



*Ethics, Transparency and Governmental Reform  
Task Force*

FINAL PROPOSALS

to the

PALM SPRINGS CITY COUNCIL SUBCOMMITTEE  
(Mayor Robert Moon and Councilmember Geoff Kors)

*November 30, 2016*

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## MISSION

The Task Force is comprised of eight working committees that will research best practices in government and will bring forward proposals related to the area they are working on to the City Council Subcommittee.

These working committees are charged with ethics/conflicts of interest, transparency, city grants (economic, non-profit and event), communications, diversity/inclusive government, election reform, campaign finance reform, and board member/commissioner orientation. If the Task Force determines there are additional areas that need to be addressed, then new committees will be added as needed. The working committees will be made up of approximately six people each.

The Palm Springs City Council Subcommittee on Ethics, Transparency and Government Reform, comprised of **Mayor Robert Moon** and **Councilmember Geoff Kors** chose the diverse group of Task Force members based on experience and background.

## TASK FORCE MEMBERS

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# ETHICS

## INTRODUCTION

The Subcommittee was asked to review and propose recommendations for improvement, if any, regarding the City's handling of ethical issues that could arise. As a result, the Subcommittee reviewed current city procedures and policies, as well as current policies and procedures used by other governmental entities in California, including state and local government. Since we were asked to review ethical matters, it is helpful to begin with a definition of terms. It has been stated that:

Ethics and politics encourage different sets of behaviors. Ethics is concerned with moral duties and how a person should behave, while 'all's fair in love, war and politics' seems to have its followers. During most of American history, enforcement of ethical standards has relied on public disclosure and an informed electorate. It is a rough, imperfect arrangement...*Local Government Ethics Ordinances in California*, p. 3, California Research Bureau California State Library CRB-98-002, (March 1998) (hereafter, "Local Ethics Ordinances").

The emphasis on public disclosure finds expression in California's Political Reform Act of 1974 (hereafter "the Act")

Chapter One of the Act states that 'the people find and declare' that 'state and local government should serve the needs...of all citizens equally, without regard to their wealth.' 'Conflict of interest' is a key concept, for a stated goal of the Act is to ensure that state officials make decisions for the benefit of the community, not for their own enrichment. The foundation is a detailed public disclosure system, whereby designated state and local public officials disclose their income and assets. The concept is that when public officials regularly disclose their personal financial status, citizens and the press are able to judge their actions and hold them accountable when personal interest appears to conflict with governmental responsibilities." *Id.*, p. 9. (Emphasis added.)

The Subcommittee acknowledges the emphasis on disclosure in regard to the recommendations it has made below.

### **A. FINANCIAL DISCLOSURE**

The Subcommittee first considered the subject of financial disclosures because we were aware of news reports that stated the prior Mayor allegedly executed a contract with a company affiliated with one of the developers of the downtown development project. While we understand this is a subject under investigation by proper authorities we believed it necessary to review the manner in which members of the City Council handle financial conflicts of interest. The Subcommittee first researched the requirements of state law.

Section 87105 of the Act sets forth the manner in which public officials are required to disclose a conflict of interest. It provides, in part:

Public officials must (i) publicly identify the financial interest that gives rise to the conflict in detail sufficient to be understood by the public; (ii) recuse himself or herself from discussing and voting on the matter; and (iii) 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. (Emphasis added.)

Section 87105, regarding disclosure and recusal in the event of a conflict of interest applies to "a public official who holds an office specified in Section 87200 who has a financial interest in a decision . . . ." (Emphasis added.) Section 87200 defines a public official to include " . . . . mayors, city managers, city attorneys, city treasurers, chief administrative officers and members of city councils of cities . . . ."

Our understanding that state law is applicable to the Palm Springs City Council is confirmed by the California Attorney General Manual, *Conflicts of Interest (2010)*. The Manual discusses the "public officials" who are subject to the Political Reform Act (of which the Conflict of Interest rules are a part). It states:

"The Act applies to "public officials." (§ 87100.) As that term is used in the Act, it encompasses not only elected and appointed officials in the ordinary sense of the word, but also any "member, officer, employee or consultant of a state or local government agency," including "other public officials who manage public investments." (§ 82048; Regulation, § 18701, sub. (b)(1).) Virtually all officers and employees at every level of state and local government are covered, including officials of all special purpose districts in the state. The definition of "public official" also encompasses non-employees who are "consultants" because they perform certain duties much like employees. (Regulation, § 18701, sub. (a)(2).) \* \* \*." *Id.*, p. 8. (Emphasis added.)

Under state law, a "financial interest" arises if "it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official, a member of his or her immediate family, including designated business entities such as a business in which the public official is an employee."

Even if our understanding of state law is flawed and it is not applicable, the Subcommittee believes conflicts of interests should be disclosed in public and that a Council member having the conflict must recuse himself or herself from any participation in the matter in which the conflict arises. As former Supreme Court Justice Louis Brandeis once wrote: "Sunlight is said to be the best of disinfectants."

We also reviewed City Code to determine who in the City is responsible for ensuring that proper procedures for conflicts of interests are followed. Of course, individual Council members should be responsible in the first instance to ensure that a conflict of interest is properly disclosed, but we also feel it is important that a person or entity be responsible in case mistakes are made. As far as we can tell, there is no person (or entity) to whom such responsibility has been delegated, unless one assumes that it falls within the general scope of the City Manager's duties.

We believe public trust would best be enhanced (or restored, as the case may be) by ensuring that a specific person or entity is charged with ensuring that conflicts of interests are handled correctly. Nothing in the current City Code, for example, identifies any specific person to whom that responsibility has been entrusted.

At a minimum, the City Attorney should advise the Council of the proper procedures to take. This assumes, of course, that the City Attorney is aware of the issue. We are hopeful that the upcoming selection of an in-house City Attorney will permit City Council members and others in positions of responsibility to consult with the City Attorney about the proper actions to take without having to be concerned about the risks of increased legal fees.

We also believe that if the City Manager becomes aware of a conflict of interest prior to a Council session the City Manager should inform the City Attorney and the Council that the conflict has arisen, inform them of the appropriate procedures by which it will be handled and recommend that the affected Council member consult with the City Attorney if he or she has not already done so.

Based on this review and understanding the subcommittee unanimously recommends the following:

- **Palm Springs should update the City's Conflict of Interest Code so as to make clear that no public official shall participate in, make decisions, or in any way attempt to use, his or her official position to influence a governmental decision of a matter in which he or she knows, or has reason to believe he or she has a financial interest.** CA Govt Code Sec. 87100, *et seq.* Any such revision to the City's Conflict of Interest Code should specifically require any conflicted official to expressly disclose any such situation in public and openly comport their conduct with the recusal guidelines set forth in CA Govt Code Sec. 87105.
- **Inherent in this recommendation is the concept that "a financial interest" includes the situation where a matter involves a party from whom the government official received directly or indirectly compensation of any kind or any other consideration (including campaign donations) greater than \$250.00 in value within 12 months prior to the time the decision on the matter in question is made.** CA Govt Code Sec. 87103 and the regulations promulgated pursuant to the *Political Reform Act of 1974*, as amended.

- **Finally, we recommend the City identify in City Code the person (or entity) responsible for ensuring that all local officials and employees adhere to City Code conflict of interest provisions for review and enforcement. This should also include elected and specified 87200 officials (Mayor, Council members, Planning Commission members, etc.) being subject to local review and enforcement in addition to the currently required review and enforcement by the California Political Fair Practice Commission.**

## **B. IMPROVING ETHICS ADMINISTRATION AND ENFORCEMENT**

The Subcommittee reviewed City Code to understand current operational guidelines in regard to ethics administration and enforcement.

As in the case with handling conflicts of interest, the Subcommittee was unable to find that any particular person or entity is responsible to ensure that city employees, including elected officials, act in an ethical manner. By “ethical manner” we mean that city employees are required to act in accordance with state and federal and local laws, codes, and ordinances on a variety of subjects.

To address this apparent lack of ethics administration, the Subcommittee considered a number of different options and reviewed how other cities handle such issues. The responsibilities of a new Ethics entity would include Ethics Code Review (currently City Council), Ethics Code Compliance Filing (currently City Clerk), Ethics Code Limited Administration (currently City Manager), Enforcement (not currently defined), and Ethics training and education. In addition, as discussed elsewhere by our Subcommittee, Section 87200 provides that elected and specified officials should also be subject to local ordinance for review and enforcement in addition to State Fair Political Practice Commission review and enforcement.

A report by the Institute for Local Governments *Everyday Ethics for Local Officials – Understanding the Role of Ethics Commissions*, (December 2007) presents considerations for establishing an ethics entity or commission (See *Reference 2*).

### 1. Overall Goal

As in several of the cities described in the Institute’s report, creating an independent ethics review mechanism often follows a public scandal and the desire by the community to prevent such situations from happening in the future. The report suggests an Ethics Task Force much as has been created in Palm Springs “that brings the community’s voice to the table about ethics in public service” (p. 2).

The report also states that cities may need to adopt new ordinances in parallel with creating enforcement mechanisms, such as more recently enacted state Campaign Finance measures and making elected and specified Section 87200 officials subject to local ordinances as well as state law.

## 2. Types of Ethics Entities

The Institute for Local Governments report lists four basic ethics implementation options and details the fourth, Ethics Commissions. ***Our Subcommittee recommends taking the next step by creating a standing Ethics Committee and Whistleblower Hot Line.*** Then with the guidance of the Ethics Committee Palm Springs would develop an ordinance that could create a quasi-independent Ethics Commission. A summary of these entities is as follows:

### (a) Ethics Task Force

A body convened to accomplish a specific task relating to ethics, typically making policy recommendations on ways to enhance the culture of ethics. The task force is usually disbanded after it has made its recommendations or accomplished its task. *(This is the Ethics, Transparency and Government Reform Task Force that has been created by Palm Springs Mayor Rob Moon and Councilman Geoff Kors.)*

### (b) Ethics Committee

A standing body designed to be a source of advice on policy implementation and support for ethics. An ethics committee can also play an educational role. *(This could be the next step to move forward to implement an improved ethics review and enforcement mechanism.)*

### (c) Ethics Hotline/Whistleblower Complaints – Ombudsperson

An ombudsperson or separate agency (as in Palm Desert) can serve as a sounding board for public officials on public service ethics dilemmas. In the private sector, many large companies provide such a source of advice for their people. This kind of position can also play an educational and training role. *(This could be an interim mechanism along with the Ethics Committee prior to establishing by ordinance an ongoing Ethics Commission.)*

### (d) Ethics Commission

A standing body with delegated authority to interpret and enforce the jurisdiction's ethics regulations. An ethics commission can also play a role in training and education. *(This may require a city ordinance or charter reform and possibly a vote by our citizenry. It could also incorporate the Ethics Hotline and other provisions as spelled out in more detail below.)*

## 3. Options for creating an Ethics Commission

An Ethics Commission is a quasi-independent body that provides local oversight and enforcement of *Political Reform Act* ethics laws much as the Fair Political Practices Commission (FPPC) does for elected and specified Section 87200 officials. Public trust is gained by assigning ethics enforcement to an independent commission or entity. Providing ethics advice, training and education can also be the responsibility of such a body.



(a) Ethics Commission Duties and Responsibilities

The Institute for Local Governments compares the different roles and responsibilities in six California jurisdictions that have Ethics Commissions (Reference 2, Table 1, p. 4). Based on a review of those jurisdictions, an outline of what might be appropriate for Palm Springs is as follows:

- (1) Administers monitors and enforces city-enacted laws concerning campaign finance, statements of economic interests, conflicts of interest and gifts, lobbying registration proposed by the commission and adopted by the City Council (San Diego).
- (2) Prescribes forms for reports, statements, notices and other documents related to campaign financing, conflict of interest, lobbying and ethics (Oakland).
- (3) Makes recommendations to the City Council on city campaign and ethics laws (San Jose).
- (4) Commission may investigate allegations of violations of city campaign and ethics laws (San Diego).
- (5) Conducts investigations, audits and public hearings (Oakland).
- (6) Imposes penalties and fines as provided by ordinance (Oakland).

(b) Resources Available to Support an Ethics Commission

A key question for Palm Springs will be the amount of resources to be made available to an ethics enforcement mechanism. For large cities, this can involve a large investigative staff and significant budget. However, this is not always the case and the independent commission can have staff support through the City Clerk, City Manager, or the City Attorney (Reference 2, Table 4, p. 9). For example:

- (1) Number of Staff (full time equivalents) – No staff (City Clerk’s office provides administrative assistance as needed) (San Jose and Berkeley). The other cities have from 6 to 20 staff assigned; and
- (2) Annual Budget – No separate budget (San Jose and Berkeley). The other cities range from \$280,000 to \$2,600,000. (Palm Springs will need some budget established for complaint follow-up and investigations.); and
- (3) Commission & Staff Relations –
  - a. City Council has authority to retain an independent and neutral evaluator, selected by the commission to review and investigate complaints filed with the commission. The City Council must appropriate funds for this purpose. (San Jose)

b. City Attorney provides legal advice but does not participate in investigations or review of complaints. (San Jose)

c. City Manager or his or her designee(s) provides the commission with staff assistance as necessary to permit the commission to fulfill its functions and duties. (Oakland)

d. Commission meetings staffed by the office of the City Clerk. (San Jose)

### (c) Comparison of California City Ethics Commissions

Based on a comparison of ethics codes in California cities, *Local Government Ethics* (Reference 3) states:

A study of government ethics agencies in the United States concludes that "...the great weakness in the regulation of ethics in this country is not so much the provisions of the law, but the lack of concern for their administration and enforcement." Independent regulatory agencies are critical to proper administration of ethics laws, but those agencies are generally "...too small, too weak and insufficiently independent." Effective ethics agencies exhibit three characteristics:

- Independence (insulated from undue political influence; control over staff)
  - Adequate guaranteed annual budgets
  - Enforcement powers (advisory opinions, investigations, and sanctions)
- Id.*, 33

An updated and parallel report that provides examples of Ethics Commissions, *Ethics Commissions in California Cities* was prepared by Emily Pears, California Common Cause February 12, 2009. (Reference 4.)

### **C. WHISTLE BLOWER COMPLAINTS AND PROTECTIONS**

Related to defining responsibilities for ethics compliance is the provision for making, receiving and investigating ethics complaints as well as the protections for "whistle blowers." Whatever administration and enforcement mechanism is selected, a whistleblower hotline should be an important provision and included in the definition of responsibilities.

Palm Desert City Council recently established an ethics whistleblower hotline. As reported by Sherry Barkas, *The Desert Sun*, May 12, 2016:

The establishment of an 'ethics hotline' employees can use to anonymously report wrongdoings with City Hall received unanimous approval Thursday from Palm Desert City Council. The hotline could be run by an outside agency, which has yet to be determined, at a cost of

about \$1,500 per year...based on its use by private sector companies and other cities including San Jose, Los Angeles and San Diego..." according to Palm Desert Resources Manager Lori Carney. *Id.*

Key factors to consider are:

(1) Protection: Palm Springs should consider adoption of an ordinance that protects whistle blowers from retaliation and creates a position or designate a person to whom complaints can be made outside the normal chain of command, such as an ombudsman or Ethics Commission.

(2) Location: Palm Springs should consider creation of a place/person/outside agency/ hotline to whom whistle blowers can anonymously report.

(3) Program Implementation: The options as to which City entity is responsible for handling whistleblower complaints will depend on (1) whether an ombudsperson and/or Ethics Committee or Commission is established. This person or entity could hear complaints related to City officials or external city-related issues, and (2) whether the current Personnel Board will hear and review complaints related to personnel or internal city-related issues.

Palm Springs should also consider the following pros and cons regarding adopting a whistleblower program:

**PRO:**

1. Reinforces the City Council and City Manager's commitment to high standards of openness, accountability, integrity and honesty in its business dealings;

2. Enables staff, employees, and other stakeholders to raise and disclose concerns internally and at a high level on an anonymous basis if the staff person, employee, or other stakeholder observed certain conduct he or she has reason to believe constitutes malpractice, malfeasance, illegality or impropriety, actual violations of City's policies, dangers to the health or environment, unethical behavior, all without fear of reprisal arising from the disclosure.

3. Encourages employees, staff, and other stakeholders to air their concerns within the City's procedures for such disclosures, rather than air their concerns and complaints outside the City – i.e., helps avoid the risk of negative publicity.

**CON:**

1. May have the unintended result that employees, staff, and other stakeholders believe they can utilize the policy to second guess financial and business decisions taken by the City Council or the City Management in good faith.

2. There is a risk that employees and staff whose ordinary-course-of-business job performance is unacceptable or below management's expectations will use the whistle blower policy to insulate themselves from legitimate disciplinary action or loss of employment – i.e., they might use the policy's promise of insulation from reprisal to ensure continuation of their own employment.

3. It could create complexities for the City with respect to financial disclosure obligations and could create risks relevant to the City's ability to comply with any relevant data protection laws or privacy rights of individuals.

Notwithstanding the “cons” listed above the subcommittee recommends the establishment of a whistleblower program as soon as possible.

#### **D. TRAINING**

Palm Springs should adopt additional mandatory training on conflict of interest issues and that it keep public records of persons attending the training. “Comprehensive education and enforcement structures are important, and often neglected, components of an effective ethics program.” *Local Government Ethics, Id., p.6*

California Government Code section 53235 requires ethics training for specified local government officials. The training can consist of self-study materials, an online course, or in-person training. The California Attorney General's Office anticipates that an online training course may be developed to satisfy core curriculum requirements, but additional local training would still be necessary to address purely local issues.

Palm Springs should adopt additional mandatory training on conflict of interest issues and keep public records of persons attending the training. The city web site should list all completed ethics training. In addition to the online course that is required, the mayor and council members should consider an annual "Ethics Seminar" for individuals in key positions.

#### **E. MAKE CONFLICT OF INTEREST INFORMATION AVAILABLE ON THE INTERNET**

Although we understand a separate subcommittee is making suggestions regarding transparency in government, we recommend the Palm Springs city website be updated regarding ethics.

An example can be found on the City of Santa Barbara's webpages devoted to Transparency and Ethics, and could provide links to the Fair Political Practices Commission's legislation, guidelines, training handbooks, instructions and forms. See <http://www.santabarbaraca.gov/gov/transparency/conflict.asp>

Finally, Palm Springs should consider posting certain financial disclosures on the Internet to make them more readily available. This would include **Officials** listed in the Act and includes, at the municipal level, **mayors, city managers, city attorneys, city treasurers, chief administrative officers and members of city councils of cities, members of planning commissions, and other public officials who manage public investments, and to candidates for any of these offices at any election.** For all other City officials, financial disclosure statements are filed with the City Clerk and should be available on request as public records.

## **CONCLUSION**

The subcommittee appreciates the time and efforts of the City Council in creating the Task Force and the feedback we received from other subcommittee members as we discussed various options and proposed recommendations. We are available, willing, and would be glad to discuss with City Council members any of our final recommendations and the reasons that led to them.

## REFERENCES

1. Political Reform Act, 2016, Fair Political Practices Commission  
<http://www.fppc.ca.gov/content/dam/fppc/NS-Documents/LegalDiv/The%20Political%20Reform%20Act/2016-act-final.pdf>
2. Institute for Local Governments *Everyday Ethics for Local Officials – Understanding the Role of Ethics Commissions*, December 2007  
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5. Santa Barbara Website *Transparency and Ethics*,  
<http://www.santabarbaraca.gov/gov/transparency/conflict.asp>
6. Sherry Barkas, *Palm Desert Council Oks Employee Whistleblower Hotline*, *The Desert Sun*, May 12, 2016. <http://www.desertsun.com/story/news/local/palm-desert/2016/05/12/palm-desert-city-council-ethics-hotline/84282190/>

# TRANSPARENCY

The Transparency Subcommittee of the Palm Springs Ethics, Transparency & Governmental Reform Task Force is responsible for making recommendations to the city council in order to heighten the level of city government transparency. In carrying out our responsibility, we have reviewed what other cities in the Coachella Valley and elsewhere in California are doing, as well as best practices as identified in guidance from the State of California (Attorney General's Office and Fair Political Practices Commission), local government support groups (Institute for Local Government and League of California Cities) and public interest groups (Californians Aware, First Amendment Coalition). Subcommittee members met on numerous occasions, including once with members of the Ethics Subcommittee to ensure a consistent approach.

We have drafted a comprehensive (25-page) Sunshine Ordinance included as Attachment 1 to our final report. Its structure and core provisions are adapted from the sunshine ordinances in effect in other California cities of various sizes. Indeed, the key California laws regulating local government transparency, the Ralph M. Brown Act, the Public Records Act and the Political Reform Act, make no distinction on the size of the local government agency, because **government transparency must be a high priority for all cities, large and small.**

The Ordinance serves as a "one-stop shop" for all transparency-related issues. It establishes the City's procedures and policies for public access to meetings, public access to records, transparency on the City's website and other transparency issues. The Ordinance also establishes the Palm Springs Transparency Commission, charged, among other tasks, with monitoring compliance with the Ordinance.

We acknowledge that full implementation of the Ordinance and in particular the additional information to be posted on the City's website will require staff time for the initial set-up and ongoing maintenance, most likely from the City Clerk's office, the City Attorney and the new Director of Information Technology and Vacation Rental Compliance Officer, whose positions have been funded in the fiscal year 2016-17 budget. We do not expect that additional staff would need to be hired to ensure implementation of the Ordinance.

Although not directly required for implementation of the Ordinance, third party software exists to assist local governments in improving their transparency, both internally for City staff and when communicating with residents, such as generating statistical reports in response to a public records request. Members of the Transparency Subcommittee met on August 9 with a representative of one of the software providers and Geoffrey Kiehl, the City's Director of Finance and Treasurer. The estimated annual cost of the software provided at the meeting was \$23,000 - \$33,000, depending on the options selected.

Key recommendations of the Transparency Subcommittee set out in the Ordinance are as follows:

## **I. Public Access to Meetings**

- Policy bodies (including the City Council, any other board or commission enumerated in the Charter, any board, commission, task force or other body created by ordinance or resolution of the City Council, any standing committee of a policy body irrespective of its composition, and any committee or task force of a policy body, whether standing or ad hoc, that is not composed solely of less than a quorum of the members of the policy body) are subject to detailed agenda requirements. If the staff report for the meeting is not available at the time of posting the agenda, the item will be removed from the agenda.
- Passive meeting bodies (including any ad hoc board, commission, committee or body created by the initiative of a policy body, advisory committees or task forces created by the initiative of such body and advisory committees or task forces created by the initiative of the Mayor, a city council member, City Manager or a Department Head) are also subject to certain transparency requirements.
- Every City policy body shall audio record or audio and video record in its entirety every noticed regular meeting, special meeting, study session or hearing open to the public (including the entire public portion of the closed session meeting) held in Council Chamber or a City Hall conference room that is equipped with audio or video recording facilities, except to the extent that such facilities may not be available for technical or other reasons.
- A subsidiary body (i.e., a commission, committee, board, or other body of a policy body), shall be created by Charter, or by ordinance, resolution, initiative or formal action of the policy body at an open and public meeting. Upon such creation of the subsidiary body, the creating policy body shall in the authorizing ordinance, resolution, initiative or formal action set out the jurisdiction and appoint the members of the subsidiary body, whether it is standing or ad hoc, and establish its specific task and estimated sunset date if it is ad hoc.
- Ad hoc status shall be reserved for any subsidiary body that is charged with accomplishing a specific task in a finite period of time. The subsidiary body shall not have an expected duration longer than 12 months. The subsidiary body shall be decommissioned by formal action of the policy body that created it when the task is completed, or otherwise additional time shall be justified by formal action of the creating policy body if still needed.



- The City Clerk shall maintain, keep up to date and post in a central location on the City's official website a complete list of all subsidiary bodies setting out for each its purpose and members, the date of appointment of its members, whether it is standing or ad hoc, and its specific task and estimated sunset date if it is ad hoc. The list shall specify which subsidiary bodies are committees (i.e., they were formed by the city council or a City board or commission) and which are subcommittees (i.e., they were formed by a committee). In the case of subcommittees, the list shall specify what committee formed the subcommittee.
- Subsidiary bodies, whether standing or ad hoc, shall report back to their creating policy bodies at each meeting of such policy body when the subsidiary body has met in between meetings of the policy body. Subsidiary bodies should whenever possible submit brief written reports that are included in the agenda packet for the policy body meeting, so the public has the opportunity to provide informed public testimony on the subsidiary body's work.
- The agendas for regular meetings of a policy body shall be circulated in draft form to the members of the policy body prior to the posting of the agenda. If a member of the policy body believes that participating in the discussion and voting on a proposed agenda item would be a conflict of interest, such member shall consult with the City Attorney on this matter before the agenda is posted. If the City Attorney determines that there would be a conflict of interest, a report identifying the conflict and the relevant federal, state or local legislative provision that results in the recusal should be included in the agenda materials and disclosed at the meeting of the policy body by the affected member prior to the policy body considering the agenda item in question.
- Closed sessions are subject to detailed agenda requirements, including citation of the specific Brown Act subdivision authorizing the item to be discussed in closed session. Closed session decisions shall be reported out in detail, particularly concerning settlement agreements and employee dismissals.
- Closed sessions shall be either audio recorded or audio and video recorded in their entirety and all such recordings shall be retained for at least ten years, or permanently where technologically and economically feasible. The recording shall be maintained by the City Attorney and shall be kept confidential.
- A closed session may not be held to consider the qualifications or engagement of an independent contract attorney or law firm, for litigation services or otherwise, unless discussion in open session concerning those

matters would likely prejudice the position of the City in pending litigation and as a result a closed session is permissible under the Brown Act.

- We note the city council's recent revisions to its meeting procedures reducing public testimony on both agenda items and non-agenda items to two minutes. However, we recommend that the time limit for speaking at public hearings and on other agenda items be three minutes, not two. In addition, the speaker should be allowed, at his or her option, to defer speaking until the point of the meeting where the item is being considered. Both the three-minute time limit and having public testimony when the agenda item is being considered are standard practices in effect in all of the other Coachella Valley cities, as indicated in Attachment 2.
- The consent calendar shall only contain routine items that are non-controversial in nature and do not need public debate. The Ordinance establishes an exclusive list of items eligible for inclusion in the consent calendar. An item shall not be eligible for inclusion in the consent calendar if a conflict of interest with respect to that item has been identified pursuant to the rules described above. Any member of the city council or staff or a member of the public may request to remove an item from the consent calendar.

## **II. Public Access to Records**

- The Sunshine Ordinance contains detailed provisions on access to public records, including:
  - Drafts and memoranda;
  - Litigation material;
  - Contracts, bids and proposals;
  - Budgets and other financial information;
  - Appraisals, offers and counteroffers;
  - Public employee compensation records.
- A request for a nonexempt public record shall be satisfied no later than the close of business on the day following the request unless the requestor is advised in writing that the request will be answered by a specific future date. The 10 calendar day statutory deadlines are appropriate for more extensive or demanding requests, but shall not be used to delay fulfilling a simple, routine or otherwise readily answerable request.
- Members of the city council including the Mayor, the City Manager, the City Clerk, City Attorney, and every Department Head shall keep a detailed daily calendar. Such calendars shall be a public record subject to inspection during normal business hours at the office of the City Clerk to any requester three business days subsequent to the calendar entry date.

A full calendar for any month must additionally be available in electronic format on the City's official website no later than the tenth day of the subsequent month.

- City council members and City employees may not use personal email accounts to conduct official City business, unless in emergency situations when their City accounts are not accessible. No city council member or City employee may create or send an e-mail using a non-official e-mail account unless such Council member or employee:
  - copies an official e-mail account of the Council member or employee in the original creation or transmission of the e-mail; or
  - forwards a complete copy of the e-mail to an official e-mail account of the Council member or employee not later than five business days after the original creation or transmission of the e-mail.

### **III. Transparency on the City's Website**

- The City of Palm Springs shall maintain on the City's official website information that it is required to make publicly available. Each department is encouraged to make publicly available through the City's website as much information and as many documents as possible concerning its activities. The City shall make reasonable efforts to ensure that its web site is regularly reviewed for timeliness and updated on at least a weekly basis.
- Minutes of meetings of policy bodies shall be posted as soon as possible, but in any event within one week after they have been approved by the policy body.
- A section of the City's official website shall provide, in an easy to use format, detailed up-to-date information on transparency and ethics, both for individuals and processes. Among the documents that should be on the website are FPPC forms, campaign finance report forms, certifications of ethics training required under AB 1234 for all elected officials and commission and board members, budgets, meeting notices, agendas and staff reports, and names and contact information of appointed staff members and names of members of City boards and commissions and the email contact information of the board and commission chairpersons.

### **IV. Other Transparency Requirements**

- Not later than April 15th of each year the City Clerk shall scan the Form 700s of sitting City Councilmembers, the Mayor, the City Manager, and the City Attorney and members of the Planning Commission and copy

them into the City's official website. The City Clerk shall also scan all prior Form 700s of such persons retroactive to the beginning of their continuous term so that these required disclosures are readily available to the public for inspection.

- Any lobbyist on behalf of the City who is not a City employee but contracts for economic consideration with the City to represent the City in matters before any local, regional, state, or federal administrative or legislative body must file a detailed report of his or her activities on behalf of the City of Palm Springs on a quarterly basis with the City Clerk's office.
- A section of the City's official website shall provide, in an easy to use format, detailed up-to-date information on short-term vacation rentals, including the short-term vacation rental hotline number and procedures, statistics on currently registered properties, hotline activity and properties subject to enforcement actions, short-term vacation rental regulations, information on support services provided by third parties and a vacation rental FAQ. Members of the Subcommittee were not able to reach a consensus on whether there should be any information specifically identifying registered vacation rental properties on the City's website by their addresses; however, members did agree that a "heat map" showing relative concentrations of registered vacation rental properties throughout the city, scaled so as to not reveal individual addresses, should be included on the website.
- A section of the City's official website shall provide, in an easy to use format, detailed up-to-date information on the City's procurement and contracting policies, including a summary of the City's procurement and contracting policies, the City's goals and objectives in procurement transparency and effective contract monitoring, including its adopted best practices, online access to government procurement contracts and transparency scorecards and ratings. No member of any agency of the city government that affects the rights of private parties through adjudication or rulemaking (such as the Planning Commission, the Historic Site Preservation Board, the Rent Review Commission, the Administrative Appeals Board and the city council when hearing an appeal), nor any interested person, shall conduct an ex parte communication concerning an adjudicative or enforcement proceeding before such agency. An "ex parte communication" is any oral or written communication between a member of the agency and an interested person about a matter within the agency's jurisdiction that does not occur in a public hearing, study session or other official proceeding, or on the official record of the proceeding on the matter. If an administrative agency member conducts any ex parte communication in violation of the prohibition, he or she shall fully disclose and make public the communication by providing a full report of the communication to the City Clerk, and shall not vote on or otherwise

participate in any proceeding of the agency to which the communication applies. This provision is adapted from proposed SB 1190 concerning the California Coastal Commission, and we believe it is also of relevance in Palm Springs.

## **V. Transparency Commission**

- In order to ensure that the Sunshine Ordinance lives up to its expectations, the City shall create an independent Transparency Commission charged with implementing the Ordinance. Among its duties will be:
  - Advise, assist, and make recommendations to the city council on appropriate ways to implement the Sunshine Ordinance;
  - Hear and decide complaints by any person concerning alleged non-compliance with the Sunshine Ordinance;
  - Consider ways to informally resolve those complaints and make recommendations to the city council regarding such complaints;
  - Develop goals to ensure practical and timely implementation of the Sunshine Ordinance;
  - Report in writing to the City Council at least once annually on any practical or policy problems encountered in the administration of the Sunshine Ordinance;
  - From time to time as the Commission sees fit, issue public reports evaluating compliance with the Sunshine Ordinance by the City or any department, office, or official thereof;
  - Review the Sunshine Ordinance every year and recommend updates to the City Council to take account of developing legislation and best practices.
- All members of the Transparency Commission must have experience and/or demonstrated interest in the issues of citizen access and participation in local government. The initial members shall be selected from among the members of the Ethics, Transparency & Governmental Reform Task Force.

**Attachment 1**

**Palm Springs Sunshine Ordinance**

**ORDINANCE NO. \_\_\_**

**AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, ADDING CHAPTER 2.60 OF THE PALM SPRINGS MUNICIPAL CODE, RELATING TO TRANSPARENCY IN THE CARRYING OUT OF THE CITY'S BUSINESS.**

**City Attorney's Summary**

This Ordinance adds Chapter 2.60 of the City's Municipal Code. It establishes the City's procedures and policies for public access to meetings, public access to records, transparency on the City's website and other transparency issues. The Ordinance also establishes the Palm Springs Transparency Commission, charged, among other tasks, with monitoring compliance with this Ordinance.

**The city council of the City of Palm Springs ordains:**

SECTION 1. Chapter 2.60 of the Palm Springs Municipal Code is added to read:

**Article I. In General**

**2.60.010 Findings and Purpose.**

(a) The purpose and intent of this chapter is to establish transparency rules in the carrying out of the City's business in the areas of open meetings, access to public records and other areas critical to carrying out the City's business in an open and transparent manner. It is also the purpose of this chapter to implement and enforce these requirements by establishing the Palm Springs Sunshine Commission.

(b) It is the intent of the city council to promote transparency in City government by laws designed to ensure that the process of making public policy remains visible and to protect the public's interest in open government.

(c) Public access to meetings, documents and records of the City of Palm Springs is an essential component of transparency, and as such, failure to allow public access to these meetings, documents and records compromises the strength and integrity of our government.

(d) In order to further the people's right of access to public meetings and records, any exemptions that may be applied to open meetings or the release of public records shall be narrowly construed.

(e) Employees, elected officials, commissions, boards, committees and other agencies within the City of Palm Springs exist to serve the public and to conduct the people's business. The people do not cede to these entities the right to decide what the people should know about the operations of local government.

(f) In order to ensure public participation in and scrutiny of the decisions and conduct of City government, meetings of policy bodies must be open and records pertaining to the conduct of the people's business must be readily available to the public, unless exempt from disclosure under the law. There shall be a presumption that the meeting is open and the record sought is public, and the burden shall be upon the policy body or record custodian to articulate with specificity the exemption that applies.

(g) The City has a fiduciary responsibility to the people to exercise sound judgment and take great care to be good stewards of their tax dollars and as such, all City expenditures of public funds should be accounted for and fully disclosed where not prohibited by law.

(h) Members of the public should not need to engage in prolonged or burdensome efforts, or need to retain the services of an attorney, to obtain meaningful access to meetings, public records and information. Rather, it is the duty of every officer, official and employee of the City of Palm Springs to ensure prompt and meaningful access to meetings and public records, and to assist the public in obtaining such access.

(i) Honesty, integrity, and openness in the exercise of government authority are fundamental prerequisites to an effective and efficient City government that serves the needs and interests of its citizens.

(j) The city council has determined the provisions of this chapter more appropriately address the specific needs of the City, and this chapter is more effective than the minimum provisions of state law set out in the California Government Code.

(k) These provisions are supplementary and additional to the provisions of the Government Code and shall be read and construed as an integral part of the regulations and controls established thereby.

**2.60.020. Citation.**

This chapter may be cited as the Palm Springs Sunshine Ordinance.

**2.60.030. Definitions.**

The following words and terms used in this chapter shall be defined as follows:

(a) "Administrative Agency" shall have the meaning assigned to it in Section 2.05.020(2) of the Palm Springs Municipal Code.

(b) "Department Head" includes but is not limited to City Attorney, Director of Community and Economic Development, Director of Finance and General Services, Director of Parks and Recreation, Director of Building and Safety, Director of Planning Services, Fire Chief, Police Chief, Communications Director, Director of Engineering Services, Director of Neighborhood and Community Relations, Director of Human Resources, Director of Information Technology, Procurement and Contracting Manager, Office of Sustainability Manager, and any additional person in a management position that is considered to be an administrative officer as such term is defined in Section 2.05.020(3) of the Palm Springs Municipal Code.

(c) (1) For purposes of Section 2.60.300 of this chapter, except as provided in subdivision (2), an "ex parte communication" is any oral or written communication between a member of an Administrative Agency and an interested person, about a matter within the Administrative Agency's jurisdiction, which does not occur in a public hearing, workshop, or other official proceeding, or on the official record of the proceeding on the matter.

(2) The following communications are not ex parte communications:

(A) Any communication between a staff member acting in his or her official capacity and any Administrative Agency member or interested person.

(B) Any communication limited entirely to procedural issues, including, but not limited to, the hearing schedule, location, format, or filing date.

(d) "Hotline," "Owner," "Property Watch List," "Vacation Rental" and "Vacation Rental Registration Certificate" shall each have the meaning assigned to them in Section 5.25.030 of the Palm Springs Municipal Code.

(e) "Meeting" shall mean any of the following:

(1) A congregation of a majority of the members of a Policy Body at the same time and place;

(2) A substantive conversation between or among a majority of the members of a Policy Body concerning an agenda item that does not occur in a public meeting;

(3) A series of gatherings, each of which involves less than a majority of a Policy Body, to hear, discuss or deliberate upon any item that is within the subject matter jurisdiction of the Policy Body, if the cumulative result is that a majority of members has become involved in such gatherings; or



(4) Any other use of personal intermediaries or communications media that could permit a majority of the members of a Policy Body to become aware of an item of business and of the views or positions of other members with respect thereto and to negotiate consensus thereupon.

(5) "Meeting" shall not include any of the following:

(A) Individual contacts or conversations between a member of a Policy Body and another person that do not convey to the member the views or positions of other members of the Policy Body upon the subject matter of the contact or conversation and in which the member does not solicit or encourage the restatement of the views of the other members;

(B) The attendance of a majority of the members of a Policy Body at a regional, statewide or national conference or at a meeting organized to address a topic of local community concern and open to the public, provided that a majority of the members refrains from using the occasion to collectively discuss the topic of the gathering or any other business within the subject matter jurisdiction of the City;

(C) The attendance of a majority of the members of a Policy Body at a purely social, recreational or ceremonial occasion other than one sponsored or organized by or for the Policy Body itself, provided that a majority of the members refrains from using the occasion to discuss any business within the subject matter jurisdiction of this body. A meal gathering of a Policy Body before, during or after a business Meeting of the body is part of that Meeting and shall be conducted only under circumstances that permit public access to hear and observe the discussion of members. Such Meetings shall not be conducted in restaurants or other accommodations where public access is possible only in consideration of making a purchase or some other payment of value; or

(D) The attendance of a majority of the members of a Policy Body at an open and noticed meeting of a standing committee of that body, provided that the members of the Policy Body who are not members of the standing committee attend only as observers.

(f) "Passive Meeting Body" shall mean:

(1) Any ad hoc board, commission, committee or body satisfying the criteria set out in subdivision 2.60.070(c) of this chapter, created by ordinance, resolution, formal action or initiative of a Policy Body, provided

that it is composed solely of less than a quorum of the members of a Policy Body;

(2) Advisory subcommittees or task forces created by the initiative of an ad hoc body referred to in subdivision (1) above to advise such body on fiscal, economic or policy issues;

(3) Advisory committees or task forces created by the initiative of the Mayor, a single city council member, City Manager or a Department Head to advise such official on fiscal, economic or policy issues;

(4) A meeting between the representatives of a Policy Body consisting of less than a quorum of its members that does not constitute a standing committee and representatives of another Policy Body consisting of less than a quorum of its members that does not constitute a standing committee who have been designated by their respective Policy Bodies to exchange information and report back to their respective Policy Bodies;

(5) Any group that meets to discuss with or advise the Mayor, a city council member, the City Manager or a Department Head on fiscal, economic or policy issues;

(6) Social, recreational or ceremonial occasions sponsored or organized by or for a Policy Body to which a majority of the body has been invited.

(7) "Passive Meeting Body" shall not include a committee that consists solely of employees of the City created by the initiative of the Mayor, a city council member, the City Manager or a Department Head.

(g) "Policy Body" shall mean:

(1) The city council;

(2) Any other board or commission enumerated in the Charter;

(3) Any board, commission, task force or other body created by ordinance, resolution, formal action or initiative of the city council;

(4) Any standing committee of a Policy Body irrespective of its composition; for purposes of this subdivision a committee is standing if it has continuing jurisdiction over a particular subject matter and / or if its meeting schedule is fixed by Charter, or by ordinance, resolution or other formal action of the Policy Body that created it;

(5) Any committee or task force of a Policy Body, whether standing or ad hoc, that is not composed solely of less than a quorum of the members of the Policy Body;

(6) A meeting of less than a quorum of the members of a Policy Body who have been designated to meet with less than a quorum of the members of another Policy Body to perform a task, such as the making of a recommendation;

(7) Any advisory board, commission, committee or council created by a federal, State or local grant whose members are appointed by City officials, employees or agents.

(8) "Policy Body" shall not include a committee that consists solely of employees of the City, unless such committee was established by Charter or by ordinance or resolution of the city council.

(h) "Public Information" includes the content of "public records" as defined in the California Public Records Act (Government Code Section 6252), whether provided in documentary form or in an oral communication.

## **Article II. Public Access to Meetings.**

### **2.60.040. Meetings to Be Open and Public; Application of Brown Act.**

All Meetings of any Policy Body shall be open and public and governed by the provisions of the Ralph M. Brown Act of the State of California (Government Code Sections 54950 et. seq.) and of this article. In case of inconsistent requirements under the Brown Act and this Article, the requirement which would result in greater or more expedited public access shall apply.

### **2.60.050. Passive Meetings.**

(a) Gatherings of Passive Meeting Bodies need not be formally noticed, except on the City's website whenever possible, although the time, place and nature of the gathering shall be disclosed upon inquiry by a member of the public. Any agenda actually prepared for the gathering shall be accessible to such inquirers as a public record and posted on the City's website whenever possible.

(b) Such gatherings need not be conducted in any particular space for the accommodation of members of the public, although members of the public shall be permitted to observe on a space available basis consistent with legal and practical restrictions on occupancy.

(c) Such gatherings of a business nature need not provide opportunities for comment by members of the public, although the person presiding may, in his or her

discretion, entertain such questions or comments from spectators as may be relevant to the business of the gathering.

(d) Such gatherings of a social or ceremonial nature need not provide refreshments to spectators.

**2.60.060. Time and Place for Meetings; Agenda Requirements; Recording of Meetings.**

(a) Each Policy Body shall establish by resolution or motion the date, time and place for holding regular Meetings. Standing committees of the city council shall hold regular Meetings at least quarterly.

(b) At least 72 hours before a regular Meeting, a Policy Body shall post an agenda containing a meaningful description of each item of business to be transacted or discussed at the Meeting. Agendas shall specify for each item of business the proposed action or a statement the item is for discussion only. The agenda shall specify the time and location of the regular Meeting and shall be posted in a location that is freely accessible to members of the public. In addition, a Policy Body shall post a current agenda on the City's official website site at least 72 hours before a regular Meeting. If the Meeting is not needed or needs to be rescheduled, a notice of cancellation or notice of rescheduling should be published in the same manner as an agenda would be published and noticed, including 72-hour notice.

(c) A description is meaningful if it is sufficiently clear and specific to alert a person of average intelligence and education whose interests are affected by the item that he or she may have reason to attend the Meeting or seek more information on the item. The description should be brief, concise and written in plain, easily understood English. It shall refer to any explanatory documents that have been provided to the Policy Body in connection with an agenda item, such as correspondence or reports, and such documents shall be posted adjacent to the agenda or, if such documents are of more than one page in length, made available for public inspection and copying at a location indicated on the agenda during normal office hours.

(d) The agendas for regular Meetings of a Policy Body shall be circulated in draft form to the members of the Policy Body prior to the posting of the agenda in accordance with subdivision (b). If a member of the Policy Body believes that participating in the discussion and voting on a proposed agenda item would be a conflict of interest, such member shall consult with the City Attorney on this matter before the agenda is posted. If the City Attorney determines that there would be a conflict of interest, a report identifying the conflict and the relevant federal, state or local legislative provision that results in the recusal should be included in the agenda materials to be provided pursuant to Section 2.60.080(a) of this chapter and disclosed at the Meeting of the Policy Body by the affected member prior to the Policy Body considering the agenda item in question.

(e) Special Meetings of any Policy Body may be called at any time by the presiding officer thereof or by a majority of the members thereof. The notice shall specify the time and place of the special Meeting and the business to be transacted. Such notice of a special Meeting shall be posted as described in subdivision (b) at least 24 hours before the time of such Meeting as specified in the notice.

(f) No action or discussion shall be undertaken on any item not appearing on the posted agenda of a regular or special Meeting, except that members of a Policy Body may respond briefly to statements made or questions posed by persons exercising their public testimony rights, to the extent of asking a question for clarification, providing a reference to staff or other resources for factual information or requesting staff to report back to the body at a subsequent Meeting concerning the matter raised by such testimony.

(g) Notwithstanding subdivision (f), the Policy Body may take action on items of business not appearing on the posted agenda under any of the following conditions:

(1) Upon a determination by a majority vote of the body that an accident, natural disaster or work force disruption poses a threat to public health and safety.

(2) Upon a good faith, reasonable determination by a two-thirds vote of the body, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that (A) the need to take immediate action on the item is so imperative as to threaten serious injury to the public interest if action were deferred to a subsequent special or regular Meeting or relates to a purely commendatory action, and (B) that the need for such action came to the attention of the body subsequent to the agenda being posted as specified in subdivision (b).

(3) The item was on an agenda posted pursuant to subdivision (b) for a prior Meeting of the body occurring not more than five calendar days prior to the date action is taken on the item, and at the prior Meeting the item was continued to the Meeting at which action is being taken.

(h) Each Policy Body shall ensure that notices and agendas for regular and special Meetings shall include the following notice:

**KNOW YOUR RIGHTS UNDER THE PALM SPRINGS SUNSHINE ORDINANCE**

(Chapter 2.60 of the Palm Springs Municipal Code)

Government's duty is to serve the public, reaching its decisions in full view of the public.

Commissions, boards, councils and other agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE PALM SPRINGS SUNSHINE ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT THE PALM SPRINGS TRANSPARENCY COMMISSION.

(i) Each agenda of a Policy Body covered by this chapter shall include the address, area code and phone number, fax number, e-mail address, and a contact person's name for the obtaining further information or how to access documents.

(j) Every Policy Body shall audio record or audio and video record in its entirety every noticed regular Meeting, special Meeting, study session or hearing open to the public (including the entire public portion of the closed session meeting) held in Council Chamber or a City Hall conference room that is equipped with audio or video recording facilities, except to the extent that such facilities may not be available for technical or other reasons. Each such audio or video recording shall be a public record subject to inspection pursuant to the California Public Records Act (Government Code Section 6250 et seq.) and shall not be erased or destroyed. The City shall make such audio or video recording available in digital form at a centralized location on the City's web site within 72 hours of the date of the Meeting or hearing and for a period of at least five years after the date of the Meeting or hearing. Inspection of any such recording shall also be provided without charge on an appropriate play back device made available by the City. This subdivision (j) shall not be construed to limit or in any way modify the duties created by any other provision of this article, including but not limited to the requirements for recording closed sessions as stated in Section 2.60.100(c) of this chapter.

#### **2.60.070. Subsidiary Bodies.**

(a) A commission, committee, board, or other body of a Policy Body, whether permanent or temporary, decision-making or advisory, created by Charter, or by ordinance, resolution, initiative or formal action of a Policy Body, is itself a Policy Body pursuant to Section 2.60.030(g) of this chapter, unless it qualifies as a Passive Meeting Body as defined in Section 2.60.030(f) of this chapter.

(b) A subsidiary body shall be created by Charter, or by ordinance, resolution, initiative or formal action of the Policy Body at a Meeting. Upon such creation of the subsidiary body, the creating Policy Body shall in the authorizing ordinance, resolution, initiative or formal action set out the jurisdiction and appoint the members of the subsidiary body, whether it is standing or ad hoc, and establish its specific task and estimated sunset date if it is ad hoc. Within 30 days after the entry into effect of this chapter, each creating Policy Body shall pass a resolution setting out the information

mentioned above with respect to its subsidiary bodies that existed prior to the entry into effect of this chapter.

(c) Ad hoc status shall be reserved for any subsidiary body that is charged with accomplishing a specific task in a finite period of time. The subsidiary body shall not have an expected duration longer than 12 months. The subsidiary body shall be decommissioned by formal action of the Policy Body that created it when the task is completed, or otherwise additional time shall be justified by formal action of the creating Policy Body if still needed.

(d) The City Clerk shall maintain, keep up to date and post in a central location on the City's official website a complete list of all subsidiary bodies setting out for each its purpose and members, the date of appointment of its members, whether it is standing or ad hoc, and its specific task and estimated sunset date if it is ad hoc. The list shall specify which subsidiary bodies are committees (i.e., they were formed by the city council or a City board or commission) and which are subcommittees (i.e., they were formed by a committee). In the case of subcommittees, the list shall specify what committee formed the subcommittee.

(e) Subsidiary bodies, whether standing or ad hoc, shall report back to their creating Policy Bodies at each Meeting of such Policy Body when the subsidiary body has met in between Meetings of the Policy Body. Subsidiary bodies should whenever possible submit brief written reports that are included in the agenda packet for the Policy Body Meeting, so the public has the opportunity to provide informed public testimony on the subsidiary body's work.

#### **2.60.080. Agendas and Related Materials: Public Records.**

(a) Agendas of Meetings and any other documents on file with the City Clerk or the designated secretary of a particular Policy Body, when intended for distribution to all, or a majority of all, of the members of a Policy Body in connection with a matter anticipated for discussion or consideration at a Meeting, shall be made available to the public. Such documents shall also be made available through the City's official website at least 72 hours before the Meeting. If the staff report for an agenda item is not available at the time of posting the agenda, the item will be removed from the agenda. However, this disclosure need not include any material exempt from public disclosure under this chapter.

(b) Records that are subject to disclosure under subdivision (a) and that are intended for distribution to a Policy Body prior to commencement of a Meeting shall be made available for public inspection and copying upon request prior to commencement of such Meeting, whether or not actually distributed to or received by the body at the time of the request.

(c) Records that are subject to disclosure under subdivision (a) and that are distributed during a Meeting but prior to commencement of their discussion shall be made available for public inspection prior to commencement of and during their discussion.

(d) Records that are subject to disclosure under subdivision (a) and that are distributed during their discussion at a Meeting shall be made available for public inspection immediately or as soon thereafter as is practicable.

(e) The City Clerk or the designated secretary of a particular Policy Body shall maintain a file, accessible to any person during normal office hours, containing a copy of any letter, memorandum or other communication which the clerk has distributed to or received from a quorum of the Policy Body concerning a matter calendared by the body within the previous 30 days or likely to be calendared within the next 30 days, irrespective of subject matter, origin or recipient, except commercial solicitations, periodical publications or communications exempt from disclosure under the California Public Records Act (Government Code Section 6250 et seq.).

(f) A Policy Body may charge a duplication fee for a copy of a public record prepared for consideration at a public Meeting in accordance with Section 2.60.210 of this chapter. Neither this section nor the California Public Records Act (Government Code Section 6250 et seq.) shall be construed to limit or delay the public's right to inspect any record required to be disclosed by that act, whether or not distributed to a Policy Body.

**2.60.090. Agenda Disclosures: Closed Sessions.**

(a) In addition to the brief general description of items to be discussed or acted upon in open and public session, the agenda posted pursuant to Government Code Section 54954.2, any mailed notice given pursuant to Government Code Section 54954.1, and any call and notice delivered to the local media and posted pursuant to Government Code Section 54956 shall specify and disclose the nature of any closed sessions by providing all of the following information:

(1) With respect to a closed session held pursuant to Government Code Section 54956.7:

LICENSE/PERMIT DETERMINATION:

\_\_\_\_\_ applicant(s)

The space shall be used to specify the number of persons whose applications are to be reviewed.

(2) With respect to every item of business to be discussed in closed session pursuant to Government Code Section 54956.8:



CONFERENCE WITH REAL PROPERTY NEGOTIATOR

Property:

Person(s) negotiating:

Under negotiation:

Price: \_\_\_\_\_ Terms of payment: \_\_\_\_\_ Both: \_\_\_\_\_

The space under "Property" shall be used to list an address, including cross streets where applicable, or other description or name which permits a reasonably ready identification of each parcel or structure subject to negotiation. The space under "Person(s) negotiating" shall be used to identify the person or persons with whom negotiations concerning that property are in progress. The spaces under "Under negotiation" shall be checked off as applicable to indicate which issues are to be discussed.

(1) With respect to every item of business to be discussed in closed session pursuant to Government Code Section 54956.9, either:

CONFERENCE WITH LEGAL COUNSEL

Existing litigation:

\_\_\_\_\_ Unspecified to protect service of process

\_\_\_\_\_ Unspecified to protect settlement posture

or:

CONFERENCE WITH LEGAL COUNSEL

Anticipated litigation: \_\_\_\_\_ As defendant \_\_\_\_\_ As plaintiff

The space under "Existing litigation" shall be used to specifically identify a case under discussion pursuant to subdivision (a) of Government Code Section 54956.9, including the case name, court, and case number, unless the identification would jeopardize the City's ability to effectuate service of process upon one or more unserved parties, in which instance the space in the next succeeding line shall be checked, or unless the identification would jeopardize the City's ability to conclude existing settlement negotiations to its advantage, in which instance the space in the next succeeding line shall be checked. If the closed session is called pursuant to subdivision (d)(2) or (d)(3) of Government Code Section 54956.9, the appropriate space shall be checked under "Anticipated litigation" to indicate the City's anticipated position as defendant or plaintiff

respectively. If more than one instance of anticipated litigation is to be reviewed, space may be saved by entering the number of separate instances in the "As defendant" or "As plaintiff" spaces or both as appropriate. The agenda shall in addition specify the applicable subdivision under subdivision (e) of Section 54956.9 (e.g., three cases as defendant under Section 54956.9(e)(1)).

(2) With respect to every item of business to be discussed in closed session pursuant to Government Code Section 54957, either:

THREAT TO PUBLIC SERVICES OR FACILITIES

Name, title and agency of law enforcement officer(s) to be conferred with:

or:

PUBLIC EMPLOYEE APPOINTMENT/HIRING

Title/description of position(s) to be filled:

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Position and, in the case of a routine evaluation, name of employee(s) being evaluated:

or:

PUBLIC EMPLOYEE DISMISSAL

Number of employees affected:

or:

(3) With respect to every item of business to be discussed in closed session pursuant to Government Code Section 54957.6, either:

CONFERENCE WITH NEGOTIATOR

COLLECTIVE BARGAINING

Name and title of City's negotiator:

Organization(s) representing:

\_\_\_\_\_ Police officers and firefighters

\_\_\_\_\_ Miscellaneous Employees

Anticipated issue(s) under negotiation:

- \_\_\_\_\_ Wages
- \_\_\_\_\_ Hours
- \_\_\_\_\_ Benefits
- \_\_\_\_\_ Working Conditions
- \_\_\_\_\_ Other (specify if known)
- \_\_\_\_\_ All

Where renegotiating a memorandum of understanding or negotiating a successor memorandum of understanding, the name of the memorandum of understanding:

(b) In case of multiple items of business under the same category, lines may be added and the location of information may be reformatted to eliminate unnecessary duplication and space, so long as the relationship of information concerning the same item is reasonably clear to the reader. As an alternative to the inclusion of lengthy lists of names or other information in the agenda, or as a means of adding items to an earlier completed agenda, the agenda may incorporate by reference separately prepared documents containing the required information, so long as copies of those documents are posted adjacent to the agenda within the time periods required by Government Code Sections 54954.2 and 54956 and provided with any mailed or delivered.

**2.60.100. Additional Requirements for Closed Sessions.**

(a) Prior to any closed session, a Policy Body shall state the general reason or reasons for the closed session and shall cite the statutory authority, including the specific section and subdivision or other legal authority under which the session is being held. In the closed session, the Policy Body may consider only those matters covered in its statement. In the case of regular and special Meetings, the statement shall be made in the form of the agenda disclosures and specifications required by Section 2.60.090 of this chapter. In the case of adjourned and continued Meetings, the statement shall be made with the same disclosures and specifications required by Section 2.60.090 of this chapter, as part of the notice provided for the Meeting.

(b) In the case of an item added to the agenda as a matter of urgent necessity, the statement shall be made prior to the determination of urgency and with the same disclosures and specifications as if the item had been included in the agenda pursuant to Section 2.60.090 of this chapter. Nothing in this section shall require or authorize a disclosure of information prohibited by state or federal law.

(c) All closed sessions of any Policy Body covered by this chapter shall be either audio recorded or audio and video recorded in their entirety and all such recordings shall be retained for at least ten years, or permanently where technologically and economically feasible. The recording made pursuant to this section is not a public

record subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) or this chapter. It shall be maintained by the City Attorney and shall be kept confidential. The recording shall be available only to members of the city council or, if a violation of the Brown Act or the Palm Springs Sunshine Ordinance or Conflict of Interest Code, is alleged to have occurred, to an authority or authorities with jurisdictional powers to review and render a binding decision on the complaint.

#### **2.60.110. Closed Sessions: Permitted Topics.**

A Policy Body may, but is not required to, hold closed sessions:

(a) With the Attorney General, Riverside County District Attorney, Riverside County Sheriff, Palm Springs Police Chief or Palm Springs Fire Chief, or their respective deputies, on matters posing a threat to the security of public buildings or a threat to the public's right of access to public services or public facilities.

(b) To consider the appointment, employment, evaluation of performance or dismissal of a City employee, if the Policy Body has the authority to appoint, employ or dismiss the employee or to hear complaints or charges brought against the employee by another person or employee unless the employee complained of requests a public hearing. The Policy Body may exclude from any such public meeting, and shall exclude from any such closed meeting, during the comments of a complainant, any or all other complainants in the matter. The term "employee" as used in this section shall not include any elected official, member of a Policy Body or applicant for such a position or person providing services to the City as an independent contractor or the employee thereof, including but not limited to independent attorneys or law firms providing legal services to the City for a fee rather than a salary.

(c) Based on advice of its legal counsel, to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would likely prejudice the position of the City in that litigation. Litigation shall be considered pending when any of the following circumstances exist:

(1) An adjudicatory proceeding before a court, administrative body exercising its adjudicatory authority, hearing officer or arbitrator, to which the City is a party, has been initiated formally; or,

(2) A point has been reached where, in the opinion of the Policy Body on the advice of its legal counsel, based on existing facts and circumstances as set out in Government Code Section 54956.9(e), there is a significant exposure to litigation against the City or the body is meeting only to decide whether a closed session is authorized pursuant to that advice or, based on those facts and circumstances, the body has decided to initiate or is deciding whether to initiate litigation.

A closed session may not be held to consider the qualifications or engagement of an independent contract attorney or law firm, for litigation services or otherwise, unless

discussion in open session concerning those matters would likely prejudice the position of the City in pending litigation and as a result a closed session is permissible under Government Code Section 54956.9. In such case, the agenda shall include the information required by Section 2.60.090(a)(3) of this chapter.

(d) With the City's designated representatives regarding matters within the scope of collective bargaining or meeting and conferring with public employee organizations when a Policy Body has authority over such matters. Such closed sessions shall be for the purpose of reviewing the City's position and instructing its designated representatives and may take place solely prior to and during active consultations and discussions between the City's designated representatives and the representatives of employee organizations or the unrepresented employees. A Policy Body shall not discuss compensation or other contractual matters in closed session with one or more employees directly interested in the outcome of the negotiations.

#### **2.60.120. Disclosure of Closed Session Discussions and Actions.**

(a) After every closed session, a Policy Body may in its discretion and in the public interest, disclose to the public any portion of its discussion that is not confidential under federal or state law, the Charter or non-waivable privilege. The disclosure shall be made through the presiding officer of the body or such other person, present in the closed session, whom he or she designates to convey the information.

(b) A Policy Body shall publicly report any action taken in closed session and the vote or abstention of every member present thereon, as follows:

(1) Real Property Negotiations: Approval given to a Policy Body's negotiator concerning real estate negotiations pursuant to Government Code Section 54956.8 shall be reported as soon as the agreement is final. If its own approval renders the agreement final, the Policy Body shall report that approval, the substance of the agreement and the vote thereon in open session immediately. If final approval rests with another party to the negotiations, the body shall disclose the fact of that approval, the substance of the agreement and the body's vote or votes thereon upon inquiry by any person, as soon as the other party or its agent has informed the body of its approval. If notwithstanding the final approval there are conditions precedent to the final consummation of the transaction or there are multiple contiguous or closely located properties that are being considered for acquisition, the document referred to in Subdivision (c) of this section need not be disclosed until the condition has been satisfied or the agreement has been reached with respect to all the properties, or both.

(2) Litigation: Direction or approval given to the body's legal counsel to prosecute, defend or seek or refrain from seeking appellate review or relief or to otherwise enter as a party, intervenor or amicus curiae in any form of litigation as the result of a consultation pursuant to Government Code

Section 54956.9 shall be reported in open session as soon as given, or at the first Meeting after an adverse party has been served in the matter if immediate disclosure of the City's intentions would likely prejudice the position of the City in pending litigation. The report shall identify the adverse party or parties, any co-parties with the City, any existing claim or order to be defended against or any factual circumstances or contractual dispute giving rise to the City's complaint, petition or other litigation initiative.

(3) Settlement: A Policy Body shall neither solicit nor agree to any term in a settlement that would preclude the release of the text of the settlement itself and any related documentation communicated to or received from the adverse party or parties. Any written settlement agreement and any documents attached to or referenced in the settlement agreement shall be made publicly available at least 10 calendar days before the Meeting of the Policy Body at which the settlement is to be approved to the extent that the settlement would commit the City or a department thereof to adopting, modifying, or discontinuing an existing policy, practice or program or otherwise acting other than to pay an amount of money less than \$50,000. The agenda for any Meeting in which a settlement subject to this section is discussed shall identify the names of the parties, the case number, the court and the material terms of the settlement. Where the disclosure of documents in a litigation matter that has been settled could be detrimental to the City's interest in pending litigation arising from the same facts or incident and involving a party not a party to or otherwise aware of the settlement, the documents required to be disclosed by Subdivision (c) of this section need not be disclosed until the other case is settled or otherwise finally concluded.

(4) Employee Actions: Action taken to appoint, employ, dismiss, transfer or accept the resignation of a public employee in closed session pursuant to Government Code Section 54957 shall be reported immediately in a manner that names the employee, the action taken and position affected and, in the case of dismissal for a violation of law or of the policy of the City, the reason for dismissal. "Dismissal" within the meaning of this chapter includes any termination of employment at the will of the employer rather than of the employee, however characterized. The proposed terms of any separation agreement shall be immediately disclosed as soon as presented to the body, and its final terms shall be immediately disclosed upon approval by the body.

(5) Collective Bargaining: Any collectively bargained agreement shall be made publicly available at least 15 calendar days before the Meeting of the Policy Body to which the agreement is to be reported.

(c) Reports required to be made immediately may be made orally or in writing, but shall be supported by copies of any contracts, settlement agreements or

other documents related to the transaction that were finally approved or adopted in the closed session and that embody the information required to be disclosed immediately shall be provided to any person who has made a written request regarding that item following the posting of the agenda or who has made a standing request for all such documentation as part of a request for notice of meetings pursuant to Government Code Sections 54954.1 or 54956.

(d) A written summary of the information required to be immediately reported pursuant to this section, or documents embodying that information, shall be posted by the close of business on the next business day following the Meeting, in the place where the meeting agendas of the Policy Body are posted.

### **2.60.130. Public Testimony.**

(a) Every agenda for regular Meetings shall provide an opportunity for members of the public to directly address a Policy Body on items of interest to the public that are within the Policy Body's subject matter jurisdiction.

(b) Every agenda for regular and special Meetings shall provide an opportunity for each member of the public to directly address the Policy Body on any agenda item before or during the Policy Body's consideration of the item, provided that no action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by Section 2.60.060(g) of this chapter.

(c) A Policy Body may adopt reasonable regulations to ensure that the intent of subdivisions (a) and (b) are carried out, including, but not limited to, regulations limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker. Each Policy Body shall adopt a rule providing that each person wishing to speak on an item before the body at a regular or special Meeting shall be permitted to be heard once for up to three minutes. For non-public hearing agenda items, these comments may, at the option of the speaker, be deferred until the point of the Meeting where the item is being considered. Time limits shall be applied uniformly to members of the public wishing to testify.

(d) A Policy Body shall not abridge or prohibit public criticism of the policy, procedures, programs or services of the City or of any other aspect of its proposals or activities or of the acts or omissions of the body, on the basis that the performance of one or more public employees is implicated, or on any basis other than reasonable time constraints.

(e) To facilitate public input, any agenda changes or continuances shall be announced by the presiding officer of a Policy Body at the beginning of a Meeting, or as soon thereafter as the change or continuance becomes known to such presiding officer.

### **2.60.140. City Council Consent Calendar.**

(a) An item on the consent calendar for any regular city council Meeting may be removed from the consent calendar for separate discussion and consideration at any

time before a vote on the item is taken. Any member of the city council or staff or a member of the public may request to remove an item from the consent calendar.

(b) The consent calendar shall only contain routine items that are non-controversial in nature and do not need public debate. The following items may be placed on the consent calendar:

- (1) Ordinances and resolutions
  - (A) Second reading (passage and adoption of ordinances);
  - (B) A resolution that is ceremonial in nature;
  - (C) Ordinances or resolutions that implements a prior city council policy direction in the manner contemplated by the Council's previous actions in the adopted budget, including capital improvement programs;
  - (D) Budget amendment ordinances that accept funding to the City such as grants or gifts, provided city council has previously approved the activity or program;
  - (E) Resolutions approving funding applications by the City, such as grants or loans, provided the program or activity has been previously approved by city council.
- (2) Administrative matters:
  - (A) An action that is merely the administrative execution of previous city council direction. The Council direction and vote should be quoted in the staff report accompanying the item;
  - (B) Contracts for which the subject or scope of work has been previously reviewed by city council;
  - (C) A contract for goods, general services, professional services (other than with law firms providing legal services to the City) or public work projects that represent the customary and usual business of a department as included in the adopted budget. Examples include: routine maintenance contracts, annual audit agreement, software and hardware support agreements, janitorial services, copier agreements;
  - (D) Transfer of funds within an approved departmental budget;
  - (E) Personnel actions within approved budgetary limits and proper authorizations;



- (F) Grant applications, provided city council has previously approved the general program or activity;
- (G) Filing notices of completion;
- (H) Setting dates of public hearings;
- (I) Acceptance of improvements and donations;
- (J) Approval of agreements, bills and claims, minutes and investment reports.

(c) Notwithstanding subdivision (b) above, an item shall not be eligible for inclusion in the consent calendar if a conflict of interest with respect to that item has been identified pursuant to Section 2.60.060(d) of this chapter.

(d) The City Clerk shall ensure that agendas for regular city council Meetings include the following introduction to the consent calendar:

The consent calendar contains routine and non-controversial matters pending before city council, and all items listed may be approved by one motion of the Council unless a request is made by a member of the city council or staff or a member of the public to remove an item for separate discussion and consideration at this time or under Approval of the Agenda. If anyone wishes to speak on or request removal of an item on the consent calendar as listed below, please file a "Speaker Card" with the City Clerk BEFORE that portion of the agenda is called. The title is deemed to be read and further reading waived on any ordinance listed on the consent calendar for introduction or adoption.

### **Article III. Public Access to Records.**

#### **2.60.150. Making a Request for Information.**

While a written request often has advantages for the requester and the City, nothing in the California Public Records Request Act requires the request to be submitted in writing. Except when requesting information about pesticides or seeking the addresses of persons arrested or victims of crimes, the City may not require requesters to identify themselves. Furthermore, aside from these two exceptions, the City may not demand to know the purpose of the request as a condition to filling the request.

## **2.60.160. Public Information That Must Be Disclosed.**

Notwithstanding a department's legal discretion to withhold certain information under the California Public Records Act, the following policies shall govern specific types of documents and information and shall provide enhanced rights of public access to information and records:

(a) Drafts and Memoranda. No preliminary draft or memorandum shall be exempt from disclosure under Government Code Section 6254, subdivision (a) if it is kept or filed in the normal course of business. "Normal course of business" means in the inherent nature of the city's business in question and in the method systematically employed for the conduct of the task in question. Preliminary drafts and memoranda concerning contracts, memoranda of understanding, or other matters subject to negotiation or pending city council approval shall not be subject to disclosure pursuant to this provision until final action has been taken.

(b) Litigation Material. Notwithstanding any exemptions otherwise provided by law, the following are public records subject to disclosure:

(1) A pre-litigation claim against the City (excluding any investigative reports);

(2) A record previously received or created by a department in the ordinary course of business that was not attorney/client privileged or attorney-work product when it was previously received or created.

(c) Contracts, Bids and Proposals

(1) All initial City Requests for Proposals ("RFP's") shall be kept in a central repository and shall be made available for public inspection. In addition, RFP's shall be placed on the City's website for a period from the date the RFP was issued to the date that the RFP is due.

(2) Contracts, contractors' bids, responses to requests for proposals and all other records of communications between the department and persons or firms seeking contracts shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person's or organization's net worth or other proprietary financial data submitted for qualification for a contract or other benefit. All bidders and contractors shall be advised that information provided which is covered by this subdivision will be made available to the public upon request. Immediately after any review or evaluation or rating of responses to a RFP has been completed, evaluation forms and score sheets and any other documents used by persons in the RFP evaluation or contractor selection process shall be available for public inspection. The names of scorers, graders or evaluators, along with their individual ratings, comments, and score sheets or comments on related documents, shall be

made immediately available after the review or evaluation of a RFP has been completed.

(d) **Budgets and Other Financial Information.** Budgets, whether tentative, proposed or adopted, for the City or any of its departments, programs, projects or other categories, and all bills, claims, invoices, vouchers or other records of payment obligations as well as records of actual disbursements showing the amount paid, the payee and the purpose for which payment is made, other than payments for social or other services whose records are confidential by law, shall not be exempt from disclosure.

(e) Appraisals, offers and counteroffers relating to the City's purchase of real property are exempt, but only until an agreement is executed.

(f) **Deliberative Process.** Neither the City nor any officer, employee, or agent thereof may assert an exemption for withholding for any document or information based on a "deliberative process" exemption, either as provided by Government Code Section 6255 or any other provision of law that does not prohibit disclosure.

(g) Neither the City, nor any officer, employee, nor agent thereof, may assert an exemption for withholding for any document or information based on a finding or showing that the public interest in withholding the information outweighs the public interest in disclosure. All withholding of documents or information must be based on an express and specific exemption provided by the California Public Records Act.

#### **2.60.170. Immediacy of Response.**

Notwithstanding the 10 calendar day period for response to a request permitted in Government Code Section 6253, a request for a public record described in any nonexempt category that is received by a Department Head shall be satisfied no later than the close of business on the day following the request unless the Department Head advises the requestor in writing that the request will be answered by a specific future date. The statutory deadlines are appropriate for more extensive or demanding requests, but shall not be used to delay fulfilling a simple, routine or otherwise readily answerable request. If the voluminous nature of the information requested, its location in a remote storage facility or the need to consult with legal counsel warrants an extension of 10 calendar days as provided in Government Code Section 6256.1, the requestor shall be noticed as required within three business days of the request. Nothing in this section shall prohibit the requestor and Department Head or his/her designee from agreeing to a longer time than provided for herein for the provision of requested records. Any such mutual agreement shall be in writing and signed by the requestor.

### **2.60.180. Withholding Kept to a Minimum.**

Information that is exempt from disclosure shall be masked, deleted or otherwise segregated so that the nonexempt portion of a requested record may be released and keyed by footnote or other clear reference to the appropriate justification for withholding.

### **2.60.190. Justification of Withholding.**

Any withholding of information shall be justified, in writing, as follows:

(a) A withholding under a specific permissive exemption in the California Public Records Act, or elsewhere, which permissive exemption is not forbidden to be asserted. The City must cite that authority.

(b) A withholding on the basis that disclosure is prohibited by law shall cite the specific statutory authority in the Public Records Act or elsewhere.

(c) A withholding on the basis that disclosure would incur civil or criminal liability shall cite any specific statutory or case law, or any other public agency's litigation experience, supporting that position.

(d) When a record being requested contains information, most of which is exempt from disclosure under the California Public Records Act and this section, the Department Head shall inform the requester of the nature and extent of the nonexempt information and suggest alternative sources for the information requested, if available.

### **2.60.200. Public Employee Compensation Records That Must Be Disclosed**

The following policies shall govern specific types of documents and information and shall provide enhanced rights of public access to information and access:

Notwithstanding Government Code Section 6254, subdivision (c), the following information shall be considered a public record and shall be made available for review upon request by any person, business or association: A listing of gross earnings by name and job title, including base salaries and other compensation. Other compensation shall include allowances, overtime, and deferred compensation, leave cash-out payments and the percentage of base salaries that the City pays as the employer's CalPERS contribution.

### **2.60.210. Fees for Duplication**

(a) No fee shall be charged for making public records available for review.

(b) No fee shall be charged for a copy of documents routinely produced in multiple copies for distribution, e.g. meeting agendas and related materials that are 20 or fewer pages in length per document.

(c) A fee of one cent per page may be charged for a copy of documents routinely produced in multiple copies for distribution, e.g. Meeting agendas and related materials which contain more than 20 pages per document.

(d) For documents assembled and copied to the order of the requester, a fee not to exceed 10 cents per page may be charged, plus any postage costs.

(e) The department or the City may, rather than making the copies itself, contract at market rate to have a commercial copier produce the duplicates and send the charges directly to the requester.

#### **2.60.220. Calendars of Certain Officials.**

(a) Members of the city council including the Mayor, the City Manager, the City Clerk, City Attorney, and every other Department Head shall keep or cause to be kept a daily calendar wherein is recorded the time and place of each meeting, appointment, or event attended by that official, with the exclusion of purely personal or social events at which no City business is discussed and that do not take place at City offices or the offices or residences of people who do substantial business with or are otherwise substantially financially affected by actions of the City.

(b) The calendar will include meetings with developers, meetings with union representatives, meetings with consultants, meetings with lobbyists, regional meetings, meetings with neighborhood organizations, and meetings of subcommittees or task forces, including policy bodies and Passive Meeting Bodies.

(c) For meetings not otherwise publicly recorded, the calendar shall include the name, title, and organization of the person(s) participating in such meetings, and a general statement of issues discussed.

(d) Such calendars shall be a public record subject to inspection during normal business hours at the office of the City Clerk to any requester three business days subsequent to the calendar entry date. A full calendar for any month must additionally be available in electronic format on the City's official website no later than the tenth day of the subsequent month.

#### **2.60.230. Correspondence and Records Shall Be Maintained.**

(a) The City Manager shall for a reasonable period maintain, preserve, and archive documents and correspondence, including but not limited to letters, e-mails, drafts, memoranda, invoices, reports and proposals that pertain to or are within the subject matter jurisdiction of the official's duties (as defined by the Sunshine Ordinance Commission) and shall disclose all such records in accordance with this chapter.

(b) Any e-mail that is created or received in connection with the transaction of public business and which (1) the department or office retains as evidence of its activities, or (2) relates to the legal or financial rights of the City or of persons directly affected by the activities of the City is a public record. The standard for determining if e-

mail is a public record that must be retained is identical to the standard that applies to any document. See California Government Code § 6252(e). If an e-mail must be retained, it should be printed out and the hard copy retained in the appropriate file unless the department or office can reliably retain and retrieve all e-mail in electronic format.

(c) City council members and City employees may not use personal email accounts to conduct official City business, unless in emergency situations when their City accounts are not accessible. No city council member or City employee may create or send an e-mail using a non-official e-mail account unless such Council member or employee:

- (1) copies an official e-mail account of the Council member or employee in the original creation or transmission of the e-mail; or
- (2) forwards a complete copy of the e-mail to an official e-mail account of the Council member or employee not later than five business days after the original creation or transmission of the e-mail.

Any email copied or forwarded in accordance with subdivisions (1) or (2) above shall be subject to the provisions of subdivision (b) of this section.

#### **Article IV. Transparency on the City's Website**

##### **2.60.240. Minimum Standards.**

(a) The City of Palm Springs shall maintain on the City's official website information that it is required to make publicly available. Each department is encouraged to make publicly available through the City's website as much information and as many documents as possible concerning its activities. These include but are not limited to statements of economic interest as provided in Section 2.60.250 of this chapter, campaign report forms and other transparency and ethics documents as provided in Section 2.60.260 of this chapter, operating and capital budgets, Meeting agenda, Meeting minutes, public notices and, when feasible, staff meeting reports. Within 12 months after the entry into effect of this chapter, each Policy Body shall post on the City's website all meeting notices required under this chapter, all agendas and the minutes of all previous meetings of its policy bodies from that point in time forward. Notices and agendas shall be posted no later than the time that the department or Policy Body otherwise distributes this information to the public, allowing reasonable time for posting.

(b) Minutes of Meetings of policy bodies shall be posted as soon as possible, but in any event within one week after they have been approved by the Policy Body. The City shall make reasonable efforts to ensure that its web site is regularly reviewed for timeliness and updated on at least a weekly basis. The City shall also make

available on its web site, or on a comparable, readily accessible location on the Internet, a current copy of the City Code.

### **2.60.250. Transparency and Ethics Section of City's Website.**

A section of the City's official website shall provide, in an easy to use format, detailed up-to-date information on the following:

- (a) Transparency and ethics: individuals
  - (1) California Form 700 as provided in Section 2.60.260 of this chapter;
  - (2) California Forms 801, 802, 803 and 806;
  - (3) Public calendars as provided in Section 2.60.220 of this chapter;
  - (4) Campaign finance reports for candidates for Mayor and city council required to be filed under the California Political Reform Act (Section 81000 et seq. of the California Government Code);
  - (5) Certifications of ethics training required under AB 1234 for all elected officials and commission board members;
  - (6) Council voting records for the five most recent years;
  - (7) Job descriptions for staff members subject to Form 700 filing requirements;
  - (8) Reports of ex parte communications as provided in Section 2.60.300(c)(2) of this chapter.
  
- (b) Transparency and ethics: processes
  - (1) Names of the Mayor, Council members, their terms of office, contact information, office hours and statement of obligation to respond within three working days to general enquires and requests from residents;
  - (2) Description of City services/departments, contact information and statement of obligation to respond within three working days to enquires and requests from residents;
  - (3) Names of appointed staff members, contact information, office hours and statement of obligation to respond within three working days to general enquires and requests from residents;

- (4) Names of members of City boards and commissions and the email address of their chairpersons;
- (5) Current year and prior year budgets with detailed information on all municipal revenues and expenditures;
- (6) Meeting notices and agendas as provided in Section 2.60.060(b) of this chapter;
- (7) Information on subsidiary bodies as provided in Section 2.60.070(d) of this chapter;
- (8) Preview of planning applications prepared by the Department of Planning Services for the city council;
- (9) Instructions regarding how to make public records requests as provided in Section 2.60.150 of this chapter;
- (10) Approved document retention policy;
- (11) Approved policies regarding credit card use, travel/expense, petty cash;
- (12) An explanation of how members of the public can participate in Policy Body Meetings;
- (13) Information on short-term vacation rentals as provided in Section 2.60.280 of this chapter;
- (14) Information on procurement and contracting as provided in Section 2.60.290 of this chapter.

## **Article V. Other Transparency Requirements.**

### **2.60.260. Review of Form 700, Statement of Economic Interests.**

(a) Once annually, in the first two weeks of April, the City Clerk shall conduct a prima facie review of all completed Form 700s (the statement of economic interests required by Government Code 85700 of certain enumerated local officials) submitted by the City Manager, the Mayor, members of staff and board members and commissioners required to file Form 700 and all members of the city council. The City Manager shall review the Form 700 submitted by the City Clerk. The City Clerk shall review Form 700s of board members and commissioners.

(b) Not later than April 15th of each year the City Clerk shall scan the Form 700s of sitting city councilmembers, the Mayor, the City Administrator, and the City



Attorney and members of the Planning Commission and copy them into the City's official website. The City Clerk shall also scan all prior Form 700s of such persons retroactive to the beginning of their continuous term so that these required disclosures are readily available to the public for inspection.

### **2.60.270. Reporting Requirements for Lobbyists on Behalf of the City of Palm Springs**

(a) Any lobbyist on behalf of the City who is not a City employee but contracts for economic consideration with the City to represent the City in matters before any local, regional, state, or federal administrative or legislative body must file a report of his or her activities on behalf of the City of Palm Springs on a quarterly basis with the City Clerk's office. The quarterly report must be maintained by the City Clerk's office and must be fully-disclosed upon request. Each quarterly report must identify all financial expenditures by the lobbyist on behalf of the City, the individual or entity to which each expenditure was made, the date the expenditure was made, and specifically identify the local, state, regional or national legislative or administrative action the lobbyist supported or opposed in making the expenditure on behalf of the City. The failure to file a quarterly report with the required disclosures will be a violation of this chapter.

(b) All contracts between the City and a lobbyist on behalf of the City must require the lobbyist to file a report with the City Clerk specifying the general nature of the issues he or she is trying to influence, compensation ranges received from his or her clients, all campaign contributions to elected City officials, all fundraising activities conducted on behalf of elected City officials, all contributions to political campaigns or charities made at the behest of City officials, all payments received for services as a consultant to the City (including as successor to the Redevelopment Agency), and any compensated work performed as a campaign consultant for any elected City official. The City may institute a registration fee established by the Sunshine Ordinance Commission.

(c) Funds of the City must not be used to support any lobbying efforts to restrict public access to records, information, or Meetings, except where such effort is solely for the purpose of protecting the identity and privacy rights of private citizens.

### **2.60.280. Vacation Rentals Information.**

A section of the City's official website shall provide, in an easy to use format, detailed up-to-date information on Vacation Rentals, including the following:

(a) Vacation Rental hotline number and procedures, including the role of code enforcement;

(b) Statistics on registered Vacation Rentals, including:

- (1) Information on currently registered Vacation Rentals, such as a heat map showing relative concentrations of Vacation Rentals throughout the City, scaled so as to not reveal individual addresses;
  - (2) Chart showing monthly figures for the total number of registered Vacation Rentals for the five most recent full fiscal years and the current fiscal year;
  - (3) Table showing monthly year-over-year percentage change in total registered Vacation Rentals for the five most recent full fiscal years and the current fiscal year;
  - (4) Profile of registered Vacation Rentals (e.g., one to three bedrooms, four to six bedrooms, etc.) on a quarterly basis for the three most recent full fiscal years and the current fiscal year;
  - (5) Total transient occupancy tax collections from Vacation Rentals, with monthly figures for the five most recent full fiscal years and the current fiscal year, including the share of total transient occupancy tax attributable to Vacation Rentals.
- (c) Statistics on Hotline activity, including:
- (1) Total calls to the Hotline, with monthly figures for the five most recent full fiscal years and the current fiscal year;
  - (2) Chart plotting monthly figures for total Hotline calls for the five most recent full fiscal years and the current fiscal year;
  - (3) Table showing year-over-year percentage increase in total Hotline calls for each month for the five most recent full fiscal years and the current fiscal year;
  - (4) Monthly figures for the number of Vacation Rentals that were the subject of one or more Hotline calls for the five most recent full fiscal years and the current fiscal year.
- (d) Total citations issued concerning Vacation Rentals on a monthly basis for the five most recent full fiscal years and the current fiscal year in each of the following categories:
- (1) Issued to agents or representatives of the Owner for failure to respond in time;
  - (2) Issued to Owners for failure to respond in time;

- (3) Issued to Owners for failure to obtain a Vacation Rental Registration Certificate;
  - (4) Issued to Vacation Rental tenants for violations of the Palm Springs Municipal Code;
  - (5) Other (specify).
- (e) Properties sanctioned:
- (1) Monthly lists for the three most recent full fiscal years and the current fiscal year of Properties on the Property Watch List;
  - (2) Monthly lists for the three most recent full fiscal years and the current fiscal year of Vacation Rentals whose Vacation Rental Registration Certificates have been revoked or suspended pursuant to Section 5.25.090(c) of the Palm Springs Municipal Code.
- (f) Vacation Rental regulations, including the relevant provisions of the Palm Springs Municipal Code, Vacation Rental administrative regulations, procedures for obtaining a Vacation Rental Registration Certificate and penalties for violations by both registered and unregistered Vacation Rentals;
- (g) Information on support services provided by third parties to operate the Hotline and provide enforcement assistance to the City with respect to Vacation Rentals, including the City's contracts with such third parties, a description of their duties and responsibilities and procedures in place to monitor their performance;
- (h) Vacation Rental FAQ.

**2.60.290. Procurement and Contracting Information.**

A section of the City's official website shall provide, in an easy to use format, detailed up-to-date information on the City's procurement and contracting policies, including the following:

- (a) A summary of the City's procurement and contracting policies,
- (b) The City's goals and objectives in procurement transparency and effective contract monitoring, including its adopted best practices;
- (c) Online access to government procurement contracts; and
- (d) Transparency scorecards and ratings.

### **2.60.300. Prohibition of Ex Parte Communications**

(a) No Administrative Agency member, nor any interested person, shall intentionally conduct either of the following:

- (1) an ex parte communication.
- (2) An oral or written communication regarding a pending enforcement investigation that does not occur in a public hearing, workshop, or other official proceeding, or on the official record of the proceeding on the matter.

(b) (1) If an Administrative Agency member, or any interested person, conducts a communication that is in violation of subdivision (a), the Administrative Agency member shall fully disclose and make public the communication by providing a full report of the communication to the City Clerk within seven days after the communication or, if the communication occurs within seven days of the next Administrative Agency hearing, to the City Clerk in writing to be included on the record of the proceeding at that hearing.

(2) If an Administrative Agency member conducts a communication that is in violation of subdivision (a), he or she shall not vote on or otherwise participate in any proceeding of the Administrative Agency to which the communication applies.

(c) (1) The City Clerk shall adopt standard disclosure forms for reporting communications that are in violation of subdivision (a), which shall include, but not be limited to, all of the following information:

- (A) The date, time, and location of the communication.
- (B) (i) The identity of the person or persons initiating and the person or persons receiving the communication.  
  
(ii) The identity of the person on whose behalf the communication was made.  
  
(iii) The identity of all persons present during the communication.
- (C) A complete, comprehensive description of the content of the communication, including a complete set of all text and graphic material that was part of the communication.

(2) The City Clerk shall place in the public record and on the City's website any report made pursuant to this section.

(d) The provisions of this section shall also apply mutatis mutandis once the appeal has been filed to city council members when hearing appeals pursuant to Chapter 2.05 of the Palm Springs Municipal Code, to Administrative Appeals Board members when hearing appeals pursuant to Chapter 2.50 of the Palm Springs Municipal Code, and to any interested person in connection with such appeals.

## **Article VI. Palm Springs Transparency Commission.**

### **2.60.310. Creation.**

There is created within the city of Palm Springs the Transparency Commission, consisting of up to eleven members, appointed by the city council, to serve at the pleasure of the city council. All members of the Transparency Commission must have experience and/or demonstrated interest in the issues of citizen access and participation in local government.

### **2.60.320. Term; Vacancies; Vote.**

(a) Members of the commission shall serve for the term provided by Chapter 2.06 of the Palm Springs Municipal Code, except that in order to ensure a stagger of appointees, the initial appointments shall be for staggered terms as determined by the City Clerk. The initial members shall be selected from among the members of the Ethics, Transparency & Governmental Reform Task Force.

(b) A vacancy in the commission shall not impair the right of the remaining members to exercise the powers of the commission pursuant to this chapter. A majority of the existing appointed members of the commission shall constitute a quorum for the transaction of business, and any ruling, decision or other action of the commission may be taken by a majority of those members present, provided a quorum is present.

### **2.60.330. Officers.**

The commission, at its organizational Meeting and annually thereafter, shall elect from its membership a chair and vice-chair. The chair and vice-chair shall have and perform such duties as are commonly associated with their respective titles. The City Manager may appoint an executive secretary and other staff, and provide compensation for their services as may be authorized by the city council.

### **2.60.340. Meetings; Rules of Procedure.**

The commission shall meet at least once each month at such time and place as shall be fixed by the commission by its standing rules. The commission may establish such rules and regulations as it deems necessary for the conduct of its business. In matters relating to the holding of regular and special Meetings, the commission and any standing committee of the commission is bound by the provisions of the Ralph M. Brown Act of the State of California (Government Code Sections 54950 et. seq.) and Article II of this chapter.

### **2.60.350. Powers and Duties of the Commission.**

Within the limitations provided by law and this chapter, the Transparency Commission shall have the following powers and duties:

- (a) Establish a schedule of regular Meeting times;
- (b) Advise, assist, and make recommendations to the city council regarding appropriate ways to implement the Sunshine Ordinance;
- (c) Hear and decide complaints by any person concerning alleged non-compliance with the Sunshine Ordinance;
- (d) Consider ways to informally resolve those complaints and make recommendations to the city council and City Attorney regarding such complaints;
- (e) Develop goals to ensure practical and timely implementation of the Sunshine Ordinance;
- (f) Report in writing to the city council at least once annually on any practical or policy problems encountered in the administration of the Sunshine Ordinance;
- (g) From time to time as the commission sees fit, issue public reports evaluating compliance with the Sunshine Ordinance by the City or any department, office, or official thereof;
- (h) Review the Sunshine Ordinance every year and recommend updates to the city council to take account of developing legislation and best practices;
- (i) Perform such other duties as the city council may assign or designate.

SECTION 2. If any section or provision of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, or contravened by reason of any preemptive legislation, the remaining sections and/or provisions of this Ordinance shall remain valid. The city council hereby declares that it would have adopted this Ordinance, and each section or provision thereof, regardless of the fact that any one or more section(s) or provision(s) may be declared invalid or unconstitutional or contravened via legislation.

SECTION 3. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance shall take effect thirty (30) days after passage.

## **Attachment 2**

### **Coachella Valley City Councils Public Comment Rules**

#### **Cathedral City:**

Public comment on non-agenda items occurs at the beginning of the meeting. Public comment on agenda items occurs when that item is taken up. The time limit is 3 minutes per speaker.

#### **Coachella:**

It appears that public comment on agenda items occurs when that item is taken up. Public comment on non-agenda items occurs near the end of the meeting. The time limit is 3 minutes per speaker.

#### **Desert Hot Springs:**

It appears that public comment on agenda items occurs when that item is taken up. Public comment on non-agenda items occurs at the beginning of the meeting. The time limit is 3 minutes per speaker.

#### **Indian Wells:**

Public comment on agenda items occurs when that item is taken up. Public comment on non-agenda items occurs at the beginning of the meeting. The time limit is 3 minutes per speaker.

#### **Indio:**

It appears that public comment on agenda items occurs when that item is taken up. Public comment on non-agenda items occurs near the end of the meeting. There does not appear to be a fixed time limit.

#### **La Quinta:**

Public comment on agenda items occurs when that item is taken up. Public comment on non-agenda items occurs at the beginning of the meeting. There does not appear to be a fixed time limit.

#### **Palm Desert:**

Each meeting of the City Council contains a place on its agenda for Oral Communications. This is the time when persons may address the City Council regarding matters that are not on that agenda. Comments are also welcomed for items on the agenda that are not scheduled for public hearing. These comments may, at the pleasure of the City Council, be deferred until the point of the meeting where the item is being considered. Remarks shall be limited to a maximum of three minutes unless

additional time is granted by the City Council. Based on a review of a recording of a Palm Desert City Council meeting, the Council exercises this option and in practice public comment occurs when the agenda item is being considered.

**Rancho Mirage:**

Citizen participation is invited at all Council meetings. To ensure that all Rancho Mirage residents have an opportunity to be heard before the City Council, a Public Comment period is included on every agenda. Comments on matters not on the agenda will be heard during the Public Comment period. Citizens are invited to speak on any item listed on the agenda prior to City Council vote.



# ELECTION REFORM

## Election Reform Subcommittee Proposals

The Election Reform Subcommittee has discussed a range of potential reforms to the structure of government, the electoral process, and efforts to improve political engagement in Palm Springs. At present, two proposals have emerged with sufficient consensus to present to the full Task Force for consideration: (1) a proposal to transition the Mayor to a rotating position rather than one that is independently elected, and (2) a proposal to impose a limit of two consecutive terms for City Council Members. The first proposal has the unanimous support of our subcommittee. The second proposal is offered without dissent but with varying levels of enthusiasm among our members. The subcommittee discussed a range of other possible reforms, some of which we have mentioned at earlier Task Force meetings, but none is ready to present to the full group.

### **(1) Transitioning the Mayor to a Rotating Rather than an Independently Elected Position**

- The Palm Springs City Council shall have five co-equal Members.
- At a designated time each year following the day when new Council Members would take office, the Council shall convene to select a Mayor from among themselves for a term of one year.
- The Mayor shall be selected by a simple majority vote of the Council. The Council shall provide for a procedure for subsequent rounds of voting in the event that no Council Member receives a majority of votes on the first round.
- If, for any reason, the Council is unable to meet at the designated time to select a new Mayor, or if any other circumstances arise that would result in the term of the current Mayor expiring without another Mayor being chosen, then the current Mayor shall continue serving in that capacity until such time as the Council can convene and select a Mayor.
- The duties of the Mayor shall remain unchanged. Those duties shall remain ceremonial in nature, and the Mayor shall continue to preside at Council meetings and to have a co-equal voice and vote in Council deliberations.
- Selection or non-selection as Mayor shall have no impact whatsoever on a Council Member's term in office.

- These revisions shall take effect following the natural end of the current term of the present Mayor and shall be carried into effect in the election conducted in that year.
- If the present Mayor leaves office for any reason prior to the natural end of his current term, these changes shall take effect immediately. In that event, the empty Council seat shall be filled in a manner appropriate for a Council vacancy and the Council shall convene promptly to select a Mayor in the manner described above who shall serve until the next scheduled time for selection of a Mayor in the ordinary course.

**(2) Consecutive Term Limits**

- Palm Springs City Council Members shall be limited to two consecutive terms in office.
- There shall be no lifetime term limits on service as a Council Member.
- When a former Council Member is out of office for a period of at least four years, his or her limitation on consecutive service shall reset to zero.
- If a Council Member is elected to a term in a regular election that term shall count against the limitation on consecutive service without regard to how much of the term the Council Member actually serves.
- If a Council Member is appointed to office as a result of a vacancy, that appointive term shall count against the limitation on consecutive service if, but only if, the Council Member serves two years or more in that term.
- No person shall be appointed to fill a vacant position on City Council if that person would be ineligible to be elected to the office under these limitations on consecutive terms.
- Service as Mayor shall have no effect whatsoever on these limits on consecutive terms in office. There shall be no limitation on the number of times that a Council Member may serve as Mayor.
- These revisions shall take effect immediately. For purposes of these revisions, all current Council Members and the current Mayor shall be deemed to be in their first term in office as a Council Member.

## **Election Reform Subcommittee Proposals**

The Election Reform Subcommittee discussed a range of potential reforms to the structure of government, the electoral process, and efforts to improve political engagement in Palm Springs. Two proposals emerged with sufficient consensus to present for consideration: (1) a proposal to transition the Mayor to a rotating position rather than one that is independently elected, and (2) a proposal to impose a limit of two consecutive terms for City Council Members.

### **Transitioning the Mayor to a Rotating Rather than an Independently Elected Position**

The position of Mayor in Palm Springs is a hybrid. The Mayor is independently elected, but his independent duties are purely ceremonial in nature: he presides over meetings of the Council and makes public appearances for the city but otherwise has no executive authority and functions as nothing more than an equal member of the Council with an equal vote. This hybrid approach is undesirable. It creates the appearance of authority without the mechanisms for transparency and accountability that accompany real executive power. The Election Reform Subcommittee therefore recommends that Palm Springs transition the Mayor to a rotating position among City Council Members.

Among other cities in the Coachella Valley, a rotating mayor is the dominant model. Banning, Beaumont, Desert Hot Springs, Indian Wells, Indio, Palm Desert and Rancho Mirage all have some form of rotating mayor selected from members of their respective city councils. (Most cities appoint the mayor through a vote of council members and mayoral terms vary between one and two years.) Cathedral City has an independently elected weak mayor, but the city has proposed a charter amendment to move to a rotating position. Coachella is the outlier with an independently elected weak mayor system, which it adopted through a 2004 charter amendment.

The subcommittee proposes an amendment to the city charter that would transition Palm Springs to a rotating mayor system as follows.

- The Palm Springs City Council shall have five co-equal Members.
- At a designated time every two years following the day when new Council Members would take office following a regular election, the Council shall convene to select a Mayor from among themselves for a term of two years.
- The Mayor shall be selected by a simple majority vote of the Council. The Council shall provide for a procedure for subsequent rounds of voting in the event that no Council Member receives a majority of votes on the first round.
- If, for any reason, the Council is unable to meet at the designated time to select a new Mayor, or if any other circumstances arise that would result in the term of

the current Mayor expiring without another Mayor being chosen, then the current Mayor shall continue serving in that capacity until such time as the Council can convene and select a new Mayor.

- The duties of the Mayor shall remain unchanged. Those duties shall remain ceremonial in nature, and the Mayor shall continue to preside at Council meetings and have a co-equal voice and vote in Council deliberations.
- Selection or non-selection as Mayor shall have no impact whatsoever on a Council Member's term in office.
- These revisions shall take effect following the natural end of the current term of the present Mayor and shall be carried into effect in the election conducted in that year.
- If the present Mayor leaves office for any reason prior to the natural end of his current term, these changes shall take effect immediately. In that event, the empty Council seat shall be filled in a manner appropriate for a Council vacancy and the Council shall convene promptly to select a Mayor in the manner described above who shall serve until the next scheduled time for selection of a Mayor in the ordinary course.

### **Consecutive Term Limits**

Unlike the proposal to transition Palm Springs to a rotating mayor system, the proposal for consecutive term limits would make Palm Springs a partial outlier in the Coachella Valley. At present only Indio has consecutive term limits, which require city council members who have served two full terms to leave office for a period of two years before running for office again. The subcommittee discussed the issue at length and recognized the potential downsides to even a modest form of term limits — primarily, the possibility that lobbyists and managers will become more empowered when legislators have less experience and shorter tenures, leading to the risk that city government will be vulnerable to capture by special interests. But the subcommittee views that risk as minimal in a small and vibrant city like Palm Springs with high levels of social cohesion and civic engagement. The proposal to impose consecutive term limits but no lifetime limits will enable dedicated and motivated City Council Members to run for office again after serving two terms following a short hiatus while reducing the benefits of incumbency and creating greater opportunities and incentives for new people to run for office.

The subcommittee therefore proposes an amendment to the city charter that would implement consecutive term limits for the Palm Springs City Council. We have framed this proposal on the assumption that the city will transition to a rotating mayor system. In the event that the city chooses to implement consecutive term limits but not

a transition to a rotating mayor system, then this proposal for consecutive term limits should be modified to apply to the Mayor as well.

- Palm Springs City Council Members shall be limited to two consecutive terms in office.
- There shall be no lifetime term limits on service as a Council Member.
- When a former Council Member is out of office for a period of at least four years, his or her limitation on consecutive service shall reset to zero.
- If a Council Member is elected to a term in a regular election that term shall count against the limitation on consecutive service without regard to how much of the term the Council Member actually serves.
- If a Council Member is appointed to office as a result of a vacancy, that appointive term shall count against the limitation on consecutive service if, but only if, the Council Member serves two years or more in that term.
- No person shall be appointed to fill a vacant position on City Council if that person would be ineligible to be elected to the office under these limitations on consecutive terms.
- Service as Mayor shall have no affect whatsoever on these limits on consecutive terms in office. There shall be no limitation on the number of times that a Council Member may serve as Mayor.
- These revisions shall take effect immediately. For purposes of these revisions, all current Council Members and the current Mayor shall be deemed to be in their first term in office as a Council Member.

# Campaign Finance

## Summary

A majority of the sub-committee unfortunately cannot recommend any campaign finance reforms at this time. Due to decisions of the United States Supreme Court that allows unlimited campaign spending by corporations and other outside and special interests (“dark money”), as well as decisions that prevent any limitation on how much a candidate may spend of their own money, we are stymied in our unanimous desire to enact meaningful reform.

That said, we did want to bring forward to possible ordinances that one member of the committee support despite the above concerns. The first draft ordinance, authored by Roger Tansey, would ban contributions from those doing business - or those negotiating to do business - with the City.<sup>1</sup> The second, authored by Ms. Garcia-Colson, would limit political contributions from any one donor to no more than \$1,000 per candidate in an election cycle.

## Report

We have been tasked with making recommendations to the City Council of Palm Springs in the area of campaign finance reform. All three of us strongly decry the influence of money in politics. We fear that, when council candidates must now raise hundreds of thousands of dollars, the best candidate may not always win, but simply the one with the most money, the wealthiest donors, or those who self-finance.

Regarding money in local politics, there would appear to be four options: 1) public financing of local campaigns; 2) do nothing; 3) adopt limitations of the sort drafted here; or 4) adopt limitations which sunset after several election cycles. With misgivings, we recommend number two.

We recognize that public financing is not currently feasible, but that would be our preference. While we would like to limit all political campaign contributions or limit all contributions to elected officials by those who also have business pending before those same officials, we legally cannot.

This is because of the 2010 Supreme Court case of *Citizens United*, 558 U.S. 310 (2010) which overturned bans on independent expenditures. While campaign contributions directly to a campaign can be limited, independent expenditures cannot.

Independent expenditures can be defined as expenditures against or in support of a candidate that are made independently of the campaign. These are the expenditures that PACs make for or against a candidate. Because of *Citizens United*, these expenditures, also known as dark money, cannot legally be limited nor are the

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<sup>1</sup> This draft ordinance was loosely based upon SEC. 1.126. Contribution Limits – Contractors Doing Business With the City from the San Francisco Ethics Code.

donors necessarily known. Since 2010, the explosion of dark money in politics has been well documented.<sup>2</sup>

Our misgivings in recommending limitations on campaign contributions arise because individuals could simply funnel large sums of money into a local PAC. While we abhor the large sums of money being spent locally, at present, the public is at least able to know who is spending the money. This is not necessarily the case with independent expenditures, and we fear that such contributions could simply be driven underground through the creation of a local PAC, the donors to which could simply remain hidden.

We are not aware of any local PACs that have spent money locally to influence a race. But our research, which, in addition to the studies above, consisted of discussions with officials from cities that have enacted such bans, is that that is precisely what has happened.

But we also fear doing nothing. Doing nothing may inhibit potential candidates without personal resources or connections to wealthy donors from running for council. Rightly or wrongly, the amounts of money now needed to run in local races raise the perception among the public of a government of, by, and for the rich. The ongoing FBI investigation of the former Mayor's financial ties to developers furthers the public perception of public corruption. This perception may only be heightened should the City do nothing.

Although we dislike the idea of doing nothing, two members of our sub-committee (Roger Tansey and Chris Heritage) also fear taking action that has proven counter-productive in other jurisdictions. Our concern is of letting the genie out of the bottle. If the City enacts ordinances that create dark money, then sun setting the ordinances does not stop the dark money. In short, the City may actually create precisely that which we hope to prevent.

The third member of our sub-committee, Joane Garcia Colson, recommends enacting the two ordinances with sunset provisions in the hope that dark money does not become a problem.

Faced with the current legal landscape, we attach two proposed ordinances to limit direct campaign contributions. We must emphasize again that while these ordinances would limit publicly known contributions, they would not necessarily limit or ban all contributions. Should a local PAC be set up, the public simply would not know about them.

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<sup>2</sup> See, e.g., *Independent expenditures 101: An introduction to outside spending in state races*, (Los Angeles Times May 30, 2016), located online at: <http://www.latimes.com/politics/la-pol-sac-qa-independent-spending-20160530-snap-story.html>; *Independent Expenditures: The New Money in California Politics*, Mike Polyakov, Peter Counts, and Kevin Yin (California Common Sense, 2012), located online at: [uscommonsense.org/pdf/21.pdf?cacs\\_redirect=True](http://uscommonsense.org/pdf/21.pdf?cacs_redirect=True).

## **Summary of Draft Ban on Contractor Contributions**

This draft ordinance prohibits those with \$10,000 or more in business dealings with the City from making campaign contributions to elected officials or their campaign committees. This ordinance also prohibits such contributions to candidates or their campaign committees for elected office in the City.

Subsection (b) applies this prohibition to Contractors. The prohibition applies when the negotiations for any contract with the City begin, and ends when such negotiations cease or 12 months after the contract was approved. In the case of a grant from the City, the prohibition ends when the grantee has fully performed under the grant terms. In the case of a loan, this prohibition ends when the loan has been fully paid back; or, if a loan guarantee, the City is no longer a guarantor thereunder.

Subsection (c) applies this prohibition to city officials.

Subsection (d) makes a knowing violation by either a Contractor or City Official a misdemeanor, punishable by up to 364 days in the county jail and a fine of up to ONE THOUSAND DOLLARS (\$1,000.00) or 1% of the contract value, whichever is greater.

Subsection (e)(1) requires the filing of an acknowledgement within 5 business days of the commencement of negotiations by any contractor with the City Clerk that the contractor understands this prohibition.

Subsection (e)(2) requires a City Official to file notice with the City Clerk within 5 business days of the approval of any City Contract.



**SEC. X.xx. PROHIBITION ON CAMPAIGN CONTRIBUTIONS BY THOSE DOING BUSINESS WITH THE CITY.**

(a) **Definitions.** For purposes of this Section, the following words and phrases shall mean:

(1) "**Contractor**" includes any party or prospective party to a contract, as well any member of that party's board of directors, its chairperson, chief executive officer, chief financial officer, chief operating officer, any person with an ownership interest of more than 5 percent in the party, and any subcontractor listed in a bid or contract. Contractor shall also include the spouse of any Contractor.

(2) "**City Official** or **Official**" means any elected official of the City of Palm Springs.

(3) "**Contract**" means any agreement or contract, including any amendment or modification thereto, with the City of Palm Springs concerning:

- (A) the rendition of personal services;
- (B) the furnishing of any material, supplies or equipment;
- (C) the sale or lease of any land or building; or
- (D) any grant, loan or loan guarantee.

(4) "**Board on which an Official serves**" means the board to which the Officer was elected and any other board on which the City Official serves.

(5) "**Candidate committee**" shall mean a committee controlled by a candidate, and primarily formed to support that candidate's election for City elective office.

(b) **Prohibition on Contributions by Contractor.** If a Contract has a total anticipated or actual value of \$10,000.00 or more, (or a combination or series of such agreements or contracts approved by that same individual or board have a value of \$10,000.00 or more in a fiscal year of the City), no Contractor with the City of Palm Springs shall make any contribution to:

- (1) A City Official or his or her candidate committee if the contract must be approved by such Official or the board on which that Official serves
- (2) A candidate for any office held by an Official
- (3) A candidate committee
- (4) This prohibition on contributions by Contractors lasts from the commencement of negotiations for such Contract until the later of:
  - (A) The termination of negotiations for such Contract; or
  - (B) Twelve months from the date the Contract is approved. (For the purpose of this section, a Contract shall be deemed approved when a resolution to approve the Contract is formally submitted to the City Council); or

(C) If the Contract concerns a grant, the conditions of the grant contract have been fully performed by the Contractor; in the case of a loan, the loan has been fully paid back; or if a loan guarantee, the City is no longer a guarantor thereunder.

(c) **Prohibition on Receipt of Contribution by City Officials.** No City Official or his or her candidate committee shall solicit or accept any contribution prohibited by subsection (b) at any time from the formal submission of the contract to the Official until:

- 1) The termination of negotiations for the contract; or
- 2) twelve months have elapsed from the date the Contract is approved; or
- 3) If the Contract concerns a grant, the conditions of the grant contract have been fully performed by the Contractor; in the case of a loan, the loan has been fully paid back; or if a loan guarantee, the City is no longer a guarantor thereunder.

(d) **Penalties.** Any Contractor or City Official who knowingly violates this section shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of up to one thousand dollars or by one per cent of the value of the contract, whichever is greater, imprisonment in the County Jail for up to 364 days, or by both fine and imprisonment. In addition to any other penalty, each City Official or committee that receives a contribution prohibited by subsection (c) shall pay promptly the amount received to the City of Palm Springs for deposit in the General Fund of the City.

(e) **Notification.**

**(1) Prospective Parties to Contracts.**

All Contractors shall be informed of the prohibition in Subsection (b) at the commencement of negotiations and shall file with the City Clerk, within five business days of such commencement, on a form adopted by the City Clerk, an acknowledgment of receipt of the prohibition on contributions as described in (b) and the Contractor's agreement to abide thereby. The filing of this acknowledgment creates a presumption that any Contractor has knowledge of the Contract or negotiations therefor.

**(2) Individuals Who Hold City Elective Office.** Every City Official shall, within five business days of the approval of a contract by the Officer or a board on which the Officer serves, file with the City Clerk, on a form adopted by the City Clerk, of each Contract approved by the Official or the board on which the Official serves. A City Official need not file the form required by this subsection if the Clerk or Secretary of a Board on which the Official serves has filed the form on behalf of the board.

## **Draft Ordinance to Limit Political Campaign Contributions**

- Purpose

The purpose of this chapter is to establish limits on the amounts of money that may be contributed to political campaigns in municipal elections for Palm Springs City Council or any other elected office of the City of Palm Springs. It is the intent of this Chapter to

address the perception that unregulated campaign contributions lead to improper influence over elected officials and to establish realistic, narrowly tailored and enforceable limits on the amounts which may be contributed to political campaigns consistent with right of political expression protected by the United States Constitution.

- Monetary contributions to political campaigns are a legitimate form of participation in the American political process, but the financial strength of certain individuals or organization should not permit them to exercise a disproportionate or controlling influence on the election of candidates.
- The rapidly increasing costs of political campaigns have forced many candidates to raise larger and larger percentages of money from interested groups with a specific financial stake in matters before the City governmental bodies. This has caused the public perception that votes are being improperly influenced by monetary contributions. This perception is undermining the credibility and integrity of the governmental process.
- Officeholders and candidates are responding to high campaign costs by raising ever-increasing amounts of money. This fundraising distracts public officeholders from important public matters and encourages contributions which may have the appearance of a corrupting influence.
- High campaign costs discourage community members from running for public office because newcomers to the political process may lack access to the financial resources necessary to wage effective campaigns.
- Limiting campaign contributions helps ensure equal opportunities for all candidates, promotes diversity among candidates and strengthens the community's trust that their government is representative.
- Limiting contributions to candidates and committees, to the full extent allowed by law, helps promote participation in government and trust that the democratic process is not subverted by affluent special interest groups.
- Powerful special interests in Palm Springs have, in past elections, sought to use their wealth to dominate election results.

- Palm Springs can best preserve its sense of community, safeguard its local democracy, and effectuate its commitment to fair public process by limiting all campaign contributions.

- By enacting this Chapter, the City Council seeks: to ensure that individuals and interest groups in our society have a fair and equal opportunity to participate in the elective and governmental processes; to reduce the influence of large contributions with a specific financial stake in matters before City governmental bodies; to curtail overall expenditures in campaigns; to reduce the excessive fundraising advantage of incumbents and thus encourage competition for elective office; to improve the disclosure of contribution sources in reasonable and effective ways; and to help restore public trust in governmental and electoral institutions.

The City Council finds that the establishment of campaign contribution limits is authorized by Section 10202 of the California Elections Code and Section 81013 of the California Government Code.

The Council further finds that the limit imposed herein is not so low as to infringe on candidates' ability to communicate with the voters.

- **Definitions**

Unless a word or phrase is specifically defined in this Chapter, the definitions set forth in the Political Reform Act of 1974, as amended (California Government Code Sections 81000 *et seq.*) shall govern the interpretation of this Chapter. The following words and phrases shall have the meaning set forth below:

- **Candidate**

Any individual who has qualified to be listed on the ballot or who has solicited write-in votes on his or her behalf for election to the Palm Springs City Council or any other elected office of the City of Palm Springs, or who receives a contribution or makes an expenditure or gives consent for any other person to receive a contribution or to make an expenditure with a view to bringing about such person's election to such office, whether or not the specific elective office for which such person will seek election is known at the time the contribution is received or the expenditure is made, and whether or not such person has announced candidacy or filed a declaration of candidacy at such time. "Candidate" shall also include any office holder who is the subject of a recall petition. The word "candidate" shall include a candidate's controlled committee(s).

- **Election**

Any general or special election held to elect or remove a member of the Palm Springs City Council or any other elected office of the City of Palm Springs.

- **Organization**

Any corporation, association, partnership, committee, labor organization, political party or other similar legal entity or arrangement, whether organized for profit or not.

- **Person**

A natural born individual, as well as any organization.

- **Small Contributor Political Action Committee**

“Small contributor political action committee” means any committee which meets all of the following criteria:

- All of the contributions it receives from any person in a twelve-month period total fifty dollars or less.
- It has been in existence at least six months.
- It is not a candidate controlled committee.
- It received contributions from more than fifty persons.

(f) **Controlled Committee.** As defined in Government Code Section 82016, a committee that is controlled directly or indirectly by a candidate or State measure proponent or that acts jointly with a candidate, controlled committee, or State measure proponent in connection with the making of expenditures. A candidate or State measure proponent controls a committee if he or she, his or her agent, or any other committee he or she controls has a significant influence on the actions or decisions of the committee.

- **Contribution Limitations**

No person shall make to any candidate or to the controlled committee of such a candidate, a contribution or contributions that would cause the total amount contributed by such person to exceed one thousand dollars (\$1,000.00) for each election in which the candidate was on, is on, or is likely to be on the ballot or in which the candidate sought or seeks write-in votes. No candidate for City Council shall seek, solicit or accept a contribution from any person that would cause the total amount received from such person to exceed one thousand dollars (\$1,000.00) in connection with any single election.

The limitations imposed by this section shall be adjusted every five years, commencing on January 1, 2017, by an amount equal to the percentage change in the CPI-W Index for the Los Angeles/Riverside/Orange County area, as published by the United States Department of Labor, Bureau of Labor Statistics rounded to the nearest five dollars.

This section shall not apply to expenditures by a candidate of his or her own funds in support of his or her own campaign.

This section shall not be interpreted or applied to violate the right of association or the right to express views through expenditures. Rather, it is intended to be and shall be applied solely as a limit on campaign contributions to individuals and committees.

#### **1.1.4 Family Contributions**

For purposes of this section:

- Contributions by spouses or domestic partners shall be treated as separate contributions and shall not be aggregated.
- Contributions by children under the age of eighteen shall be attributed equally to each parent or guardian.

- **Return of Contributions**

Contributions shall not be considered to be received if it is not negotiated, deposited or utilized in a way and in addition if it is returned to the donor within ten days of receipt.

- **Loans**

A loan shall be considered a contribution from the maker(s) as well as the guarantor, if any, of the loan and shall be subject to the contribution limitations of this chapter.

Every loan to a candidate or committee shall be by written agreement and shall be filed with the candidate's or committee's campaign statement on which the loan is first reported.

A loan made to a candidate or committee by a commercial lending institution in the regular course of business on the same terms available to members of the public shall not be subject to the contribution limitations of this Chapter.

- **Election Cycle**

No person shall make a contribution to any candidate or any committee prior to the date that is twenty-four months before the election for which the contribution is made. No candidate for City Council or any committee shall solicit or accept a contribution from any person prior to the date that is twenty-four months before the election for which the contribution is made.

- **Campaign Accounts**

No candidate for City Council or committee shall expend contributions received in connection with a particular election on campaign expenses associated with a subsequent election. Campaign accounts of candidates elected to office in which there is a surplus following payment of campaign debts shall be re-designated as officeholder accounts and maintained in compliance with section 1.1.9. Any surplus funds beyond those permitted to be retained in an officeholder account shall be expended exclusively in compliance with Government Code Section 89515 or remitted to the City to be used for programs that enhance voter education and participation in elections. Candidates shall provide the City Clerk with documentary evidence that the balance in their campaign accounts complies with Section 1.1.9 within ten days of re-designation of the account as an officeholder account.

- **Officeholder Accounts**

Following the municipal election at which a candidate is elected or re-elected, the candidate's campaign account shall be re-designated as an officeholder account. No person shall make and no City Councilmember shall solicit or accept a

contribution directly into an officeholder account. An officeholder account shall not hold more than ten thousand dollars (\$10,000.00) at any one time. Funds in an officeholder account shall be used only for officeholder expenses associated with holding office in accordance with Sections 89512 through 89519 of the California Government Code, excluding that part of Subsection 89513(g) pertaining to loans to candidates, political parties or committees. Funds in an officeholder account shall not be used or expended: (a) in connection with an election of the City Councilmember or any other person for any elected office; (b) for campaign consulting, research, polling or similar services in connection with an election; (c) for membership dues in any athletic club or similar club or organization membership in which is primarily personal or social (but excluding membership in or contributions to community-serving or civic organizations); (d) as supplemental compensation for city employees for performance of an act that would be required or expected of that person in the regular course of his or her duties; or (e) for any expenditure that would violate the provisions of Government Code Sections 89506 and 89512 through 89515. Every City Council member who establishes and maintains an officeholder account shall file with the City Clerk a semi-annual report on a form provided the Clerk enumerating all deposits into the officeholder account and identifying all disbursements from the account more than one hundred dollars (\$100.00) by showing the payee, date, amount, person(s) whose expenses were reimbursed and purpose of each such disbursement. The council member shall retain all receipts, invoices and other documents documenting disbursements from the account.

- **Remedies for Violations**

In addition to any other remedy provided by law, the portion of any contribution that exceeds the maximum contribution permitted by this chapter shall be remitted to the City and used for programs that enhance voter education and participation in elections.



# COMMUNICATIONS

## Mission Statement

To provide the community with easy access to information, services, and programs and to engage our citizens through a spirit of transparency and the highest standard of ethics.

## Introduction

The committee has approached the following recommendations with an eye on the mission statement but also with the consideration that the City has limited budgetary and human resources.

We believe these recommendations are achievable actions that can produce immediate results and have the most impact. Through an optimized and comprehensive communications strategy, the City can provide all citizens with the shortest path to information, services, and programs.

## Four Main Areas of Focus

Community Interaction	Traditional Media
Broadcast Operations	Digital Media

## Community Interaction

1. Expand & Optimize ONE-PS
  - Synergize city sponsored events and community functions to foster ONE-PS participation and enrollment.
  - Explore media-friendly ONE-PS events and schedule regular speaking engagements for council members to speak at least once a month at schools, churches, senior groups, civic centers, etc.
  - Implement a ONE-PS instruction program for website navigation
2. Town Halls & Outreach
  - Schedule 4 town halls in underserved neighborhoods
  - Invite business leaders, clergy and residents to attend interactive meetings
  - More in-person outreach to community organizations
  - Booth at VillageFest where locals can meet the mayor and councilmembers
  - Liaison with Chamber of Commerce and Tourism Bureau
3. Encourage and Expand Feedback Opportunities
  - Suggestion boxes at key city locations. (This is a good PR story for local news.)

## **Traditional Media**

1. Stronger Local Media Presence
  - Coordinate regular press meetings and interviews with mayor, council and staff
  - Consider more radio presence; “Ask the Mayor”, listener call-ins, etc.
  - Review communication process with media. Is each getting what they need?
  - Strategic photo ops for mayor and council demonstrating concern for citizens
2. Barter Media Deals
  - Explore and negotiate trades for media buys.
  - Negotiate sponsorship/ad barter deals for city-run events
  - Schedule 4 town hall meetings a year for underserved neighborhoods.
3. Quarterly Desert Sun Insert
  - Reach residents who are not online or digitally connected
  - Utilize this ad space for key announcements of town halls, etc.
4. Direct Mail and Other Traditional Media
  - Negotiate with DWA or PSDS to include inserts in bill mailings
  - Post announcements and other key bulletins at social services offices, etc.
  - Revisit quarterly newsletter and distribute widely

## **Broadcast Operations**

1. Upgrade Broadcast Operations
  - Add cameras to better capture live presentation media and assets
  - Improve audio capture and mix
2. Closed Captioning (CC)
  - Budget (CC) for all online and TV broadcasts of council meetings
  - Consider Spanish (CC) and/or SAP feeds
3. Supply Time Warner with Program Schedule
  - Submit an EPG (Electronic Program Guide) Excel to Time Warner Cable
  - Will allow viewers to make appointment viewing and DVR recordings
4. Expand & Exploit Digital Distribution
  - Publish all video on YouTube
  - Research interactive / virtual town hall video technologies
  - Improve video playback functions and searchability on City’s website
  - Synergize with affiliates (ONE-PS, CoC, etc.) to include video links

## **Digital Media**

1. Represent City on Next Door
  - Create an “agency” profile on Next Door
  - Assign a city representative to publish key announcements/newsletter
  - Desert Water Agency and Police Department are current examples
2. Optimize Mobile Version of City’s Website
  - Foster engagement with “contesting” campaigns. Make it fun.
  - Need a more prominent link for emergency preparedness (quake, fire)
3. Leverage Social Media to Build Engagement & Participation
  - Create contests and games to build community interaction
  - Identify local youth influencers to get youth involved
  - Enlist key youth influencers to advise on Instagram strategy

## **Staffing**

The subcommittee recommends one PR staff position be added to shoulder the additional administrative and daily social media upkeep.

An assistant or junior level PR position with social media experience and strong administrative skills would be ideal for the additional workload.

## **Media Rollout Plan**

The subcommittee recommends a rollout plan to present the task force’s findings and build as much local and possibly national attention. This will further validate the city’s renewed effort towards ethics and transparency and demonstrate its ability and openness to work with the community. The rollout plan should include the following:

1. Press Release
  - Background on the task force (who, what, how, when)
  - Summary of the task force’s key recommendations
  - City’s plan and timeline to implement key findings
2. Media Campaign
  - Publish on Facebook, City website, and all social media (Next Door, etc.)
  - Press Conference for all news outlets. Explore wider coverage (nationality)
  - Photo opportunity of Mayor and Councilmember Kors with group chairs
  - Develop strategy to make the story newsworthy.
  - Remarks and speech by Mayor

## GRANTS

1. Change the Municipal Code that requires City Council to approve by simple majority a resolution adopting any program of grants, rebates or subsidies made to any for-profit or non-profit entity or individuals. The Authorizing Resolution would have to spell out the basics of the program including:

- The purpose and goals of the program
- The expected annual budget for the program and any methods to be used to alter the budget each year
- The time frame for submitting applications by the public
- Eligibility requirements for applicants
- Criteria for awarding grants/rebates/subsidies
- Roles of the City Staff, Grants Commission and City Council in making awards and requirements for dealing with conflicts of interest
- Reporting Requirements of awardees and plans for an annual review process of the program
- Requirements for public disclosure of the program, application processes, eligibility requirements, awards, criteria used and program results
- **MINORITY REPORT** – All grant programs should have a maximum 5 year sunset provision -- after the term of the program it would be reviewed by Council and amended, re-adopted or eliminated

Any grants/subsidies/rebates granted outside of one of the authorized programs would then have to be approved specifically by a 3/4's majority of City Council following public disclosure of the proposed item and analysis of the goals, impacts, and potential conflicts of the proposal.

2. Change the Municipal Code to create a Grants Commission along the following lines:

- Three or five members who are not council members or city staff, but named by majority vote of the council
- The primary goal of the Grants Commission is to provide oversight of the ongoing implementation of the requirement for Grant Program Resolutions through the following responsibilities:
- Any new Grant Program Resolution must be reviewed by the commission before adoption by the council to assess if it meets the requirements of
- Municipal Code. The commission could issue an advisory (i.e. non-binding)
- endorsement or non-endorsement
- Any program being re-adopted must be reviewed in similar fashion

- All annual assessments of all programs must be reviewed by the commission
- and the commission could draft resolutions calling for changes in programs or administration
- The Commission could also play some specific role in any program if the
- authorizing resolution requires that – i.e. recommending grant award amounts to City Council

In effect, the Grants Commission would be the watchdog on overall grants and serve as a check and balance on the City Council

3. Adopt the following four Grant Program Resolutions (proposed program descriptions follow)

**Special Events/Sponsorships**  
**Nonprofit Organization Capital and Equipment Expenditures**  
**Social and Human Services Grants**  
**Donations and Contributions Fund**

Note: Palm Springs' previous Transient Occupancy Tax (TOT) Rebate program would normally fall under the requirement for a Grant Program Resolution. However as no such program now exists or is there a desire on the part of the Council to establish one, no recommendation for a TOT Rebate program is included. Such a program resolution would need to be drafted once the parameters and goals of such a program are established.

4. Background: In developing these recommendations, the Subcommittee analyzed the current practice of Palm Springs in making grants, drew on its own expertise and reviewed the practices of a variety of similarly situated municipalities both within California and outside the state. Those included: Carmel, Indian Wells, Lake Tahoe, Long Beach, Los Angeles, Monterrey, Palm Beach (FL), Palo Alto, Palos Verdes, Santa Barbara, Santa Fe (NM), Telluride (CO), and Riverside County.
5. Conflicts of interest: The Subcommittee conducted research into best practices in defining and declaring conflicts of interest. The California Fair Political Practices Commission (CFPPC) has an existing rule (<http://www.fppc.ca.gov/learn/conflicts-of-interest-rules.html>) which defines conflicts of interests as matters with direct financial implications for the elected/appointed official, including transactions that should disqualify an official from participating in or influencing a decision. Revisions to the existing conflict of interest policy regarding these decisions should be made consistently with recommendations from the Ethics Subcommittee of this Task Force and with guidance issued by CFPPC for adopting and amending policies and procedures to manage conflicts of interest

[\(\(http://www.fppc.ca.gov/learn/rules-on-conflict-of-interest-codes/local-government-agencies-adopting-amending-coi.html\)\).](http://www.fppc.ca.gov/learn/rules-on-conflict-of-interest-codes/local-government-agencies-adopting-amending-coi.html)

### **Proposed Special Events/Sponsorships Grant Program**

The length of time for the program to exist

- As long as the City Council believes it is appropriate for the betterment of the City of Palm Springs, but the program must be explicitly re-authorized every five years following an assessment of its effectiveness.

Purpose and goals of the program

- To provide financial support to special events that provide social, recreational and cultural benefits to the City of Palm Springs or that attract visitors as well as residents and provide economic benefits to the citizens and City of Palm Springs.

Annual budget

- Approximately \$200,000-250,000;
- Council shall recommend an amount commensurate with the level of investment Council determines is appropriate for the fiscal year;

The time frame for submitting applications by the public

- Applications shall be due annually on or about April 1 each year

Eligibility criteria for applicants

- To be eligible, organizations must meet all the following criteria
- Organized as a CA not-for-profit corporation
- IRS 501(c)(3) recognition, if applicable
- The applicant must have no outstanding debt owed to the City of Palm Springs
- Organization must provide a copy of the independent auditor's report (if applicable) to the City of Palm Springs within 90 days of completion

Criteria for awarding grants

- All events must take place within the City of Palm Springs;
- All events must take place during the fiscal year they are funded;
- Funding from the City of Palm Springs may not exceed \$50,000 or 20% of the event, whichever is smaller
- The event is not financially dependent upon receiving the support of the City of Palm Springs
- The event is sponsored/hosted by a City of Palm Springs or Riverside County based not for profit organization
- Organizations may be funded only up to a five (5) year period.
- Documentation of all revenues and expenditures must be submitted to the City of Palm Springs within 60 days after the event is held.

- Recognition must be provided to the City of Palm Springs consistent with the organization's current donor recognition protocols;
- The event serves and promotes the City of Palm Springs to both its residents and visitors;
- The event plan includes a promotion/marketing plan, budget and performance measures, as appropriate;
- The event calls attention and promotes the City of Palm Springs as a desirable place to visit, work, play and do business

#### Roles of the City Staff and City Council in making awards and requirements for dealing with conflicts of interest

- City Staff
  - Publicize eligibility, anticipated award total, individual award limitations, and other pertinent information on website 45 days in advance of release of online application;
  - Establish scoring/evaluation criteria for awards and append to application;
  - Make application available on the City's website each year at least 60 days prior to application deadline;
  - Respond to inquiries from applicant organizations by publishing questions (verbatim) and answers on the City's website for the benefit of all applicants;
  - Create facility for electronic submission of applications;
  - Close application period at the published date and time;
  - Conduct initial review of received applications for completion and adherence to published criteria for eligibility;
  - Disqualify any incomplete applications or ineligible applicant organizations and retain list of disqualified applications for review by Council;
  - Provide Council with summary information for each application (including at a minimum, organization name, program name, short description of program, amount of request, purpose of request, depreciation period, and other pertinent application data) as well as full applications eligible for consideration;
  - Distribute criteria for scoring/evaluation to Council and/or Grants Committee;
  - Confirm any conflict(s) of interested declared by Council;
  - Investigate applicant organizations' lists detailing boards of directors and advisory board members for Council and/or Grants Committee members;
  - Circulate list of conflict(s) of interest disclosed and discovered with grant applications;
  - Establish participation criteria and distribute to Council and/or Grants Committee;
  - Facilitate discussion among Council and/or Grants Committee making decisions for awards;
  - Confirm individuals with conflict(s) of interest are recused as appropriate;
  - Document score/evaluation outcome of each application reviewed;
  - Notify organizations awarded in writing, along with reminder of all required documentation to be submitted to City;
  - Collect all required documentation from awarded organizations;

- Review documentation of expenditures to verify eligibility and compliance with grant program requirements:
- If ineligible, require repayment of disallowed amount from organization; retain documentation in accordance with City's document retention and destruction schedule.
- If eligible, indicate compliance in organization file; retain all documentation in accordance with the City's document retention and destruction schedule.
  
- Council
  - Establish criteria for selecting members of Grants Committee, if determination is made to do so;
  - Announce Grants Committee criteria, application requirements, and due dates on City website;
  - Collect and review applications for Grants Committee;
  - Select Grants Committee and notify those selected;
  - Establish date for evaluation meeting within 45 days of application close;
  - Review applications in advance of deliberation;
  - Declare any conflict(s) of interest in advance of deliberation to City Staff and recuse self from discussion of application(s) affected;
  - Agree to be recused if City Staff discover conflict(s) of interest not disclosed;
  - Participate in discussions for evaluating applications (barring any conflicts addressed above) and decision-making as determined by City Staff;
  - Surrender any printed documents from applications to City Staff for destruction at close of deliberation.

Reporting Requirements of awardees and plans for an annual review process of the program

- Final accounting of all revenues and expenditures of the event must be submitted within 90 days after the event was held;

Requirements for public disclosure of the program, application processes, eligibility requirements, awards, criteria used and program results

- Application, eligibility requirements, and responses to questions to be published on the City's website;
- Evaluation criteria to be appended to application;
- Awards to be made public on City's website within reasonable time period following determination;
- Results of evaluation/scoring to be made available upon request to organizations applying for awards;
- Results of evaluation/scoring to be made available upon Open Records Request for all eligible applications.



## **Proposed Social and Human Services Grants**

### Purpose and Goals of the Program

Funding of services provided by non-profit organizations to meet the needs of disadvantaged residents of Palm Springs will be awarded through a competitive request for proposals (RFP) process.

### Timeframe for Submitting Applications and Annual Budget

The City Council will determine the amount of funds available, the range of grant award amounts and the estimated number of grants to be awarded as part of advertising availability of funding and request for proposals. The City Council will decide to prioritize human needs (homeless, delinquency prevention, service for the elderly, etc.) or solicit proposals for all needs that can be documented by applicants.

### Application Procedures

An application form (RFP) will be developed and advertised by the City. RFPs will have an opening and closing date for submission of proposals. The RFP will require applicants to provide an agency description, proposed project budget, all sources of revenue to fund the project, a detailed project description, a description of the need to be met, and a rationale that states the reasons the applicant is qualified and prepared to provide the needed services.

### Eligibility Requirements

Tax exempt under Section 501-c-3 of the U.S. Revenue Code

Services are provided primarily to residents of the City of Palm Springs.

City of Palm Springs is publically listed as a funding source in brochures, project descriptions, and other relevant materials.

Applicants will be required to obtain funding from other sources in addition to the City. Requested funding should be limited to a percentage of total project costs. The percentages for other funding sources and City share of costs should be determined by the City Council.

Grant awards will be limited to a percentage of the applicant's annual expenditures as reported in its most recent Form 990 tax return. The percentage should be determined by the City Council.

Priority consideration should be given to incubator projects; however other priorities such as emergency or temporary services responsive to human needs can be made a priority by the City Council if it is determined in the best interest of the City.

All applicants will be required to include a financial sustainability plan the will describe how the program can be implemented without City funding over a specified time period.

### Criteria for Selecting Recipients of Donations/Contribution

The City will develop proposal evaluation criteria that will be included in the RFP. City staff will conduct an initial review of applications to select only those applications that meet the RFP requirements (submitted by the deadline, required documentation attached, etc.). The City Council will designate the persons responsible for reading and scoring proposals according to the published evaluation criteria.

The City Council will select applicants and determine grant award amount based upon a review of the evaluation and other factors City Council members may determine are relevant, such as site visits, interviews, responses to requests for additional information, etc.

### Conflicts of Interest

Elected officials are required to disclose any compensation or financial interest they may have with a potential recipient of funding,

### Roles of the City Staff, Grants Commission and City Council in making awards and requirements for dealing with conflicts of interest

- City Staff
  - Publicize eligibility, anticipated award total, individual award limitations, and other pertinent information on website 45 days in advance of release of application;
  - Establish scoring/evaluation criteria for awards and append to application;
  - Make application available on the City's website each year at least 60 days prior to application deadline;
  - Respond to inquiries from applicant organizations by publishing questions (verbatim) and answers on the City's website for the benefit of all applicants;
  - Create facility for electronic submission of applications;
  - Close application period at the published date and time;
  - Conduct initial review of received applications for completion and adherence to published criteria for eligibility;
  - Disqualify any incomplete applications or ineligible applicant organizations and retain list of disqualified applications for review by Grants Commission and Council;
  - Review grantee close out reports (if any) to verify compliance with past requirements;
    - If ineligible, require repayment of disallowed amount from organization; retain documentation in accordance with City's document retention and destruction schedule.
    - If eligible, indicate compliance in organization file; retain all documentation in accordance with the City's document retention and destruction schedule.

- Provide Grants Commission and Council with summary information for each application (including at a minimum, organization name, program name, short description of program, amount of request, purpose of request, depreciation period, and other pertinent application data) as well as full applications eligible for consideration;
- Distribute criteria for scoring/evaluation to Council and Grants Commission;
- Confirm any conflict(s) of interested declared by Council or Grants Commission
- Investigate applicant organizations' lists detailing boards of directors and advisory board members for Council or Grants Commission members;
- Circulate list of conflict(s) of interest disclosed and discovered with grant applications;
- Establish participation criteria and distribute to Council and Grants Commission;
- Facilitate discussion among Council and Grants Commission making decisions for awards;
- Confirm individuals with conflict(s) of interest are recused as appropriate;
- Document score/evaluation outcome of each application reviewed;
- Notify organizations awarded in writing, along with reminder of all required documentation to be submitted to City;
- Collect all required documentation from awarded organizations;
- Review documentation of expenditures to verify eligibility and compliance with grant program requirements:
  - If ineligible, require repayment of disallowed amount from organization; retain documentation in accordance with City's document retention and destruction schedule.
  - If eligible, indicate compliance in organization file; retain all documentation in accordance with the City's document retention and destruction schedule.
- Grants Commission
  - Establish date for evaluation meeting within 45 days of application close;
  - Review applications in advance of deliberation;
  - Declare any conflict(s) of interest in advance of deliberation to City Staff and recuse self from discussion of application(s) affected;
  - Agree to be recused if City Staff discover conflict(s) of interest not disclosed;
  - Review qualified applications after screening by City Staff and recommend awards to City Council
  - Review the Social and Human Services Grants Program annually to assess it's adherence to these procedures
  - Surrender any printed documents from applications to City Staff for destruction at close of deliberation.
- Council
  - Establish date for evaluation meeting within 60 days of application close;

- Review applications in advance of deliberation;
- Declare any conflict(s) of interest in advance of deliberation to City Staff and recuse self from discussion of application(s) affected;
- Agree to be recused if City Staff discover conflict(s) of interest not disclosed;
- Participate in discussions for evaluating applications (barring any conflicts addressed above) and decision-making as determined by City Staff;
- Make decisions on awards to qualified applicants as determined by majority vote of the Council.
- Surrender any printed documents from applications to City Staff for destruction at close of deliberation.

### Reporting Requirements

At the end of the grant contract, grantees will be required to submit a close out report that describes the services provided; the number of service units provided; the number of persons served; and a line item description of funding expended or reimbursement by service unit, including both City funds and funds from other sources.

The recipient of funding is required to list the City of Palm Springs as a supporter of the event in literature or signage

### **Proposed Nonprofit Organization Capital and Equipment Expenditure Grant Program**

The length of time for the program to exist

- Up to 5 years - the program should be renewed or amended as needed by the City Council at the end of this period.

Purpose and goals of the program

- To fund capital expenditures or procurement of equipment by nonprofit organizations serving the citizens of Palm Springs.

Annual budget

- To be determined by the City Council on an annual basis. Council shall recommend an amount commensurate with the level of investment Council determines is appropriate for the fiscal year.

The time frame for submitting applications

- Applications shall be due annually on a timetable established by the City Council.

Eligibility criteria for applicants

- To be eligible, organizations must meet all the following criteria:
  - organized as a CA nonprofit corporation;
  - recognized as a 501(c)(3) nonprofit organization by IRS (determination letter to be submitted with application);

- offers programs and/or services that have a direct benefit to the citizens of Palm Springs;
- capital expenditure or equipment purchase may not be funded by another restricted source;
- funding from the City of Palm Springs may not exceed 100% of the cost of acquisition
- organization must provide at least 25% of total acquisition cost from other unrestricted sources;
- cost estimates from vendors should be current;
- proposed project must be completed within one (1) year of award date;
- capital improvement/construction projects require submission of a certified estimate by a qualified architect or licensed construction contractor and should conform to requirements of the Davis-Bacon Act and/or other prevailing federal or state legislation ensuring fair practices.

#### Criteria for awarding grants

- organizations may receive awards only once each 5-year period of the program;
- documentation of expenditure(s) and depreciation schedule must be submitted to the City of Palm Springs within 90 days of purchase or award, whichever is later;
- recognition must be provided to the City of Palm Springs consistent with the organization's current donor recognition protocols;
- awards may be limited to \$100,000 or 20% of the organization's annual operating budget, whichever is less;
- exceptions to funding limits may be approved upon a vote of the full City Council;
- organization must provide a copy of the independent auditor's report (if applicable) to the City of Palm Springs within 90 days of its completion.

#### Roles of the City Staff, Grants Commission, and City Council in making awards and requirements for dealing with conflicts of interest

- City Staff
  - Publicize eligibility, anticipated award total, individual award limitations, and other pertinent information on website 45 days in advance of release of application;
  - Establish scoring/evaluation criteria for awards and append to application;
  - Make application available on the City's website each year at least 60 days prior to application deadline;
  - Respond to inquiries from applicant organizations by publishing questions (verbatim) and answers on the City's website for the benefit of all applicants;
  - Create facility for electronic submission of applications;
  - Close application period at the published date and time;
  - Conduct initial review of received applications for completion and adherence to published criteria for eligibility;

- Disqualify any incomplete applications or ineligible applicant organizations and retain list of disqualified applications for review by Grants Commission and Council;
- Provide Grants Commission and Council with summary information for each application (including at a minimum, organization name, program name, short description of program, amount of request, purpose of request, depreciation period, and other pertinent application data) as well as full applications eligible for consideration;
  - Distribute criteria for scoring/evaluation to Council and Grants Commission;
  - Confirm any conflict(s) of interested declared by Council or Grants Commission
- Investigate applicant organizations' lists detailing boards of directors and/or advisory board members to determine if City Council or Grants Commission members serve in such capacity;
- Circulate list of conflict(s) of interest disclosed and discovered with grant applications;
  - Establish participation criteria and distribute to City Council and Grants Commission;
- Facilitate discussion among City Council and Grants Commission making decisions for awards;
  - Confirm individuals with conflict(s) of interest are recused as appropriate;
  - Document score/evaluation outcome of each application reviewed;
- Notify organizations awarded in writing, along with reminder of all required documentation to be submitted to City;
  - Collect all required documentation from awarded organizations;
- Review documentation of expenditures to verify eligibility and compliance with grant program requirements:
  - If ineligible, require repayment of disallowed amount from organization; retain documentation in accordance with City's document retention and destruction schedule.
  - If eligible, indicate compliance in organization file; retain all documentation in accordance with the City's document retention and destruction schedule.
- Grants Commission
  - Conduct annual review of the Capital and Equipment Grants Program annually to assess its adherence to established protocols;
  - Establish meeting date for application review and deliberation meeting within 45 days of application close;
  - Review applications in advance of deliberation;
  - Declare any conflict(s) of interest in advance of deliberation to City Staff and recuse self from discussion of application(s) affected;
  - Agree to be recused if City Staff discover conflict(s) of interest not disclosed;
  - Review qualified applications after screening by City Staff and recommend awards to City Council

- Surrender any printed documents from applications to City Staff for destruction at close of deliberation.
- City Council
  - Allocate financial resources for program each year during budget cycle;
  - Authorize Grants Commission, including eligibility criteria, application requirements, selection criteria, and terms of service concisely with other City Commissions;
  - Establish meeting date for application review and deliberation within 60 days of application close;
  - Review applications in advance of deliberation;
  - Declare any conflict(s) of interest in advance of deliberation to City Staff and recuse self from discussion of application(s) affected;
  - Agree to be recused if City Staff discover conflict(s) of interest not disclosed;
  - Participate in discussions for application review (barring any conflicts addressed above) and funding decisions;
  - Make awards to qualified applicants as determined by majority vote of the Council.
  - Surrender any printed documents from applications to City Staff for destruction at close of deliberation.

Reporting Requirements of awardees and plans for an annual review process of the program

- Source documents for expenditures, as outlined in application budget;
- Depreciation schedule of items purchased;
- Audit, if applicable, within 90 days of completion.

Requirements for public disclosure of the program, application processes, eligibility requirements, awards, criteria used, and program results

- Application, eligibility requirements, and responses to questions to be published on the City's website;
- Evaluation criteria to be appended to application;
- Awards to be made public on City's website within reasonable time period following determination;
- Results of evaluation/scoring to be made available upon request to organizations applying for awards;
- Results of evaluation/scoring to be made available upon Open Records Request for all eligible applications.

## **Proposed Donations and Contributions Fund**

Purpose and Goals of the Program

Our elected representatives are responsible for understanding the needs of the communities they serve. They should be empowered to provide support and

acknowledgement in the form of donations to those outstanding organizations they believe are making important contributions to protecting and preserving the welfare of the City.

The Mayor and each City Council Member will be provided a fund to purchase tickets or to fund raising events of non-profit organizations serving the City of Palm Springs. Each elected official will individually select the organizations to receive these contributions. Examples of such fund-raising events include receptions, charity auctions, banquets, golf tournaments, and fashion shows. Donations/contributions made by elected officials from this fund will be used to purchase admission tickets to the fund raising event, which elected officials can distribute using their own discretion.

#### Timeframe for Submitting Applications and Annual Budget

Each year the City of Palm Springs will determine the amount to allocate to the Donations and Contribution Fund. These funds will be divided equally among the Mayor and City Council Members. All disbursements shall be disclosed publically on a quarterly basis. The City Council will determine the maximum amount that can be contributed to any one organization.

#### Application Procedures

An application form is not required. Requests can be made at any time before the fund raising event. The request should be in the form of a letter on the agency's letterhead, addressed to the elected official. The letter should include a description of the fund raising event; the date and location of the event; the price of tickets; and the amount requested. Proof of tax-exempt status should be attached to the letter.

#### Eligibility Requirements

Tax exempt under Section 501-c-3 of the U.S. Revenue Code

The fund raising event is open to the public

City of Palm Springs is publically listed as a financial contributor to the event.

The applicant agency provides services that primarily benefit the citizens of the City of Palm Springs.

#### Criteria for Selecting Recipients of Donations/Contribution

The elected official determines that the donation/contribution provides a benefit to the City. All awards must meet the eligibility requirements.

Note: Elected officials may make donations and contributions to organizations that receive grant funding from any of Palm Springs' other grant programs as Contributions and Donations made under this grant program are exclusively at the discretion of the elected official.

#### Conflicts of Interest

Elected officials are required to disclose any compensation or financial interest they may have with a potential recipient of funding.



### Role of City Staff

Letters of request and proof on tax exempt status approved by the elected official shall be given to appropriate City staff for processing, including payment of funds.

### Reporting Requirements

Non-profit organizations that are recipients of funding are required to issue a receipt for the donation/contribution and implement the event that is supported by the contribution.

The recipient of funding is required to list the City of Palm Springs as a supporter of the event in literature or signage at the event.

All donations made under this program must be disclosed by the City on its web site on a quarterly basis, indicating the amount received, the recipient organization and the sponsoring elected official. Such information must remain on the city's web site until the elected official's term of office expires.

**MINORITY REPORT:** This program should not be adopted as it is inconsistent with the other recommendations of the grants committee. The contributions program operates with a different set of rules for decision-making and places one person in the position to use public dollars without accountability. Further, this program operates outside of the suggested changes to the City Charter, authorizing the Grants Commission to provide oversight of the programs described in these recommendations. This program provides unique opportunity for abuse of a Council Member's fiduciary responsibilities and circumvention of the City's conflict of interest policy and procedures.

# DIVERSITY/INCLUSIVENESS

## Introduction

As we in Palm Springs have addressed in 2016 issues of Ethics, Transparency and Government Reform, our nation has witnessed event after event that remind us of the importance Diversity and Inclusion in government. We have lost lives as both police officers and citizens of color have been targeted. We have seen immigrant communities become political targets. We have seen state legislatures pass laws targeting LGBT citizens. Communities of color and sexual minorities have an on-going history of mistrust in government.

We expect Palm Springs to be different. Our community includes scores of people who have specifically chosen to live in Palm Springs because of our diversity, our record of inclusion and the opportunity to give back within a welcoming community.

We have an obligation to ‘walk the talk’ -- to go the extra mile to insure that everyone feels welcome, that every neighborhood contributes and that our city government reflects the broad diversity of all the people that make Palm Springs home.

We are a city blessed with numerous residents who bring to Palm Springs a lifetime of world-class experience and achievement. Any city would be fortunate to fill its Boards and Commissioners from our pool of talent. But, we have an opportunity to do more – to use our talent to mentor, to use our commitment to equality to broaden our pool of applicants and to use our expertise to overcome barriers to involvement.

Diversity is the full range of human differences, including but not limited to race, ethnicity, gender, gender identity, sexual orientation, age, social class, physical ability or attributes, religious or ethical values system, national origin, and political beliefs.

Inclusion is involvement and empowerment, where the inherent worth and dignity of all people are recognized and utilized. An inclusive city promotes and sustains a sense of belonging; it values and practices respect for the talents, beliefs, backgrounds, and ways of living of its members.

## Recommendations

1. Hire or designate a Senior Staff person to oversee Diversity/Inclusiveness programs with responsibility to promote a diverse and inclusive representation in the city’s staff, Boards and Commissions.

2. Complete a full baseline assessment of the current diversity within our city's staff, Boards and Commissions
3. Develop outreach programs, including public service announcements, directed at under-represented groups within our city's staff, Boards and Commissions
4. Develop Internship and Mentoring programs
5. Broaden the posting of information about and applications Boards & Commissions to include social media, minority focused media, churches and social organizations that are used by under-represented groups
6. Each public body of city government should review its start time and duration of meetings with the goal of increasing the opportunity for public participation
7. Periodically hold City Council Public Forums and Commission Meetings in Neighborhoods.
8. Structure City Council/Commission Meetings so as to complete their work in no more than three hours.
9. Being a registered voter is the appropriate minimum measure of eligibility for Boards and Commissions.
10. Each Board and Commission should be tasked with assessing the need for inclusion of non-voting members representing important stakeholders that are ineligible to vote in Palm Springs (e.g., students, seasonal residents and non-citizens, including undocumented residents).
11. In assembling Task Forces to study issues, such as this one, we should be open to membership of all our residents.
12. In assessing community needs we should reach out to community organizations that are inclusive of both documented and undocumented residents.
13. In receiving public comment before our City Council or are Boards and Commissions we should make it possible for those who do not speak English to speak and to be understood.
14. For our City Council, Boards & Commissions Meetings -- where an English language broadcast is available; we should upon request make a Spanish language broadcast available.

### **Background Questions and Discussion**

1. **How do we drive change toward a more diverse/representative/inclusive Palm Springs government within its boards, commissions and city staff?**
  - a. Leadership
    - i. This pursuit would likely necessitate full-participation and citywide change. It would also require commitment by senior management/officials to articulate this change as an institutional value, with an accompanying willingness to, at least partially, dismantle existing system. Importantly, if buy-in is to be achieved, it is vital to avoid symbolic vs. actual substantive change.

- ii. Change agent: Consider assigning/hiring a Senior Staff person to oversee citywide program, assume role of program development and community liaison. Would likely benefit from a diverse team to assist in managing processes over time.

## **2. Change Management Considerations**

- a. Climate, Infrastructure, Challenges to Change and accompanying dialectic
  - i. Assess baseline level of Cultural Competency
  - ii. ID where models already exist within organization, their adequacy, deficiencies and what has/has not worked
  - iii. Identify obstacles to change, including organizational structures/systems
  - iv. Assess impact of change on existing organization and ways to mitigate associated problems
  - v. Create ongoing dialectic, thereby creating common ground
  - vi. Develop training to provide overview, benefits and address specific deficits
  - vii. Create time-line with interim opportunities/goals
  - viii. Determine if diversity will always be the primary goal or if some circumstances where not needed or appropriate, i.e. where SMEs take precedence over need for more diverse group
  - ix. Identify stakeholders and have goal of proportionate representation
  - x. Highlight benefits of inclusion as a generic value, as well as support for inclusion of specific groups/populations as an enriching benefit
  - xi. Identify why less participation of particular groups, and barriers to entry
- b. ID opportunities for change and what needs to be factored into implementation:
  - i. Identify criteria for organizational selections and whether phased into organizational groups over time
  - ii. How will opportunities vary based on needed technical expertise, cultural groups, etc.
  - iii. Assess readiness for implementation and what elements need preparation
  - iv. Create timeline to support well-executed implementation
- c. Methodology, Recruitment and Retention:
  - i. ID stakeholders.
  - ii. ID and promote values of stakeholders as well as the added value of their participation

- iii. ID and establish mechanisms to work collaboratively both intra-agency, and within community organizations and networks of underrepresented groups
- iv. Internal and external/community outreach
- v. Review structural changes needed to accommodate expanded roles/groups
- vi. Are outreach efforts culturally sensitive and accessible to target populations?
- vii. Identify systems issues, including changes at a rate system can tolerate
- viii. Identify those systems lacking diversity and determine proportionally appropriate representation
- ix. Creating a safe climate for underrepresented members. Consider assertiveness training for those new to being in positions of authority
- x. Training to include increased insight into *isms, which can be subtle*, but with significant influence in decision making
- xi. Establish diverse selection teams
- xii. Assess and determine ways to meet bilingual needs
- xiii. Drawing from high schools and local colleges, consider grooming/growing pool of future engaged citizenry who can assume future participatory and leadership positions. This could include internships, mentoring and non-voting membership on boards/commissions
- xiv. Explore appropriate media to reach identified populations
- xv. PSAs
- xvi. Post openings on City website
- xvii. Community bulletin boards
- xviii. Bilingual access to media
- xix. Job and Bulletin Boards at schools and community locations, i.e. churches, senior centers, etc.
- xx. Assess and reassess

d. Considerations:

- i. Change should occur at a rate that system can tolerate
- ii. Consider risk vs. benefit of not implementing representative diversity changes
- iii. Balance mandating with motivating
- iv. Should there be uniform standard of diversity needs vs. case-by-case assessment, and tailored to need for reliable representation of those who would be impacted
- v. Does notion of diversity need to be fluid – i.e. depending on mandate of a particular board there might be logical stakeholders or requirement for particular expertise

e. Monitoring and Evaluations:

- i. Boards and Commissions Recruitment process reforms
- ii. Assessment of current level of diversity
- iii. Application process improvements
- iv. Inclusion of those ineligible to vote
- v. Outreach programs to diverse groups
- vi. Public Service Announcements (Digicom developed)
- vii. Internship and mentoring programs
- viii. Posting of applicants to Boards & Commissions

**3. How do we measure success?**

- a) Once change has been made to the process and procedures around identifying and recruiting a diverse/representative group of volunteer committee members it is important to evaluate the effectiveness of the change. Further, where change is not taking place, continuous improvement should ensue to ensure we get to the ultimate goal of more representative government.
- b) Following are some of the ways we can not only measure success but also increase the potential for successful change:
  - i. Establish a baseline and measure against it.
  - ii. Conduct brief introductory sessions with each city department head and citizen committee to explain the task force's work and recommendations (at the conclusion of the task force's work).
  - iii. Routinely (suggest quarterly) report on the progress of the implemented changes to department heads, committee leadership as well as the general public. Keep the goals in the public's "eye".
  - iv. At the onset, prepare an outline of the current membership demographics. Since this information is not readily available, prepare a "non-invasive" questionnaire for each committee chair to complete for his/her respective committee. This survey data will serve as a baseline for measurement. Naturally, we cannot require each member to respond to all/any questions, but with the proper introduction (as outlined in #1) and the development of an anonymous response, it is suggested we can gather the information needed.
  - v. As committees are "re-populated", conduct new surveys on a routine/comprehensive basis (annually) and use these results to compare to baseline. Note: it is not suggested that candidates applying for positions be asked to fill out the questionnaire prior to selection.
  - vi. Simultaneous with 4 above, document the recruitment changes that was implemented during the period so that effective change (and non-effective) can be identified.

- vii. In addition to 3 and 4 above, simply “count” the number of applications received for each vacancy (by committee) and include this measurement (the simple count—hopefully it will increase!) in the data.
- viii. Re-visit the process at the end of one year.

#### **4. Practices that discourage involvement in City government**

- a) The Diversity/Inclusiveness Committee of the Ethics, Transparency & Government Reform Task Force discussed whether there are current practices that discourage involvement in City government. Specifically, we looked at meeting location, start times and duration. It is clear that some Palm Springs residents find it difficult to serve on commissions and/or be involved in city government due to these issues. For example, working people and students may find it difficult to meet during the middle of the day. Parents with young children may find it difficult to meet in the early evening. Some people may not be able to stay for meetings that last more than a couple hours or that goes late at night. People without easy access to transportation may find it difficult to meet at City Hall if they live in the far north or south ends of Palm Springs.
- b) It is also true that different commissions have different needs for skills and representation, and it is true that it's often difficult to find a location, start time and duration of meeting that pleases everyone. Therefore, we recommend:
  - i. Each public body of city government look at the diversity and skill needs of its group and take into consideration the location, start time and duration of meetings that will balance the sometimes conflicting needs of skills and representation.
  - ii. Although it may be logistically challenging, it may be possible occasionally to hold meetings at a different time and location.
  - iii. Hold City Council/Commission Meetings in Neighborhoods.
  - iv. Structure City Council/Commission Meetings so as to complete their work in no more than three hours.

#### **5. How do we get more African-American, Asian, Latino and Native-Americans representation on our Boards & Commissions?**

Our city includes many part-time residents, who support and participate in our non-profit and philanthropic institutions, as well as, contribute to the economic wellbeing of our city. Our part-time population includes numerous US and Canadian citizens.

Our city Charter limits appointment to our Boards and Commissions to “city electors”. There is a debate in many communities regarding Board & Commission participation by non-citizens. San Francisco, Boulder, New York

and Chicago are among many cities that have debated the issue. In the overwhelmingly Latino cities of Bell Gardens and Huntington Park non-citizen residents are eligible for appointment to Boards and Commissions.

Boards and Commissions take actions and recommend policy on behalf of the city of Palm Springs. The members of Boards and Commissions are subject to state reporting requirements. The State of California limits Board and Commission eligibility to citizens. It is our conclusion, that registered voter is the appropriate minimum measure of eligibility. However, we believe there should be the possibility of a non-voting role on our Boards and Commissions for those not eligible to vote in Palm Springs. Each Board and Commission should be tasked with assessing the need for inclusion of non-voting members representing important stakeholders in our city.

Nonetheless, we in Palm Springs can and should do more to include all of our residents in public policy decision making.

- i. In assembling Task Forces to study issues, such as this one, we should be open to membership of all our residents.
- ii. In assessing community needs we should reach out to community organizations that are inclusive of both documented and undocumented residents.
- iii. In receiving public comment before our City Council or are Boards and Commissions we should make it possible for those who do not speak English to speak and to be understood.
- iv. For our City Council, Boards & Commissions Meetings -- Where an English language broadcast is available; we should upon request make a Spanish language broadcast available.



## **ORIENTATION & TRAINING**

The Working Committee on Orientation and Training submits the following recommendations to the Palm Springs City Council.

### **I ORIENTATION FOR NEWLY ELECTED CITY COUNCIL MEMBERS AND MAYOR**

1. Newly elected City Council members and Mayor shall attend and complete, no later than February 1st, after a November election, an in-person ethics training, such as one provided by the League of California Cities (LOCC).
  - a. Upon completion of the aforementioned ethics training course a "Certificate of Completion" shall be maintained on file with the City Clerk, or functional equivalent. Additionally, said Certificate shall be made available on the City of Palm Spring's website.

### **II CONTINUING EDUCATION AND TRAINING**

1. Every year every City Council member and Mayor shall attend and complete the existing City of Palm Springs ethics, conflict of interest training which is provided for all City Hall employees.
2. Every two (2) years, every City Council member and Mayor shall participate in, at least, two (2) hours of sexual harassment training, whether in person or via internet.
  - a. Upon completion of the aforementioned ethics training course a "Certificate of Completion" shall be maintained on file with the City Clerk, or functional equivalent. Additionally, said Certificate shall be made available on the City of Palm Spring's website.
3. The Office of the Palm Springs City Clerk shall crate a Newly Elected City Council Member/Mayor Handbook which will detail the policies and procedures for members/Mayor.
  - a. Handbook suggested topics:
    - i. Overview of the Structure of Palm Springs' Local Government
    - ii. Your Role as a City Council member/Mayor
    - iii. Meeting Management
    - iv. Commissions and Committees
  - b. Examples of Handbooks:
    - i. <http://novato.org/home/showdocument?id=14344> (City of Novato)
    - ii. <https://www.rocklin.ca.us/civica/filebank/blobdload.asp?BlobID=15749> (City of Rockland)
    - iii. <http://www.ci.lathrop.ca.us/council/documents/HANDBOOK%20OF%20RULES%20AND%20PROCEDURES%20Rev%202011-07-11.pdf> (City of Lathrop)