

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 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 if the Ralph M. Brown Act applies and, if applicable, comply with its provisions.
- D. All Boards, Commission, and Committee meetings open to the public shall include an opportunity for public comments and questions.

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 or ordinance. Appointments are made pursuant to this policy.

City Council Committees (Standing or Ad Hoc)

These shall consist of City Council Members as prescribed by the enabling resolution. Annually, the Mayor 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 resolution. Annually, the Mayor 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 resolution.

Citizens' Advisory Committees (Standing or Ad Hoc)

These shall be comprised solely of citizens with perhaps a City Council or staff liaison. Appointments generally shall be made annually by the Mayor subject to confirmation by the full City Council. However, the enabling resolution 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 Council 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 on 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 resolution.

Member Appointment Process*New Boards, Commissions, or Committees – Citizen Appointment*

Unless otherwise provided in the formation ordinance or resolution, the City Clerk shall advertise in a newspaper of general circulation the opportunity for citizens to be appointed to a new Board, Commission, or Committee and the application procedure. Final appointments shall not be made for at least ten (10) working days after the posting of the vacancy notice.

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, unless an exception is set forth in the enabling ordinance or resolution.

The City Clerk shall 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 appointments. 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; 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 the Board, Commission or Committee application procedure. Final appointments (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 any necessary adjustments by majority vote at a regular public meeting.

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 should only appoint a person who has 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. Generally, the application serves as the 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. In determining whom to appoint to a Board or Commission, the City Council seeks diversity of opinions and discourages the appointment of persons to Boards and Commissions who: 1) in their professional capacity supervise or are supervised by another member of the same Board or Commission; or 2) are a member of the same family as another member of the same Board or Commission. Also, the City Council prefers that members of Boards, Commissions, and Committees represent different geographical areas of the City, but the location of a person's residence shall only be a consideration 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 positions 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. Make a recommendation to the full City Council on the appointment of a candidate(s) the ad-hoc Appointments Committee believes is most qualified for each Board, Commission, or Committee vacancy.

The ad-hoc Appointments Committee, in conducting their review of applications and interviews with the individual applicants, if any, should 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; however, the ad-hoc Appointments Committee should 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 should 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. 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. If 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 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 people 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/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, and Committees shall disclose ex parte communications, if any, prior to the consideration of quasi-judicial items and any other items where the law requires disclosure (collectively “quasi-judicial matters”).

Members of Boards, Commissions, or Committees shall not engage in any ex parte communication with any members of the City Council or other Board, Commission, or Committee members 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 a 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 that is considered legal advice or 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 Board, Commission, or Committee, may be erased or destroyed one year after the taping or recordation, excluding Planning Commission, which shall be permanently retained. 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 communication 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 about 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)
 Amended A-2 - 7-26-2022
 Amended A-2 - 2-24-2026