



# City Council Policies, Procedures, and Governance Manual



The City of Fortuna's mission is to be worthy of the public trust by providing timely, efficient, well-planned and dependable services to the community.

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**TABLE OF CONTENTS**

**1. LOCAL GOVERNMENT IN FORTUNA..... - 6 -**

1.1 RULES FOR AMENDING THIS POLICIES & PROCEDURES MANUAL ..... - 6 -

1.2 THE MUNICIPAL CODE ..... - 6 -

**2. EFFECTIVE GOVERNANCE ..... - 6 -**

2.1 CHARACTERISTICS OF AN EFFECTIVE COUNCIL ..... - 6 -

2.2 CHARACTERISTICS OF AN EFFECTIVE COUNCIL MEMBER..... - 7 -

**3. ROLES AND RESPONSIBILITIES ..... - 7 -**

3.1 COUNCIL-MANAGER FORM OF GOVERNMENT ..... - 7 -

3.2 MAYOR, MAYOR PRO TEM AND CITY COUNCIL MEMBERS ..... - 8 -

3.2.1 Mayor’s Role..... - 8 -

3.2.2 Mayor Pro Tem ..... - 8 -

3.2.3 City Council ..... - 8 -

3.2.4 Noninterference with City Manager’s Administrative Role ..... - 9 -

3.2.5 Responding to Public Complaints ..... - 9 -

3.2.6 New Councilmember Orientation ..... - 9 -

3.3 COUNCIL GOALS ..... - 9 -

3.4 POLICY AND ADMINISTRATION ..... - 10 -

3.5 ATTENDANCE: ..... - 11 -

3.6 QUORUM: ..... - 11 -

**4. COMMUNICATION PROTOCOLS..... - 11 -**

4.1 COMMUNICATION BETWEEN THE CITY COUNCIL AND THE CITY MANAGER... - 11 -

4.1.1 Direction to City Manager at City Council Meetings ..... - 11 -

4.2 COMMUNICATION BETWEEN CITY COUNCIL MEMBERS..... - 11 -

4.2.1 Brown Act ..... - 12 -

4.2.2 Social Media..... - 12 -

4.3 COMMUNICATION BETWEEN CITY COUNCIL MEMBERS AND THE PUBLIC ..... - 13 -

4.4 CONSTITUENT REQUESTS AND CORRESPONDENCE ..... - 13 -

4.5 REPRESENTING THE CITY ON REGIONAL AGENCIES..... - 14 -

**5. CODE OF ETHICS..... - 14 -**

5.1 PREAMBLE..... - 14 -

5.2 PUBLIC INTEREST ..... - 15 -

5.3 CONDUCT..... - 15 -

5.3.1 Influence..... - 15 -

5.3.2 City Representation..... - 15 -

5.3.3 Confidential Matters..... - 15 -

5.3.4 Conflict of Interest ..... - 15 -

5.3.5 Conduct at Meetings ..... - 15 -

5.3.6 Council Committees..... - 16 -

5.3.7 Compliance with Intent of Council Conduct Code ..... - 16 -

5.4	CONFLICT OF INTEREST.....	- 16 -
5.4.1	Applicable Law.....	- 16 -
5.4.2	Sources of Assistance.....	- 17 -
5.4.3	Identifying Conflicts.....	- 17 -
5.4.4	General Rules.....	- 17 -
<b>6.</b>	<b><i>SALARIES</i></b> .....	<b>- 18 -</b>
6.1	SALARY AND REIMBURSEMENT.....	- 18 -
6.2	BENEFITS.....	- 19 -
6.2.1	Group Health Insurance.....	- 19 -
6.2.2	Training, Meetings, Conferences.....	- 19 -
<b>7.</b>	<b><i>CONDUCT OF CITY COUNCIL MEETINGS</i></b> .....	<b>- 19 -</b>
7.1	PARLIAMENTARY PROCEDURE.....	- 19 -
7.2	RULES FOR PERSONS PRESENTING TESTIMONY TO THE COUNCIL.....	- 20 -
7.3	TYPES OF COUNCIL MEETINGS.....	- 21 -
7.3.1	Regular Meetings.....	- 21 -
7.3.2	Special Meetings.....	- 21 -
7.3.3	Adjourned Meetings.....	- 21 -
7.3.4	Closed Session.....	- 22 -
7.3.5	Emergency Meetings.....	- 22 -
7.3.6	Budget Workshops:.....	- 22 -
7.4	MINUTES AND RECORD KEEPING.....	- 22 -
7.5	AGENDA.....	- 23 -
7.5.1	Placing Items on the Agenda.....	- 23 -
7.5.2	Order of Agenda Items.....	- 23 -
7.5.3	City Council Meeting Steps:.....	- 24 -
7.6	AGENDA ITEMS.....	- 25 -
7.6.1	Call to Order.....	- 25 -
7.6.2	Public Comment.....	- 25 -
7.6.3	Presentations, Recognitions, Proclamations.....	- 25 -
7.6.4	Report of Disbursements.....	- 25 -
7.6.5	Consent Calendar.....	- 26 -
7.6.6	Regular Business Items/Public Hearings.....	- 26 -
7.6.7	City Manager’s Report.....	- 26 -
7.6.8	Future Agenda Items.....	- 26 -
7.6.9	Council Reports and Communications.....	- 26 -
7.6.10	Public Comment (before Closed Session).....	- 27 -
7.6.11	Closed Sessions (as needed).....	- 27 -
7.6.12	Adjournment.....	- 27 -
7.7	TYPES OF COUNCIL ACTIONS.....	- 27 -
7.7.1	Consent Calendar.....	- 27 -
7.7.2	Ordinances.....	- 28 -
7.7.3	Urgency Ordinances.....	- 28 -
7.7.4	Resolutions.....	- 29 -
7.7.5	Proclamations.....	- 29 -
7.7.6	Minute Orders.....	- 29 -
7.7.7	Public Hearings.....	- 29 -
<b>8.</b>	<b><i>CITY ORGANIZATION</i></b> .....	<b>- 29 -</b>

8.1 CITY MANAGER.....	- 29 -
8.2 CITY ATTORNEY .....	- 30 -
8.3 CITY EMPLOYEES .....	- 30 -
<b>9. ADVISORY COMMISSIONS AND BOARDS.....</b>	<b>- 30 -</b>
9.1 OVERVIEW.....	- 30 -
9.1.1 Qualifications .....	- 30 -
9.1.2 Temporary committees.....	- 30 -
9.1.3 Appropriations.....	- 30 -
9.1.4 Appointments – Terms .....	- 30 -
9.1.5 Vacancies .....	- 31 -
9.1.6 Officers.....	- 31 -
9.1.7 Meetings – Rules and regulations – Quorum .....	- 31 -
9.1.8 Compensation.....	- 31 -
9.1.9 Conflict of interest.....	- 32 -
9.2 HISTORICAL COMMISSION.....	- 32 -
9.2.1 Established – Purpose .....	- 32 -
9.2.2 Membership terms.....	- 32 -
9.2.3 Council representative.....	- 32 -
9.2.4 Museum operation.....	- 32 -
9.3 PARKS AND RECREATION COMMISSION.....	- 32 -
9.3.1 Established – Purpose .....	- 32 -
9.3.2 Membership Terms .....	- 32 -
9.3.3 Council Representative .....	- 33 -
9.4 PLANNING COMMISSION .....	- 33 -
9.4.1 Established – Purpose .....	- 33 -
9.4.2 Membership Terms .....	- 33 -
9.4.3 Compensation.....	- 33 -
9.4.4 Alternate Member .....	- 33 -
<b>10. APPENDIX.....</b>	<b>1</b>
10.1 "ROSENBERG'S RULES OF ORDER" (SIMPLE RULES OF PARLIAMENTARY PROCEDURE FOR THE 21ST CENTURY) BY DAVE ROSENBERG.....	1

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Amended January X, 2025 by Resolution 2025-XX

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Mike Johnson, Mayor

ATTEST:

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Siana Emmons CMC, City Clerk

# **1. LOCAL GOVERNMENT IN FORTUNA**

Fortuna was incorporated as a City in 1906, being governed by a City Council. In 1977, the City, by ordinance, established the Council-Manager form of government. Fortuna is a Charter City and the City Council is the governing body. The City Council is vested with all the regulatory and corporate powers of a municipal corporation provided for by state law governing charter cities.

## **1.1 RULES FOR AMENDING THIS POLICIES & PROCEDURES MANUAL**

The City Council shall determine its own policies and procedures and amend them from time to time and/or adopt new ones. Amendment to this manual or adoption of new policies or procedures shall require a majority vote of the council.

## **1.2 THE MUNICIPAL CODE**

The Fortuna Municipal Code sets forth the regulatory, penal and administrative laws of general application to the City. Local ordinances adopted by the City Council are codified in the municipal code by the City Clerk. These laws are enforceable by the City, and violation constitutes a misdemeanor or infraction. The municipal code is divided into the following categories:

- General Provisions
- Administration and Personnel
- Revenue and Finance
- Business Taxes, Licenses and Regulations
- Animals
- Health and Safety
- Public Peace, Safety and Morals
- Vehicles and Traffic
- Streets Sidewalks and Public Places
- Utilities
- Cable and Open Video Systems
- Buildings and Construction
- Subdivisions
- Zoning
- Tables
- Index

Other directives and policies of the City Council are recorded in Council resolutions or by minute action of the Council.

# **2. EFFECTIVE GOVERNANCE**

City Council Members are local leaders. The electorate expects the Council to set the tone and direction for municipal operations. Effective City Councils understand that a good working relationship with each other and staff is vital for the City to run successfully. Therefore, the City Council acts with integrity, civility, and a high level of professional decorum. City Council members build trust by striving to have a “no secrets, no surprises” approach as the operating norm.

## **2.1 CHARACTERISTICS OF AN EFFECTIVE COUNCIL**

An effective Council:

1. Works together as a body, modeling teamwork and civility for our community.
2. Follows the legal requirements of the City Charter, Municipal Code, State and Federal law and regulations.
3. Makes decisions that are in the best interest of the City and considers that short term decisions often have long-term consequences.
4. Provides clear direction to the City Manager to ensure clarity of direction, specificity in scope, and mutual understanding.
5. Stays focused on the topic at hand. Ensure each member of Council has an opportunity to speak.
6. Seeks consensus and common ground knowing there are rarely perfect solutions.
7. Respects the governing process and follows implementation of the will of the majority.
8. Disagrees agreeably and professionally, then commits to the decision once made.
9. Utilizes long-range plans to provide big picture context that is realistic and achievable.
10. Represents all residents and knows that a vocal minority does not necessarily reflect the view of a quiet majority

## **2.2 CHARACTERISTICS OF AN EFFECTIVE COUNCIL MEMBER**

An effective Council member:

1. Maintains a citywide perspective toward all of our residents and constituents while being mindful of our districts.
2. Moves from *I to we*, and from campaigning to governing.
3. Assumes good intent.
4. Demonstrates respect, consideration and courtesy to all.
5. Shares information and avoids surprises.
6. Keeps confidential things confidential.
7. Commits the time necessary to understand issues.
8. Acknowledges their own potential biases, listens with an open mind, and is willing to have preconceived ideas challenged
9. Respects the role and function of the public, city staff, and the City Manager.
10. Respects the Council/Manager form of government and the roles of each party.
11. Communicates concerns about staff in a discrete and respectful manner to the City Manager; does not criticize staff in public.
12. Recognizes that their colleagues were also elected, and all deserve equal levels of respect.
13. Understands that authority rests with the Council as a whole and not with individual Council members.
14. Limits their critique to the idea being proposed and not to the person proposing it, and accepts criticism of a policy or proposal without taking it personally.
15. Respects the expertise of city staff and understands staff's desire to provide factual, neutral information to the Council.

## **3. ROLES AND RESPONSIBILITIES**

### **3.1 COUNCIL-MANAGER FORM OF GOVERNMENT**

Under the Council-Manager form of government, citizens elect their Council Members who make decisions in a collective manner which determine the policies of the City.

The City Council is the governing body of the City responsible for establishing policies and programs. The City Council is responsible to see that local policies and laws address both short and long term needs, and that citizens receive a return on their tax investment in terms of efficient City services.

While the City Council establishes policies and programs, it is the responsibility of the City Manager to apply and

administer those policies to the day-to-day operations of the City. The City Manager oversees all City operations and is the liaison between the Council and the City staff.

Teamwork between the Council and the Manager is a key element of the Council-Manager plan. The pooling of skills is essential to resolve the many complex problems that face the City today. The Council-Manager form of government seeks to enhance the effectiveness of local policy-making and municipal operations.

### **3.2 MAYOR, MAYOR PRO TEM AND CITY COUNCIL MEMBERS**

The City of Fortuna is governed by a five-member City Council elected to four-year terms on a staggered basis. Council Members are elected in the general election in November of even numbered years. After each general election, the City Council elects a Mayor and Mayor Pro Tempore from its own membership.

#### **3.2.1 Mayor's Role**

Fortuna's Charter defines the Mayor's role and establishes the selection of the Mayor by the City Council, The Mayor's primary responsibilities include:

1. Presiding at meetings of the City Council by calling Council meetings to order, announces the order of business as detailed on the agenda, states motions, calls for a vote and announces the results, facilitates and monitors discussions, maintains order, and enforces the Council's rules and parliamentary procedures.
2. The Mayor also, with Council approval, signs all ordinances, resolutions, and other records of proceedings approved by the Council. The Mayor has no veto power.
3. Meeting regularly and as appropriate with the City Manager to provide policy guidance relative to the actions of the Council;
4. Recommending City policy, legislation, and programs, subject to approval by a majority of the City Council;
5. Representing the City for ceremonial purposes;
6. Representing the City in intergovernmental relations, personally or by a designated representative with the concurrence of the Council; and
7. Establishing and dissolving limited-term ad hoc committees, subject to the approval of the Council.

#### **3.2.2 Mayor Pro Tem**

Fortuna's Charter defines the Mayor Pro Tem's role. The Mayor Pro Tem's primary responsibility is to perform the Mayor's duties in the Mayor's absence. When the Mayor and Mayor Pro Tempore are absent at any meeting of the Council, the next most senior member of the Council as determined by years of service on the Council or, if equal, by the number of votes received in the municipal election in which they were elected shall serve as Mayor.

#### **3.2.3 City Council**

The City Council is the elected legislative and policy-making body of the City government. The City Council is elected to provide leadership in setting goals and in formulating policies. The City Council is the focal point for identifying and interpreting the wishes of the citizens and translating these into specific programs.

Successful goal setting and policy formulation largely depend on a good working relationship amongst the Council and between the Council and the administrative staff. Under the City Manager's direction, staff can provide assistance in analyzing the City's needs, suggesting action programs, and calculating the costs of proposals. However, the Council has the final responsibility for establishing local policies and determining services and budget levels appropriate for the City.

The City Council also serves as Board Members for the Fortuna Public Financing Authority (FPFA) and the Fortuna Public Improvement Corporation (FPIC), with all meetings being held concurrently. References in this document to the "City Council", also includes the Council's role on the Successor Agency, FPFA and FPIC.

The Council is also responsible to the citizens for:

- Hiring the City Manager and the City Attorney.
- Establishing City-wide goals that address short and long range needs.
- Formulating policies that define a course of action that shape City operations.
- Providing quality services within available resources.
- Acting as a representative between the professional staff and local citizens.

### **3.2.4 Noninterference with City Manager's Administrative Role**

The City Manager's administrative role is distinct and separate from the City Council's role. As prescribed by the City's Charter, neither the Mayor nor any Councilmember shall interfere with the execution of the City Manager's powers and duties. Except for purposes of inquiry, the Mayor and Councilmembers shall deal with the administrative services of the City solely through the City Manager, and neither the Mayor nor any Councilmember shall give orders to any subordinate of the City Manager, either publicly or privately. The City Council may, in the appropriate setting, express its views and fully and freely discuss with the City Manager anything pertaining to appointment and removal of any department head or employee, but neither the Mayor nor any Councilmember shall in any manner control or demand the appointment or removal of any City department head or employee.

### **3.2.5 Responding to Public Complaints**

It is important that when Councilmembers receive a complaint or inquiry from a member of the public, the Councilmember should acknowledge the requestor's communication without making promises or jumping to conclusions. As the City Manager's role is to investigate and resolve these issues with city staff, all complaints should be forwarded to the City Manager for a response. The City Manager will keep the City Council informed regarding administrative actions.

### **3.2.6 New Councilmember Orientation**

Welcoming newly elected Councilmembers and providing them with the appropriate orientation and resources is crucial to developing an effective, cohesive governance team.

1. With the Brown Act limitations in mind, current Councilmembers are encouraged to reach out to newly elected members to welcome them and build productive working relationships.
2. The City Manager will provide a formal orientation for new Councilmembers to:
  - a. Explain roles and responsibilities;
  - b. Introduce department heads;
  - c. Provide practical information such as access to City Hall, security procedures, meeting protocols;
  - d. Study a typical City Council meeting agenda and explain the order of business, consent calendar, business from the floor, and other meeting sections and protocols such as making motions and providing direction to the City Manager and staff during a City Council meeting.
  - e. Review rules regarding confidentiality, the Brown Act, and gift reporting;
3. Councilmembers shall work through the City Manager to schedule additional meetings with department heads and/or tours of city facilities to gain a better understanding of city services and operations.
4. Attend California Cities Mayors and Council Members Academy. The academy covers the legal, financial, and practical fundamentals for council members as an elected city official, foster relationships with peers. Sessions also include an update on key legislative issues and an overview of your Cal Cities services.

## **3.3 COUNCIL GOALS**

Goal setting requires time, energy, and a well-defined process. Every two years, usually in January following a City Council election, the Council meets with the City Manager and the various department managers in a goal

setting/priority projects session to review progress on goals previously set, and defines new goals and objectives for the City. While a myriad of responsibilities consume the limited time and energy of elected officials, there are some definite advantages for engaging in the process:

1. Goal setting gives the Council a basic framework for action. By setting goals and then deciding those that are most important, the Council is defining what it wants to achieve over a given period of time. Otherwise, the Council may find itself floating from issue to issue, crisis to crisis.
2. Goal setting helps the Council spend its time more wisely. When you know what you are trying to accomplish, you can allocate most of your time to important issues.
3. Goal setting gives everyone a chance to share their individual goals and priorities and then work out the differences. The Council ends up with a list of goals to which everyone is committed.
4. Goal setting gives the City Manager clear guidelines to get the job done. It lets the City Manager know exactly what the Council is trying to accomplish as a group. Without clearly defined goals, the City Manager may get conflicting signals and end up not meeting anyone's goals.
5. Goal setting gives the Council and staff, some important budget guidelines. Knowing what programs and issues are the highest priorities will enable staff to have a better idea of how to allocate funds when preparing the budget for Council approval.
6. Goal setting gives the Council an evaluation tool. When goals and priorities are set, the Council has valuable data in hand to determine how well the Council and the City Manager did in achieving the agreed upon goals and priorities.

Goal setting will not solve all the immediate problems, nor guarantee that a crisis will not occur; but it will help you get a better idea of what is happening in the City and allow you to define what you want to happen over the long term.

### **3.4 POLICY AND ADMINISTRATION**

A dictionary definition of "policy" states that it is "any plan or course of action designed to influence and determine decisions, actions, and other matters." For a City Council, policy is the business of making decisions about the City. Examples of policy decisions include:

- The decision to submit to voters a bond measure for capital improvements.
- The adoption of an ordinance regulating sewer and water operations.
- Approval of land-use policies and implementation procedures.
- Decisions concerning projects which involve federal and state grants as well as local expenditures.

In theory, the distinction between policy and administration has been that policy is the process of determining what is to be done, while administration is the process of determining how to do it. A policy is what the Council defines it to be. However, the day-to-day operation of the various departments is administration. In reality, a fine line exists between policy and administration; any issue that is perceived as important or controversial can become a "policy" matter.

The City Council has the final say in major decisions such as: adoption of the budget; acceptance of a new classification and compensation plan; selling a bond issue; or instituting a new project. While it has a dominant role in policy matters, the City Manager, staff and citizens play a prominent role in the development of policies.

The City Council, City Manager, and staff analyze City needs, identify available resources, and suggest courses of action, but the Council has the final say on matters that affect services.

### **3.5 ATTENDANCE**

Pursuant to California Government Code Section 36513 if a “city councilmember is absent without permission from all regular city council meetings for 60 days consecutively from the last regular meeting he or she attended, his or her office becomes vacant and shall be filled as any other vacancy.” Council members are expected to attend all meetings of the City Council. If a Council Member is absent without Council permission from all regular City Council meetings for sixty (60) days consecutively from the last regular meeting he/she attends, his/her office becomes vacant and shall be filled as any other vacancy.

Council members shall inform the City Clerk and/or the City Manager if they are unable to attend a regular scheduled City Council meeting in order to ensure there is a quorum.

### **3.6 QUORUM**

The City Council consists of five members, one of whom is the Mayor. Three members of the Council shall constitute a quorum and shall be sufficient to transact business. If less than three (3) Council Members appear at a regular meeting, the City Manager may adjourn the meeting to a stated day and hour.

## **4. COMMUNICATION PROTOCOLS**

### **4.1 COMMUNICATION BETWEEN THE CITY COUNCIL AND THE CITY MANAGER**

Fortuna’s council-manager form of government directs the City Council to communicate with the City Manager on all matters related to City operations, and City Council members are therefore encouraged to contact the City Manager with questions about city operations or issues. The City Manager will obtain the requested information or direct the appropriate staff member to assist. When an individual City Council member seeks information that the City Manager believes may be of interest or use to other City Council members, the City Manager may share that information with the entire City Council to keep all members equally informed. The City Council should be aware that the City Manager may not readily share some items due to employment law, privacy rights, investigations, etc.

Agenda review sessions with the City Manager can be individually scheduled by City Council members in advance of each City Council meeting. City Council members are strongly encouraged to ask questions about agenda items in advance of the meeting and/or during their agenda review session, as this allows staff time to perform additional research if necessary before the Council meeting. City Council members are welcome to ask the questions again at the Council meeting to benefit other Council members and the public.

#### **4.1.1 Direction to City Manager at City Council Meetings**

In providing direction to the City Manager and staff during City Council meetings, the City Council should ensure that direction and motions provide unambiguous policy direction, including specificity and scope of the desired action. If a motion seems unclear, City Council members should ask for clarification to be sure all agree on the proposed direction.

## 4.2 COMMUNICATION BETWEEN CITY COUNCIL MEMBERS

City Council Members should treat each other with dignity and respect and observe a high level of professional decorum both on and off the dais. This respectful approach supports a productive sense of camaraderie and sets an example for civil decorum in City Council meetings.

### 4.2.1 Brown Act

The California open meeting law, commonly known as the "Brown Act," requires all City Council deliberations to be open to the public, meaning that all City Council discussions, deliberations, and actions must occur at an open and publicized meeting (subject to a few limited exceptions that allow for closed session discussions). A meeting is defined as any congregation of a majority of the members of a legislative body at the same time and place to hear, discuss, and deliberate upon any item that is within the subject matter jurisdiction of the legislative body. Accordingly, meetings or discussions between three or more members of the Fortuna City Council in which any subject matter within the jurisdiction of the City (e.g., City parks and recreation programs, budget, staffing, streets and traffic, public improvements, or private development projects, etc.) must take place at an open and publicized meeting.

Meetings subject to the Brown Act are not limited to face-to-face gatherings. They also include any communication medium or device (for example, telephone conversations, text messages, social media postings, etc.) through which a majority of the City Council discusses, deliberates, or acts on an item of business outside of a noticed meeting. These types of meetings are called "serial meetings" and are unlawful. Communication technologies present particular Brown Act challenges. For example, standard email practices of forwarding or replying to messages can easily lead to a serial meeting prohibited by the Brown Act, as can participation by a majority of the Council members in an internet chatroom, social media format, a Facebook page posting, or blog dialogue.

Particular care should be given by Council Members to ensure that deliberations on matters within the subject matter jurisdiction of the City should be done in an open, public, and transparent manner. If a Council Member is concerned as to whether he or she may participate in or begin a discussion, the Council Member should contact the City Manager for guidance.

### 4.2.2 Social Media

City Council members should use the same professionalism and sound judgment exercised in public meetings when communicating on social media. Beyond standards of professionalism, City Council members should also be mindful of legal restrictions on their social media activity.

In 2020, State legislation (AB 992) amended the Brown Act to address public officials' use of social media, and two particular elements are essential to keep in mind. First, AB 992 clarifies that a public official may have their own separate conversation on social media platforms to answer questions, provide information to the public, or solicit information from the public regarding a matter within the legislative body's subject matter jurisdiction. However, the use of social media may become an unlawful serial meeting if a majority of the Council express their views on the same post, including commenting or even using digital icons that express reactions (i.e., emojis, "liking", thumbs up, thumbs down, etc.).

***Key Point:** A City Council member may have their own conversation on social media about a matter within the City Council's subject matter jurisdiction. However, Council members should refrain from commenting on social media posts made by others to avoid the opportunity for a serial media to occur.*

Secondly, AB 992 goes further by prohibiting a member of a legislative body from responding directly to any communication on an internet-based social media platform regarding a matter that is within the subject matter jurisdiction of the legislative body that is made, posted, or shared by any other member of the legislative body. In other words, if a public official posts a comment in response to another public official's social media post about an agency issue, that could be a Brown Act violation under AB 992 (assuming both public officials serve on the same

legislative body). AB 992 covers commonly used social media platforms such as Facebook, Instagram, Snapchat, Twitter, blogs, TiKTok, and Reddit.

**Key Point:** *Be careful not to comment on another City Council member's posting on social media, including posting comments, retweeting, "liking," "disliking," responding with positive or negative emojis, and reposting. Violations of the Brown Act can potentially lead to invalidation of future City Council actions, payment of a challenger's attorney fees, and even criminal prosecution for the offender.*

### **4.3 COMMUNICATION BETWEEN CITY COUNCIL MEMBERS AND THE PUBLIC**

Speaking for "the City" versus speaking as a private individual. Council Members do not, by virtue of being elected to the Council, give up their right to comment on public policy issues, even if their position differs from the views held by their fellow Council Members.

It is, however, important to differentiate when a Council Member is communicating in his or her official capacity as a Council Member (i.e., speaking for the City) versus speaking in his or her personal capacity.

A Council Member speaks in an official capacity in two situations, as follows: (i) when authorized by the Council to speak on behalf of the City or (ii) when speaking at official City functions (e.g., State of the City Address). When speaking in an official capacity, the Council Member should represent the Council's collective position on an issue, even if that position differs from the Council Member's stated or unstated position. When presenting the Council's collective position, a Council Member is free to mention that he or she voted against the particular action, but, in all other respects, the Council member should well represent the official position without criticism.

When a Council Member is speaking in his or her personal (non-official) capacity at community events or non-City public meetings, it is important that the Council Member preface any remarks by noting that he or she is commenting in his or her personal capacity and not on behalf of the City Council. Even then, while not unlawful to criticize the City or Council colleagues, it is a well-accepted best practice to remain respectful of differing viewpoints and avoid ad-hominem attacks.

Safeguarding Confidential, Sensitive and Closed Session Information. Confidential or sensitive City information, including closed session materials and discussions, shall not be disclosed in any circumstances, including via electronic communication.

### **4.4 CONSTITUENT REQUESTS AND CORRESPONDENCE**

Members of the City Council may be called upon to write letters to residents, businesses, or other public agencies. Typically, the Mayor will transmit the City's position on policy matters to outside agencies on behalf of the City Council. Individual members of the Council will often prepare letters for constituents to respond to inquiries or provide requested information. City letterhead is available for this purpose, and staff can assist in the preparation of such correspondence. Requests for assistance should be made to the City Manager.

On occasion, members may wish to transmit correspondence on an issue upon which the Council has yet to take a position or has no position. In these circumstances, members should indicate either in correspondence or verbally that they are not speaking for the City Council as a whole, but for themselves as a private citizen or as one member of the Council. Council Members should avoid expressing opinions that could be perceived as biased or creating an appearance of bias when communicating about a matter that has the potential of coming before the Council for action. This is particularly true on adjudicatory matters (as opposed to legislative matters) when the Council will be asked to resolve a dispute (or appeal) between two sides (e.g., appeal of a land use permit).

After the City Council has taken a position on an issue, official City correspondence related to the issue should reflect this position. Similar to verbal communication standards, a City Council member who disagrees with the majority opinion may express their position by indicating that, "While I voted against 'X,' the City Council voted in support of it." In addition, City letterhead and staff support cannot be utilized for any personal purpose or in the Council Member's own campaign, including letters of commendation.

Members of the Council will frequently receive requests or complaints. In most cases, the City staff can resolve these problems. The main thing is for the Council Member to get the basic information, and then pass this on to the City Manager for appropriate action. The key to answering constituent requests is to be specific in what the Council Member will do, i.e., promise a timely response, or look personally at the problem, while avoiding a commitment to "fix anything."

#### **4.5 REPRESENTING THE CITY ON REGIONAL AGENCIES**

City Council members are assigned to represent the City on a variety of regional agency boards and commissions. Active participation by City Council members on regional agencies ensures the City's interests are adequately represented, advances Fortuna's standing in the region, and allows City Council members to gain additional experience while developing connections with leaders from other jurisdictions. City Council members should exhibit the same dedication to regional agency meetings as they do to Council meetings through regular attendance, knowledge of the agenda, and engagement in policy discussions. If a City Council member is unable to attend a meeting, they should advise the alternative representative.

Assignments to regional agencies are generally proposed by the Mayor and require the concurrence of the City Council. Care should be taken to distribute the workload as evenly as possible and capitalize on subject matter expertise. Keeping regional assignments as consistent as possible year-to-year maintains the City's knowledge and seniority on regional agency.

Council meetings provide an opportunity to "report out" on regional activity so that all City Council members, staff, and the public are fully informed. The proactive sharing of activities contributes to the collaborative nature of the City Council's work and respects the role of all members. Importantly, this sharing of information honors the standard that no single City Council member "owns" a particular issue or effort. It also reinforces the notion that all members have an equal voice and standing on all matters affecting the City.

## **5. CODE OF ETHICS**

### **5.1 PREAMBLE**

The residents and businesses of Fortuna are entitled to have fair, ethical, and accountable local government. Such a government requires that:

- Public officials comply with both the letter and spirit of the laws and policies affecting operations of the government;
- Public officials be independent, impartial, and fair in their judgment and actions;
- Public office be used for the public good, not for personal gain; and
- Public deliberations and processes be conducted openly, unless legally confidential, in an atmosphere of respect and civility.

To this end, the City of Fortuna City Council adopts this Code of Ethics to encourage public confidence in the integrity of local government and its operation.

## **5.2 PUBLIC INTEREST**

Council Members will work for the common good of the people of Fortuna and not for any private or personal interest, and they will endeavor to treat all persons, claims, and transactions in a fair and equitable manner.

Council Members shall comply with the laws of the nation, the State of California, and the City in the performance of their public duties.

## **5.3 CONDUCT**

It is the policy of the City of Fortuna that the members of the Fortuna City Council conduct themselves individually and as a council so that all matters related to the City are conducted in an open, fair, responsible and impartial manner, that all City business be conducted in an orderly and efficient manner, that all governmental policies be made in the proper channels of the government structure, that public offices not be used for personal gain and that the public have confidence in the integrity of its government. Therefore, the following Rules of Conduct shall be observed by each City Council Member.<sup>1</sup>

### **5.3.1 Influence**

Council Members must recognize that it is important for City Staff, Commissions and Committees to be able to make objective recommendations on items related to the City. Council Members must be certain that any opinions expressed to members of Staff, Commissions and Committees are clearly identified as individual personal opinions, unless official Council action has been taken on the subject in question.

### **5.3.2 City Representation**

Council Members, simply by being Council Members, are at all times viewed as representatives of the City. The conduct of Council Members is a direct reflection on the City and members should conduct themselves accordingly. Except where specifically authorized by City Council action or for purely ceremonial purposes, no City Council Member should make any statement or appearance or indicate in any way that he or she is representing the city.

### **5.3.3 Confidential Matters**

At times matters will come before the City Council which should be kept confidential, such as employee discipline, legal matters, salary negotiations and other matters properly handled in closed meetings. Council Members shall keep such information confidential.

### **5.3.4 Conflict of Interest**

Council Members shall abstain from any action which may cause a conflict of interest as defined by State Law, including accepting employment which is incompatible with the proper discharge of official duties, or using the office of City Council in any manner to induce any person or entity to provide anything of value or benefit to themselves or any other person.

### **5.3.5 Conduct at Meetings**

It is common, that Council Members may differ on matters and that such differences will be debated. The debate should be limited to the issue and each Council member should refrain from making personal or derogatory remarks.

Council Members shall base their decisions on the merits and substance of the matter submitted for review.

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1. Original Council Policy adopted March 16, 1998, amended and adopted into this document June xx, 2011.

Council Members shall publicly share substantive information that is relevant to a matter under consideration that they may have received ex parte; that is, received from sources outside of the public decision-making process. This insures that all parties, the council, staff, and public, are acting on the same information.

Council Members shall inform themselves on public issues; listen attentively to public discussions before the body; and focus on current business issues.

Council Members shall refrain from campaigning or calling for public action against Council Members during council meetings. Any Council Member who does so is considered out of order and the mayor shall take appropriate action.

Council Members shall refrain from requesting that an item be placed on the agenda after two previous requests have been rejected or denied by consensus or formal vote of the Council.

Any Council Member may move for the Mayor to enforce the parliamentary procedures, and/or the Policies & Procedures Manual of the City Council. A majority vote of the Council shall require the mayor to so act.

### **5.3.6 Council Committees**

From time to time the City Council forms committees of two Council Members. The role and responsibilities of these Council committees shall be determined in an open and public session at the time they are formed.

### **5.3.7 Compliance with Intent of Council Conduct Code**

Staff members concerned regarding the propriety of City Council member's interaction with them should confidentially discuss their concerns with the City Manager who shall report to the Mayor. If the Mayor is the Council member in question, the City Manager will report to the Mayor Pro Tem. The Mayor or Mayor Pro Tem shall then confidentially address the issue with the involved Council member so as to assure compliance with the intent of this code. Issues not resolved in this private conference should be brought to the City Council as an agenda item. Issues arising from Council Members themselves shall be addressed directly through the Mayor or the Mayor Pro Tem if the Mayor is the Council Member in question. The process from this point will be the same as described above.

Council Members shall perform their duties in accordance with the policies, processes and rules of order established by the City Council.

## **5.4 CONFLICT OF INTEREST**

### **5.4.1 Applicable Law**

There are several laws and legal principles that prohibit public officials from acting in situations in which they might have a conflict of interest. These include Government Code Section 1090 prohibiting contracts in which the official has a financial interest and the doctrine of incompatible offices, which prohibits an official from holding two offices at the same time if doing so might create a clash of loyalties.

Even broader in scope, voters in 1974 approved the Political Reform Act.

The statutes (the Political Reform Act of 1974) provide that certain municipal officers must disclose their "economic interests" periodically on forms provided by the Fair Political Practices Commission (FPPC). These municipal officials are members of the City Council (including the Mayor), members of the City Planning Commission, the City Manager, the City Treasurer, and the City Attorney.

Statements of Economic Interests are submitted by these officials to the City Clerk who makes and retains a copy of each statement and forwards the original to the FPPC in Sacramento.

In addition, the City is required to determine which of its other officials, committee members, and employees perform duties that involve potential conflicts of interest. The City has adopted a resolution outlining those positions, called "designated employees." These employees are required to disclose their economic interests. A copy of the Political

Reform Act, as amended, is available for review in the City Clerk's office.

Conflict of interest is a complex issue. Council Members should carefully consider and monitor “gifts” from any person or organization whether the gift is financial support, loans, event tickets, or meals. Many of these gifts may need to be reported and may present a conflict of interest when considering and/or voting on projects or issues related to the person presenting the gift. Questions relating to conflict of interest should be directed to the City Attorney or your personal attorney.

The rules relating to conflicts of interest are set forth in the Political Reform Act (PRA) (Government Code Sections 81000 and following) and case law. They are complex and not necessarily intuitive. The consequences of violating the rules can be severe, including substantial monetary penalties and possible criminal prosecution to individual Council Members.

#### **5.4.2 Sources of Assistance**

The Fair Political Practices Commission (FPPC) is the state agency that administers the PRA, issues regulations, gives conflict advice, and enforces the rules. The FPPC also provides a “hotline” that a Council Member may call for informal advice. The City Attorney is available for consultation, but the City Attorney’s advice on conflicts matters cannot provide a Council Member with any immunity from prosecution. Further, since the City Attorney represents the City Council as a body, any discussions or advice given by the City Attorney to any individual member of the Council will be shared with the full Council. Most conflict of interest questions ultimately turn on whether it is reasonably foreseeable that the decision will have a “material financial effect” on the Council Member’s economic interest. Municipal attorneys generally do not advise public officials as to whether a material financial effect would exist unless the answer is absolutely certain based upon applicable regulations. While the City Attorney may have his or her own opinion as to whether or not a material financial effect will be present, it is ultimately up to the Council Member to determine this issue. Only a formal written opinion from the FPPC provides immunity from prosecution for violations of the conflict of interest rules. The City Attorney is available to assist with preparing a request for a formal opinion.

#### **5.4.3 Identifying Conflicts**

It is the responsibility of each Council Member to identify, disclose and declare his or her conflict before action is taken on a matter. If possible, the conflicted Council Member should notify staff prior to the council meeting at which the matter will be heard, to ensure the presence of a quorum. Staff will attempt to assist with identifying obvious conflicts, but the ultimate responsibility is with each Council Member.

#### **5.4.4 General Rules**

Council Members shall not use their official positions to influence government decisions in which they have a financial interest, or where they have an organizational responsibility, or personal relationship that would present a conflict of interest under applicable State law. As required by law, Council Members declaring a conflict of interest shall recuse themselves and leave the Council Chambers.

In accordance with the law, members shall file written disclosures of their economic interests and, if they have a conflict of interest regarding a particular decision, refrain from participating in that decision, unless otherwise permitted by law.

Council Members shall not take advantage of services or opportunities for personal gain, by virtue of their public office that are not available to the public in general, nor shall they use public resources not available to the public for private gain or personal purposes. They shall refrain from accepting gifts, favors, or promises of future benefits that might compromise their independence of judgment or action or give the appearance of being compromised.

Council Members shall respect and preserve the confidentiality of information provided to them concerning the confidential matters of the City. They shall neither disclose confidential information without proper legal authorization, nor use such information to advance their personal, financial or other private interests.

Council Members shall not appear on behalf of private interests of third parties before the City Council or any board, commission, committee or proceeding of the City.

Council Members shall represent the official policies and positions of the City Council to the best of their ability. When presenting their personal opinions and positions, members shall explicitly state they do not represent the Council or the City.

Council Members shall refrain from using their positions to unduly influence the deliberations or decisions of City commissions, boards or committees.

A public official who has a financial interest in a decision shall, upon identifying a conflict of interest or a potential conflict of interest and immediately prior to the consideration of the matter, do all of the following:

- a. Publicly identify the financial interest that gives rise to the conflict of interest or potential conflict of interest in detail sufficient to be understood by the public, except that disclosure of the exact street address of a residence is not required.
- b. Recuse himself/herself from discussing and voting on the matter, or otherwise acting in violation of the Political Reform Act.
- c. Leave the room until after the discussion, vote, and any other disposition of the matter is concluded, unless the matter has been placed on the portion of the agenda reserved for uncontested matters.
- d. Notwithstanding paragraph c, a conflicted public official may speak on the issue during the time that the general public speaks on the issue when he or she appears solely to represent himself or herself on a matter related to his or her personal interest. Personal interests are interpreted to include, but are not limited to:
  - i An interest in real property that is wholly owned by the official or members of his/her immediate family.
  - ii A business entity wholly owned by the official or member of his or her immediate family.
  - iii A business entity over which the official exercises sole direction and control, or over which the official and his/her spouse jointly exercises sole direction and control.

## **6. SALARIES**

### **6.1 SALARY AND REIMBURSEMENT**

The Council, in accordance with Government Code Section 36516, sets the salary for the City Council. City Council Members are paid \$300/month for City matters (Section 2.04.050 of the City Code).

The City does not participate in Social Security; part-time employees are not eligible to participate in PERS and are enrolled in a Federal Insurance Contributions Act (FICA)-alternative retirement program. City Council Members will pay the Medicare portion of Social Security and the City contributes 4% and the Council Member contributes 3.5% towards the FICA-alternative retirement plan. <sup>2</sup>

In addition, Council Members may be reimbursed for actual expenses while performing official duties.

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2. Original Council policy adopted December 1995, amended and adopted into this document June xx, 2011.

## **6.2 BENEFITS**

The following benefits are available to City Council Members:<sup>3</sup>

### **6.2.1 Group Health Insurance**

The City offers an excellent health, dental and vision care, and life insurance plan for its employees.

City Council Members may purchase health insurance at their own expense while in office and under certain circumstances after they leave office. The following was adopted by Resolution 95-08 on April 17, 1995:

1. City Council Members, while they are in office, who wish to enroll in Redwood Empire Municipal Insurance Fund's (REMIF) health and welfare plan at their own expense are hereby authorized to purchase health, dental, vision, and life insurance benefits in accordance with Section 53201 through 53205 of the California Government Code.
2. City Council Members, after they leave office, who wish to enroll in REMIF's health and welfare plan at their own expense, are hereby authorized to purchase health, dental, vision, and life insurance benefits in accordance with Sections 53201 through 53205 of the California Government Code.

### **6.2.2 Training, Meetings, Conferences**

The City allocates funds for training, meetings, and conferences in which the Council Members may wish to participate. Among these are the quarterly meetings of the Redwood Empire Division of the League of California Cities, the League of California Cities Annual Conference, the annual Mayors and Council Members Executive Forum, and other local meetings. Council Members are encouraged to participate in these meetings and conferences. All travel and training expenses are subject to the policies and procedures set forth in the City Administrative Policy Manual.

## **7. CONDUCT OF CITY COUNCIL MEETINGS**

### **7.1 PARLIAMENTARY PROCEDURE**

Parliamentary procedure is a set of rules that regulate and standardize how the City Council conducts its business.

It is the policy of the Fortuna City Council that, unless otherwise required by State law or other regulation, all City Council meetings shall be conducted under Rosenberg's Rules of Order: Simple Parliamentary Procedures for the 21st Century (Appendix A-1).

However, no ordinance, resolution, or other action of the City Council shall be invalidated or the legality thereof otherwise affected by the failure or omission of the City Council to observe or follow such rules.

Certain procedures relating to motions, agenda item discussion, debate, and courtesies contained in Rosenberg's Rules of Order: Simple Parliamentary Procedures for the 21st Century are incorporated into this document, except to the extent they are modified by this document.

These rules in affect shall be in accordance with state law and as set forth below.

The following summarizes the most frequently used actions:

- a) Council Members and Staff shall

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3. Original Council Policy adopted April 17, 1995, amended and adopted into this document June xx, 2011,

1. Work earnestly to preserve appropriate order and decorum during all meetings.
  2. Discourage side conversations, disruptions, interruptions or delaying efforts.
  3. Ensure that all discussion relate to the subject matter at hand and be relevant and pertinent to allow for the expeditious disposition and resolution of the business before the Council.
  4. Agree to disagree but be respectful of one another.
  5. Not engage in any abusive or vulgar language and shall avoid any personal attacks on any other member of the City Council, staff, or the public; nor shall they publicly impugn the integrity, honesty or motives of such individuals.
  6. Inform the Presiding Officer when departing from a meeting.
- b) While the Council is in session, all persons shall preserve order and decorum. Any person making personal, impertinent, or slanderous remarks or demonstrating rude, boisterous, or profane behavior will be called to order by the Presiding Officer. If such conduct continues, the Presiding Officer may call a recess, request removal of such person(s) from the Council Chamber, adjourn the meeting, or take such other appropriate action as permitted by the Ralph M. Brown Act (Brown Act)<sup>4</sup>.
- c) Only the City Council, Staff, Advisory Body Chairs or designated representatives and those authorized by the Presiding Officer shall be permitted to sit at the Council or staff tables.
- d) Enforcement of Order
1. Any Council Member may request the Presiding Officer to enforce the rules of protocol. Upon motion and majority vote, the Presiding Office shall be required to do so.
  2. Upon instructions from the Presiding Officer, it shall be the duty of any police officer present to eject from the Council Chambers any person in the audience who uses boisterous or profane language or any person who interrupts and refuses to keep quiet or take a seat when ordered to do so by the presiding officer or otherwise disrupts the proceedings of the Council.

## **7.2 RULES FOR PERSONS PRESENTING TESTIMONY TO THE COUNCIL<sup>5</sup>**

1. The person must be clearly recognized by the Mayor and is to approach the podium and microphone before speaking.
2. He/she is encouraged to clearly state his/her name for the record.
3. All comments shall be addressed to the City Council. All questions shall be placed through the Mayor.
4. Speakers addressing the City Council will be limited to three minutes per speaker, or such a time as the presiding officer prescribes.
5. All exhibits and documents used by speakers shall be given to the City Clerk for distribution to the Council and staff.
6. We disagree, but will be respectful of one another. All comments will be directed to the issue at hand, and addressed to the City Council. Personal attacks are unacceptable.
7. All questions or rebuttal will be through the Mayor.

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4. California Govt. Code §54950, et seq.

5. Original Council Policy adopted November 16, 1993, amended and adopted into this document June xx, 2011.

8. If there are numerous people in the audience who wish to participate on an issue, and it is known that all represent the same position, a spokesperson should be selected to speak for the entire group. The spokesperson will therefore have the opportunity of speaking for a reasonable length of time and of presenting a complete case.
9. To avoid unnecessary cumulative evidence, the Mayor may limit the number of witnesses or the time of testimony on a particular issue.
10. Irrelevant and off-the-subject comments will be ruled out of order.

### **7.3 TYPES OF COUNCIL MEETINGS**

All meetings, regular, special, or closed sessions must be conducted within the geographical boundaries of the governing body's jurisdiction, unless specifically exempted.

#### **7.3.1 Regular Meetings**

The Fortuna City Council holds regular meetings on the first and third Monday of each month at 6:00 p.m. The Brown Act requires that public notice be given at least 72 hours before the meeting indicating the time and place of the meeting. An agenda of each meeting is posted in three public places<sup>6</sup>.

Regular meetings may be adjourned to a specified time and place. A regular meeting cannot be adjourned past the next regular meeting date.

Regular City Council meetings are televised by Access Humboldt and aired live on public access cable television. A schedule for rebroadcast airings can be found on [www.accesshumboldt.org](http://www.accesshumboldt.org). A link to City Council video is provided on the City's website, [www.friendlyfortuna.com](http://www.friendlyfortuna.com).

#### **7.3.2 Special Meetings**

The City Council can call special meetings to review and discuss specific topics. Special meetings also include workshops and study sessions which give the Council the opportunity to review items that require more in depth study than time allows on the regular evening meeting agenda, and to receive informational reports on items that require no formal action.

Members of the City Council and local news media must receive notices of special meetings at least 24 hours prior to the time of the meeting. The notice must specify the time and place of the special meeting and the business to be transacted or discussed.

Regular ordinances **may not** be adopted at special meetings; only urgency ordinances may be adopted at such meetings. Items not listed on the agenda shall not be considered at the special meeting.

#### **7.3.3 Adjourned Meetings**

The City Council may adjourn any regular, adjourned regular, special or adjourned special meeting to a specified time and place.

A notice of adjournment shall be posted on or near the door of the place where the regular, adjourned regular, special or adjourned special meeting was held within 24 hours after the time of the adjournment and include the specified time and place the adjourned meeting will be held.

Noticing of adjourned meetings shall follow the requirements set forth in section 5.3.2 of this document.

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6. City Hall, the Chamber of Commerce, and River Lodge

### **7.3.4 Closed Session**

Closed sessions may be held to discuss certain matters specified by law, including:

- Personnel matters to consider the appointment, employment, performance, or dismissal of a public employee;
- Matters of national and public safety;
- Labor negotiations;
- License applications by persons with criminal records;
- Real estate negotiations;
- Pending litigation;

Closed sessions are attended by the City Council, City Manager, City Attorney (as required), appropriate management staff, and occasionally by a special consultant or attorney depending upon the matter under discussion. Closed sessions are not open to the public. Matters discussed during closed session are confidential and **may not** be discussed with anyone outside of the closed session or during a public meeting. Violations of the closed session confidentiality requirement could put the City in a perilous position with respect to litigation and represent a violation of the law<sup>7</sup> for the person violating the confidentiality requirement.

If any final decisions are made in the closed session meeting, the agency must reconvene in open session where it may be required to report the specific votes and actions taken by the agency.

### **7.3.5 Emergency Meetings**

When an emergency, including but not limited to an earthquake, flooding, or fire occurs, an emergency meeting may be called by the City Council with a one-hour notice to its members and local news media.

The City Council **may not** meet in closed session during an emergency meeting. Except for the 24-hour notice requirement, the special meeting requirements set forth in section 5.3.2 of this document shall apply in emergency meetings.

### **7.3.6 Budget Workshops:**

Every year, the City Council holds budget workshops to review funding allocations for the goals and objectives outlined by the City Council.

Requirements set forth in section 5.3.2 shall apply to Budget Workshops.

## **7.4 MINUTES AND RECORD KEEPING**

The minutes serve as a source of information for the Council and for the public. Meeting minutes are required to include the following information:

- Members present;
- Motions, proposals, resolutions, orders, ordinances, and other items of business and their disposition;
- Results of all votes and, in the case of a roll call vote, the vote of each member by name.

The minutes of the City Council meetings shall be kept by the City Clerk and shall be recorded in a file kept for that

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<sup>7</sup>, California Govt. Code §54950, et seq.

purpose with a record of each particular type of business transacted by the Council set off in paragraphs with subheadings.

The minutes may include a record of the names of persons addressing the Council during public comment, and a brief statement of the subject to which their remarks related.

Minutes of the City Council are “Action Based” minutes, and do not include a verbatim transcript, only motions and votes are shown on the record. Such minutes shall be submitted to the Council for approval and/or correction in draft form at a subsequent meeting.

It is the policy of the City Council that only members of the Council and the City Clerk have the authority to make revisions to the minutes subject to a majority vote of the City Council.

Council Members having only typographical corrections to the minutes are encouraged to provide such corrections to the City Clerk directly and need not wait to submit such corrections at a meeting. As a time saving measure, even full correction items may be written ahead and passed to the City Clerk before the meeting. All changes/corrections to the minutes require Council approval.

The City Clerk is responsible for recording, preparing, and filing Council minutes. Minutes of Council meetings are available for review in the City Clerk's office and on-line at [www.friendlyfortuna.com](http://www.friendlyfortuna.com).

## **7.5 AGENDA**

The City Manager is responsible for preparation of the City Council agenda; however, the City Clerk's department is responsible for the actual gathering and copying of the agenda packet.

The agenda is a listing and synopsis of each business item the Council will consider during its meeting. The City Clerk makes the agenda available at every regular meeting.

The agenda and relevant background materials are available at City Hall on Friday before the scheduled Monday Council meeting or on-line at [www.friendlyfortuna.com](http://www.friendlyfortuna.com).

### **7.5.1 Placing Items on the Agenda**

In order to facilitate the orderly conduct of the business of the citizens of Fortuna, the City Manager, with input from Department Heads and the City Attorney, shall set the agenda, reviewing same with the Mayor. Each member of the Council shall be provided with a copy of the City Council agenda in accordance with the provisions as outlined in the Brown Act. In order for this to occur the City Clerk shall provide deadlines for the submittal of staff reports to be used in the preparation of the City Council agenda.

Council Members may, at a regularly scheduled meeting, request items to be placed on future agendas during the Future Agenda Items portion of the Council meeting by Council consensus. The Council Member referring the item may provide a brief description of the subject to be printed for the agenda packet, sufficient to inform the City Council and public of the nature of the item.

The City Council, after considering the referral, may either refer the matter to staff to schedule as a future City Council agenda item or they may, by concurrence of the majority, advise to not place on a future agenda.

### **7.5.2 Order of Agenda Items**

The agenda format for the Fortuna City Council regular meetings (first and third Mondays) may be prepared to include, but not limited to the following categories and/or sub-categories, not necessarily in the order herein reflected:

Call to Order/Flag Salute

1. Roll Call
2. Public Comment
3. Presentations, Recognitions, Proclamations
4. Consent Calendar/Report of Disbursements
5. Regular Business Items/Public Hearings
6. City Manager's Report
7. Future Agenda Items
8. Council Reports and Communications
9. Oral Comments (for closed session, as needed)
10. Closed Session (as needed)
11. Adjournment

### **7.5.3 City Council Meeting Steps:**

For most agenda items, the following sequence of steps will occur:

1. Staff presentation
2. Questions from the City Council
3. Public hearing or public comment (depending upon the nature of the item)
4. Motion or proposed direction to staff (see below for more detail regarding motions)
5. Discussion by the City Council
6. Vote on motion, or verbal expression of consensus

Certain hearings (such as utility rate increases, etc.) may require additional procedures, and the City Attorney will provide appropriate instructions to guide the City Council's sequence of steps in those instances.

#### **Making and Seconding Motions**

Direction is given by the City Council through motions, which are verbal tools to focus discussion on proposed action and, eventually, to memorialize City Council direction. A motion supports orderly deliberation and ensures all voices are heard.

Motions should begin with "I move . . ." to make it clear that this is a motion for action. Most staff reports contain staff's suggested motion-ready language within the "recommendation" section at the beginning of each staff report, but City Council members may make any desired motion. Motions require another City Council member to "second" the motion, which indicates there is interest in taking action on the motion. Motions are seconded by verbalizing "I second the motion". Any City Council member or the Mayor may make or second a motion.

Before the Mayor asks the City Clerk to call the question, the City Council may continue to discuss and deliberate on the merit of the motion. The maker of a motion has the right to speak so the City Council understands the basic premise of the motion, and to address any argument or opposition to the motion.

The most commonly used motions are:

<b>Motion Type</b>	<b>Action Accomplished</b>	<b>Language</b>
Main/Original motion	The first motion made which proposes action	“I move that....”
Amending a motion	Either adds or subtracts to the preceding motion	“I move that the motion be amended by...”
Refer to a commission, committee or ad hoc	Refers the matter to a commission, committee or ad hoc	“I move that the issue be referred to the [appropriate commission]”
Continue or Postpone	Continues or postpones action to a future date (this can be to a date certain, or off-calendar to indicate open-ended continuation)	“I move that the issue be [continued to [specific date or off-calendar]”
Previous Questions	Ends discussion and compels a vote	“I move the previous question”
Limit Debate	Re-focuses lengthy or off-topic discussion, without blocking further discussion	“I move to limit discussion to [time limit or topic]”

In addition, a “point of order” question serves to bring discussion that has detoured away from meeting norms back to conformance with proper procedures. The Mayor or any City Council member may call a point of order.

## **7.6 AGENDA ITEMS**

### **7.6.1 Call to Order**

The Mayor will call the meeting to order at 6:00 p.m. and ask that audience members turn off pagers and/or cell phones while in the Council Chambers.

### **7.6.2 Public Comment**

Members of the public are entitled to speak on matters of municipal concern not on the agenda, during consideration of that portion of the meeting agenda entitled “Oral Comments from the Public” when that item is called by the Mayor. Each person is entitled to speak on any non-agendized item only once at any meeting. Speakers addressing the City Council will be limited to three minutes per speaker, or such a time as the presiding officer prescribes. Brief questions by Council Members for clarifications may be posed and answered, and Council Members may make requests that items be placed on future agendas as described in 5.5.1 of this document, but in accordance with State Law, no substantive discussion may take place unless and until the matter properly appears on the agenda.

Once public comment has been closed it is inappropriate for the public to speak except to answer an inquiry of a Council Member addressed through the Mayor.

### **7.6.3 Presentations, Recognitions, Proclamations**

Presentations, recognitions and proclamations shall be scheduled as necessary in recognition of persons or groups, for the promotion of an event or service or general information items to the Council. Requests for Presentations must be submitted to the City Clerk in advance of the agenda deadline. The City Manager shall request approval from the Mayor as to the appropriateness and scheduling of such presentations. Upon approval by the Mayor, the City Clerk will then coordinate the presentation with the requesting party in order to schedule the item on any given agenda. The requesting party determines whether or not he/she will be present for acceptance of such presentation and if not present, the item will be placed under the Consent Calendar of the agenda.

### **7.6.4 Report of Disbursements**

This is an oral report of disbursements for the City and Successor Agency processed through the date of the meeting

at which they are reported. No action is required for this item. This topic is on the agenda to satisfy the annual audit requirement demonstrating that the City council is made aware that the financial obligations of the city are being paid on a regular and routine basis.

#### **7.6.5 Consent Calendar**

Those items on the Agenda which are considered to be of a routine and non-controversial nature by the City Manager shall be listed on the Consent Calendar. These items so listed shall be approved, adopted, and accepted. by one motion of the Council.

Council Members may comment on Consent Calendar items or ask for minor clarifications without the need for pulling the item for separate consideration. Items requiring deliberation should be pulled for separate consideration.

At the request of any Council Member a Consent Calendar Item shall be considered separately in the order of the agenda following approval of the remaining “Consent Calendar”.

#### **7.6.6 Regular Business Items/Public Hearings**

Regular Business items are those reports brought forth for Council consideration and/or approval that are not public hearings.

Public Hearings can be legislative or quasi-judicial and may be required on certain items as prescribed by the municipal code or by state or federal law. Legislative decisions generally involve fundamental policy questions of jurisdiction-wide concern; legislative decisions also can involve changes in existing law to govern future situations. Public hearings usually require adoption of an ordinance, resolution or other action by the Council.

Public Comment will be sought on each regular business item and public hearings.

Once a public hearing/public comment has been closed it is inappropriate for the public to speak except to answer an inquiry of a Council Member addressed through the Mayor. However, a public hearing may be re-opened by a majority approval by the Council to hear new information.

#### **7.6.7 City Manager’s Report**

The City Manager’s Report portion of the meeting agenda provides an opportunity for the City Manager to report on items of interest, status reports on significant projects, updates on events or meetings they participated in, and provide acknowledgement to citizens or individuals.

The City Manager’s Report can be presented in Staff Report format or may be done verbally.

#### **7.6.8 Future Agenda Items**

Future Agenda Items is a brief list of items to be considered by Council at upcoming Council meetings and serves as an opportunity for Council Members to request items to be placed on a future agenda as described in section 5.5.1 of this document.

#### **7.6.9 Council Reports and Communications**

The purpose of this time is to allow Council Members the opportunity to provide a brief update or share information regarding a particular matter.

Examples of appropriate communications would be information of general interest received from outside agencies, comments or inquiries received from individuals and reports on meetings attended and other items of community interest. This time is not intended for action items.

Council Members shall govern themselves as to the length of their comments. The Mayor has the responsibility to assist Council Members in keeping their comments brief.

State law<sup>8</sup> provides that Council can take action only on such matters that have been properly noticed in advance of the meeting, unless special circumstances are found to exist. Formal action or approval on non-agendized items is not allowed.

#### **7.6.10 Public Comment (before Closed Session)**

Members of the Public may be heard on any item under the Closed Session. Speakers addressing Council will be limited to three minutes per speaker, or such a time as the presiding officer prescribes. Be advised that, by law, neither the City Council nor the Board is able to discuss, deliberate or take action on issues presented during Closed Session Oral Comments.

#### **7.6.11 Closed Sessions (as needed)**

The Brown Act requires all council action to be discussed and taken in open session, except for specified and limited exceptions such as personnel matters, real property negotiations, and pending or threatened litigation.

### **ALL MATTERS DISCUSSED IN CLOSED SESSION ARE CONFIDENTIAL.**

Closed Sessions are held at the end of the regular Council meeting and, if needed, can be continued to the next regular meeting.

A. City Council Members shall consider all written materials and verbal information provided to them on matters that are confidential under State law in complete confidence to insure that the City's position is not compromised. No disclosure or mention of information in these materials shall be made to anyone other than Council Members, the City Attorney or City Manager.

B. If the City Council in closed session has provided direction to the City Manager or City Attorney on proposed terms and conditions for any type of negotiations whether it be related to property acquisition or disposal, a proposed or pending claim or litigation, and/or employee negotiations, all contact with the other party and/or attorney shall be limited to, and made by, the designated City staff representative handling the negotiations, claim or litigation. No Council Member shall have any contact or discussion with the other party or its representative involved with the negotiation, claim or litigation during this time, nor shall any Council Member communicate or disclose any discussion conducted or information received in closed sessions. All public statements, information and press releases shall be handled exclusively by the designated spokesperson.

#### **7.6.12 Adjournment**

Adjournment of a meeting is customarily by motion of the City Council or can be accomplished by unanimous consent and the Mayor simply declares the meeting adjourned. A motion to adjourn to another time can be done similarly, but is debatable only as to the time to which the meeting is to be adjourned.

## **7.7 TYPES OF COUNCIL ACTIONS**

### **7.7.1 Consent Calendar**

Those items on the Agenda which are considered to be of a routine and non-controversial nature by the City Manager shall be listed on the Consent Calendar. These items so listed shall be approved, adopted, and accepted. by one motion of the Council.

At the request of any Council Member a Consent Calendar Item shall be considered separately in the order of the agenda following approval of the remaining "Consent Calendar".

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8. California Govt. Code §54950, et seq.

Typical Motion: "I move that Consent Calendar items x - xx (with the exception of items which have been removed) be approved as received."

The Mayor confirms the motion and the second before calling for the vote.

A second to any motion must be received before a motion may be voted on.

### **7.7.2 Ordinances**

Ordinances are the laws of the municipality. City Councils are given the power to pass ordinances by Government Code Section 37100 as long as those ordinances are not in conflict with the laws and Constitution of the State of California or the United States.

Regular ordinances may only be adopted at a regular City Council meeting or an adjourned regular City Council meeting.<sup>9</sup>

Approval of an ordinance requires a first reading or introduction and a second reading and adoption, with at least five days between readings (except an urgency ordinance). The passage of an ordinance requires the affirmative votes of at least three Council Members.

A notice of intent to adopt with an ordinance summary may be required to be posted in three public places<sup>10</sup> at least five days prior to adoption and a Notice of Adoption with an ordinance summary is posted within 15 days of adoption.<sup>11</sup>

An ordinance becomes effective 30 days after adoption, except for urgency ordinances or ordinances relating to certain taxes. The 30 day time frame is known as a referendum period. A referendum period is required by state law and is a time frame in which any citizen can file a petition challenging the legality of a recently adopted ordinance. An ordinance is an action that can be repealed or amended only by a subsequent ordinance.

#### First Reading

*Typical motion:* "I move to introduce and hold the first reading of Ordinance xxxx-xxx, and read by title only.

The Mayor confirms the motion and the second, and the City Clerk reads the ordinance title before calling for the vote.

#### Second Reading

*Typical Motion:* "I move to hold the second reading and adopt Ordinance xxxx-xxx, and read by title only"

The Mayor confirms the motion and the second, and the City Clerk reads the ordinance title before calling for the vote.

A second to any motion must be received before a motion may be voted on.

An ordinance requires a roll call vote.

### **7.7.3 Urgency Ordinances**

In matters deemed by the City Council to warrant immediate action to preserve peace, public safety or health, an

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9. California Govt. Code 36934

10. City Hall, the Chamber of Commerce, and River Lodge

11. California Govt. Code Section 36933

emergency ordinance may be passed immediately upon introduction at either a regular or special meeting, and can be effective immediately.

#### **7.7.4 Resolutions**

A resolution expresses the policy of the Council on directing certain types of procedural or administrative actions. It requires only one reading and may be changed by subsequent resolution.

A resolution is also required to award contracts and authorize expenditure of funds.

*Typical Motion:* “I move to adopt Resolution xxxx-xx and read by title only.

The Mayor confirms the motion and the second, and the City Clerk reads the resolution title before calling for the vote.

A second to any motion must be received before a motion may be voted on.

A resolution may be adopted by consent calendar vote, a roll call vote or a voice vote.

#### **7.7.5 Proclamations**

A proclamation is a public declaration of the Council’s endorsement of something such as a special event or happening. Such a public announcement usually is made at the request of the organization sponsoring the event or happening and not for functions of a personal nature including but not limited to, a birthday or anniversary.

#### **7.7.6 Minute Orders**

These ordinarily indicate majority approval for a procedural action. Minute orders are usually used for disposition of business items on the agenda. Minute Orders apply to items in which action was taken by the council other than a resolution or ordinance.

#### **7.7.7 Public Hearings**

A public hearing is the open consideration of an issue within a regular meeting of the City Council, for which special public notice has been given and may be required. During a specified portion of the hearing, any resident or concerned individual is invited to present information, offer support or objection for the subject under consideration. Public hearings are required for such items including but not limited to, zoning changes, annexations, and fees or rates.

A public hearing may be continued or re-continued<sup>12</sup> to a subsequent meeting following the same procedures set forth in section 5.3.3 of this document.

## **8. CITY ORGANIZATION**

### **8.1 CITY MANAGER**

The City Manager, appointed by the City Council, is responsible for the overall administration of the City in response to the policies and programs established by the City Council. The City Manager is responsible for forecasting the program and service needs of the City and its related financial, personnel, and capital improvement requirements.

Among the programs conducted through the City Manager are the overall direction of all City departments, development and implementation of the City’s annual budget, and providing overall planning for future City operations.

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12. California Govt. Code Section 54955.1

## **8.2 CITY ATTORNEY**

The City Attorney, appointed by the City Council, is responsible for providing necessary legal services and guidance to the City Council, the City Manager, department managers, and City boards, commissions and committees to ensure that City functions are performed on a sound legal basis.

## **8.3 CITY EMPLOYEES**

City employees comprise the majority of City government. They perform the day-to-day functions necessary to provide municipal services. Department managers administer specific functions of City government and are responsible to the City Manager.

# **9. ADVISORY COMMISSIONS AND BOARDS<sup>13</sup>**

## **9.1 OVERVIEW**

The city council is authorized to establish boards, commissions and committees. These boards, committees and commissions shall be organized and governed by Section 2.20 of the municipal code, unless otherwise stated in the ordinance establishing said board, committee or commission. (Ord. 2006-663 § 2).

### **9.1.1 Qualifications**

Membership on such bodies shall be representative of the entire community insofar as possible, and members on such boards, commissions and committees shall be willing to serve as a civic responsibility and without compensation. No member of any board or commission shall hold any paid office or employment in the city government, unless, by resolution, such membership is specifically authorized or required. Appointments of qualified non-city residents shall require a four-fifths vote of the council for confirmation. In order to be eligible for appointment to any board or commission, a person shall be a qualified registered elector of the city of Fortuna, or be the owner of a business located within the city limits. However, in no event shall less than a majority of any board or commission be made up of qualified registered electors of the city. (Ord. 2006-663 § 2).

### **9.1.2 Temporary committees**

The mayor and the city manager, with the approval of the council, may appoint from time to time such temporary committees as are deemed advisable to render counsel and advice to the council and the city manager on any designated matters or subjects within the jurisdiction of the council and the city manager. Membership on such committees shall not be limited by the requirements of this chapter. (Ord. 2006-663 § 2).

### **9.1.3 Appropriations**

The council shall include in the annual budget such appropriations of funds as in its opinion shall be sufficient for the efficient and proper functioning of such boards, commissions and committees. (Ord. 2006-663 § 2).

### **9.1.4 Appointments – Terms**

A. The members of each such board or commission shall be appointed by the mayor with the approval of the council. The members thereof shall serve for a designated term and until their respective successors are appointed and qualified.

B. The terms of the commissioners shall be staggered in order to provide continued continuity to the board. No more than one-half plus one of the board members' terms may expire in a given year. (Ord. 2006-663 § 2).

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13. Fortuna Municipal Code Section 2.20

### **9.1.5 Vacancies**

- A. If a member of a board, commission, or committee fails to file a financial disclosure form, if required by the city's conflict of interest code, in the manner and at the time required by law, or violates FMC 2.20.100, Conflict of interest, that office shall become vacant and so declared by the council.
- B. Any vacancies in any board, commission, or committee, from whatever cause arising, shall be filled by appointment by the mayor with the approval of the council. When a vacancy occurs, any appointment to fill such vacancy shall be for the unexpired term.
- C. If a member of a board, commission, or committee absents himself from 25 percent of the scheduled meetings, or three consecutive regular meetings of such board, commission, or committee, unless by permission of such board or commission expressed in its official minutes, or ceases to be a qualified elector of the city, his office shall become vacant and shall be so declared by the council.
- D. Any member of a board, commission, or committee may be removed with or without cause by the mayor with approval of the city council.
- E. Applications for all scheduled and unscheduled appointments shall be solicited as determined by the city manager. (Ord. 2006-663 § 2).

### **9.1.6 Officers**

- A. At the first regular meeting in January of every year, each of such boards, commissions and committees shall organize by electing a chairperson and vice-chairperson from its membership to serve at the pleasure of such board or commission. In the absence or disability of the chairperson and vice-chairperson, each such board or commission may designate a temporary chairperson.
- B. The city manager shall designate a staff member(s) who shall provide for the recording of minutes for each such board or commission, keep a record of its proceedings and transactions, provide staff assistance, and act as principal staff advisor. (Ord. 2006-663 § 2).

### **9.1.7 Meetings – Rules and regulations – Quorum**

- A. Meetings. Each such board or commission shall hold regularly scheduled meetings at a time to be designated by the board or commission and such special meetings as such board or commission may require. Insofar as possible, all meetings of such boards, commissions and committees shall be held either in the council chambers or in the conference room of the City Hall. All meetings shall be open to the public, and shall comply with the public meeting provisions of the Brown Act.
- B. Rules, Regulations, and Records. Each board or commission may prescribe its own rules and regulations for the transaction of its business, which rules and regulations shall be subject to the approval of the city council, and shall be kept on file in the office of the city clerk where they shall be available for public inspection. Each board or commission shall keep a written record of its meetings, resolutions, transactions, findings, and determinations, copies of which shall be kept on file in the office of the city clerk.
- C. Quorum. A majority of the members of every such board or commission shall constitute a quorum for the transaction of business, and the affirmative or negative vote of a majority of the entire membership shall be necessary for the final transaction of any business. (Ord. 2006-663 § 2).

### **9.1.8 Compensation.**

Unless otherwise provided for, the members of boards, commissions, and committees shall serve without compensation for their services as such but may receive reimbursement for necessary traveling and other expenses incurred on official duty when such expenditures have been authorized by the council. (Ord. 2006-663 § 2).

### **9.1.9 Conflict of interest**

No member of a board, commission, or committee shall be or become directly or indirectly financially interested in or with the performance of any contract, work, or business, or in the sale of any article, the expense, price or consideration of which is payable from the city treasury or treasury of the Successor Agency if such contract, work, business, or sale falls within the advisory duties delegated to the board, commission, or committee upon which such member is serving; and provided further, that no member shall be deemed to be financially interested, within the meaning of the foregoing provisions, if such interest is not a prohibited interest under, and disclosure is made in accordance with, the provisions of California Government Code, or under the provisions of the Political Reform Act of 1974. (Ord. 2006-663 § 2).

## **9.2 HISTORICAL COMMISSION**

### **9.2.1 Established – Purpose**

There is created a historical commission, which shall consist of five members.

The historical commission is established specifically for the preservation of the Northwestern Pacific Depot building which is a structure of significant historic and architectural worth, and for the administration of the museum to be housed in said building which will provide reminders of past eras, events, and persons important to the city. The museum will be a receptacle for future generations as an example of physical amenities used by past generations. (Ord. 2006-663 § 2; Ord. 97-611 § 2; Ord. 355 § 1, 1975).

### **9.2.2 Membership terms**

The historical commission shall consist of five members. The term of office for historical commission members shall be three years. (Ord. 2006-663 § 2; Ord. 2005-654 § 2; Ord. 98-616 § 2; Ord. 97-611 § 2; Ord. 90-558; Ord. 355 § 2, 1975).

### **9.2.3 Council representative**

The mayor may designate one member of the city council to attend the meetings of the historical commission and provide the council with periodic reports concerning the commission's activities. While attending commission meetings, the designated council member shall observe such rules of conduct as may be adopted and amended by the council from time to time. (Ord. 2006-663 § 2; Ord. 98-616 § 2; Ord. 97-611 § 2; Ord. 355 § 3, 1975).

### **9.2.4 Museum operation**

- A. The commission shall determine the types of material artifacts to be displayed in the museum.
- B. The commission shall recommend hours the museum will remain open.
- C. The commission is authorized to accept material to be displayed either as gifts or loans and shall determine how such material will be marked and identified. (Ord. 2006-663 § 2; Ord. 97-611 § 2; Ord. 355 § 4, 1975).

## **9.3 PARKS AND RECREATION COMMISSION**

### **9.3.1 Established – Purpose**

There is created a parks and recreation commission which shall consist of five members.

The commission is created to serve in an advisory capacity to the city council, city manager and the city staff in all matters pertaining to public parks and recreation. (Ord. 2008-676 § 2; Ord. 2006-663 § 2; Ord. 97-611 § 2; Ord. 82-460 § 1).

### **9.3.2 Membership Terms**

The parks and recreation commission shall consist of five members. The term of office for parks and recreation commissioners shall be three years. (Ord. 2008-676 § 2; Ord. 2006-663 § 2; Ord. 97-611 § 2).

### **9.3.3 Council Representative**

The mayor may designate one member of the city council to attend the meetings of the parks and recreation commission and provide the council with periodic reports concerning the commission's activities. While attending commission meetings, the designated council member shall observe such rules of conduct as may be adopted and amended by the council from time to time. (Ord. 2006-663 § 2; Ord. 97-611 § 2; Ord. 82-460 § 1).

## **9.4 PLANNING COMMISSION <sup>14</sup>**

### **9.4.1 Established – Purpose**

There is created a planning commission to be known as the Fortuna planning commission, which shall consist of seven members, and one alternate member.

A. The commission shall exercise all the powers and duties provided for a city planning commission under the laws of the state and such additional duties as may be assigned by the city council and by provision as set forth in the city subdivision and zoning ordinances.

B. The provisions of this section shall not be construed as affecting or limiting, or as a prerequisite to, the powers of the city council or the electors of the city to legislate, or in any way conflict with, the powers and duties of the city council and the other boards or departments of the city. (Ord. 2006-663 § 2; Ord. 2000-622 § 2; Ord. 97-611 § 2; Ord. 77-369; Ord. 348 § 2(A), 1974).

C. The Planning Commission shall act on design review applications and follow the procedures as set forth in FMC 17.07.100 (Ordinance 2014-707). The purpose of design review is to review the design, layout, and other features of proposed development in keeping with the intent and purposes set forth in the Fortuna General Plan.

### **9.4.2 Membership Terms**

The planning commission shall consist of seven members, and one alternate. The term of office for planning commissioners shall be four years and for the alternate shall be two years. (Ord. 2006-663 § 2; Ord. 2000-622 § 2; Ord. 97-611 § 2; Ord. 348 § 2(B), 1974).

### **9.4.3 Compensation**

Each planning commissioner shall receive \$30.00 for each meeting they attend to cover their out-of-pocket expenses. (Ord. 2006-663 § 2; Ord. 2000-622 § 2).

### **9.4.4 Alternate Member**

A. In addition to the seven regular members, the mayor, with the approval of the city council, shall appoint one resident alternate commissioner for a term of two years, who shall have all of the powers and duties of a regular commissioner except his or her right to vote shall be allowed and have legal effect only when seated as an acting commissioner in the absence of one of the regular commissioners.

B. When a permanent vacancy is created on the commission, the alternate shall fill that vacancy as a regular member for the remainder of that commissioner's term of office. A new alternate member shall be appointed by the mayor.

C. The alternate shall, like regular members, attend the regular and special meetings of the commission. The alternate shall review staff reports and documents and otherwise prepare for such meetings. At such meetings the alternate shall be identified for the record.

D. The alternate shall publicly announce any items on the agenda that he/she is disqualified from participating in

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14. For statutory provisions regarding the planning commission, see Government Code § 65100 et seq.

because of a conflict of interest. If, as a result of absences or conflicts of interest by the regular members at a regular or special meeting, the alternate shall move to the seat of a regular member and shall participate as a regular member.

E. The qualifications, appointment, removal and other requirements applicable to the alternate shall be the same as those for regular members of the commission. The alternate shall also be subject to the requirements of and shall abide by the Ralph M. Brown Act, the Political Reform Act and other law applicable to the regular members of the commission. (Ord. 2006-663 § 2; Ord. 2003-641 § 1).

## **10. APPENDIX**

### **10.1 "ROSENBERG'S RULES OF ORDER" (SIMPLE RULES OF PARLIAMENTARY PROCEDURE FOR THE 21ST CENTURY) BY DAVE ROSENBERG**

#### **Introduction**

The rules of procedure at meetings should be simple enough for most people to understand. Unfortunately, that has not always been the case. Virtually all clubs, associations, boards, councils and bodies follow a set of rules - "Robert's Rules of Order" - which are embodied in a small, but complex, book. Virtually no one I know has actually read this book cover to cover. Worse yet, the book was written for another time, and for another purpose. If one is chairing or running a Parliament, then "Robert's Rules of Order" is a dandy and quite useful handbook for procedure in that complex setting. On the other hand, if one is running a meeting of, say, a 5-member body with a few members of the public in attendance, a simplified version of the rules of parliamentary procedure is in order.

#### **Hence, the birth of "Rosenberg's Rules of Order."**

What follows is my version of the rules of parliamentary procedure, based on my 20 years of experience chairing meetings in state and local government. These rules have been simplified for the smaller bodies we chair or in which we participate, slimmed down for the 21st Century, yet retaining the basic tenets of order to which we have grown accustomed.

This treatise on modern parliamentary procedure is built on a foundation supported by the following four pillars:

(1) Rules should establish order. The first purpose of rules of parliamentary procedure is to establish a framework for the orderly conduct of meetings.

(2) Rules should be clear. Simple rules lead to wider understanding and participation. Complex rules create two classes: those who understand and participate; and those who do not fully understand and do not fully participate.

(3) Rules should be user friendly. That is, the rules must be simple enough that the public is invited into the body and feels that it has participated in the process.

(4) Rules should enforce the will of the majority while protecting the rights of the minority. The ultimate purpose of rules of procedure is to encourage discussion and to facilitate decision-making by the body.

In a democracy, majority rules. The rules must enable the majority to express itself and fashion a result, while permitting the minority to also express itself, but not dominate, and fully participate in the process.

#### **The Role of the Chair**

While all members of the body should know and understand the rules of parliamentary procedure, it is the Chair of the body who is charged with applying the rules in the conduct of the meeting. The Chair should be well versed in those rules. The Chair, for all intents and purposes, makes the final ruling on the rules every time the Chair states an action. In fact, all decisions by the Chair are final unless overruled by the body itself.

Since the Chair runs the conduct of the meeting, it is usual courtesy for the Chair to play a less active role in the debate and discussion than other members of the body. This does not mean that the Chair should not participate in the debate or discussion. To the contrary, the Chair as a member of the body has the full right to participate in the debate, discussion and decision-making of the body. What the Chair should do, however, is strive to be the last to speak at the discussion and debate stage, and the Chair should not make or second a motion unless the Chair is convinced that no other member of the body will do so at that point in time.

## **The Basic Format for an Agenda Item Discussion**

Formal meetings normally have a written, often published agenda. Informal meetings may have only an oral or understood agenda. In either case, the meeting is governed by the agenda and the agenda constitutes the body's agreed-upon roadmap for the meeting. And each agenda item can be handled by the Chair in the following basic format:

First, the Chair should clearly announce the agenda item number and should clearly state what the agenda item subject is. The Chair should then announce the format (which follows) that will be followed in considering the agenda item.

Second, following that agenda format, the Chair should invite the appropriate person or persons to report on the item, including any recommendation that they might have. The appropriate person or persons may be the Chair, a member of the body, a staff person, or a committee chair charged with providing input on the agenda item.

Third, the Chair should ask members of the body if they have any technical questions of clarification. At this point, members of the body may ask clarifying questions to the person or persons who reported on the item, and that person or persons should be given time to respond.

Fourth, the Chair should invite public comments, or if appropriate at a formal meeting, should open the public meeting for public input. If numerous members of the public indicate a desire to speak to the subject, the Chair may limit the time of public speakers. At the conclusion of the public comments, the Chair should announce that public input has concluded (or the public hearing as the case may be is closed).

Fifth, the Chair should invite a motion. The Chair should announce the name of the member of the body who makes the motion.

Sixth, the Chair should determine if any member of the body wishes to second the motion. The Chair should announce the name of the member of the body who seconds the motion. (It is normally good practice for a motion to require a second before proceeding with it, to ensure that it is not just one member of the body who is interested in a particular approach. However, a second is not an absolute requirement, and the Chair can proceed with consideration and vote on a motion even when there is no second. This is a matter left to the discretion of the Chair.)

Seventh, if the motion is made and seconded, the Chair should make sure everyone understands the motion. This is done in one of three ways: (1) The Chair can ask the maker of the motion to repeat it. (2) The Chair can repeat the motion. (3) The Chair can ask the secretary or the clerk of the body to repeat the motion.

Eighth, the Chair should now invite discussion of the motion by the body. If there is no desired discussion, or after the discussion has ended, the Chair should announce that the body will vote on the motion. If there has been no discussion or very brief discussion, then the vote on the motion should proceed immediately and there is no need to repeat the motion. If there has been substantial discussion, then it is normally best to make sure everyone understands the motion by repeating it.

Ninth, the Chair takes a vote. Simply asking for the "ayes", and then asking for the "nays" normally does this. If members of the body do not vote, then they "abstain". Unless the rules of the body provide otherwise (or unless a super-majority is required as delineated later in these rules) then a simple majority determines whether the motion passes or is defeated.

Tenth, the Chair should announce the result of the vote and should announce what action (if any) the body has taken. In announcing the result, the Chair should indicate the names of the members of the body, if any, who voted in the minority on the motion. This announcement might take the following form: "The motion passes by a vote of 3-2, with Smith and Jones dissenting. We have passed the motion requiring 10 days notice for all future meetings of this body."

## **Motions in General**

Motions are the vehicles for decision-making by a body. It is usually best to have a motion before the body prior to commencing discussion of an agenda item. This helps the body focus.

Motions are made in a simple two-step process. First, the Chair should recognize the member of the body. Second, the member of the body makes a motion by preceding the member's desired approach with the words: "I move . . . ."

So, a typical motion might be: "I move that we give 10-day's notice in the future for all our meetings."

The Chair usually initiates the motion by either (1) Inviting the members of the body to make a motion. "A motion at this time would be in order." (2) Suggesting a motion to the members of the body. "A motion would be in order that we give 10-day's notice in the future for all our meetings." (3) Making the motion. As noted, the Chair has every right as a member of the body to make a motion, but should normally do so only if the Chair wishes to make a motion on an item but is convinced that no other member of the body is willing to step forward to do so at a particular time.

## **The Three Basic Motions**

There are three motions that are the most common and recur often at meetings:

The basic motion. The basic motion is the one that puts forward a decision for the body's consideration. A basic motion might be: "I move that we create a 5-member committee to plan and put on our annual fundraiser."

The motion to amend. If a member wants to change a basic motion that is before the body, they would move to amend it. A motion to amend might be: "I move that we amend the motion to have a 10-member committee." A motion to amend takes the basic motion which is before the body and seeks to change it in some way.

The substitute motion. If a member wants to completely do away with the basic motion that is before the body, and put a new motion before the body, they would move a substitute motion. A substitute motion might be: "I move a substitute motion that we cancel the annual fundraiser this year."

"Motions to amend" and "substitute motions" are often confused. But they are quite different, and their effect (if passed) is quite different. A motion to amend seeks to retain the basic motion on the floor, but modify it in some way. A substitute motion seeks to throw out the basic motion on the floor, and substitute a new and different motion for it. The decision as to whether a motion is really a "motion to amend" or a "substitute motion" is left to the chair. So that if a member makes what that member calls a "motion to amend", but the Chair determines that it is really a "substitute motion", then the Chair's designation governs.

## **Multiple Motions Before the Body**

There can be up to three motions on the floor at the same time. The Chair can reject a fourth motion until the Chair has dealt with the three that are on the floor and has resolved them.

When there are two or three motions on the floor (after motions and seconds) at the same time, the vote should proceed first on the last motion that is made. So, for example, assume the first motion is a basic "motion to have a 5-member committee to plan and put on our annual fundraiser." During the discussion of this motion, a member might make a second motion to "amend the main motion to have a 10-member committee, not a 5-member committee to plan and put on our annual fundraiser." And perhaps, during that discussion, a member makes yet a third motion as a "substitute motion that we not have an annual fundraiser this year." The proper procedure would be as follows:

First, the Chair would deal with the third (the last) motion on the floor, the substitute motion. After discussion and debate, a vote would be taken first on the third motion. If the substitute motion passed, it would be a substitute for

the basic motion and would eliminate it. The first motion would be moot, as would the second motion (which sought to amend the first motion), and the action on the agenda item would be completed on the passage by the body of the third motion (the substitute motion). No vote would be taken on the first or second motions. On the other hand, if the substitute motion (the third motion) failed then the Chair would proceed to consideration of the second (now, the last) motion on the floor, the motion to amend.

Second, if the substitute motion failed, the Chair would now deal with the second (now, the last) motion on the floor, the motion to amend. The discussion and debate would focus strictly on the amendment (should the committee be 5 members or 10 members). If the motion to amend passed the Chair would now move to consider the main motion (the first motion) as amended. If the motion to amend failed the Chair would now move to consider the main motion (the first motion) in its original format, not amended.

Third, the Chair would now deal with the first motion that was placed on the floor. The original motion would either be in its original format (5-member committee), or, if amended, would be in its amended format (10-member committee). And the question on the floor for discussion and decision would be whether a committee should plan and put on the annual fundraiser.

### **To Debate or Not to Debate**

The basic rule of motions is that they are subject to discussion and debate. Accordingly, basic motions, motions to amend, and substitute motions are all eligible, each in their turn, for full discussion before and by the body. The debate can continue as long as members of the body wish to discuss an item, subject to the decision of the Chair that it is time to move on and take action.

There are exceptions to the general rule of free and open debate on motions. The exceptions all apply when there is a desire of the body to move on. The following motions are not debatable (that is, when the following motions are made and seconded, the Chair must immediately call for a vote of the body without debate on the motion):

A motion to adjourn. This motion, if passed, requires the body to immediately adjourn to its next regularly scheduled meeting. It requires a simple majority vote.

A motion to recess. This motion, if passed, requires the body to immediately take a recess. Normally, the Chair determines the length of the recess which may be a few minutes or an hour. It requires a simple majority vote.

A motion to fix the time to adjourn. This motion, if passed, requires the body to adjourn the meeting at the specific time set in the motion. For example, the motion might be: "I move we adjourn this meeting at midnight." It requires a simple majority vote.

A motion to table. This motion, if passed, requires discussion of the agenda item to be halted and the agenda item to be placed on "hold". The motion can contain a specific time in which the item can come back to the body: "I move we table this item until our regular meeting in October." Or the motion can contain no specific time for the return of the item, in which case a motion to take the item off the table and bring it back to the body will have to be taken at a future meeting. A motion to table an item (or to bring it back to the body) requires a simple majority vote.

A motion to limit debate. The most common form of this motion is to say: "I move the previous question" or "I move the question" or "I call the question." When a member of the body makes such a motion, the member is really saying: "I've had enough debate. Let's get on with the vote". When such a motion is made, the Chair should ask for a second, stop debate, and vote on the motion to limit debate. The motion to limit debate requires a 2/3 vote of the body. Note: that a motion to limit debate could include a time limit. For example: "I move we limit debate on this agenda item to 15 minutes." Even in this format, the motion to limit debate requires a 2/3 vote of the body. A similar motion is a

motion to object to consideration of an item. This motion is not debatable, and if passed, precludes the body from even considering an item on the agenda. It also requires a 2/3 vote.

### **Majority and Super-Majority Votes**

In a democracy, a simple majority vote determines a question. A tie vote means the motion fails. So in a 7-member body, a vote of 4-3 passes the motion. A vote of 3-3 with one abstention means the motion fails. If one member is absent and the vote is 3-3, the motion still fails.

All motions require a simple majority, but there are a few exceptions. The exceptions come up when the body is taking an action which, effectively, cuts off the ability of a minority of the body to take an action or discuss and item. These extraordinary motions require a 2/3 majority (a super-majority) to pass:

Motion to limit debate. Whether a member says "I move the previous question" or "I move the question" or "I call the question" or "I move to limit debate", it all amounts to an attempt to cut off the ability of the minority to discuss an item, and it requires a 2/3 vote to pass.

Motion to close nominations. When choosing officers of the body (like the Chair) nominations are in order either from a nominating committee or from the floor of the body. A motion to close nominations effectively cuts off the right of the minority to nominate officers, and it requires a 2/3 vote to pass.

Motion to object to the consideration of a question. Normally, such a motion is unnecessary since the objectionable item can be tabled, or defeated straight up. However, when members of a body do not even want an item on the agenda to be considered, then such a motion is in order. It is not debatable, and it requires a 2/3 vote to pass.

Motion to suspend the rules. This motion is debatable, but requires a 2/3 vote to pass. If the body has its own rules of order, conduct or procedure, this motion allows the body to suspend the rules for a particular purpose. For example, the body (a private club) might have a rule prohibiting the attendance at meetings by non-club members. A motion to suspend the rules would be in order to allow a non-club member to attend a meeting of the club on a particular date or on a particular agenda item.

### **The Motion to Reconsider**

There is a special and unique motion that requires a bit of explanation all by itself: the motion to reconsider. A tenet of parliamentary procedure is finality. After vigorous discussion, debate, perhaps disagreement and a vote, there must be some closure to the issue. And so, after a vote is taken, the matter is deemed closed, subject only to a re-opener if a proper motion to reconsider is made.

A motion to reconsider requires a majority vote to pass, but there are two special rules that apply only to the motion to reconsider. First, is timing. A motion to reconsider must be made at the meeting where the item was first voted upon or at the very next meeting of the body. A motion to reconsider made at a later time is untimely. (The body, however, can always vote to suspend the rules and by a 2/3 majority, can allow a motion to reconsider to be made at another time.) Second, a motion to reconsider can only be made by certain members of the body. Accordingly, a motion to reconsider can only be made by a member who voted in the majority on the original motion. If such a member has a change of heart, he or she can make the motion to reconsider (any other member of the body may second the motion). If a member who voted in the minority seeks to make the motion to reconsider, it must be ruled out of order. The purpose of this rule is finality. If a member of the minority could make a motion to reconsider, then the item could be brought back to the body again and again. That would defeat the purpose of finality.

If the motion to reconsider passes, then the original matter is back before the body, and a new original motion is then in order. The matter can be discussed and debated as if it were on the floor for the first time.

## **Courtesy and Decorum**

The rules of order are meant to create an atmosphere where the members of the body and the members of the public can attend to business efficiently, fairly and with full participation. At the same time, it is up to the Chair and the members of the body to maintain common courtesy and decorum. Unless the setting is very informal, it is always best for only one person at a time to have the floor, and it is always best for every speaker to be first recognized by the Chair before proceeding to speak.

The Chair should always ensure that debate and discussion of an agenda item focuses on the item and the policy in question, not the personalities of the members of the body. Debate on policy is healthy, debate on personalities is not. The Chair has the right to cut off discussion that is too personal, is too loud, or is too crude.

Debate and discussion should be focused, but free and open. In the interest of time, the Chair may, however, limit the time allotted to speakers, including members of the body.

Can a member of the body interrupt the speaker? The general rule is "no." There are, however, exceptions. A speaker may be interrupted for the following reasons:

Privilege. The proper interruption would be: "point of privilege." The Chair would then ask the interrupter to "state your point." Appropriate points of privilege relate to anything that would interfere with the normal comfort of the meeting. For example, the room may be too hot or too cold, or a blowing fan might interfere with a person's ability to hear.

Order. The proper interruption would be: "point of order." Again, the Chair would ask the interrupter to "state your point." Appropriate points of order relate to anything that would not be considered appropriate conduct of the meeting. For example, if the Chair moved on to a vote on a motion that permits debate without allowing that discussion or debate.

Appeal. If the Chair makes a ruling that a member of the body disagrees with, that member may appeal the ruling of the chair. If the motion is seconded, and after debate, if it passes by a simple majority vote, then the ruling of the Chair is deemed reversed.

Call for orders of the day. This is simply another way of saying, "Let's return to the agenda." If a member believes that the body has drifted from the agreed-upon agenda, such a call may be made. It does not require a vote, and when the Chair discovers that the agenda has not been followed, the Chair simply reminds the body to return to the agenda item properly before them. If the Chair fails to do so, the Chair's determination may be appealed.

Withdraw a motion. During debate and discussion of a motion, the maker of the motion on the floor, at any time, may interrupt a speaker to withdraw his or her motion from the floor. The motion is immediately deemed withdrawn, although the Chair may ask the person who seconded the motion if he or she wishes to make the motion, and any other member may make the motion if properly recognized.

## **Special Notes About Public Input**

The rules outlined above will help make meetings very public-friendly. But in addition, and particularly for the Chair, it is wise to remember three special rules that apply to each agenda item:

Rule One: Tell the public what the body will be doing.

Rule Two: Keep the public informed while the body is doing it.

Rule Three: When the body has acted, tell the public what the body did.

## **About the Author**

Dave Rosenberg is a Yolo Superior Court Judge. Formerly, he served over 20 years in local government, including 12 years on the Davis City Council (with two terms as Mayor) and 7 years on the Yolo County Board of Supervisors (with two terms as Chairman of the Board). He has been Chairman or presiding officer of numerous boards, commissions and organizations, spanning over three decades including the California State Lottery Commission, the California State Victim Compensation and Government Claims Board (formerly known as the Board of Control), the Yolo County Economic Development Commission, the Yolo County Criminal Justice Cabinet, the Davis Odd Fellows Lodge, and others. He currently serves as Presiding Judge of the Yolo Superior Court. Rosenberg has taught workshops on "Rosenberg's Rules of Order" for over a decade, to county supervisors, mayors, city council members and others. His "Rosenberg's Rules of Order" have been adopted by numerous cities and other jurisdictions and organizations throughout California.