

CITY OF TEMPLE CITY

CITY COUNCIL PROTOCOLS

August ____ 2010

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1.0 **Preamble**

The Council declares that citizens of Temple City are entitled to have fair, open, ethical, efficient and accountable local government and that City officials should continually strive to earn the public's confidence. Toward that end, these Protocols establish higher standards of conduct for members of the City Council and members of City boards and commissions (collectively "Members") than are currently required under the laws of the State of California.

The Members pledge to hold themselves and each other Member responsible for observing the standards set forth in these Protocols, and to enforce these Protocols when necessary to preserve the integrity of City government or the public's image of the City.

2.0 **Setting a Higher Standard within the Existing Framework**

By adopting these Protocols, the Council intends to supplement and not to supersede California's existing legal framework applicable to local governments. Similarly, the Council intends that these Protocols will not merely restate existing legal obligations, but will establish a higher standard of conduct for Members in the governance of the City. Members are referred to Appendix "A" (***Legal Framework & Resources***) for pertinent resources. Members are expected to be familiar with and to seek guidance about the applicability of the legal framework.

3.0 **Openness**

Openness or transparency in decision making is of the utmost importance in maintaining ethical, representative local governance. Toward that end, Members will adhere to the following standards:

- 3.1 **Public Meetings**. Members will make it a priority to hold public meetings in accordance with the Ralph M. Brown Act. Members will seek guidance from the City Attorney as to the accepted interpretation of Brown Act requirements and will apply those provisions conservatively in favor of the public's right to participate in public decisions.
- 3.2 **Council Communications & Serial Meetings**. Communications between Members will be conducted in accordance with the Ralph M. Brown Act. Members will not engage in "*serial meetings*" with colleagues – a discussion of City issues among a majority of Councilmembers or Commissioners either collectively (i.e. all meeting together) or in a sequence (A talks to B who talks to C). Members will not use other persons as intermediaries to accomplish a serial meeting or to circumvent the Ralph M. Brown Act.
- 3.3 **Closed Session Discussions**. As part of a properly agenzized meeting, Members may only hold sessions closed to the public, at advisement of the City Attorney,

in accordance with the commonly accepted interpretation of Brown Act requirements. Discussions held in closed session are to be directly limited to the matter at hand. Such discussions, along with materials reviewed, are **confidential** and **shall not be disclosed** except as the City Attorney may advise.

- 3.4 Closed Session Materials. Confidential materials provided in preparation for and during closed sessions must be returned to the City Attorney at the conclusion of the closed session.

4.0 Fairness of Process

Members will comply with the meeting and hearing procedures set forth by Council Ordinance or Resolution. See (**Council Resolution 10-_____**). Additionally, in order to cultivate an environment of fairness and to encourage public confidence in City decisions, Members will adhere to the following standards of conduct:

- 4.1 Decisions on the Merits. Members will base their decisions on the facts and merits of each matter, not upon personal or other biases, and will strive to make decisions that are in the best interests of the community as a whole.
- 4.2 Meetings with Applicants & Interested Persons. Unless directed by the Council or as part of an agenzized public meeting, Members will refrain from meeting with project applicants or other interested persons once a project application has been filed with the City or where the project is anticipated to come before the Member for decision in the future.
- 4.3 Disclose Information. Prior to any deliberations on a project or matter at a public meeting, Members shall publicly disclose information about the matter that they have obtained from sources, not presented in the staff report (e.g. their own site visit, from the public, from the applicant, etc.), which may influence their decision or that of Members.
- 4.4 Consider All Sides. Members should consider the various viewpoints related to a project or matter and afford project applicants and interested persons an adequate opportunity to comment upon a project or matter before action is taken. However, redundant comments or abusive or uncivil conduct will not be permitted.
- 4.5 Decorum. To ensure the fairness and integrity of the deliberative process, the presiding officer will preserve decorum and conduct meetings in an orderly manner. Members will remain attentive of the business at hand and conduct themselves in a manner that is civil, polite and respectful. Members will refrain from unnecessarily interrupting speakers and not engage in abusive conduct, personal charges or verbal attacks upon the character or motives of other Members, City staff and/or the public.

- 4.6 **Attentiveness.** Remain attentive at meetings. Do not make or receive phone calls, text messages or e-mails from the dais. Place cell-phones and other communication devices in “off” or “silent” mode. Refrain from side-bar conversations with other Members while at the dais.

5.0 **Ethical Decision Making**

Members will observe the highest standards of ethical conduct in dealing with the community and carrying out their official duties. In every action and decision, Members should ***avoid even the appearance of impropriety*** and are strongly encouraged to apply the guidelines for “Making Ethical Decisions” provided below:

5.1 **Avoiding the Appearance of Impropriety.**

5.1.1 **Make Ethical Decisions.** Members are referred to Appendix “B” (***Guidelines for Making Ethical Decisions***) for the process Members are encouraged to utilize in making City related decisions.

5.1.2 **You May Need to Refrain From Participating.** Conflict-of-interest issues are complex and opaque to the public. Some situations are not “legal” conflicts of interest, but may nevertheless pose the “appearance of impropriety” to the public. In such situations, the Member should not participate in the matter.

5.1.3 **Smell Test.** Do an ethical “smell check” or “gut check” regarding the matter. What is your conscience telling you?

5.1.4 **Get Help.** To assist in making a decision not to participate, Members should consult the guidelines for Making Ethical Decisions (below), the City Attorney or the FPPC helpline, and/or their constituents.

5.2 **Ethical Principles to Follow.**

5.2.1 **Be A Good Steward.** Good stewardship of the public’s interest must be the Member’s primary concern.

5.2.2 **The Common Good.** Members will work for the common good of the citizens and not for any private gain, political advantage or personal interest.

5.2.3 **Fairness and Equity.** Members will treat all members of the public and issues before them in a fair and equitable manner.

5.2.4 **Impartiality.** Members will be independent of special interests and impartial in decision making.

5.2.5 **Avoid Personal Interests.** Members are prohibited from using their official positions to influence decisions in which they have a personal

financial interest, are members of an interested organization, or have a personal relationship that would be affected.

- 5.2.6 **No Personal Gain.** Members shall not take advantage of, or use, public property and equipment, public services, confidential public information, public resources, or other opportunities afforded by their office, for personal gain.
- 5.2.7 **City Stationery.** City letterhead or stationery or other City resources may not be used by Members to promote personal interests.
- 5.2.8 **Appearing before Council.** Members shall not appear before the City Council or other City board or commission representing any private interest or community group. Members are permitted to speak as a member of the public on any matter that affects them personally, but may not participate in the matter as a Member.
- 5.2.9 **Gifts.** Members will refrain from accepting gifts, favors or promises of future benefits that might compromise their independence, or the appearance that they are independent and unbiased.

6.0 **Efficiency and Accountability**

The City of Temple City operates under a council-manager form of government under which the Council's role is to provide legislative direction, set City policy and monitor its implementation. The City Manager serves as the City's administrative head and is responsible for directing the day-to-day operations of the City and for administering all City business.

6.1 **Members Should Not Interfere with Operations.**

- 6.1.1 **Basic Noninterference Rule:** The basic non-interference rule is stated in Section 609 of the City Charter:

"No member of the city council shall interfere with the execution by the city manger of his powers and duties; nor shall any councilman direct the city manger to appoint or remove any officer or employee of the city. Except for the purpose of inquiry, no councilman shall deal with the administrative services of city except by and through the city manager; nor shall any councilman give any order or direction to any subordinate officer or employee of city. This section shall not apply during period of disaster proclaimed by the governor or city council, nor during such times as there shall be no council designed city manger acting in that capacity."

6.1.2 **Implementing this Rule:**

- a) **Stay Out of Personnel Matters.** Members will ***not interfere*** with the appointment, evaluation, discipline, or removal by the City Manager of any Department Head or employee of the City.

- (i) *Exception – City Attorney.* The City Attorney is hired, appointed, evaluated, and removed directly by the Council.
- b) Comments about City Employees. Members may express concerns about the behavior or work performance of City employees **only privately to the City Manager**. Members may not reprimand or criticize employees directly.
- c) Orders and Direction to Employees. Only the City Manager may give orders and direction to City employees. Members may not direct the work or actions of City employees.
 - (i) *Requests for Information.* All Members will direct requests for information, research, or reports on items to the City Manager and not to City Employees. If there is a legal question it should be directed to the City Attorney. Questions regarding elections and disclosure statements may be addressed to the City Clerk.
 - (ii) *Responses.* Responses to Member inquiries will be provided to all Members of the same category (e.g. a response to a request by a Councilmember will be provided to all Councilmembers).
 - (iii) *Notifications.* Where the City Manager or Department Head provides general facts or information about the City, a program, or a City event to one Member, it should be provided to all Members of the same category.
- d) Work for Outside Committees. Members serving as the City’s representative to an outside agency may interact directly with the City employee assigned to that effort by the City Manager.
- e) Operations and Service Levels. Criticisms of City operations and service levels may be made only to the City Manager and not to City employees or Department Heads, unless first cleared through the City Manager or expressed in general during a regular Council, board or commission meeting.
- f) Political Solicitation & Activities. Members will not solicit political support from City employees (e.g., financial contributions, display of posters or lawn signs, name on support list, etc.). Members will not engage in political activities at City Hall or other City facilities. This provision is not intended to impair the free exercise of federal and state constitutional and statutory rights by City employees.

6.2 Interaction of Members.

6.2.1 **Positions of Mayor and Chairman.**

- a) Honorary Presiding Officer. The positions of Mayor and Mayor Pro Tempore on the City Council (created under Section 601 of the City's Charter) and the positions of chairman and vice chairman on City boards and commissions are generally considered honorary and ceremonial, but also serve an important procedural role as the presiding officer at meetings of their body. Persons appointed to those positions by a majority of their council, board or commission serve at the pleasure of their appointing body.
- b) Maintain Order, Decorum & Procedure. The Mayor and Chairman are responsible for maintaining order and decorum of their body's meetings and enforcing the City's decorum rules where necessary. They are responsible for the order of business at meetings, the efficient flow of business during meetings, and for preserving the right of the public to be heard in an orderly fashion.
- c) Ceremonial Head. The Mayor is the ceremonial head of the City and signs all proclamations, officiates at all City functions, and welcomes visiting dignitaries.
- d) Spokesperson. The Mayor is the official spokesperson for the City and has the lead responsibility for communications with the press and public on official City business. The Mayor will work on press releases and statements to the press with the City Manager and will report the majority position adopted by the Council, and not his or her personal opinion on matters.

6.2.2 **At Public Meetings**

- a) Follow Rules of Order, Decorum and Procedure. Members will adhere to the rules of order, decorum and procedure for the conduct of public meetings adopted by the City Council from time to time. Abiding by these rules will maintain civility and the orderly conduct of business.
- b) Keep Conduct Professional. Members will conduct themselves in an orderly, professional, and business-like manner to ensure that the business of the City shall be attended to efficiently and thoroughly.
- c) Professional Attire. Members should wear professional and business-like attire at public meetings. The Mayor or Chairman may allow business casual attire during the summer or for special events or occasions.

- d) Keep Comments On-Topic. Public meetings are to attend to and resolve City business. Members will avoid being overly repetitious and will endeavor to limit their comments to the subject matter at hand. Members are encouraged to fully express their views and to explore the views of others, but Members should also be mindful of avoiding lengthy or unproductive debates.
- e) Ask Questions in Advance. When preparing for public meetings, Members are encouraged to provide their questions far enough in advance to the City Manager or City employee responsible for the meeting so that meaningful information and responses can be shared at the meeting.

6.2.3 Relations with Fellow Members

- a) Civility. Members should always practice civility. By doing so you help the City to fulfill its potential by putting the common good ahead of personal rivalries or irritations. Civility is best fostered by a collective commitment to following established rules of procedure.
- b) Team Spirit. Members will foster a collegiate or team oriented environment among themselves.
- c) Retreats, Goal Setting and Training. To encourage a strong working relationship and communication, Members should have at least one retreat, goal setting session, and/or group training session each year.
- d) Different Points of View. Members will exercise tolerance for the different opinions, perspectives, and points of view of their colleagues and will recognize their right to express these views on matters of City business within the established rules of decorum and order of business.
- e) Managing Conflict. Members will manage disagreement with civility and professionalism and will not allow disagreement to turn into open conflict or hostility. Members will refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other Members, City employees and/or members of the public.

6.2.4 Public Communication and Appearance

- a) Personal versus City Positions. It is an important part of each Member's responsibility to communicate with the public. In communications regarding City business, it is important to distinguish a Member's personal views and opinions and the adopted City position. When appearing before another

governmental agency or organization, the Member should clearly set forth the City's official position, and then may express their own position.

(i) *Expressing Dissent.* Each Member has a right under the First Amendment to express their views and opinions, even if contrary to the official position of the City. However, Members will express their dissenting views with tact and civility.

b) Use of Official Titles. Members may use their official title only when conducting official City business, for informational purposes, or as an indication of background and expertise, after having carefully considered whether they are exceeding or appearing to exceed their authority.

7.0 Enforcement

7.1 Member Responsibility. Upon assuming office each Member shall sign a statement affirming that they have been provided with and will read these Protocols. Each Member is responsible for adhering to these Protocols as well as the laws that comprise the basic legal framework for local government discussed in the first part of the Protocols.

7.2 Council Authority. The City Council has authority, but not the legal obligation, to monitor each Member's adherence to these Protocols and to take corrective action for violations, as provided below.

7.2.1 **Training and Education.** The City Council will sponsor periodic training opportunities for Members to become more familiar with the Protocols and the legal framework (See Appendix "A").

7.2.2 **Councilmembers.** Under California law, the Council does not have the legal authority to remove Members elected or appointed to the City Council or to otherwise deprive them of their office. However, as provided in Section 7.4, a majority of the Councilmembers may remove a Councilmember from all Council honorary and/or ceremonial positions and ad-hoc and standing committees, as well as from positions with other governmental agencies or other organizations they hold by virtue of appointment by the City Council.

7.3 Violation of Oath of Office.

7.3.1 **Oath of Office.** All Members take an oath upon assuming office, pledging to uphold the constitution and laws of the City, the State and the Federal government. In addition, Members commit to disclosing to the appropriate

authorities and/or to the City Council any behavior or activity that may qualify as corruption, abuse, fraud, bribery or other violation of the law.

7.4 Violation of Protocols.

7.4.1 **Complaint.** Where any Member, Councilmember, City employee, or resident of the City has adequate reason to believe that a Member has substantively violated these Protocols or their Oath of Office, they may file a written statement with the City Clerk who will then provide it to the City Manager and City Attorney and the affected Member (but the name of the complainant shall not be provided to the Member).

7.4.2 **Investigation.** The City Manager and City Attorney shall determine whether there was adequate reason to believe that a Member has substantively violated these Protocols or the Oath of Office. If they find no adequate reason, they shall dismiss the complaint and inform the Member, the Council, and the Complainant. The Council may, however, order an investigation and report. If the City Manager and City Attorney determine that there is adequate reason to believe that the Protocols or Oath of office have been violated, they shall, within not more than 30 days, conduct an investigation and issue a report to the City Council and the Member. The affected Member shall have 30 days to provide any written comments or evidence to the City Manager, City Attorney and City Council in response to the report.

7.4.3 **Enforcement.** The City Council shall enforce these protocols against Members depending upon the extent and severity of the violation by means of either (i) a warning (ii) a written reprimand; (iii) censure; or (iv) removal from office. The following procedure shall be utilized:

a) *Receipt of Report.* Upon receipt of the Report, the Council will hold a public meeting at which it will determine whether the complaint should be dismissed, a warning should be issued, a written reprimand should be issued, censure issued, or the Member (only if not a Councilmember) should be removed from their office. In the event the Council determines that it appears that anything other than a dismissal or warning is appropriate, it shall set a public hearing within 30 days and provide written notice and opportunity to be heard to the affected member.

b) *Dismissal.* Where the Council, based on the Report and any statement from the affected Member, determines that it is clear that no violation occurred or that only a trivial or de minimus violation occurred, or that the complaint was motivated by revenge or other improper motives, the Council may dismiss the complaint.

- c) *Warning.* Where the Council, based on the Report and any statement from the affected Member, determines that there is some evidence that only a minor violation or a questionable practice has occurred, the Council may issue a written warning to the affected Member specifying the violation(s) and requesting corrective action.
- d) *Reprimand.* Where the Council, based on the Report, any statement from the affected Member, and other evidence accepted, determines that there is substantial evidence that the Member has materially violated one or more provisions of the Protocols, the Council may adopt a resolution reprimanding the affected Member for their conduct, stating that any violations shall cease, and requesting corrective action. The affected Member may file a rebuttal to the Reprimand with the City Clerk which will become a matter of public record.
- e) *Censure.* Where the Council, based on the Report, any statement from the affected Member, and other evidence accepted at a public hearing of the matter, determines that there is substantial evidence that the Member has materially violated one or more provisions of these Protocols, and that such violation(s) impugn the integrity or dignity of the City or that such violations are egregious or chronic in nature, then the Council may adopt a resolution censuring the affecting member by condemning their actions, removing the Member from all appointive positions representing the City in front of other governments and agencies, demoting them if they hold a position of mayor, mayor pro tempore, chairman or vice chairman, stating that the violations shall cease, and demanding corrective actions. The affected Member may file a rebuttal to the Censure with the City Clerk which will become a matter of public record.
- f) *Removal from Office.* Notwithstanding any of the provisions in this Section 7.0, the City Council may remove any commissioner or board member appointed by the City Council at its pleasure, and nothing in these Protocols effects or diminishes such power nor vests such commissioners or board members with any additional rights, including, without limitation, rights of procedural due procession.

APPENDIX A – LEGAL FRAMEWORK & RESOURCES

1.0 Legal Framework

<u>Law or Regulations</u>	<u>Citation</u>
<u>California Laws</u>	
California Constitutions <i>General City Authority</i>	Article XI §§ 2, 5, 7, & 11.
Ralph M. Brown Act <i>Open Meeting Laws</i>	Government Code §§ 54950 <i>et seq.</i>
California Public Records Act <i>Public Records Disclosure</i>	Government Code §§ 6250 <i>et seq.</i>
California Political Reform Act <i>Conflicts, Disclosures & Campaigns</i>	Government Code §§ 81000 <i>et seq.</i>
FPPC Regulations <i>Conflicts, Disclosures & Campaigns</i>	2 Cal. Code Regs. §§ 18109 <i>et seq.</i>
California Anti-Self Dealing Law <i>Self Interest in Contracts</i>	Government Code §§ 1090 <i>et seq.</i> ,
California Incompatibility of Office Law <i>Holding Two Public Offices</i>	Government Code § 1126 & § 1099
<u>Temple City Documents</u>	
City’s Charter	Articles I through XII
City Municipal Code	Title 2 “Administration” §§ 2100 <i>et seq.</i>
City Council Rules of Order and Protocols	Resolution 10-_____
Reimbursement Policy	No. 3.02

2.0 Online Resources

<u>Resource</u>	<u>Web Address</u>
State of California <i>Portal to State Websites</i>	www.ca.gov/index.asp

Official Cal Legislative Information <i>California Bills & Codes Online</i>	www.leginfo.gov
Cal. Fair Political Practice Commission <i>Conflict of Interest Info</i>	www.ca.fppc
Cal. Attorney General <i>See AG Opinions</i>	www.ag.ca.gov
Cal. Senate <i>Bill Information Online</i>	www.senate.ca.gov
Cal. Secretary of State <i>Election Information</i>	www.sos.ca.gov
LA County Registrar of Voters – Recorder <i>Election Information</i>	www.lavote.net
League of California Cities <i>Municipal resources</i>	www.cacities.org
Institute for Local Government <i>Municipal resources</i>	www.ca-ilg.org
Cal. Joint Powers Insurance Authority <i>Risk Management & Training</i>	www.cjpia.gov
Marrkula Institute for Applied Ethics <i>Ethical Decision Making</i>	www.scu.edu/ethics/practicing/decision
Institute for Local Self Government <i>Government Ethics</i>	www.ilsg.org

APPENDIX B – GUIDELINES FOR MAKING ETHICAL DECISIONS

How to Make an Ethical Decision. When presented with an opportunity to participate in making a decision for the City, the City Official should:

A. Recognize whether an ethical issue is involved.

1. Will the decision result in damage or injury to people?
2. Is there a clear good or bad result?
3. Is the result compelled under the law or does it hinge on budgetary, efficiency, or other community concerns?
4. Ethical decisions are often not the easiest decision nor the most popular.

B. Get the facts.

1. Read the staff report and get questions answered by the City Manager in advance.
2. Are there alternatives that would lead to better or worse results?
3. What are the viewpoints of the stakeholders? Are some more important than others?
4. Are there any unanticipated consequences?

C. Evaluate alternative actions. Which option will:

1. Produce the most good and do the least harm? (See The Markkula Center's Utility Test.)
 - a. Identify the *alternative actions* that are *possible* and the persons and groups (the stakeholders) *who will be affected* by these actions.
 - b. For each of the most promising alternatives, determine the *benefits and costs* to each person or group affected.
 - c. Select the action in the current situation that *produces the greatest benefits over costs for all* affected.
 - d. Ask *what would happen* if the action were a *policy for all similar situations*.
2. Best respect the rights of all who have a stake? (See The Markkula Center's Rights Test.)
 - a. *Identify the right* being upheld or violated.
 - b. Explain why it *deserves the status* of a right.

- c. Ask whether that *right conflicts with the rights* of others.
- 3. Treat people equally or proportionately? (See The Markkula Center's Justice Test.)
 - a. What is the *distribution of benefits and burdens*? Is the distribution *fair*?
 - b. If disagreement persists over which outcome is fair, select a *fair process* to decide the issue.
- 4. Best serve the community as a whole? (See The Markkula Center's Common Good Test.)
 - a. *Identify* what parts of the *common good* are involved.
 - b. Explain obligations to *promote or protect* the common good.
 - c. Discern whether the proposed action *conflicts with* an obligation to promote or protect the *common good*.
- 5. Lead the City Official to act as the sort of person or official as they want to be? (See The Markkula Center's Virtue Test.)
 - a. Will the action help to *make you the kind of person you want to be*?
 - b. Will the action fit the City's reputation or vision of what it would like to be?
 - c. Will the action maintain the right balance between *excellence and success* for the City?

D. Make a decision and test it.

- 1. Which approach best suits the situation and arrives at the *most ethical decision*?
- 2. Which option is likely to be *most respected* by the Member's colleagues and constituents?

E. Act and reflect on the outcome.

- 1. How can the decision be *implemented to best reflect the intention and reasons* for the decision?
- 2. What was the end result of the decision and what feedback has the City Official received?