member of the public shall direct questions to Council Members individually, or to members of staff, except through the Mayor.

Persons making impertinent or slanderous remarks, or who become boisterous so as to disrupt the meeting, may be requested by the Mayor to leave. The Mayor shall discourage demonstrations before the Council, such as applauding or "booing." Upon instructions by the Mayor, a police officer may be called for the purpose of removing any person who, in

the Mayor's judgment, is disrupting the meeting. Persons ejected for disrupting Council meetings shall be subject to prosecution for violation of Penal Code Section 403 and/or the Brown Act.

Any person may submit written comments to the Council through the City Clerk or City Manager's Office, and request that members of the Council receive copies of such materials in the agenda packet, provided that such materials are received in sufficient time to be included for distribution in the agenda packet. Otherwise, such materials shall be distributed prior to or at the meeting during which the subject matter will be considered. The Clerk shall charge for the cost of reproducing copies of such written materials if they are in excess of three (3) pages.

Videos, PowerPoint or similar presentations may accompany in-person testimony but are subject to the same speaking time limits. Prior notice and coordination with the City Clerk is strongly encouraged and the Mayor reserves the privilege to limit such requests as necessary for the effective conduct of the meeting. Speakers are to address their comments to the City Council from the podium.

**Consent Calendar:** Those items on the Council agenda that are considered to be of a routine and non-controversial nature by the City Manager are placed on the "Consent Calendar." These items shall be approved, adopted, accepted, etc., by one motion of the Council. Typical consent calendar items include the final reading and adoption of ordinances, agreements, awards of contracts, minor budgetary adjustments, meeting minutes, approval of warrants and payroll registers, committee appointments, status reports, Capital Improvement Projects under \$1,000,000 and reports of routine city operations.

Council Members may request that any item listed under "Consent Calendar" be removed from the Consent Calendar, and Council will then take action separately on this item. Items that are removed ("pulled") by members of the Council for discussion will be heard after other Consent Calendar items are approved.

Council Members are encouraged to contact the City Manager's office prior to 12:00 noon on the day of a Council meeting day to provide notification of items to be removed from the Consent Calendar. This practice allows the City Manager to notify staff that may need to be present to respond to removed items.

**Staff Reports:** Staff Reports provide an opportunity for the City Manager and Department Directors to address the Council on matters shown on the agenda and are normally taken in the order listed.

**Public Hearing:** In the case of public hearings, once the Council has voted to close the hearing, no member of the public shall be permitted to address the Council or the staff from the audience, except at the discretion of the presiding officer (Mayor). Procedures regarding public hearings are as follows:

1. Staff presents their reports and written comments previously submitted to staff or the Clerk (e.g. letters, protests, and the like) are noted in the record.
2. Staff responds to Council Member questions.
3. The Mayor opens the public hearing.
4. The public hearing is an opportunity for the applicant and members of the public to testify in support or in opposition to the matter being heard.
5. The City Clerk will call members of the public who have requested to speak during the public hearing. Speakers are given 5 minutes (this time may be reduced at the discretion of the Mayor if a large number of citizens have requested to speak).
6. After the Mayor has determined that no other member of the public wishes to speak, the Mayor will close the public hearing, and the item shall be returned to the Council for deliberation and vote.

### **Order of Presentation of Agenda Items**

1. The Mayor asks the Clerk to introduce the agenda item.
2. The relevant City Staff as identified in the agenda item presents a 'brief' overview of the specific agenda item.
3. The floor is returned to the Mayor.
4. The Mayor entertains questions of Council.
5. The Mayor will call on each Council Members for comments/questions and/or closing remarks associated solely with the specific agenda item.
6. The Mayor asks for a motion and second based on the recommendation of City Staff and/or Council desire. The Mayor shall then call for a vote on motions properly made and seconded. The Mayor shall be in charge of making a record and/or providing said wording when requesting motion. Requests for additional wording may be entertained in the form of a motion. The Mayor will announce the result of the vote.
7. If a motion fails, the Mayor may request another motion.
8. When the Council has completed its consideration of an agenda item, then the Mayor shall call the next agenda item.

## **Ordinances, Resolutions, and Contracts**

Ordinances are prepared in the format approved by the City Attorney's office and reviewed by the City Attorney. Unless a member requests full reading, a proposed ordinance will be read by title only. An affirmative vote of at least three members of the full Council shall be necessary to adopt any ordinance. Urgency ordinances and supplemental appropriations must be adopted by at least a four-fifths (4/5) vote of the full Council. All ordinances are signed by the Mayor (or Mayor Pro Tem in the Mayor's absence). The City Clerk will attest to all ordinances.

The City Clerk will assign a number to the ordinance, and publish and post the ordinance, or a summary thereof, as required by law. Summaries are written by the City Attorney. The ordinance shall be filed and preserved in the City Clerk's office.

Resolutions are prepared in the format approved by the City Attorney's office. The City Clerk will assign a number to the resolution. The resolution will be filed and preserved in the City Clerk's office. All resolutions are signed by the Mayor (or Mayor Pro Tem in the Mayor's absence). The City Clerk will attest to all resolutions.

Contracts are prepared in the format approved by the City Attorney's office. The Mayor will sign all contracts that exceed the City Manager's signing authority unless the Council authorizes the City Manager to execute the contract.

## **Discussion Rules**

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

### **A. Interruptions:**

- 1) Once recognized, a Council Member is considered to have the floor, and another Council Member may not interrupt the speaker except to make a point of order. In such a circumstance, the Council Member holding the floor shall cease speaking until the point of order is resolved.
- 2) Upon being recognized by the Mayor, members of the staff shall hold the floor until completion of their remarks or until recognition is withdrawn by the Mayor.

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

**C. Tabling Procedure:** Tabling an item immediately stops discussion and causes a vote to postpone the item indefinitely or to a time and date certain. A motion to "continue" an agenda item has the same effect, but is generally used when a

scheduling problem arises or when insufficient time is available to address the matter thoroughly.

## **Voting Procedures**

When present, all Council Members are to vote.

Council Members wishing to abstain from a particular vote shall orally state their abstentions.

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

A conflict of interest shall be declared whenever appropriate and in compliance with state law. The affected Council Member will step down from the dais and leave the Chamber.

Upon the request of any Council Member, a roll call vote will be taken and recorded by the Clerk on the motion before the Council. The Mayor's name shall be called last with other member's names called at random by the City Clerk. Members shall not give explanations for their vote during a roll call.

**Tie Vote:** A tie vote is equivalent to a motion that has failed. The presiding officer may publicly explain the effect of the tie vote for the audience or may direct the City Attorney to do so.

**Rules of Debate:** The Mayor as presiding officer may move, second, and debate items from the Chair, and shall not be deprived of any rights or privileges of a Council Member.

When a motion is before the Council, no other motion shall be entertained except:

- A. **Motion to Amend.** Amendments that modify a motion on the floor are in order and may be debated only if the modification does not significantly alter the substance of the original motion. The proposed amendment is voted on first; the main motion is voted on last (as amended or in its original form if the amendment is defeated). A motion may be amended more than once with each amendment being voted on separately. There shall be only one amending motion on the floor at any time.
- B. **Motion to Postpone.** A motion to postpone the debate indefinitely is always in order and is subject to debate. If such a motion is adopted, then the discussion on the issue before the Council ends with no further discussion. A motion to postpone to a definite time is always in order, but is not subject to debate except as to the proposed continued date. If such a motion is adopted, then the discussion on the issue is delayed to a later date.
- C. **Motion to Table.** A motion to table is always in order. It is not subject to debate or to amendment. The purpose of a motion to table is to bypass the item temporarily. If a motion to table is adopted, the item may be taken from the table at any time

prior to adjournment of the next regular meeting. Items that are tabled shall automatically be set on the agenda for the next regular meeting. If the item is not taken from the table within the time specified, the principal question is lost.

**Continuation of an Item:** Any Council Member may, request to continue an item that is not subject to a deadline to the next regular Council meeting. This continuance may be overruled by majority vote of the Council Members present.

Any person may request continuance of an item. The Council, by majority vote of those present, may grant the continuance.

### **Other Guidelines**

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

- A. Work to preserve appropriate order and decorum during all meetings.
- B. Discourage side conversations, disruptions, interruptions or delaying efforts.
- C. Limit disruptive behavior. The Mayor will call persons demonstrating rude, boisterous, or profane behavior to order. If such conduct continues, the Mayor may call a recess, request the removal of such person(s) from the Council Chamber, adjourn the meeting, or take such other appropriate action. The Council has a policy to discourage applause, booing or other similar behaviors from the public during meetings.
- D. Limit breaks of the City Council to 5-10 minutes. The Mayor may resume the meeting if a quorum exists and other members have not returned from the break within the announced time period.
- E. Impose time limits on speakers. While the City Council encourages and embraces the need for and right of public participation, it acknowledges that public comments must, at times, be limited. Typically, speakers are limited to three (3) minutes (speakers are given five (5) minutes during public hearings) but a shorter time limit may be established as deemed necessary.

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

- A. Discussion should focus on policy matters
- B. Personal criticism of members is inappropriate
- C. Proper decorum should be displayed as other members express their views

- D. Treat members of the public equally, applying rules in a fair and consistent manner

### **Open Meeting Laws (“The Brown Act”)**

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

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

- A. **Applicability:** The Act applies to Council and all commissions, boards and Council appointed subcommittees (except ad-hoc committees comprised of less than a quorum of the legislative body. Staff cannot promote actions that would violate the Act.
- B. **Meetings:** All meetings shall be open and public. A City Council meeting takes place whenever a quorum (3 or more members) is present and information about the business of the body is received; discussions qualify as a meeting. Social functions (e.g., receptions, community events) do not fall under the Act unless city business is discussed.

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

- C. **Agendas:** Agendas for regular meetings must be posted 72 hours in advance of the meeting and must meet legal requirements.
- D. **Actions:** No action can be taken on any item not appearing on the posted agenda.

#### *Exceptions*

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

- E. **Public Input:** The public, by law, has an opportunity to address the Council on any item of interest to the public that is within the jurisdiction of the Council, before the matter is heard. The Mayor has the right to establish a time limit on speakers.
- F. **Public Disruptions:** A portion or all of the public may be removed if willful disruption makes conducting the meeting "unfeasible"; the press may remain unless they participate in the disruption. (Government Code Section 54957.9)
- G. **Correspondence:** All writings distributed for discussion or consideration at a public meeting are public records.
- H. **Special Meetings:** Special meetings may be called by the Mayor or majority of the Council with strict notification requirements for delivery to the media and Council 24 hours before the time of the meeting.
- I. **Emergency Meetings:** Emergency meetings may be called without notification due to the disruption or threatened disruption of public facilities. Only work stoppages or crippling disasters that impair the public health and/or safety qualify for emergency meetings.
- J. **Other Provisions:** The Act provides many other restrictions and requirements; this chapter is intended merely as a Council summary and overview of the Act, and nothing in this Chapter supersedes the provisions of the Brown Act. Please check with the City Attorney and/or the City Clerk for more information.

## CHAPTER 4

# Council Communications

### Overview

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

### Correspondence from Council Members

Members of the City Council may occasionally be called upon to write letters to citizens, businesses or other public agencies. Typically, the Mayor will be charged with transmitting the City's position on policy matters to outside agencies on behalf of the City Council. Correspondence sent on behalf of the Council is placed on official City letterhead and is signed by the Mayor or City Manager. Individual members of Council may prepare letters to constituents in response to inquiries or to provide requested information. Individualized City Council Member correspondence is not prepared on City letterhead.

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

### Speaking for "The City"

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

When dealing with members of the media, it is usually the Mayor or City Manager who represents the position and interest of the City. A Department Head may be authorized to speak on issues within their expertise.

It is the duty of the City Manager to coordinate press and news media releases on behalf of the City Council. Councilmembers who wish to issue press releases regarding individual issues of concern should be clear in their remarks that they are not speaking for the City Council as a whole. Councilmembers are encouraged, to have the City Manager's office review individual press releases before they are released to the public. Copies of all press releases shall be forwarded to the City Manager's office and the City Clerk, as they are considered public records subject to retention rules and disclosure under the Public Records Act.

## CHAPTER 5

# Interaction with City Staff

### Overview

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

### Council-Manager Form of Government

Like most California cities, Upland has adopted a City Council-City Manager form of government. The Council appoints a City Manager to implement policy, to direct the daily operations of city government, and to prepare and monitor the municipal budget. Council Members work through the City Manager in dealing with City staff. The City Manager is responsible to the City Council as a body rather than to individual Council Members.

### Council-Manager Relationship

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

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

## **City Council-City Attorney Relationship**

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

## **Roles and Information Flow**

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

**Council Roles:** The City Council is the City's legislative and policymaking body. Acting as a whole, the City Council is responsible for passing ordinances and resolutions necessary for governing the City, as well as setting the direction of City policy.

Should a Council Member become dissatisfied about a department, they should always talk it over with the City Manager, not the Department Head. Concerns about a Department Head must be taken to the City Manager.

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

To assist the City Manager in his ability to monitor the flow of information, requests for information are best tracked if submitted in writing, either in memorandum form or through email.

There are limited restrictions when information cannot be provided. Draft documents (e.g., staff reports in progress, administrative draft EIRs) under review are not available for release until complete and after review by city management. In addition, there are legal restrictions on the City's ability to release certain personnel information even to members of the City Council. Certain aspects of Police Department affairs (access to restricted or confidential information related to crimes) may not be available to members of the Council.

It is critical that the Council Members make use of staff reports and related attachments in the Council packets. Council Members should come to meetings well prepared – having read staff reports and attachments; and requesting in advance any necessary and available information from the City Manager. If a Council Member has questions on an agenda item, that member should preferably contact the City Manager or the relevant department head prior to the meeting in order to allow staff time to research a response for the meeting.

**Staff Roles:** The Council recognizes the primary functions of staff as serving the community and executing Council policy and actions. Staff takes guidance and direction from the City Manager who operates at the guidance and direction of the Council.

City staff will make every effort to respond in a timely and professional manner to all requests for information or assistance. Any request that would take one hour or more of staff time to complete should be made directly through the City Manager.

### **Dissemination of Information**

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

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

Staff liaisons provide support and assistance to committees and task forces. However, advisory bodies do not have authority over City employees. While staff may work closely with advisory bodies, staff members remain responsible to their immediate supervisors and ultimately the City Manager. The members of the board/committee are responsible for the functions of the advisory body.

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

## CHAPTER 6

# Support Provided to City Council

### **Staff Support**

General administrative support to members of the City Council, such as assistance with ordering business cards, scheduling of appointments and receipt of telephone messages, is provided through the City Manager's Office. Should a Council Member require assistance with a task that requires a significant time commitment, prior consultation with the City Manager is required.

### **Office Equipment**

To enhance Council Members' ability to communicate with staff and the public, the City Council are provided with an iPad, cell phone, and City email address.

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

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

Finally, the City's email system is intended for the conduct of official business, and not for political reasons. See CHAPTER 7 for a detailed discussion on the prohibition against using City property and funds for personal or political purposes.

### **Mail, Deliveries**

Members of the City Council receive mail and other materials from the public, private interests and staff. The City Manager's Office has an inbox for each Council Member.

## **C H A P T E R 7**

# **Financial Matters**

### **Council Compensation**

State law and the Upland Municipal Code provide for modest compensation to members of the City Council. Currently, Council Members receive a stipend of \$1,200 per month. Per Upland Municipal Code Section 2.02.080 the Mayor is paid a supplemental salary of \$100 per month in addition to salaries paid to other City Council Members. Council Members also receive a car allowance of \$500 per month and a health benefits cafeteria allowance. Additionally, the City may budget for travel and training required of Council members. Such expenditures should correlate with a Council Member's Council responsibilities.

### **Expenditure Allowance**

The annual city budget includes limited funding for members to undertake official City business. Eligible expenses include travel for attendance at conferences or educational seminars, and the purchase of publications and annual subscriptions. Travel expense reimbursement for meals does not allow reimbursement for alcohol. Donations to organizations are not eligible nor are meals for individuals other than Council Members.

### **Expenditure Guidelines**

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

City budgetary practices and accounting controls apply to expenditures within the City Council budget. Reimbursement requests should be made through the City Manager's Office with receipts. Expenditure records are public information.

## CHAPTER 8

# Conflicts & Liability

### Conflict of Interest

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

There are three primary laws that govern conflicts of interest for public officials in California - the Political Reform Act, Government Code §1090, and the Levine Act. In general terms, the Political Reform Act prohibits a public official from having a financial interest in a decision before the official; §1090 prohibits a public official from having an interest in government contracts; the Levine Act prohibits a public official from participating in decisions if they have received a certain level of contributions from the party or its agent(s).

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

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

California Government Code Section 84308, commonly referred to as the "Levine Act," prohibits Council Members from participating in any action concerning a license, permit, other entitlement for use, franchise, or contract if they receive political contribution(s) from a party, or its agent(s), totaling more than \$500 within the twelve (12) months before the proceeding, while a proceeding is pending, and for twelve (12) months following the date of a final decision in a proceeding. The Levine Act also requires a member of the City Council who has received such a contribution to disclose the contribution on the record

of the proceeding and recuse themselves before the proceeding unless the violation has been properly cured.

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

### **City Attorney Advice**

The City Attorney has an affirmative duty to protect the City and City Council from conflicts of interest wherever possible. It is critical to note that while the City Attorney can render advice on the interpretation of state laws and regulations on conflict matters, such advice is solely an interpretation of the law. The only authority that can provide binding interpretations on such matters is the State Fair Political Practices Commission (FPPC). It is important to note that the City Attorney does not represent individual members of Council, but the City Council as a whole.

### **Conflict of Interest Forms**

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