



**City of Rancho Cordova
Measure R and Measure H/Community Enhancement Fund Citizen Oversight Board**

Agenda

Wednesday, October 13, 2021

4:30-5:30 p.m.

Rancho Cordova City Hall, David B. Roberts Council Chambers

In response to Governor's Executive Order N-29-20 and the Resolution Declaring the Existence of a Local Emergency Relating to the COVID-19 Pandemic adopted by the City of Rancho Cordova, the City is following the state guidelines on social distancing including the requirement of wearing a face covering. This meeting will also be available to the public via video/teleconferencing.

City Hall

2729 Prospect Park Drive, Rancho Cordova

Join the Meeting Via Zoom Link:

<https://cityofranhocordova.zoom.us/j/83434437048?pwd=QWFtZC9NMXB2RVdGcU5rbWF1MFVaUT09>

Join the Meeting via the Zoom Phone Number

Zoom Phone Number: US: 1 669 900 6833 or 888 475 4499 (Toll Free)

Webinar ID: 834 3443 7048

Password: 246830

City Staff: Daniel Leonardich, Persephonie Riley, Randi Kay Stephens, Stacy Delaney, Stacy Leitner

1. Call to Order/Roll Call
2. Public Comment
3. Welcome & Introductions
4. Group Swearing-In by City Clerk
5. Meeting Governance – Robert's Rules of Order

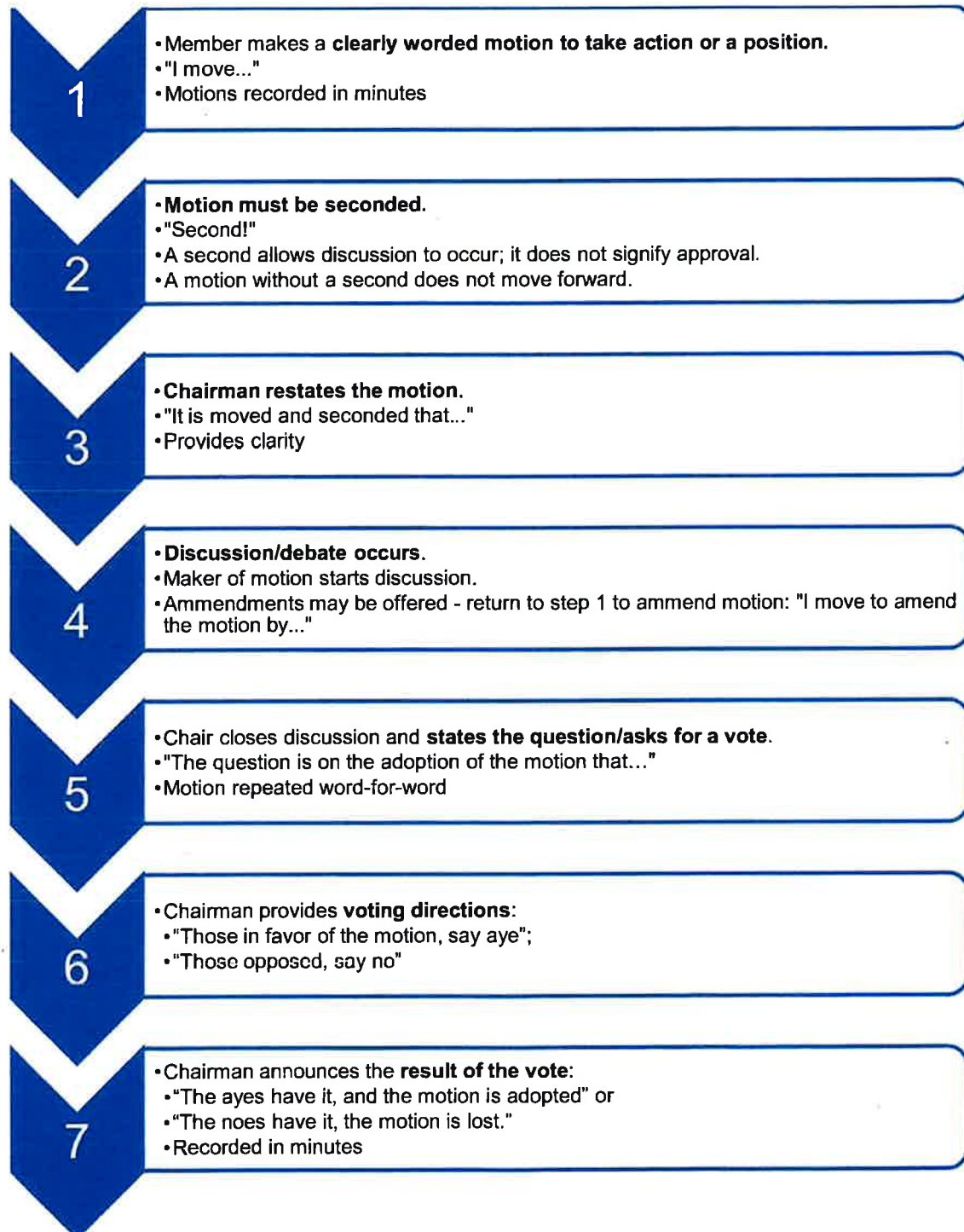
6. Ethics Training, Materials, and Next Steps

7. Background on Measure H, Measure R, and Sales Tax Overview

8. Adjournment

Robert's Rules of Order Cheat Sheet

HOW TO INTRODUCE NEW BUSINESS – The Main Motion Process



Robert's Rules of Order Cheat Sheet

WHAT DO I SAY?

To Do This	Motion	You Say This	Debate Allowed?	Vote Required
Introduce Business	Main	"I move that..."	Yes	Majority
Second a Motion	Second	"Second!"	No	No
Change the Wording or add Clarity of a Motion	Amend	"I move to amend the motion by..." (adding words; striking out words; substitute words)	Yes	Majority
Send to Committee	Commit/Refer	"I move the motion be referred to ..."	Yes	Majority
Postpone Action until a Specific Time	Postpone	"I move the motion be postponed until..." (provide a specific time on the agenda or next meeting date)	Yes	Majority
Postpone Action until an Unspecified Time (a motion will be required to discuss in the future)	Lay on the Table	"I move to lay the motion on the table."	No	Majority
Limit Debate	Limit Debate	"I move that the debate on this motion be limited to (one) speech of (two) minutes for each member."	No	Two-thirds
End Debate or Request a Vote	Previous Question	"I move the previous question."	No	Two-thirds
Take Intermission	Recess	"I move to recess for (time)."	No	Majority
Close Meeting	Adjourn	"I move to adjourn."	No	Majority

Robert's Rules of Order Additional Information

Why follow Robert's Rules of Order?

- Allows for democratic speech and action
- Preservers order
- Rights of the organization supersede the rights of individuals
- Facilitates group decisions

Meeting Agendas

1. Approval of Minutes
2. Reports (from officers, committees, task forces)
3. Unfinished Business (replaces term "old business")
4. New Business – items brought forward by motion procedure

Meeting Minutes

- Minutes are a legal record of meetings and the organization.
- Minutes are a record of what is done at a meeting, not what is said.

Minutes should include:

1. Name, date and location of meeting
2. List of attendees (note presence of a quorum)
3. Time meeting was called to order
4. Conflict of Interest & Antitrust Avoidance Affirmation
5. Approval of previous meeting minutes
6. Motion text and name of maker
7. Status/results of motions
8. Time meeting was adjourned

Minutes do not include:

- Discussion
- Personal opinion
- Name of seconder of a motion is not necessary
- Motions withdrawn
- Entire reports (rather attach to minutes)

Motion

- A motion is a formal proposal by a member that the group take a certain action or position.
- A main motion is required to begin the decision making process.
- A motion occurs prior to discussion

Ground Rules for Debating

- Remarks must be germane (relevant and appropriate to the discussion); stay on subject.
- Debate issues, not personalities

Robert's Rules of Order Additional Information

Subsidiary Motions

Assist in treating or disposing of a main motion

- **Postpone Indefinitely** = a way to dispose of an embarrassing motion before it can be brought to vote
- **Amend** = a way to clarify or modify wording
 - Amendments should say exactly where in the main motion the change is to be made, and precisely what words to use.
 - Amendments must be germane
 - Follow the motion process for an amendment, then follow procedure to vote on the newly revised main motion.
 - Rather than amend an amendment; ask group to strike down the pending amendment vote then offer a different version.
- **Commit/Refer** = when additional time or information is needed, the item may be sent to a committee or task force (either an existing or newly created)
 - Before voting on a main motion, you may feel the main motion may require additional study and/or redrafting.
 - Motion to commit or refer should specifically state the committee and deadline
 - A special committee may be formed through the motion to commit (motion should include committee make-up and deadline)
 - Motion is debatable, but only about the matters of the referral and not on the main motion
- **Postpone to a Certain Time** = to move to a later time on the agenda or to the next meeting
 - A time is specified when motion will be addressed
 - Preferred over laying on the table
- **Limit or Extend Debate** = when circumstances call for shorter or longer speech
- **Previous Question** = to close debate and bring to an immediate vote
- **Lay on the Table** = lay motion aside temporarily without setting a time for its consideration
 - Taken up again, via motion process, when the majority decides
 - Often misused term for postpone to a certain time

Motions that Bring a Question Before the Assembly Again

1. **Take from the Table** = resume consideration of a main motion
2. **Rescind, Repeal or Annul** = cancel something that has been previously adopted
3. **Amend Something Previous Adopted** = proposal to modify wording or text previously adopted
4. **Discharge a Committee** = if a question has been referred or a task assigned to a committee that has not made a final report the committee may be discharged to allow the Board to take action or to drop the motion
5. **Reconsider** = within the same meeting a motion has been voted on the question may come before the assembly again as if it had not been voted on

Robert's Rules of Order Information for Chairs

Effective Presiding

1. Start On Time
2. Stick to the Agenda
3. Memorize Frequently Used Procedures
4. Make Sure All Know What is Being Debated and Voted On
 - a. See that motions are worded clearly
 - b. Repeat wording of motions frequently
 - c. Make the effects of amendments clear
5. Learn How to Conduct Voting

Voting

Types of Votes

1. **Majority*** = More than half of the votes cast by persons entitled to vote, excluding blanks or abstentions. Whenever a majority vote of the Board of Directors is taken, it shall mean of the quorum present.
2. **Two-Thirds** = two-thirds of the votes cast by persons entitled to vote, excluding abstentions. Whenever a two-thirds vote of the Board is required, it shall mean of the entire Board whether voting or not.
3. **Majority of Entire Membership** = a majority of the total number of those who are members of the voting body at the time of the vote

*Note: A majority vote is different than a plurality vote, which is the largest number of votes (which may be less than a majority) when there are three or more alternatives. Under Robert's Rules of Order, a plurality vote is not sufficient. Re-vote to achieve a majority.

Voting Methods

1. Voice Vote
2. Standing Vote
3. Show of Hands Vote
4. Counted Vote
5. Ballot Vote

Putting the Motion to a Vote

When no one seeks the floor to debate, the chairman asks, "Is there any further debate?"

Voice Vote

The question is on the adoption of the motion that ... (repeat the motion)

Those in favor of the motion, say aye

[pause]

Those opposed, say no

[pause]

The ayes have it and the motion is adopted

- or -

The noes have it and the motion is lost

Robert's Rules of Order Information for Chairs

Show of Hands Vote

The question is on the adoption of the motion that ... (repeat the motion)

Those in favor of the motion will raise the right hand

[Pause]

Those opposed will raise the right hand

[Pause]

Majority vote:

The affirmative has it and the motion is adopted

- or -

The negative has it and the motion is lost

Two-thirds vote:

There are two-thirds in the affirmative and the motion is adopted.

- or -

There are less than two-thirds in the affirmative and the motion is lost

Counted Show of Hands Vote

The question is on the adoption of the motion that ... (repeat the motion)

Those in favor of the motion will raise the right hand and keep it raised until counted

[Pause]

Those opposed will raise the right hand and keep it raised until counted

[Pause]

There are ___ in the affirmative and ___ in the negative

Majority vote:

The affirmative has it and the motion is adopted

- or -

The negative has it and the motion is lost

Two-thirds vote:

There are two-thirds in the affirmative and the motion is adopted.

- or -

There are less than two-thirds in the affirmative and the motion is lost

The ABCS of Open Government Laws

The underlying philosophy of the open government laws is that public agency processes should be as transparent as possible. Such transparency is vital in promoting public trust in government.

This concept of governmental transparency is so important to the public that some 83 percent of voters supported adding it to California's constitution by adopting Proposition 59 in 2004.

California's open government laws require public officials to:

A

Conduct meetings of public bodies openly, except for limited circumstances under which the law allows the public's business to be conducted privately in closed sessions.

B

Allow the public to participate in meetings of public bodies through a public comment process.

C

Allow inspection and copying of public records, except when non-disclosure is authorized by law.

This pamphlet summarizes these three requirements in general terms. Local officials are also encouraged to consult with their agency attorneys for information about how these requirements apply in any given situation or more information about this area of the law.

The Institute is able to make this resource available to local officials and others as a result of much appreciated financial support from:

IMM RICHARDS | WATSON | GERSHON
ATTORNEYS AT LAW - A PROFESSIONAL CORPORATION

The Institute is grateful for this firm's ongoing commitment to public service ethics and public service ethics education.

All decisions regarding the final content of this pamphlet were the Institute's.

A Conducting the Public's Business in Public

General Rules

- Elected and most appointed local-agency bodies – which include many advisory committees – must conduct their business in open and public meetings.
- A "meeting" is any situation involving a majority of a public body in which agency business is transacted or discussed. In other words, a majority of the body cannot talk privately about a matter of agency business no matter how the communication occurs, whether by telephone or e-mail, or at a lect, coffee-shop.
- The public must be informed of 1) the time and place of and 2) the issues to be addressed at each meeting. In general, public officials may only discuss and act on items included on the posted agenda for a meeting. The agenda must be posted at least 72 hours in advance of a regular meeting and written in a way that informs people of what business will be discussed. Many local agencies are required to post agendas on their websites (if they have one). Members of the public may request a copy of the agenda packet be mailed to them at the time the agenda is posted or upon distribution to the governing body. Some agencies also maintain e-mail lists to distribute agendas and related materials.

Key Things to Know

- **Advisory Bodies.** Advisory bodies formally created by the governing body are subject to the open meeting laws. In some cases, committees of less than a quorum of the public body are also subject to these laws.
- **Serial Meetings.** Avoid unintentionally creating a "serial" meeting—a series of communications that result in a majority of the body's members discussing, deliberating, or taking action on a matter of agency business.

A

A Conducting the Public's Business in Public

- **Permissible Gatherings.** Not every gathering of members of a public body outside a noticed meeting violates the law. For example, a violation would not occur if a majority of the members attend the same educational conference or attend a meeting not organized by the local agency as long as members do not discuss among themselves agency business except as part of the gathering. Nor is attendance at a social or ceremonial event in itself a violation. The basic rule to keep in mind is a majority of the members cannot gather and discuss agency business except at an open and properly noticed meeting.

- **Closed Sessions.** The open meeting laws include provisions for private discussions under very limited circumstances. The reasons for holding the closed session must be noted on the agenda and different disclosure requirements apply to different types of closed sessions.

- **Posting and Following the Agenda.** In general, public officials may only discuss and act on items included on the posted agenda for a meeting. However, they or staff may briefly respond to questions or statements during public comments that are unrelated to the agenda items. Officials can also request staff to look into a matter or place a matter on the agenda for a subsequent meeting. Only under unexpected circumstances can matters that are not on the agenda be discussed or acted upon.

Consequences of Non-Compliance with Open Meeting Requirements

- **Nullification of Decision.** Many decisions that are not made according to the open meeting laws are voidable. After asking the agency to cure the violation, either the district attorney or any interested person may sue to have the action declared invalid.
- **Criminal Sanctions.** Additionally, members of the body who intentionally violate the open meeting laws may be guilty of a misdemeanor. The penalty for a misdemeanor conviction is imprisonment in county jail for up to six months, a fine of up to \$1,000 or both.

A

Example

If two members of a five-member public body consult outside of a public meeting (which is not in and of itself a violation) about a matter of agency business and then one of those individuals consults with a third member on the same issue, a majority of the body has consulted on that issue. Note the communication does not need to be in person and can occur through a third party. For example, sending or forwarding e-mail can be sufficient to create a serial meeting, as can a staff member's polling the body's members in a way that reveals the members' positions to one another.

- **Taping or Recording of Meetings Is Allowed.** Anyone attending a meeting may photograph or record it with an audio or video recorder unless the governing body makes a finding that the noise, illumination, or obstruction of view will disrupt the meeting. Any meeting tape or film made by the local agency becomes a public record that must be made available to the public for at least 30 days.
- **Sign-In Must Be Voluntary.** Members of the public cannot be required to register their names or satisfied any other condition for attendance. If an attendance list is used, it must clearly state that signing the list is voluntary.

- **Other Measures.** Either the district attorney or any interested person may sue to remedy past and prevent future violations of the open meeting laws. Another remedy, under certain circumstances, is for a court to order that all closed sessions be tape-recorded. Regulations of public participation beyond those allowed by applicable statutory and constitutional principals can be a civil rights violation.
- **Attorneys' Fees and Costs.** Attorneys' fees and costs may be awarded to those who successfully challenge open meeting violations.

A

B The Public's Right to Participate in Meetings

General Rules

- **Democracy in Action.** The public has a right to address the public body at any meeting. A public official's role is to both hear and evaluate these communications.
- **The Public's Right to be Heard.** Generally, every regular meeting agenda must provide an opportunity for the public to address the public body on any item within the body's jurisdiction. If the issue of concern is one pending before the body, the opportunity must be provided before or during the body's consideration of that issue.

Open-Government-Is-Good-Politics Note

The media are highly vigilant in monitoring compliance with open government requirements—and quick to report on perceived violations.

Key Things to Know

- **Anonymous Speech Must Be Permitted.** Members of the public cannot be required to give their name or address as a condition of speaking. The clerk or presiding officer may request speakers to complete a speaker card, or identify themselves "for the record," but must respect a speaker's desire for anonymity.
- **Reasonable Time Limits May Be Imposed.** Local agencies may adopt reasonable regulations to ensure everyone has an opportunity to be heard in an orderly manner. For example, some agencies impose a uniform time limit on each person providing public comments on an issue.
- **Dealing with Disension.** The chair cannot stop speakers from expressing their opinions or their criticism of the body. If an individual or group willfully interrupts a meeting and order cannot be restored, the room may be cleared. Members of the media must be allowed to remain and only matters on the agenda can be discussed.

C The Public's Right To Access Agency Documents and Records

General Rules

- Public agencies must generally make their records available for inspection by the public. Disclosure is the rule; withholding is the exception. In addition, there are a number of state laws that require affirmative disclosure of certain kinds of information (for example, by posting the information on the agency's website).

Key Things to Know

- **Agency and Meeting Materials.** Copies of the agenda materials and other documents not exempt from disclosure distributed to the body must be available to the public. Any nonexempt materials prepared by the local agency must be available for public inspection at the meeting. Materials prepared and distributed by some other person must be made available after the meeting.
- **Scope of Access.** The public has the right to see nonexempt materials that are created as part of the conduct of the people's business. These materials include any writing that was prepared, owned, used, or retained by a public agency. This can include documents, computer data, e-mails, facsimiles, and photographs.
- **Presumption and Exceptions.** Written materials are presumed to be a public record unless an exception applies. There are a number of exceptions. For example, personnel records are typically exempt from disclosure because their release may violate an employee's privacy rights.

The public's right of access to public records is broadly construed and applies to many documents that public officials might otherwise assume are protected from disclosure.

Consequences of Violation

Anyone can sue the agency to enforce his or her right to access public records subject to disclosure. If the agency bases or otherwise produces the records as the result of the lawsuit, it must pay costs and attorneys fees.

Beyond Legal Minimums

It is important to note that the requirements discussed in this pamphlet are legal minimums for local government transparency in decision-making. Local agencies can provide for greater transparency.

In thinking about how an agency might provide for greater transparency, questions local agency officials might ponder include the following:

- 1 How can the agency make public information more readily available and easily understandable by the public in order to promote public trust and confidence in the agency and demonstrate the agency's commitment to transparency?
- 2 Are there kinds of information that are already publicly available in some form, but could be made available more conveniently to the public (for example, through voluntarily posting the information on the agency's website or including links on the agency's website to where information is available on other websites)?
- 3 What kinds of information might be of interest to a cross-section of the public relating to the agency's operations and decision-making processes? Are there ways this information can be made available without individual members of the public having to ask for it?

Ongoing consideration of these kinds of questions enables a local agency's officials to engage in collective discussion and decision-making about ways in which their agency can set its sights higher than the minimum requirements of the law.

A Note on Civility in Public Discourse

For communities to be able to work through difficult issues, it's important that people be able to express differing opinions about what best serves the public's interests in a respectful and civil manner.

This includes focusing on the merits of one's position. Even if people disagree about what's best for the community in this situation, it doesn't mean that those holding different views are bad people. Treat others with the same respect as one would like to be treated. Questioning others' motives or intelligence, being hostile, engaging in name-calling or making threats undermines one's effectiveness.

No matter how passionate one is about an issue, the goal is to conduct oneself in a way that will add to one's credibility and standing as a thoughtful member of the community.

Resources for Further Information

California's open government laws are complex and extensive. Consult the following resources for more information on these laws.

- Understanding the Basics of Public Service Ethics: *Transparency Laws*, available at www.ca-ilg.org/Understanding-Public-Services-Ethics-Laws (includes discussions of other kinds of disclosure laws, in addition to Open Meeting Law and Public Records Act).
- *Open and Public IV: A User's Guide to the Ralph M. Brown Act, 2d Edition*, 2010. Available on the League of California Cities website at www.cacities.org or by calling 916.658.8200.
- *The People's Business: A Guide to the California Public Records Act, 2008*. Available on the League of California Cities website at www.cacities.org or by calling 916.658.8200.

Local officials should also consult their agency counsel with questions.

The Attorney General also offers guides on these laws; they are available from the Attorney General's website: http://ag.ca.gov/publications/2003_Intro_BrownAct.pdf (Brown Act Guide) and http://ag.ca.gov/publications/2003_Intro_BrownAct.pdf (Public Records Act).



The Institute for Local Government promotes good government at the local level with practical, impartial, and easy-to-use resources for California communities.

ILG is the research and education affiliate of the California State Association of Counties, the League of California Cities and the California Special Districts Association.

1400 K STREET, SUITE 205

SACRAMENTO, CALIFORNIA 95814

TELEPHONE: 916.658.8208 • FAX: 916.444.7535

©2015 all rights reserved. Institute for Local Government.



AB 1234 Self-Study Materials

Part I: Financial Interests and Perks

AB 1234 requires elected and appointed officials to take *two hours* of ethics training if they receive compensation for their service or are reimbursed for their expenses.¹ The ethics training requirement may also apply to agency employees designated by the agency's legislative body.²

There are many ways to satisfy this requirement, including in-person training and self-study activities. Moreover, like all ethics laws, AB 1234 is a floor, not a ceiling. Local officials can demonstrate their commitment to ethics in public service by going beyond AB 1234's minimum requirements.

This self-study exercise is eligible for *one hour* of AB 1234 self-study credit (or half of the minimum requirement). To claim self study credit, log on to www.ca-ilg.org/AB1234selfstudy, print out and take the test, mail it to the address indicated with the \$25 processing fee. This fee covers grading the test, providing the correct answers (and explanations) and your proof of participation certificate.

Scope of This Self-Study Exercise

These materials cover the first two areas of ethics training required by AB 1234:

- Laws relating to personal financial gain by public officials (including bribery and conflict of interest laws); and
- Laws relating to office-holder perks, including gifts and travel restrictions, personal and political use of public resources and prohibitions against gifts of public funds.³

It also covers ethics principles related to these laws and ethics in public service in general.

Self-study materials for the balance of the AB 1234 requirement are in production. Those materials will cover governmental transparency and fair process laws.

Note that public service ethics laws are extraordinarily complex. The learning objective of both self-study and in-person AB 1234 training courses is to familiarize local officials

with when they need to consult agency counsel, the Attorney General or the Fair Political Practices Commission about a given situation or course of action.

Moreover, the ethics laws and training requirements of AB 1234 are both *minimum* standards. Just because a course of action is legal doesn't mean that it is ethical or that the public or media will perceive it to be so. Local officials are strongly encouraged to go beyond the minimum ethics training standards created by AB 1234 and participate in additional educational activities relating to their legal and ethical obligations as public servants.

Financial Gain

Key Concepts

The principle underlying the financial gain laws is that the possibility of personal financial gain or loss cannot be a factor in your decisions as a public official. The laws in this area are designed to promote the general ethical values of *responsibility* and *trustworthiness*. Public servants have a responsibility to act always in the public's interest, and the public needs to be able to trust that they will.

Key Laws

The following laws are designed to avoid both the reality and the appearance of personal financial gain influencing public servants' actions.

- **Bribery.** Requesting, receiving, or agreeing to receive money in exchange for an official action is a crime. Under the state's criminal laws, a "bribe" includes anything of value; it also includes receiving "advantages." The advantage can be a future one and need not involve the payment of money.⁴ The federal definition of bribery is even broader.⁵
- **Disqualification Based on Financial Interests.** A public official may not make, participate in, or influence a governmental decision that will have a foreseeable and material financial effect on the official, the official's immediate family, or any of the official's economic interests.⁶ Note the breadth of the prohibition: it does not just apply to voting, but the entire process leading up to voting. See sidebar at left/right for a list of the kinds of financial interests that can give rise to potentially disqualifying conflicts of interests.
- **Interests in Contracts Prohibited.** A public official may not have a financial interest in any contract made by the board or body of which the official is a member.⁷ The law is very strict on this point. Such contracts are void—meaning that the public agency will not have to pay the official for the benefits provided to the agency under the contract.⁸ Under most circumstances, the prohibition cannot be avoided by disqualifying oneself from participating in the decision on the contract.

- **Helping Prospective Employers.** A public official may not influence agency decisions when the interests of a prospective employer are at stake.⁹ This situation arises when someone is negotiating or has “any arrangement” concerning prospective employment with someone with business before the agency.
- **Revolving Door.** Elected officials and top-level managers cannot represent individuals or entities before their agencies for one-year after leaving office.¹⁰

Note that some local agencies have adopted even more restrictive prohibitions.

The “Leave the Room” Requirement

If you are disqualified from participating on a specific agenda item under the conflict of interest rules established by the Political Reform Act, you must:¹¹

- At the meeting, publicly identify the financial interest or potential conflict of interest in sufficient detail to be understood by the public.
- Not attempt to influence the decision in any way (this includes pre-meeting discussions with staff or colleagues).
- Refrain from discussing or voting on the matter (you should ask the item to be considered separately if it is on the consent calendar).
- Leave the room until after the discussion, vote, and any other disposition of the matter, unless the matter is on the consent calendar.

There are limited exceptions that allow a disqualified official to remain in the room and participate in the discussion as a member of the public when one’s “personal interests” are at stake. Consult with your agency attorney about what kinds of personal interests qualify.

Consequences of Missteps

The consequences of violating these requirements can be severe. They include criminal felony or misdemeanor prosecutions under state and sometimes federal laws. Conviction can involve substantial fines, jail time, and loss of office. Civil fines can also add up. For example, the administrative penalty for violation of the Political Reform Act is a fine of up to \$5,000 per violation. In most instances, officials targeted for civil enforcement actions will pay tens of thousands of dollars in defense costs; significantly more in criminal cases.

There can also be other kinds of negative consequences. For example, if an official violates proscriptions against self-dealing relating to contracts, the official may have to refund amounts paid under the contract. If a decision is tainted by the participation of someone who should have disqualified him or herself, the decision is subject to invalidation.

Financial Interests Affected by an Agency Decision: When to Seek an Attorney's Advice

Talk with your agency attorney when 1) an action by your public agency 2) may affect (positively or negatively) 3) any of the following:

Income. Any source of income of \$500 or more (including promised income) during the prior 12 months for you or spouse/domestic partner.

Real Property. A direct or indirect interest in real property of \$2000 or more that you or your immediate family (spouse/domestic partner and dependent children) have, including such interests as ownership, leaseholds (but not month-to-month tenancies), and options to purchase, especially when any of these are located within 500 feet of the subject of your decision.

Personal Finances. Your or your immediate family's (spouse/domestic partner and dependent children) personal expenses, income, assets, or liabilities.

Gift Giver. A giver of a gift of \$440 (for 2013-2014) or more to you in the prior 12 months, including promised gifts.

Lender/Guarantor. A source of a loan (including a loan guarantor) to you.

Contract. You or a member of your family would have an interest (direct or indirect) in a contract with the agency.

Business Management or Employment. An entity for which you serve as a director, officer, partner, trustee, employee, or manager.

Business Investment. An interest in a business in which you or your immediate family (spouse/domestic partner and dependent children) have a direct or indirect investment worth \$2000 or more.

Related Business Entity. An interest a business that is the parent, subsidiary or is otherwise related to a business if you:

- Have a direct or indirect investment worth \$2000 or more; or
- Are a director, officer, partner, trustee, employee, or manager.

Business Entity Owning Property. A direct or indirect ownership interest in a business entity or trust of yours that owns real property.

Campaign Contributor. A campaign contributor of yours (if you are sitting on an appointed decision-making body).

Other Personal Interests and Biases. You have important, but non-financial, personal interests or biases (positive or negative) about the facts or the parties that could prevent you from making a fair decision.

What Will Happen Next? Agency counsel will advise you whether 1) you can participate in the decision and, 2) if a contract is involved, whether the agency can enter into the contract at all. Counsel may suggest asking either the Fair Political Practices Commission or the State Attorney General to weigh in. Keep in mind the attorney's duty is to promote compliance with the ethics laws, not try to find ways around them.

Personal Advantages and Perks

Key Concepts

The principle underlying the “no perks” laws is that one’s status as a public servant and one’s access to public resources should not afford special privileges. There are two categories of “no perk” laws. One relates to perks that others provide public officials (for example, gifts). The other involves advantages that officeholders provide themselves (for example, use of public resources).

The laws in this area are designed to promote the general ethical values of *fairness*, *responsibility* and *trustworthiness*. For example, receipt of perks from others undermines the public’s trust that decision-makers are treating everyone who comes before them fairly and making decisions solely in the public’s interests.

When officeholders give themselves perks, the public’s trust that these officeholders are being careful and public-minded stewards of taxpayer resources is undermined. To the extent that some of these perks involve political advantages, they undermine the fairness of campaigns and elections.

Key Laws

Generally speaking, the “no perks” laws bar some transactions and require disclosure of others.

- **Loans.** Officials cannot receive loans from those within the agency¹² or with whom the agency contracts (except for bank or credit card indebtedness made in the regular course of the company’s business).¹³ Personal loans over \$500 from others must meet certain requirements (for example, be in writing, clearly state the date, amounts and interest payable).¹⁴
- **Gifts.** With certain exceptions, a public official must disclose most gifts of \$50 or more on his or her Statement of Economic Interests and may not receive gifts from any one source that totals over \$440 in a single year (for 2013 and 2014).¹⁵ Gifts include meals, certain kinds of travel payments, and rebates or discounts to public officials not offered to others in the usual course of business.¹⁶
- **Travel Expenses from Non-Transportation Companies.** Gifts of travel expenses (for example, airfare, lodging, meals and entertainment) from non-transportation companies are generally subject to the gift rules and must be reported on one’s Statement of Economic Interests as such.

- **Travel Passes from Transportation Companies.** State law strictly forbids elected and appointed public officials from accepting free or discounted travel from transportation companies.¹⁷ The penalty for violating the prohibition against accepting travel passes from transportation companies is severe--an immediate forfeiture of office.¹⁸
- **Receiving Gratuities or Rewards.** It is a crime to receive any kind of gratuity or reward for performing one's duties.¹⁹
- **Honoraria.** State law regulates the degree to which public officials may receive payments for giving a speech, writing an article or attending a public or private conference, convention, meeting, social event, meal or similar gathering.²⁰ Generally such payments—which are known as honoraria--are prohibited. The notion is such communications are part of a public official's service.
- **Personal Use of Public Resources.** State law forbids public officials from using public resources for personal purposes.²¹ "Public resources" include such things as 1) staff time, 2) office equipment (telephones, fax machines, photocopiers, and computers), and 3) office supplies (stationery, stamps, and other items). "Personal" use of public resources includes activities that are for personal enjoyment, private gain or advantage.²² "Use" means the use of public resources that is substantial enough to result in a gain or advantage for the user and a loss to the local agency that can be estimated as a monetary value.²³
- **Expense Reimbursement.** The general rule is that local agency officials may only be reimbursed for actual and necessary expenses.²⁴ Cities, counties, and special districts that reimburse their elected and appointed officials must adopt expense reimbursement policies that specify the kinds of activities that will be reimbursable.²⁵ Local agencies must use expense report forms and all expenses must be documented with receipts.²⁶ These documents are public records subject to disclosure.²⁷
- **Limits on Public Official Compensation.** Typically there is a legal limit on elected public official compensation levels, either in state or local statutes. Public officials, particularly elected ones, may only collect and retain such compensation that the law allows.²⁸ As protectors of the public purse, courts generally take a strict approach to public official compensation limits.²⁹

City and county officials typically receive a monthly salary for their service. Special district directors tend to be compensated by a daily stipend. With certain exceptions, this stipend compensates such directors for:

- A meeting of any "legislative body" as defined by the Brown Act

- A meeting of an advisory body
- Conference attendance or educational activities, including ethics training³⁰

Agencies may compensate officials for attendance at other events as specified in a written policy adopted in a public meeting.³¹

- **Use of Public Resources for Political Purposes.** The same statutes that prohibit the use of public resources for personal benefit also prohibit the use of such resources for campaign purposes.³² The prohibition applies to campaigns to elect candidates and campaigns in support of or opposition to ballot measures.
- **Mass Mailings at Public Expense.** State law forbids sending mass mailings at public expense.³³ The Fair Political Practices Commission has defined “mass mailings” as sending more than 200 identical pieces that contain the name or pictures of elected officials except as part of a standard letterhead.³⁴
- **Gifts of Public Resources or Funds.** California’s constitution forbids gifts of public funds. This prohibits, for example, paying for spouses to accompany public officials.³⁵ It can also be an issue when a public agency contemplates charitable contributions.³⁶
- **Soliciting Political Support from Agency Employees.** Soliciting campaign funds from agency officers or employees is also unlawful,³⁷ as is conditioning employment decisions on support of a person’s candidacy.³⁸ Compensation decisions may not be tied to political support either.³⁹

Speak with your agency counsel about the specifics of these requirements as they may apply to your situation.

Consequences of Missteps

The consequences of violating the “no-perk” laws can also be severe. For example, the prohibitions against the personal use of public resources are punishable by a \$1,000 per day fine plus three times the value of the resource used.⁴⁰ Criminal penalties include a two to four year prison term and disqualification from office.⁴¹ Prosecution under the federal income tax evasion laws is also a possibility.⁴² Again, this does not include the costs of hiring defense lawyers, which can up to tens of thousands of dollars, if not more.

Beyond the Minimum in Understanding Public Service Ethics

Like all ethics laws, AB 1234 sets minimum standards. The enforcement mechanism for complying with AB 1234's requirements relies on public opinion and media attention. Records of officials' compliance with AB 1234 (proof of participation certificates) are public records and must be maintained for at least five years.⁴³

In addition to maintaining records on compliance with the minimum standards imposed by AB 1234, local agencies may also want to maintain records of any training and study local agency officials engaged in above and beyond the AB 1234's minimum requirements. This will enable those inquiring to ascertain the agency's and individual's full scope of commitment to understanding the ethical and legal obligations associated with public service.

Beyond the Law

Understanding and complying with public service ethics laws is a challenge. But the public expects even more of its public servants. Rather than making decisions purely on the fly, how can public officials maximize the likelihood that they will meet or exceed the public's expectations for ethical conduct?

One is to think in terms of ethical values. Some key values relating to public service include responsibility, trustworthiness, respect and fairness. Assess decisions you have to make against these standards.

In addition, you can ask yourself these kinds of questions:

- What decision, behavior or course of action will best promote the public's trust in my leadership and that of my agency?
- Would I want to read about a certain course of action on the front page of my local newspaper?
- How do I want to be remembered as a public official? What would make my family and parents proud as a legacy?

For example, even if you are not legally required to disqualify yourself from participating in a decision, you may want to voluntarily abstain from participating if you believe the public could reasonably question whether you could put personal relationships and interests aside in making a given decision.

Conclusion

Former British Prime Minister Benjamin Disraeli once observed “...that all power is a trust; that we are accountable for its exercise.” As extensive and complicated as they are, the above rules relating to public service ethics are a reflection of that overarching quest for accountability and trust.

For more information on these rules, go to www.ca-ilg.org/ethicslaws. For more information on ethics principles, please visit www.ca-ilg.org/ethicsprinciples.

References

- ¹ Cal. Gov’t Code § 53235(a), (b).
- ² Cal. Gov’t Code § 53234(c).
- ³ Cal. Gov’t Code § 53235(a), (b).
- ⁴ *Id.* See also *People v. Anderson*, 75 Cal. App. 365 (1925).
- ⁵ See 18 U.S.C. § 201.
- ⁶ See Cal. Gov’t Code §§ 87100 and following.
- ⁷ Cal. Gov’t Code § 1090.
- ⁸ Cal. Gov’t Code § 1092.
- ⁹ Cal. Gov’t Code § 87407.
- ¹⁰ See Cal. Gov’t Code § 87406.3.
- ¹¹ See Cal. Gov’t Code § 87105.
- ¹² See Cal. Gov’t Code § 87460(a), (b).
- ¹³ See Cal. Gov’t Code § 87460(c), (d).
- ¹⁴ See Cal. Gov’t Code § 87461.
- ¹⁵ Cal. Gov’t Code §§ 87200, 87207, 89503; 2 Cal. Code Regs. § 18940.2 (The gift limit is modified every two years to reflect changes in the Consumer Price Index; the \$440 amount is valid for 2013-2014).
- ¹⁶ Cal. Gov’t Code § 82028(a).
- ¹⁷ See Cal. Const. art. XII, § 7 (“A transportation company may not grant free passes or discounts to anyone holding an office in this State . . .”).
- ¹⁸ See Cal. Const. art. XII, § 7 (“ . . . acceptance of a pass or discount by a public officer . . . shall work a forfeiture of that office . . .”).
- ¹⁹ Cal. Penal Code § 70.
- ²⁰ See Cal. Gov’t Code § 89501 (definition of honoraria).
- ²¹ See Cal. Penal Code § 424; Cal. Gov’t Code § 8314.
- ²² Cal. Gov’t Code § 8314(b)(1).
- ²³ Cal. Gov’t Code § 8314(b)(4).
- ²⁴ Cal. Gov’t Code § 36514.5.
- ²⁵ Cal. Gov’t Code § 53232.2(b).
- ²⁶ Cal. Gov’t Code § 53232.3.
- ²⁷ Cal. Gov’t Code § 53232.3(e).
- ²⁸ For example, the salary of council members of general law cities is controlled by Government Code section 36516(a), which permits a city council to establish by ordinance a salary up to a ceiling determined by the city’s population. The electorate may approve a higher salary. Cal. Gov’t Code § 36516(b). A council member appointed or elected to fill a vacancy is compensated in the same amount as his or her predecessor. A directly-elected mayor may receive additional compensation with the consent of the electorate or by ordinance of the city council. Cal. Gov’t Code § 36516.1. See also Cal. Educ. Code §§ 1090 (county board of education compensation), 35120 (school board member compensation), 72425 (community college board member compensation).
- ²⁹ *Id.*
- ³⁰ Cal. Gov’t Code § 53232.1(a).

³¹ Cal. Gov't Code § 53232.1(b).

³² Cal. Penal Code § 424; *People v. Battin*, 77 Cal. App. 3d 635 (1978) (successful criminal prosecution of county supervisor for misusing public funds for improper political purposes), superseded on other grounds by *People v. Conner*, 34 Cal. 3d 141 (1983). See also Cal. Gov't Code § 8314 (“‘Campaign activity’ means an activity constituting a contribution as defined in Section 82015 or an expenditure as defined in Section 82025. ‘Campaign activity’ does not include the incidental and minimal use of public resources, such as equipment or office space, for campaign purposes, including the referral of unsolicited political mail, telephone calls and visitors to private political entities.”).

³³ See Cal. Gov't Code § 89001.

³⁴ See 2 Cal. Code Regs. § 18901.

³⁵ 75 Cal. Op. Att’y Gen. 20 (1992) (finding paying a spouse’s expenses to a conference violates both Government Code section 1090 and constitutional prohibitions against gifts of public funds). See also 65 Cal. Op. Att’y Gen. 517, 521 (1982) (finding Government Code section 36514.5 does not authorize reimbursement of the expenses of any person other than a member of the city council). See also *Albright v. City of South San Francisco*, 44 Cal. App. 3d 866, 869-870 (1975). (unauthorized reimbursement is illegal gift).

³⁶ See generally McQuillin, *Municipal Corporations*, § 39.25 (3d rev. ed. 1988) (“Appropriations to charitable or nonprofit associations, without consideration [something in return], cannot be made.”)

³⁷ See Cal. Gov't Code § 3205 (except for those communications to a significant segment of the public that happens to include fellow public officials and employees).

³⁸ See Cal. Gov't Code § 3204, which reads as follows: No one who holds, or who is seeking election or appointment to, any office or employment in a state or local agency shall, directly or indirectly, use, promise, threaten or attempt to use, any office, authority, or influence, whether then possessed or merely anticipated, to confer upon or secure for any individual person, or to aid or obstruct any individual person in securing, or to prevent any individual person from securing, any position, nomination, confirmation, promotion, or change in compensation or position, within the state or local agency, upon consideration or condition that the vote or political influence or action of such person or another shall be given or used in behalf of, or withheld from, any candidate, officer, or party, or upon any other corrupt condition or consideration. This prohibition shall apply to urging or discouraging the individual employee’s action.

³⁹ See Cal. Gov't Code § 3205.5, which reads as follows: No one who holds, or who is seeking election or appointment to, any office shall, directly or indirectly, offer or arrange for any increase in compensation or salary for an employee of a state or local agency in exchange for, or a promise of, a contribution or loan to any committee controlled directly or indirectly by the person who holds, or who is seeking election or appointment to, an office. A violation of this section is punishable by imprisonment in a county jail for a period not exceeding one year, a fine not exceeding five thousand dollars (\$5,000), or by both that imprisonment and fine.

⁴⁰ Cal. Gov't Code § 8314(c)(1).

⁴¹ Cal. Penal Code § 424.

⁴² See 26 U.S.C. §§ 7201, 7203.

⁴³ Cal. Gov't Code § 53235.2.

AB 1234 Self-Study Materials

Part II: Governmental Transparency and Fair Processes

AB 1234 requires elected and appointed officials to take two hours of ethics training if they receive compensation for their service or are reimbursed for their expenses.¹ The ethics training requirement may also apply to agency employees designated by the agency's legislative body.²

There are many ways to satisfy this requirement, including in-person training and self-study activities. Moreover, like all ethics laws, AB 1234 is a floor, not a ceiling. Local officials can demonstrate their commitment to ethics in public service by going beyond AB 1234's minimum requirements.

As a special service, the Institute for Local Government is offering this article for one hour of AB 1234 self-study credit (or half of the minimum requirement). To claim self-study credit, log on to www.ca-ilg.org/AB1234selfstudy, print out and take the test, mail it to the address indicated with the \$25 processing fee. This fee covers grading the test, providing the correct answers (and explanations) and your proof of participation certificate; it also supports the Institute's work in the public service ethics area.

Scope of This Self-Study Exercise

This article covers half of the required areas of ethics, including:³

- Governmental transparency laws, including financial disclosure laws and laws protecting the public's right to participate in meetings and access public records (the Brown Act and Public Records Act); and
- Law relating to fair processes, including common law bias, due process, incompatible offices, competitive bidding requirements for public contracts, and disqualification from participation in decisions involving family members.

The April 2006 Everyday Ethics column covered the balance of the areas of ethics training required by AB 1234, including:⁴

- Laws relating to personal financial gain by public officials (including bribery and conflict of interest laws); and

- Laws relating to office-holder perks, including gifts and travel restrictions, personal and political use of public resources and prohibitions against gifts of public funds.

Note that public service ethics laws are extraordinarily complex. The learning objective of both self-study and in-person AB 1234 training courses is to familiarize local officials with when they need to consult agency counsel, the attorney general or the Fair Political Practices Commission about a given situation or course of action.

Transparency Laws

The principle underlying governmental transparency laws is that the public trusts what it can observe. Moreover, the prospect that actions will be publicly-known can be a deterrent against actions that might undermine public trust. Thus, the laws in this area are designed to promote the general ethical values of *trustworthiness* and *responsibility*.

There are two basic categories of transparency laws. One relates to activities of the individual official. For example, these laws require specified officials to periodically disclose their personal financial interests (so the public can assess whether those interests played a role in the official's decisions). They also require officials to disclose campaign and charitable fundraising activities.

The other kind of transparency laws requires governmental processes to be transparent to the public. These laws require that governmental decisions be made in public and that the public have the opportunity to weigh in on those decisions. They also require that most public records be open to public inspection.

This self-study exercise discusses both kinds of transparency laws.

Financial Disclosure Laws

There is an adage about one's life being an open book. Nowhere is this truer than for public officials and their finances. The bottom line is that when you become a public official, the public gets to learn a great deal about your financial life. The voters created these disclosure requirements when they approved the Political Reform Act in 1974.⁵

The disclosure requirements apply to nearly every local elected official and department head. Members of commissions, boards, committees and other local agency bodies with significant decision-making authority are also subject to disclosure requirements. An agency may require additional staff positions to disclose their economic interests under the agency's local conflict of interest code. Such employees are known as "designated employees."

The following kinds of economic interests must be disclosed if they meet certain minimum thresholds:⁶

- Sources of income;
- Interests in real property;
- Investments;
- Business positions; and
- Gifts

This disclosure is made on forms called both “Statements of Economic Interests” and “Form 700’s.” Copies of these forms are generally provided by one’s agency. Interactive versions of the forms are available from the Fair Political Practices Commission website: www.fppc.ca.gov.

These forms are filed upon assuming office, on an annual basis while in office, and upon leaving office.

Charitable Fundraising

The disclosure laws are not limited to an official’s personal financial interests. There are extensive disclosure requirements relating to an official’s campaign fundraising activities, of course.⁷ However, a sometimes-overlooked disclosure obligation relates to an official’s charitable fundraising activities. The theory is that the public has a right to know who is contributing to an elected official’s favorite charities and other causes.

The trigger occurs when an elected official gets someone to contribute \$5,000 or more to a legislative, governmental or charitable cause during a calendar year.⁸ Within 30 days of reaching the \$5,000 threshold, the elected official must file a report with the official’s agency (typically with the filing officer).

Conducting the Public’s Business in Public

California’s open meeting laws⁹ provide legal minimums for local governmental transparency in decision-making. Decision-making bodies--which include the governing board as well as many committees and advisory bodies--must conduct their business in an open and public meeting to assure the public is fully informed about local decisions.¹⁰

The following are some key things to keep in mind:

- **Meetings.** A “meeting” is any situation involving a majority of the governing body in which business is transacted or discussed.¹¹ In other words, a majority of the governing body cannot talk privately about an issue before the body no matter how the conversation occurs, whether by telephone or e-mail or at a local coffee shop.¹²
- **Serial Meetings.** One thing to watch for is unintentionally creating a “serial” meeting—a series of communications that result in a majority of governing body members having conferred on an issue. For example, if two members of a five-

member governing body consult outside of a public meeting (which is not in and of itself a violation) and then one of those individuals consults with a third member on the same issue, a majority of the body has consulted on the same issue. Note the communication does not need to be in person and can occur through a third party. For example, sending or forwarding e-mail can be sufficient to create a serial meeting, as can a staff member polling governing body members in a way that reveals the members' positions to one another.¹³

- **Permissible Gatherings.** Not every gathering of governing body members is a problem. For example, a majority of the governing body may attend the same educational conference or a community meeting not organized by the local agency.¹⁴ Nor is attendance at a social or ceremonial event in and of itself a violation.¹⁵ The key rule to keep in mind is a majority of the governing body members cannot meet and discuss agency business except at an open and fully noticed public meeting.
- **Closed Sessions.** The open meeting laws include provisions for closed discussions under very limited circumstances.¹⁶ Because of the complexity of the open meeting laws, close consultation with an agency's legal advisor is necessary to ensure that the requirements relating to and the limitations on closed sessions are observed.

The Public's Right to Participate in Meetings

Another element of open meeting laws is the public's right to address the governing body. A public official's role is to both hear and evaluate these concerns. There are a number of basic rules that govern this right.

- **Posting and Following the Agenda.** The open meeting laws require that the public be informed of the time of and the issues to be addressed at each meeting.¹⁷
- **The Public's Right to be Heard.** Generally, every agenda must provide an opportunity for the public to address the governing body on any item of interest to the public within the body's jurisdiction.¹⁸ If the issue of concern is one pending before the legislative body, the opportunity must be provided before or during the body's consideration of that issue.¹⁹
- **Reasonable Time Limits May Be Imposed.** Local agencies may adopt reasonable regulations to ensure everyone has an opportunity to be heard in an orderly manner.²⁰

The Public's Right to Access Records

Copies of the agenda materials and other documents distributed to the governing body must also be available to the public.²¹ The public has the right to see any materials that

are created as part of the conduct of the people's business.²² These materials include any writing that was prepared, owned, used, or retained by a public agency.²³ They include documents, computer data, e-mails, facsimiles, and photographs.²⁴

Although there are exceptions to a public agency's duty to disclose records, the safe assumption is virtually all materials involved in one's service on the governing body--including e-mails--are public records subject to disclosure.

Fair Process Laws

Not surprisingly, fair process laws promote the ethical value of fairness. This is the notion that everyone has a right to be treated fairly by governmental processes, irrespective of who they are or whom they know. The public's perception that decisions are made fairly is a key element of the public's confidence and trust in government and individual public officials.

The Obligation to be a Fair and Unbiased Decision-Maker

Although California statutes largely determine when public officials must disqualify themselves from participating in decisions, common law (judge-made) and some constitutional principles still require a public official to exercise his or her powers free from personal bias--including biases that have nothing to do with financial gain or losses.

In addition, constitutional due process principles require a decision-maker to be fair and impartial when the decision-making body is sitting in what is known as a "quasi-judicial" capacity. Quasi-judicial matters include variances, use permits, annexation protests, personnel disciplinary actions, and licenses. Quasi-judicial proceedings tend to involve the application of generally adopted standards to specific situations, much as a judge applies the law to a particular set of facts.

For example, a court overturned a planning commission's decision on due process grounds, concluding that a planning commissioner's authorship of an article hostile to a project before the commission gave rise to an unacceptable probability of bias against the project, and that the commissioner should have disqualified himself from participating in the decision.²⁵

Typically, having the official who may have exhibited bias disqualify himself or herself solves the problem.²⁶ If the problem is not addressed though, the agency's decision will be at risk of being overturned by the courts.²⁷ The agency will have to conduct new proceedings free of the influence of the biased decision-maker.²⁸ If the violation rises to the level of a denial of due process under constitutional law, the affected individual(s) may seek damages, costs and attorneys fees.²⁹

Finally, community relations—and the public's views of an official's responsiveness—are seriously undermined when it appears an official is not listening to the input being

provided by the public. Even if you disagree with the views being offered, treat the speaker with the same respect you would like to be treated with if the roles were reversed. Moreover, at least one court has ruled that officials' perceived inattentiveness during a hearing violated due process principles.³⁰

Campaign Contributions and Bias

Generally, the ethics laws with respect to campaign contributions emphasize disclosure rather than disqualification. The emphasis on disclosure enables the public to assess for itself the degree an official could be influenced by campaign contributors who appear before the agency. Both financial and in-kind support must be disclosed.

However, under limited (and sometimes counterintuitive) circumstances, certain local agency officials must disqualify themselves from participating in proceedings regarding licenses, permits and other entitlements for use if the official has received campaign contributions of more than \$250 during the previous twelve months from any party or participant.³¹ The restrictions apply if the official is sitting on an appointed (as opposed to elected) body.³²

In addition, these officials are prohibited from receiving, soliciting or directing a campaign contribution of more than \$250 from any party or participant in a license, permit or entitlement proceeding while the proceeding is pending and for three months after the contribution.³³

Holding Multiple Public Offices

There is such a thing as too much public service; the law limits the degree to which public officials can hold multiple public offices. The reason is that, when one assumes a public office, one takes on responsibility to the constituents of that agency to put their interests first. When one occupies multiple offices in multiple agencies (for example, membership on the city council and serving on the board of another local agency), that job becomes more complicated, both legally and ethically, because of the possibility of conflicting loyalties.³⁴

Offices are incompatible if there is any significant clash of duties or loyalties between the offices or if either officer exercises a supervisory, auditory, or removal power over the other.³⁵ Note there can be specific legislative exceptions to incompatible office rules.³⁶

Competitive Bidding Processes for Public Contracts

Public contracting laws--including those adopted at the local level--are designed to give all interested parties the opportunity to do business with the government on an equal basis. This keeps contracts from being steered to businesses or individuals because of political connections, friendship, favoritism, corruption or other factors. It also assures that the public receives the best value for its money by promoting competition among businesses so the public can receive the best deal.³⁷

Many competitive bidding requirements are locally imposed, for example by charter cities as part of their municipal affairs authority.³⁸ State law also authorizes local agencies to adopt procedures for acquisition of supplies and equipment.³⁹ Most of these purchasing ordinances require competitive bids for contracts in excess of designated dollar amounts.

For public works projects, state law defines when general law cities and counties must use competitive bidding. For general law cities, public works projects over \$5,000 are subject to the state's competitive bidding requirements.⁴⁰ For county projects, the threshold is based on population: \$6,500 (counties with populations of 500,000 or over), \$50,000 (counties with populations of 2 million or over) and \$4,000 (all other counties).⁴¹ Note that it is a misdemeanor to split projects to avoid competitive bidding requirements.⁴²

In order to give all interested parties an opportunity to do business with the agency and get the best price for the public, the agency has to publicize the opportunity. This is typically accomplished by publishing a notice inviting bids in a newspaper of general circulation that is printed or published in the jurisdiction, or if there is none, posting the notice in at least three public places in the jurisdiction.⁴³ Trade publications can also be a helpful way to reach a wide segment of the contracting industry.

Decisions Involving Family Members

The Political Reform Act requires public officials to disqualify themselves from participating in decisions that will increase or decrease their immediate family's expenses, income, assets or liabilities.⁴⁴ "Immediate family" includes one's spouse or domestic partner, and dependent children.⁴⁵ The notion is that it is very difficult for any person to be fair and unbiased when one's family's interests are concerned; it is, of course, also difficult for the public to perceive the official to be fair and unbiased about close family members.

Because of this, some jurisdictions have adopted additional restrictions on the hiring or appointing of relatives of public officials. These are known as anti-nepotism policies. It can be wise to avoid questions about family relationship by voluntarily not participating in decisions that affect family members, even if the law or local agency regulations allow you to participate.

Beyond the Law

At some point in your service as a public official, you will likely face two common types of ethical dilemmas:

- **Personal Cost Ethical Dilemmas.** This involves situations in which doing the right thing may or will come at a significant personal cost to you or your public agency. These also can be known as "moral courage" ethical dilemmas.⁴⁶

- **Right-versus-Right Ethical Dilemmas.** This type of ethical dilemma involves those situations in which there are two conflicting sets of “right” values.⁴⁷

Of course, some dilemmas are a combination of both: a conflict between competing sets of “right” values (right-versus-right) and a situation in which doing the right thing involves personal or political costs.

Personal Cost Ethical Dilemmas

With these kinds of dilemmas, the costs can be political - such as the loss of political support or perhaps even one’s prospects for reelection. Or, the cost can be financial, for example a missed opportunity for financial gain or material benefits. Issues relating to the proper use of public resources fall into the “personal cost” type of ethical dilemma, inasmuch as these dilemmas typically involve whether one is going to forgo a tempting political or personal benefit. Finally, the cost can be more directly personal, as when one fears a particular course of action may jeopardize a friendship. In these situations, the answer is relatively simple. *The bottom line is that being ethical means doing the right thing regardless of personal costs.*

Right-versus-Right Ethical Dilemmas

Right-versus-right ethical dilemmas can be more difficult to resolve. An easy example, however, is when a political supporter urges you to do something that conflicts with your own best sense of what will serve your community’s interests. In this dilemma, there is a conflict between your *responsibility* to do what is in the public’s best interest and your *loyalty* to your political supporter. Responsibility and loyalty are both bona fide ethical values.

The key is, as a public servant, the ethical value of responsibility (and the responsibility to do what is in the public’s best interest) trumps the ethical value of loyalty. This is when thinking about the public’s perception of the right thing to do can be a useful dilemma-resolution strategy.

Conclusion

In politics, there is a great temptation to engage in ends/means thinking in which one is tempted to conclude that good or desirable ends justify the means. As both Dr. Martin Luther King Jr. and Gandhi have observed, the means *are* the end in a democracy and good ends cannot come from questionable means.

Public officials are stewards of the public’s trust in both their institutions and their leaders. Central to that trust is a fair and open process. Conscientious attention to laws and principles of fair and open government will help you as a leader pursue both good means and good ends.

Resources for Further Information

For more information about ethics laws and principles, check out the following resources:

- California Attorney General Publications:
www.caag.state.ca.us/publications/index.htm (click on “ethics”)
- Fair Political Practices Commission Publications:
<http://www.fppc.ca.gov/index.php?id=226>
- Institute for Local Government Ethics Resource Center: www.ca-ilg.org/trust

References

¹ Cal. Gov’t Code § 53235(a), (b).

² Cal. Gov’t Code § 53234(c).

³ Cal. Gov’t Code § 53234(d)(3), (4).

⁴ Cal. Gov’t Code § 53234(d)(1), (2).

⁵ This is a requirement of the Political Reform Act. *See generally* Cal. Gov’t Code §§ 87200 and following.

⁶ *See* Cal. Gov’t Code §§ 87200-87210; 2 Cal. Code Regs. §§ 18723-18740.

⁷ *See generally* Cal. Gov’t Code §§ 84100 and following; 2 Cal. Code Regs. §§ 18401 and following.

⁸ *See* Cal. Gov’t Code § 82015(b)(2)(B)(iii).

⁹ *See generally* Cal. Gov’t Code §§ 54950 and following (for cities, counties, special districts and school districts); Cal. Educ. Code §§ 72121 and following (for community college district governing boards).

¹⁰ *See* Cal. Gov’t Code 54952.2(a); Cal. Gov’t Code § 54954.2(a).

¹¹ Cal. Gov’t Code § 54952.2(a).

¹² Cal. Gov’t Code § 54952.2(b); Cal. Educ. Code § 72121.

¹³ Cal. Gov’t Code § 54952.2.

¹⁴ Cal. Gov’t Code § 54952.2(c)(2).

¹⁵ Cal. Gov’t Code § 54952.2(c)(5).

¹⁶ *See* Cal. Gov’t Code § 54954.5; Cal. Educ. Code § 71122.

¹⁷ Cal. Gov’t Code § 54954.2(a); Cal. Educ. Code § 72121.

¹⁸ Cal. Gov’t Code § 54954.3(a); Cal. Educ. Code § 72121.5.

¹⁹ Cal. Gov’t Code § 54954.3(a).

²⁰ Cal. Gov’t Code § 54954.3(b); *White v. City of Norwalk*, 900 F.2d 1421, 1425 (9th Cir. 1990).

²¹ Cal. Gov’t Code § 54957.5.

²² *See generally* Cal. Gov’t Code §§ 6250 and following.

²³ Cal. Gov’t Code § 6252(d).

²⁴ Cal. Gov’t Code § 6252(e).

²⁵ *Nasha v. City of Los Angeles*, 125 Cal. App. 4th 471 (2004).

²⁶ *See Fairfield v. Superior Court*, 14 Cal. 3d 768 (1975); *Mennig v. City Council*, 86 Cal. App. 3d 341 (1978).

²⁷ *See generally* Cal. Civ. Proc. Code § 1094.5.

²⁸ *See Clark v. City of Hermosa Beach*, 48 Cal. App. 4th 1152 (1996) (requiring council to rehear an appeal from the planning commission’s decision and provide a fair hearing).

²⁹ *See* 42 U.S.C. §§ 1983, 1988.

³⁰ *See Lacy Street Hospitality Service v. City of Los Angeles*, 22 Cal. Rptr. 3d 805 (2004) (depublished 2005 Daily Journal D.A.R. 84). This case may not be cited as precedent and is provided here only as an illustration.

³¹ Cal. Gov’t Code § 84308.

³² See Cal. Gov't Code § 8208(a)(3); 2 Cal. Code Regs. § 18438.1.

³³ See Cal. Gov't Code § 84308(b).

³⁴ See Cal. Gov't Code § 1126.

³⁵ 71 Cal. Op. Att'y Gen. 39 (1988).

³⁶ See, for example, Cal. Health & Safety Code § 6480(b) (relating to city officials serving on sanitary districts); Cal. Gov't Code § 61231 (relating to irrigation district directors serving on community services district boards). See also 85 Cal. Op. Att'y Gen. 239 (2002) (noting the legislature can create exceptions to the incompatibility doctrine).

³⁷ See Cal. Pub. Cont. Code § 100.

³⁸ *Smith v. City of Riverside*, 34 Cal. App. 3d 529 (1973).

³⁹ Cal. Gov't Code §§ 54201 and following.

⁴⁰ Cal. Pub. Cont. Code §§ 20160-20162.

⁴¹ Cal. Pub. Cont. Code §§ 20120-20123.

⁴² Cal. Pub. Cont. Code § 20163.

⁴³ See, e.g., Cal. Pub. Cont. Code § 20164.

⁴⁴ See 2 Cal. Code Regs. § 18703.5.

⁴⁵ Cal. Gov't Code § 82029; 2 Cal. Code Regs. § 18229.

⁴⁶ See Rushworth M. Kidder, *Moral Courage: Taking Action When Your Values Are Put to the Test* (William Morrow, 2005).

⁴⁷ See Rushworth M. Kidder, *How Good People Make Tough Choices: Resolving the Dilemmas of Ethical Living* (Simon and Schuster, 1995) 13-49.

CITY OF RANCHO CORDOVA COMMUNITY ENHANCEMENT FUND 5-YEAR SPECIAL EDITION CITIZEN REPORT



Dear Resident,

This year marks the 5th anniversary of the City of Rancho Cordova's Community Enhancement Fund. The Community Enhancement Fund is supported by Measure H, a half-cent local sales tax measure approved by Rancho Cordova voters in November 2014 that went into effect on April 1, 2015.

This year's annual *Community Enhancement Fund Citizen Report* is a special edition that includes the history of the Community Enhancement Fund, key community priority areas for funding, and project highlights over the past five years. In addition, this report provides an overview of Community Enhancement Fund projects during the 2019/2020 Fiscal Year and explains how sales tax revenue was spent.

Again this year, the Community Enhancement Fund program received grant applications from individuals, organizations, businesses, community partners and internal city departments. The City Council reviewed the grant applications with a focus on fulfilling needs to support key community priority areas, which are outlined in this publication. More than 50 projects were selected for funding during the 2019/2020 Fiscal Year.

The Community Enhancement Fund supports a variety of projects and programs from public safety and public works, to legacy projects, to community-based and grassroots programs and initiatives. Almost the entire Community Enhancement Fund supports projects and programs that benefit our community, due to minimal administrative fees.

The Community Enhancement Fund Oversight Board was created in 2017 and now includes eight residents to provide an extra layer of oversight to monitor the Community Enhancement Fund and provide feedback and recommendations to city staff. One of the Board's tasks was to provide feedback about accomplishments to be highlighted in this report.

The city takes great pride in serving Rancho Cordova through stewardship of the Community Enhancement Fund, and we hope you enjoy this special edition. For more information, visit CityofRanchoCordova.org/CommunityEnhancementFund.

Sincerely,

Cyrus Abhar
City Manager



HISTORICAL MILESTONES FOR THE COMMUNITY ENHANCEMENT FUND

November 4

2014

Measure H was approved by Rancho Cordova voters

February – April

2015

Rancho Cordova City Council in partnership with residents and businesses developed a list of key community priority areas for the Community Enhancement Fund, through a series of 16 town hall meetings and City Council meetings

April

Measure H sales tax went into effect

2015

June – July

City began receiving the new Community Enhancement Funds
First Community Enhancement Fund grants funded

2015

KEY COMMUNITY PRIORITY AREAS

- Following are key community priority areas developed by the Rancho Cordova City Council in partnership with residents and businesses, including:
- The percentage of grant funding for each priority area over the last five fiscal years of funding



Legacy Fund

Large-scale projects that cross multiple fiscal years

21%

Building community facilities for seniors/working adults/children

- Funded a new Civic Center and Youth Center coming soon to Rancho Cordova
- Partially funded the new Cordova Community Pool at Hagan Community Park, which is under construction
- Opened a new seven-field softball complex at Mills Middle School
- Funded plans to renovate and improve the existing little league facility at Ahlstrom Park/Cordova Lane Center



Public Works/Infrastructure

18%

Fixing streets faster

- Repared roads, repaired sidewalks and improved traffic safety in Rancho Cordova neighborhoods, including:
- Street Rehabilitation Project in the Cordova Towne/White Rock Neighborhood
 - Cordova Meadows Neighborhood Improvements
 - Neighborhood Traffic Management Program in multiple areas
 - Sidewalk Improvement Project in multiple areas
 - Chase Drive/Coloma Road Plaza Project
 - Sunrise Boulevard Rehabilitation Project



Arts, Culture, History, Entertainment & Sports

13%

Building community facilities for seniors/working adults/children

- Opened the new Mills Station Arts and Culture Center and restored the historic American River Grange
- Created and enhanced music programs at Rancho Cordova schools, and brought musical and performing arts performances to our community
- Improved sports fields and provided equipment, coaching and additional resources for youth sports programs



Education, After-School Programs & School Gardens

8%

Expanding children/teen after-school programs

- Developed the Rancho Cordova Promise Program to send students to Folsom Lake College tuition free, the first program of its kind in the region
- Formed multiple after-school programs at Rancho Cordova schools and through nonprofit organizations to support local students

November

2016

Launched the inaugural edition of the *Community Enhancement Fund Citizen Report*. For copies of the past four editions, visit CityofRanchoCordova.org/CommunityEnhancementFund

October

2017

Created the Community Enhancement Fund Oversight Board, which includes eight residents to provide an extra layer of oversight to monitor the Community Enhancement Fund and provide feedback and recommendations to city staff

April

2018

Launched an Open Data tool that shows projects and programs funded by the Community Enhancement Fund, including funding amounts and quarterly spending to date, locations and photos

April

2020

5th anniversary of the Community Enhancement Fund

- The Measure H ballot language associated with each priority area
- Project highlights

One priority area is "Other Community Priorities," which covers miscellaneous community priorities, as well as administration of and communications for the fund.



Community & Economic Development

15%

Removing blight/revitalizing vacant buildings along Folsom Boulevard

- Beautified residential and commercial properties throughout the city through beautification projects, neighborhood improvement projects, and abatement programs
- Launched the Commercial Façade Grant Improvement Program to enhance the physical appearance and economic vitality of commercial businesses



Public Safety

14%

Enhancing anti-gang/youth violence prevention and increasing neighborhood police patrols

- Created the Crime Suppression Unit, Folsom-Olson-Zinfandel Area Program and Detection K9 Program through the Rancho Cordova Police Department
- Supported local youth through Rancho Cordova Police Activities League programming and events



Other Community Priorities

6%

Other general city services

- Supported homeless individuals and families through Mather Veterans Village and the Rancho Cordova Homeless Assistance Resource Team Winter Shelter
- Distributed meals to households through the Rancho Cordova Food Locker and seniors through Meals on Wheels by ACC



Administration & Communications

5%

- Funding for the administration of the Community Enhancement Fund is 5% of the total annual fund budget each year. Almost the entire Community Enhancement Fund supports projects and programs that benefit our community, due to minimal administrative fees.

Read on for Community Enhancement Fund Projects during the 2019/2020 Fiscal Year

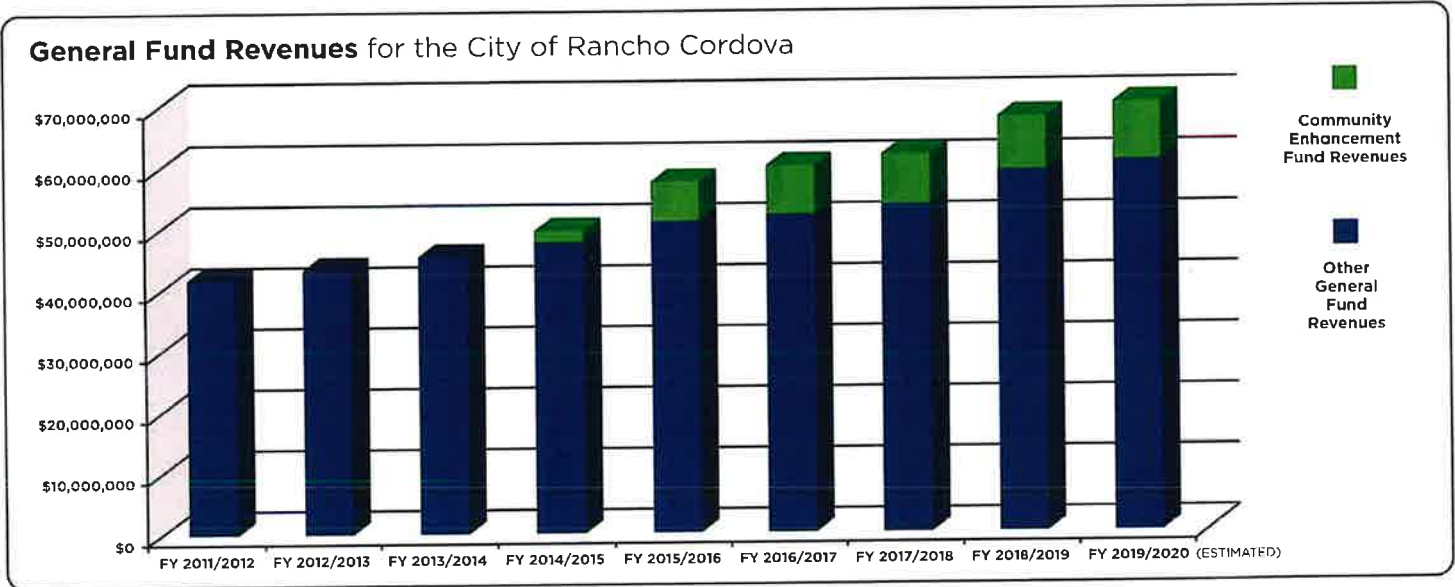


COMMUNITY ENHANCEMENT FUND PROJECTS

**2019/2020
FISCAL YEAR**

The following section provides an overview of Community Enhancement Fund projects during the 2019/2020 Fiscal Year and explains how sales tax revenue was spent.

During the 2019/2020 Fiscal Year, the program is estimated to have generated approximately \$8.7 million in additional sales tax revenue. The chart below depicts the past nine years of General Fund Revenues for the City of Rancho Cordova. The green shaded area represents the Community Enhancement Fund Revenues that began during the 2014/2015 Fiscal Year.



Read on for specific project examples in seven of the priority areas and how the projects are supporting the City of Rancho Cordova. For a full list of approved projects, program updates and an interactive tool and map, visit: CityofRanchoCordova.org/CommunityEnhancementFund



Graphic Indicates Five Year Totals

LEGACY FUND

Allocation: \$2,098,000

The Community Enhancement Fund provides funding for large-scale projects through an annual legacy fund allocation. Legacy projects cross multiple fiscal years. Below are some specific project examples in this priority area.

CORDOVA COMMUNITY POOL

Grant: \$3,000,000

New community pool, expansion of existing lap pool and a new larger building at Hagan Community Park

Partnership with Cordova Recreation & Park District

Anticipated grand opening late summer 2021



RANCHO CORDOVA CIVIC CENTER

Grant: \$4,000,000

Pre-development work for new civic center on a 9.8-acre site on Folsom Boulevard

Design options early 2021
Design selection Fall 2021



RANCHO CORDOVA YOUTH CENTER

Grant: Pre-development underway in the 2020/2021 Fiscal Year

Dedicated the future site of the Rancho Cordova Youth Center on a 1.75-acre property on Investment Circle

Site leased by Center of Praise Ministries



SACRAMENTO CHILDREN'S MUSEUM IMPROVEMENTS

Grant: \$200,000

Visioning exercise to identify potential improvements and enhancements to the existing museum space, adjacent suite and exterior area



ENHANCING PUBLIC WORKS

Allocation: \$1,081,763

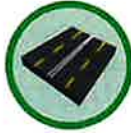
Below are some specific project examples in this priority area.

SUNRISE BOULEVARD REHABILITATION PROJECT Grant: \$743,000

Anticipated completion Fall 2020



Paved 39 lane miles of street



Paved 9 lane miles of street



Upgraded 9,210 square feet of sidewalk (includes pedestrian improvements)



Upgraded 21 sidewalk ramps



Installed 2,200 linear feet of bike lanes

2020 SIDEWALK IMPROVEMENT PROJECT Grant: \$100,000

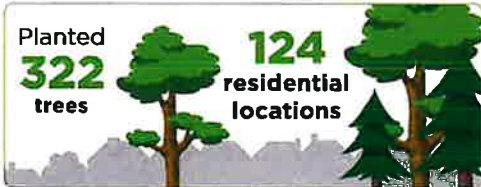


Repaired 2,838 square feet of sidewalk



Repaired 20,160 square feet

TREE FRIENDLY CITY OF RANCHO CORDOVA Grant: \$114,381



Planted 322 trees at 124 residential locations



Planted 2,658 trees



Removed 74 tree stumps from 49 locations

ENHANCED LITTER REMOVAL AND GRAFFITI REMOVAL PROGRAM Grant: \$124,382

Removed 32 graffiti tags



Removed 1,089 graffiti tags

Collected 4,798 bags of trash



Collected 18,835 bags of trash

ENHANCING COMMUNITY & ECONOMIC DEVELOPMENT

Allocation: \$1,081,762

Below are some specific project examples in this priority area.

ECONOMIC DEVELOPMENT FUND

Grant: A fund of up to \$246,762

Supported 11 businesses through the Rancho Cordova Chamber of Commerce Microgrant Program



Completed 3 studies to support projects



NEIGHBORHOOD SERVICES ABATEMENT PROGRAM

Grant: \$190,000

Cleaned up 340+ locations Recovered 1,700+ shopping carts

Removed 89,700+ pounds of trash



Established the California Capital Film Office, the city's first film office



COMMUNITY BEAUTIFICATION PROJECTS AND COMMUNITY BUILDING

Grant: A fund of up to \$140,000

5 beautification and community service projects



39 residential micro grants for neighborhood events to serve 9,890 residents

BUSINESS INCENTIVE PROGRAM

Grant: A fund of up to \$240,000

2 businesses received incentives for pivoting their production to meet demand from the pandemic and to open a new business



ENHANCING PUBLIC SAFETY

Allocation: \$1,400,000

The Community Enhancement Fund provided an additional \$1,400,000 to the \$22,000,000+ annual police budget. Below are some unit details and statistics in this priority area.



CRIME DECREASING

Dropped by **27%** from 2015-2019

CRIME SUPPRESSION UNIT

Grant: \$1,120,000

527 contacted probationers

1,337 arrests made
3,477 contacted probationers

ARRESTS MADE	
84 felony	27 misdemeanor
73 felony warrant	62 misdemeanor warrant

SCHOOL YOUTH PROGRAMS

Grant: \$9,000

Served **45** students



DETECTION K9 PROGRAM

Grant: \$152,000

300 school appearances



1 search per week in partnership with RCPD patrol and Sacramento County Probation

Attended **25** community events

FOLSOM-OLSON-ZINFANDEL AREA PROGRAM

Grant: \$119,000

Supported **90** businesses through Business Watch Program

81 businesses participated in No Trespassing Orders Program



ENHANCING ARTS, CULTURE, HISTORY, ENTERTAINMENT & SPORTS

Below are some specific project examples in this priority area.

Allocation: \$782,375

MILLS STATION ARTS AND CULTURE CENTER (THE MACC) OPERATIONS AND ENHANCEMENTS

Grant: \$159,000

8 shows **2,800+** attendees



SCHOOL ATHLETIC TEAMS AND ACTIVITIES FUND

Grant: A fund of up to \$202,500

Partnership with Folsom Cordova Unified School District

Served **2,700** students

117 bus trips for tournaments and activities

Purchased athletic equipment and supplies



MILLS MIDDLE SCHOOL BAND INSTRUMENTS

Grant: \$25,000

Supported **183** students in band and orchestra

Purchased **23** instruments

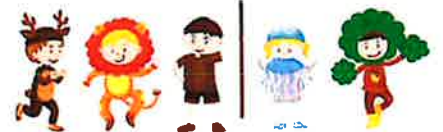


5 YEARS
Purchased **165** instruments for **3** school districts and local organizations

SACRAMENTO THEATRE COMPANY SCHOOL PARTNERSHIP PROGRAM

Grant: \$17,500

3 theatre sessions for every classroom
2 performances of "The Jungle Book"



Served **1,265** students with **1,870+** instructional hours at White Rock Elementary School

SACRAMENTO VALLEY SPARK DRIVE-THRU ART DISPLAY

Grant: \$16,000

2,400+ attendees



ENHANCING EDUCATION, AFTER-SCHOOL PROGRAMS & SCHOOL GARDENS

Below are some specific project examples in this priority area.

Allocation: \$693,785

RANCHO CORDOVA PROMISE PROGRAM

Grant: \$150,540

71 students attending Folsom Lake College fee free during the 2019/2020 academic year



381 students attended Folsom Lake College fee free, including receiving wrap-around services

SCHOOL GARDEN PROGRAM

Grant: \$30,000

Partnership with Soil Born Farms

445 students took field trips to Soil Born Farms - **23** total trips

Served **634** students and **41** teachers during classroom visits



102 field trips taken
2,498 students took field trips
195 classroom visits
1,477 students served in classroom visits
478 garden lessons



Taught **183** garden lessons

BOYS AND GIRLS CLUB AT NAVIGATOR ELEMENTARY SCHOOL

Grant: \$50,000

Served **197** students before March



78 students participated in "Club on the Go" from March-June



YOUTH CAREER CENTER

Grant: \$40,000

Partnership with Folsom Cordova Community Partnership

Served **2** high schools and **104** students

10 students placed into paying jobs



ENHANCING OTHER COMMUNITY PRIORITIES

Allocation: \$652,315

Below are some specific project examples in this priority area.

NEIGHBORHOOD IMPROVEMENT PROJECTS

Grant: \$220,650

Partnership with Rebuilding Together Sacramento, Sierra Service Project and Habitat for Humanity of Greater Sacramento

Improved **25** homes through painting, landscaping, interior projects and more



126 volunteers



Completed **95** projects at these homes



140 homes
2,389 volunteers
562 projects

NUTRITION SERVICES FOR RESIDENTS

Grant: \$62,500

Partnership with Rancho Cordova Food Locker and Meals on Wheels by ACC

Distributed **4,788** meals to homebound seniors

Distributed **537,660** meals to households and individuals



BLESSINGS IN A BACKPACK

Grant: \$15,000

Provided **21,120** meals to students through March

Distributed **5,157** bags to our community weekly through June due to COVID-19 pandemic



HYDE OUT TEEN AFTER-SCHOOL PROGRAM ENHANCEMENTS

Grant: \$6,420

Partnership with Cordova Recreation & Park District

Served **40** students



17 Purchased laptops

LOCAL COMMUNITY SERVICE PARTNERSHIPS FUND

Grant: A fund of up to \$75,000

Held **9** community events

Served **8,825** residents





2729 Prospect Park Drive
Rancho Cordova, CA 95670

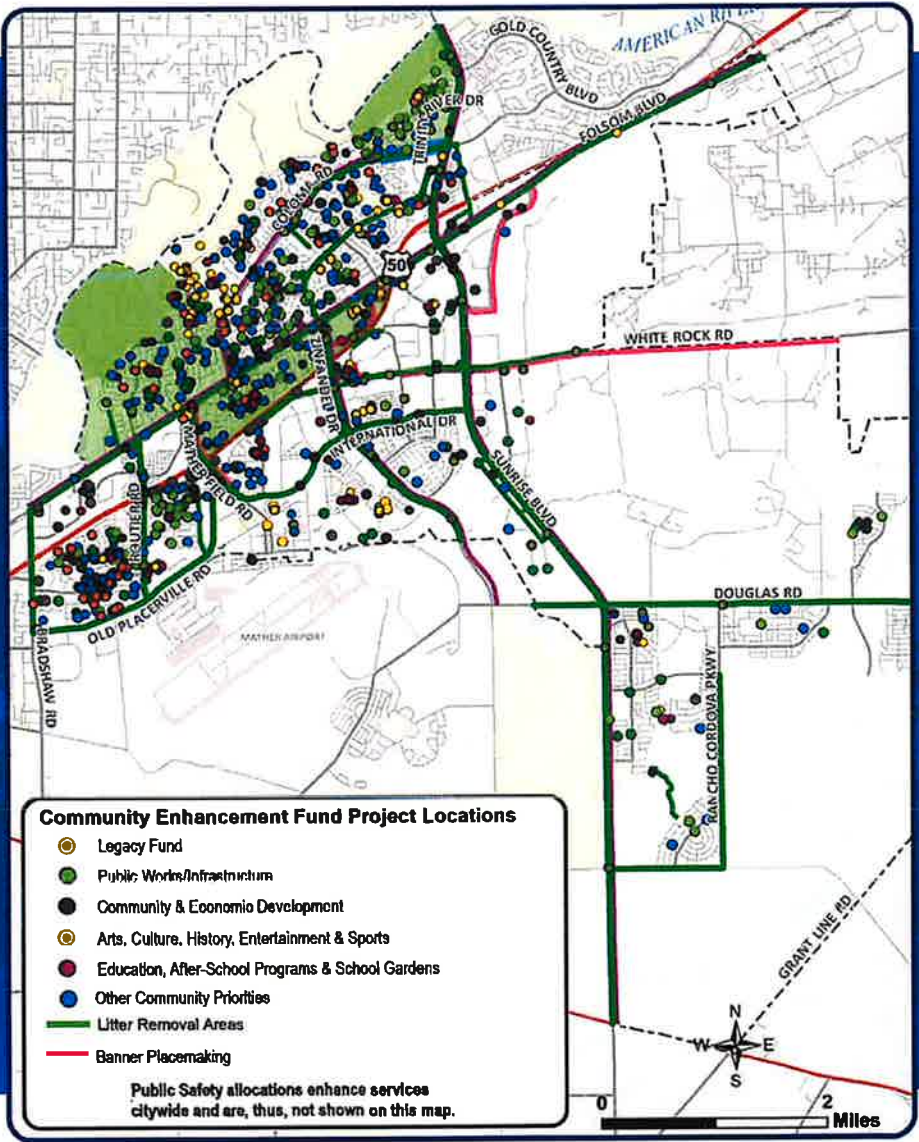
PRSR STD
US POSTAGE
PAID
MSI



5 YEARS OF COMMUNITY ENHANCEMENT FUND PROJECTS

Over the past five years, Community Enhancement Fund projects and programs have supported every neighborhood in the City of Rancho Cordova. This map highlights the projects and programs by key community priority area.

For more information about the past five years of the Community Enhancement Fund, visit CityofRanchoCordova.org/CommunityEnhancementFund.



CityofRanchoCordova.org

Stay Connected to Your City

2729 Prospect Park Drive, Rancho Cordova, CA 95670
CityofRanchoCordova.org/CommunityEnhancementFund

Sign up for our e-newsletters at

CityofRanchoCordova.org/ENews
916.851.8700



Budget by Category: FY 2020-21 – FY 2021-22

