BOARDS, COMMISSIONS & COMMITTEES

Service on City Boards, Commissions, and Committees is one of the principal means by which residents participate in the conduct of City government. The City is fortunate to have highly skilled, educated and experienced residents that are willing to selflessly donate their time and resources to positively contribute towards the betterment of our City. This Policy prescribes the rules, guidelines, and ideals that govern our City's Boards, Commissions, and Committees.

Board, Commission, & Committee Formation Process

A. Boards and Commissions shall be established by City Charter or ordinance of the City Council. Committees shall be established by a resolution of the City Council in accordance with this policy.

B. Boards, Commissions and Committees shall be designated either 1) Permanent; 2) Standing; or 3) Ad Hoc. Boards, Commissions and Committees having a definite termination date may be extended by City Council action.

C. With the assistance of the City Attorney, all Boards, Commissions and Committees shall determine the applicability of, and comply with, the Ralph M. Brown Act.

D. All Boards, Commission and Committee meetings open to the public shall include an opportunity for public comments and questions.

E. Boards and Commissions may be reviewed on or before December 31 of each year consistent with the Maddy Act (Cal. Gov. Code § 54972). Committees may be reviewed in October of each year for any needed additions, changes or deletions by the City Manager and the City Council. Within this review, the City Council shall consider whether the work done by Committees is duplicative of other Committees' work, and shall consider merging or disbanding committees as appropriate. This provision shall not however prevent such changes at other times of the year.

Types of Boards, Commissions, & Committees

Boards and Commissions (Permanent)

These shall consist of citizens with a staff liaison pursuant to the enabling City Charter section, ordinance or resolution. Appointments are made pursuant to this Policy.

City Council Committees (Standing or Ad Hoc)

These shall consist of City Council Members and City staff as prescribed by enabling ordinance or resolution. The Mayor annually shall appoint the City Council Members subject to confirmation by the full City Council.

City Council/Citizens' Committees (Standing or Ad Hoc)

These shall consist of City Council Members, citizens and City staff as prescribed by enabling ordinance or resolution. The Mayor annually shall appoint City Council members to these Committees subject to confirmation by the full City Council. Appointment of citizens and staff members to these Committees shall be addressed in the respective enabling ordinance or resolution.

Citizens' Advisory Committees (Standing or Ad Hoc)

These shall be comprised solely of citizens with perhaps City Council or staff liaison. Appointments generally shall be made annually by the Mayor subject to confirmation by the full City Council. However, enabling ordinances or resolutions may provide that appointees represent each of the Council Districts in which case appointments shall be made by individual City Council members for their respective districts subject to confirmation by the full City Council.

Joint Governmental Committees (Permanent or Standing)

These are committees comprised of representatives from several governmental agencies. Representatives to these committees can be either City Council Members or City staff. Appointment to joint governmental committees shall be made annually by the Mayor subject to confirmation by the full City Council.

City Staff Committees (Permanent, Standing, or Ad Hoc)

These are comprised of staff members designated by their job title as prescribed by enabling ordinance or resolution.

Member Appointment Process

Annual Appointment List

On or before December 31 of each year, the City Clerk shall, consistent with the Maddy Act (Cal. Gov. § 54972), prepare a list of all appointive terms of Boards, Commissions and Committees which will expire during the next calendar year, with the name of the incumbent appointee, the date of appointment, the date the term expires, and the

necessary qualifications for the position. Also, the City Clerk shall list all Boards, Commissions and Committees whose members serve at the pleasure of the City Council, and the necessary qualifications of each position. The list shall be posted in the City's normal posting location for agendas, as well as the Newport Beach Public Library located at 1000 Avocado Avenue.

Qualifications

Appointees to Boards, Commissions and Committees shall be electorates and residents of the City. However, when exceptions are warranted, the reasons shall be so stated in that Boards, Commissions or Committee's enabling ordinance or resolution.

The City Clerk shall further maintain a file of Candidates for Board, Commission, and Committee appointments, which shall be reviewed each year by the City Clerk to ensure that those applicants are still available and eligible for appointment. Applications shall be retained in the active file for two (2) full years; thereafter they will be destroyed.

Vacancies

Approximately two (2) months prior to a scheduled vacancy, the City Clerk shall prepare and submit to a newspaper of general circulation, information relating to the vacancy including meeting dates and times, Board, Commission, or Committee functions, and the method of obtaining and submitting applications and establishing a date prior to June 1 as the last date to submit applications. The City Clerk shall notify each applicant of the receipt of their application.

Consistent with the Maddy Act (Cal. Gov. § 54974), within twenty (20) days after an unscheduled vacancy occurs on a Board, Commission or Committee, a special vacancy notice shall be posted in the City Clerk's office, and other locations as directed by City Council. Additionally, the City Clerk shall prepare and submit information relating to the vacancy including meeting dates and times, and Board, Commission or Committee application procedure. Final appointment (other than emergency appointments) shall not be made for at least ten (10) working days after the posting of the vacancy notice.

Pursuant to Charter Section 705, if an unscheduled vacancy occurs within six (6) months from the expiration of the term, the City Council has the discretion to appoint a replacement to serve the balance of the unexpired term plus one (1) full term.

Board, Commission, and Committee appointees may be replaced after three (3) consecutive unexcused absences from meetings.

Periodically, situations may arise wherein due to the occurrence of a number of simultaneously scheduled Board, Commission or Committee vacancies, it may be

appropriate to make certain adjustments in the advertising and recruitment procedures, which are regularly utilized to fill these vacancies. In these cases, the City Council may make the following adjustments by majority vote at a regular public meeting:

A. The two (2) month period prior to the occurrence of a scheduled vacancy, which is established for advertising purposes, may be extended to three (3) months.

B. The last date to submit applications for a vacancy may be changed from the third Wednesday prior to June, to no sooner than the third Wednesday prior to May 1.

C. The period established for the ad-hoc Appointments Committee's recommendation to the Council of candidates, may be extended from at least two (2) weeks, to at least four (4) weeks prior to the date of appointment.

When vacancies occur, the City Council shall make every effort to appoint the best-qualified person to serve the interest of Newport Beach. The City Council shall only appoint persons who have filed an application for appointment with the City Clerk no later than five (5) days prior to the date on which the City Council nominates candidates for positions. The application shall serve as a basis for determining if the person is a qualified elector and resident of the City, has no conflict of interest that would prevent the applicant from serving, and otherwise satisfies the criteria for appointment specified in the City Charter and any relevant ordinance, resolution or City Council Policy. The City Council prefers that members of Boards, Commissions, and Committees represent different geographical areas of the City, but residence is a consideration only when applicants are otherwise equally qualified.

Limit on Service

To afford the maximum opportunity for citizen service, no person shall be eligible for appointment to any one (1) City Board, Commission, or Committee for more than two (2) consecutive four (4) year terms, exclusive of a prior appointment to fill an unexpired term. Appointees shall serve on only one (1) standing City Board, Commission or Committee at any time.

Optional Ad Hoc Appointments Committee

Unless an alternative appointment procedure is provided in the formation ordinance or resolution, at such time when an appointment to a Board, Commission or Committee is necessary, the Mayor, at his/her discretion, may establish an ad-hoc Appointments Committee composed of three (3) Council Members. If appointed by the Mayor, the ad-hoc Appointments Committee's duties are as follows:

A. Review all applications for position to City Boards, Commissions and Committees. The ad-hoc Appointments Committee will review applicant answers to all questions contained in the application;

B. Conduct any necessary interviews with individual applicants; and

C. At least two (2) weeks prior to the date of appointment, recommend to the full City Council at a regular public meeting, two (2) or more candidates, if a sufficient number of candidates are available, for each Board, Commission or Committee vacancy. City Council Members may wish to interview the recommended candidates further prior to final selection by the City Council. By having a goal of two (2) or more candidates for each vacancy, it is the intent of the City Council that at least two (2) separate individuals should be considered for each vacancy (*i.e.*, if there are two (2) vacancies, the City will attempt to have four (4) separate individuals under consideration).

The ad-hoc Appointments Committee, in conducting their review of applications and interviews with the individual applicants, if any, shall attempt to determine if there exists a potential conflict of interest, which might interfere with the performance of the applicant's duties in an impartial manner free from bias. It is generally recognized that from time-to-time it is possible for any individual to have a conflict on any one (1) given issue.

The ad-hoc Appointments Committee, however, shall endeavor to avoid recommending appointments of applicants with a substantial conflict of interest, which would require repeated disqualification from voting on issues that are likely to come before the Board, Commission or Committee.

If no alternative appointment procedure is provided in the formation ordinance/resolution, and if the Mayor does not form an ad-hoc Appointments Committee, the City Clerk shall review all applications and submit all qualified applicants to the City Council for consideration at an open and noticed meeting.

Voting Procedure

A. If possible, the City Council shall vote on all appointments and seats on each Board, Commission and Committee simultaneously. The voting will be by paper ballot and the City Clerk will tabulate and announce the results, including the vote tally.

B. Each member of the City Council will cast the number of votes as indicated on the paper ballot for each seat from the list of the nominees. In order to be appointed, the nominees must receive at least four (4) votes.

C. For Boards, Commissions and Committees with two (2) vacancies, if two (2) of the nominees receive four (4) or more votes, they will be automatically appointed.

D. If there is a tie vote, ballots will be distributed to the Council Members to vote for the tying candidates only.

E. In the event that no one receives four (4) votes, nominees receiving zero (0) or one (1) vote will be dropped and the City Council will cast two (2) votes from the list of the remaining nominees, and the determination will be made as previously stated.

City Clerk Responsibilities

The City Clerk shall also be responsible for the following functions associated with Board, Commission and Committee appointments:

A. Preparation of letters for the Mayor's signature notifying successful candidates of their appointment.

B. Preparation of letters for the Mayor's signature notifying unsuccessful candidates for appointment.

C. Preparation of letters for the Mayor's signature thanking outgoing members for their service.

If established, once the final appointments are made by the City Council, the ad-hoc Appointments Committee will be dissolved.

Business Improvement District Appointments

The appointment of Business Improvement District advisory boards or the designation of an owners' association is exempt from this City Council Policy, but shall be consistent with the California Streets and Highways Code.

Decorum and Order

Board, Commission and Committee deliberations and actions should be conducted in an atmosphere free from personal animosity and hostility. Each member of a Board, Commission and Committee has the duty to:

A. Respect and adhere to the American ideals of government, rule of law, principles of public administration and high ethical conduct in the performance of public duties.

B. Represent and work for the common good of the City and not for any private interest.

C. Refuse to accept gifts, favors, or promises of future benefits which might compromise or tend to impair independent judgment or action.

D. Provide fair and equal treatment for all persons and matters coming before the Board, Commission, or Committee.

E. Learn and study the background and purpose of important items of business before voting.

F. Faithfully perform all duties of office.

G. Refrain from disclosing any information received confidentially concerning the business of the City or received during any closed session of the Board, Commission, or Committee held pursuant to state law.

H. Decline any employment incompatible with public duty.

I. Refrain from abusive conduct, personal charges or verbal attacks upon the character, motives, ethics or morals of other members of the Board, Commission, or Committee, City staff, or the public, or other personal comments not germane to the issues before the body. Members are to be tolerant of all views expressed at public meetings.

J. Listen courteously and attentively to all public discussions at Board, Commission, or Committee meetings and avoid interrupting other speakers, including other members except as permitted by established Rules of Order.

K. Faithfully attend all sessions of the Board, Commission, or Committee unless unable to do so for some compelling reason or disability.

L. Maintain the highest standards of public conduct by refusing to condone breaches of public trust or improper attempts to influence legislation.

If a Board, Commission, or Committee member cannot abide by these provisions, he or she should submit a letter of resignation or be removed from office by action of the Mayor and City Council.

Ex Parte Communications

Members of Boards, Commissions, or Committees and City employees, agents and representatives shall not engage in any Ex Parte communication with any members of a Board, Commission, or Committee regarding any quasi-judicial matter pending, or reasonably expected to come, before that member's Board, Commission, or Committee.

For purposes of this policy, the term Ex Parte communication shall mean any oral or written communication directed to a member which is intended, or is reasonably calculated, to influence the member's decision on any quasi-judicial matter but does not include communications between members during deliberations preliminary to decision or communications where all interested parties or their representatives are present. The term quasi-judicial matter shall mean the appeal of any discipline imposed on any City employee, the appeal of any grievance filed by a City employee or employee association, or a proceeding to revoke any license, permit or approval granted by the City Council, any Board, Commission, or Committee, or any City employee and which is pending, or is reasonably expected to come, before any City Board, Commission, or Committee.

The provisions of this policy do not apply to Ex Parte communications between City employees and any member of a Board, Commission, or Committee regarding a quasi-judicial matter which has been submitted to, or can reasonably be expected to be heard by, the Board, Commission, or Committee when the Ex Parte communication is initiated by the member and requests only background information available to members of the general public.

Minutes

Written minutes, upon approval of the Board, Commission, or Committee, constitute the official record of its activities. Minutes will be prepared for all public meetings by City support staff and distributed to the entire member body for review prior to official approval. Additions or corrections to the minutes are made at public meetings upon official Board, Commission, or Committee approval. Member requests for inclusion on the record of a specific action or comment shall be recorded at the next publicly-noticed meeting.

Recording of Open Meetings

A. Open and public meetings of Boards, Commissions and Committees may be audio recorded upon request of the chairperson or pursuant to any procedural rule or by-law adopted by the Board, Commission, or Committee.

B. Any person attending an open and public meeting of any Board, Commission, or Committee shall have the right to record the proceedings with an audio or video

tape recorder or a still or motion picture camera unless the Board, Commission, or Committee determines, based upon evidence in findings made by the chairperson, that continued recording would create noise, illumination, or view obstruction problems that are disrupting or would disrupt the proceedings. The chairperson may impose conditions on any recordation, which in the absence of the conditions, would disrupt the proceedings.

C. Any audio tape or video record of any open and public meeting made by or at the direction of the City of Newport Beach shall be subject to inspection pursuant to the California Public Records Act (Sections 6250 *et seq.* of the Government Code). Notwithstanding the provisions of Section 34090 of the Government Code, any audio or video recording of any open or public meeting of any BCC may be erased or destroyed one-year after the taping or recordation, excluding Planning Commission as those are kept permanent. Any person may inspect a video or audio recording without charge on a recorder made available by the City of Newport Beach.

Conflict of Interest

No member of any Board, Commission, or Committee shall, at the time of appointment or during the term of office, hold a position or office in another entity or organization which creates a conflict of interest with respect to the member's service on the Board, Commission, or Committee.

Expression of Official City Position or Policy

If members of City Boards, Commissions, or Committees desire that a particular official City position or policy be established or expressed on a given issue, they shall submit their recommendations on said position or policy to the City Council for evaluation and disposition as the City Council sees fit. In their interactions with the media, members of City Boards, Commissions, and Committees shall comply with the media policies in City Council Policy D-1.

This policy is not intended to restrict communications between Boards, Commissions and Committees and others on matters exclusively within the purview or responsibility of such Boards, Commissions or Committees, but rather is intended to avoid confusion with regard to the official City position or policy, which is defined as that of the City Council.

Fundraising & Contracting

A. No Board, Commission, or Committee shall have the authority to independently raise and collect funds on behalf of itself, any other Board, Commission, Committee, or the City. Any such funds shall be generated by and collected through legally established nonprofit groups and organizations which are

independent of the City. An exception to this policy may be granted by the City Council on a per project basis when circumstances justify the exception.

B. No Board, Commission or Committee which has been established by the City Charter or by the City Council, shall have the authority to enter into any contract with any agency, group, entity or individual without authorization from the City Council.

Use of City Stationary

Members of Boards, Commissions, and Committees are authorized to use City stationery when corresponding on matters relating to official City business. Said correspondence shall identify the author of the letter as such. Correspondence from individual Board, Commission, and Committee members must have the approval of their respective Board, Commission, or Committee. Use of City stationery for private personal matters is not permitted.

History

Adopted A-4 - 6-28-1965 ("Boards and Commission Appointments")
Amended A-4 - 8-15-1966
Amended A-4 – 9-26-1966
Adopted A-6 – 11-13-1967 ("Recording of Council Meetings")
Amended A-4 – 6-10-1968
Reaffirmed A-4 & A-6 – 3-9-1970
Reaffirmed A-4 – 2-14-1972
Adopted A-9 – 5-8-1972 ("City Council Committees")
Amended A-9 – 6-11-1973
Amended A-9 – 5-12-1975
Amended A-9 – 12-8-1975
Amended A-9 – 6-28-1976
Amended A-9 – 8-9-1976
Amended A-4 – 7-12-1976
Amended A-9 – 12-13-1976
Amended A-9 – 1-10-1977
Amended A-9 – 1-24-1977
Amended A-6 – 6-13-1977
Amended A-4 – 9-12-1977
Amended A-6 – 10-25-1977
Amended A-4 – 11-28-1977
Amended A-4 – 12-19-1977
Adopted F-18 – 3-27-1978 ("Fund Raising")
Adopted F-19 – 4-10-1978 ("Contracts")

Amended A-4 – 6-26-1978
Amended A-9 – 9-11-1978
Amended A-4 – 11-27-1978
Adopted A-12 – 1-8-1979 ("BCC Expression of City Position")
Adopted A-13 – 2-12-1979 ("Use of City Stationary")
Amended A-4 - 3-12-1979
Amended A-9 – 10-1-1979
Amended A-9 – 11-12-1979
Amended A-4 – 7-14-1980
Amended A-6 & A-9 – 2-9-1981
Amended A-4 – 7-27-1981
Amended A-4 & A-9 – 11-23-1981
Amended F-18 – 11-14-1983
Amended A-9 – 1-12-1987
Amended A-13 – 1-8-1990
Amended A-9 – 10-22-1990
Amended A-9 – 1-24-1994
Amended A-4 – 1-24-1994 (changed to A-2)
Created A-11 – 1-24-1994 ("Recording of City Meeting")
Reaffirmed A-12 – 1-24-1994 (changed to A-7)
Amended A-13 – 1-24-1994 (changed to A-8)
Created A-5 – 1-24-1994 ("Fund Raising/Contracts", incorporating F-18 & F-19)
Amended A-9 & A-11 – 2-27-1995
Amended A-2 & A-9 – 2-26-1996
Adopted A-13 – 5-28-1996 ("Decorum and Order for BCC's")
Corrected A-5, A-7 & A-8 – 2-26-1996
Amended A-2 - 8-12-1996
Amended A-2 – 2-24-1997
Adopted A-15 – 11-10-1997 ("Ex Parte Communication")
Amended A-9 – 5-26-1998
Adopted A-16 – 6-22-1998 ("Conflict of Interest Procedures")
Amended A-2 – 3-22-1999
Amended A-2 – 7-12-1999
Amended A-2 – 9-27-1999
Amended A-2 – 3-14-2000
Amended A-2 – 5-8-2001
Amended A-2 – 4-23-2002
Amended A-2 – 5-14-2013
Amended A-11 – 5-13-2014
Amended A-2 & A-9 – 5-12-2015
Amended A-11 – 4-12-2016
Amended A-13 – 1-24-2017
Amended A-2 – 8-8-2017 (incorporating A-5, A-7, A-8, A-9, A-11, A-13, and A-15)