



Council Agenda Report

To: Mayor Pierson and the Honorable Members of the City Council

Prepared by: John Cotti, Interim City Attorney

Date prepared: March 18, 2021 Meeting date: March 22, 2021

Subject: City Council Policies (Mayor Pro Tem Grisanti and Councilmember Farrer)

RECOMMENDED ACTION: 1) At the recommendation of the City Council Policy Review Ad Hoc Committee (Mayor Pro Tem Grisanti and Councilmember Farrer) review proposed City Council Policies and Protocols; 2) Direct staff to return with resolutions memorializing certain Policies; and 3) Provide direction to the City Council Policy Review Ad Hoc Committee.

FISCAL IMPACT: There is no fiscal impact associated with the recommended action.

WORK PLAN: This item was not included in the Adopted Work Plan for Fiscal Year 2019-2020. This item was assigned to the City Council Policy Review Ad Hoc Committee (Mayor Pro Tem Grisanti and Councilmember Farrer).

DISCUSSION: On January 28, 2021, the City Council appointed Mayor Pro Tem Grisanti and Councilmember Farrer to the City Council Policy Review Ad Hoc Committee to review current City Council Policies and the proposal to instill transparency, accountability and ethics in all aspects of Malibu's City government.

The City Council Policies have been adopted over many decades. Many of the Policies are duplicative of information included in the Malibu Municipal Code (MMC), Professional Services Agreements, and other official sources. The Ad Hoc Committee has reviewed each Council Policy and is recommending that Policies either be combined into the proposed City Council Policies and Protocols (attached), be deleted if the information exists in other official sources, or be returned to Council to adopt as a Resolution. The Ad Hoc Committee also reviewed the proposal to instill transparency, accountability and ethics in all aspect of Malibu's City government, and where appropriate, have included language in the proposed City Council Policies and Protocols. The attached document

is meant as a discussion document and is not meant to foreclose the inclusion of other Policies or ideas.

The Committee is providing the following recommendations:

- Policy #1: City Owned Use of Vehicles:
Recommendation: Delete Policy #1
This information is already included in the City's Administrative Guidelines pursuant to MMC Section 2.64.010
- Policy #2: Budget Policy Principles
Recommendation: Delete Policy #2 and adopt by Resolution with Policies #3, #5, #6, and #44
- Policy #3: Accumulation of Unrestricted General Fund Reserves
Recommendation: Delete Policy #3 and adopt by Resolution with Policies #2, #5, #6, and #44
- Policy #4: Application of City Codes
Recommendation: Delete Policy #4
City is already subject to applicable codes and regulations
- Policy #5: Appropriation of Discretionary General Fund Reserves
Recommendation: Delete Policy #5 and adopt by Resolution with Policies #2, #3, #6, and #44
- Policy #6: Budget Cycle
Recommendation: Delete Policy #6 and adopt by Resolution with Policies #2, #3, #5, and #44
- Policy #7: Community Involvement with Decision Making
Recommendation: Included in proposed City Council Policies and Protocols
- Policy #8: Council Relationship to City Staff
Recommendation: Included in proposed City Council Policies and Protocols
- Policy #9: Customer Service Principles
Recommendation: Delete Policy #9
This information is already included in the City's Administrative Guidelines pursuant to MMC Section 2.64.010

- Policy #10: Creation of Advisory Committees and Groups, Commissions and City Council Subcommittees
Recommendation: Included in proposed City Council Policies and Protocols
- Policy #11: Development Proposals within the City's Sphere of Influence
Recommendation: Delete Policy #1 and adopt by Resolution
- Policy #12: Emergency Preparedness Planning and Organization
Recommendation: Delete Policy #12
This information is already included in a variety of approved Job Descriptions, MMC Section 2.52, as well as in other State and Federal mandated Emergency Preparedness documents
- Policy #13: Establishment of Ethical Standards
Recommendation: Included in proposed City Council Policies and Protocols
- Policy #14: Establishment of a Policy Manual
Recommendation: Included in proposed City Council Policies and Protocols
- Policy #15: General Welfare to be Primary over Special or Group Interests
Recommendation: Delete Policy #15 and adopt by Resolution
- Policy #16: Historic Revenue Recovery
Recommendation: Delete Policy #16
This policy is outdated and is no longer necessary
- Policy #17: Performance of Department Audits
Recommendation: Delete Policy #17
As needed, the City Council can direct audits of specific departments
- Policy #18: Permit Streamlining
Recommendation: Delete Policy #18 and adopt by Resolution
- Policy #19: Personnel System
Recommendation: Delete Policy #19
This information is already included in Resolution No. 15-08
- Policy #20: Private Property Rights
Recommendation: Delete Policy #20 and adopt by Resolution

- Policy #21: Procurement Regulations and Expense Reimbursements
Recommendation: Delete Policy #21
This information is already included in MMC Section 2.56
- Policy #22: Protection and Enhancement of Environmental and Aesthetic Quality of Entire Community
Recommendation: Delete Policy #22 and adopt by Resolution
- Policy #23: Protection of Home Rule Power and the Right of Self Determination
Recommendation: Delete Policy #23 and either adopt by Resolution or develop a legislative platform
- Policy #24: Qualifications and Experience of Job Applicants
Recommendation: Delete Policy #24
This information is already included in each authorized Job Descriptions that is approved by the City Council
- Policy #25: Qualified Use of Volunteers
Recommendation: Delete Policy #25 and adopt by Resolution
- Policy #26: Services Contracts Time Limit
Recommendation: Delete Policy #26
This information is already included in Professional Services Agreements
- Policy #27: Legislative Support Requested from Other Jurisdictions
Recommendation: Included in proposed City Council Policies and Protocols, and if desired, develop a more legislative platform
- Policy #28: Placement of Items by Council Members on Agendas
Recommendation: Included in proposed City Council Policies and Protocols
- Policy #29: Protocol for Placement of Awards and Commendations on Agendas
Recommendation: Included in proposed City Council Policies and Protocols
- Policy #30: Land Use Planning Principles
Recommendation: Delete Policy #30
This information is already included in the City's Vision and Mission Statement and General Plan compliance is also included in the MMC
- Policy #31: Recovery of Administrative Costs or Overhead
Recommendation: Delete Policy #31
This information is already included as part of the Annual Fee Schedule adopted by City Council

- Policy #32: Parks and Recreation Facilities Development and Permanent Continuance of Existing Facilities at Bluffs Park
Recommendation: Delete Policy #32
This policy is outdated and is no longer necessary
- Policy #33: Seating Arrangement of Council
Recommendation: Included in proposed City Council Policies and Protocols
- Policy #34: Street Names and Name Changes
Recommendation: Delete Policy #34 and adopt by Resolution
- Policy #35: No Requirement for New Residential Subdivision of Street Lighting
Recommendation: Delete Policy #34
This information is already included in MMC Section 16.08
- Policy #36: Council Appointed Staff Semi-Annual Evaluation
Recommendation: Included in proposed City Council Policies and Protocols and already included in agreements approved by the City Council
- Policy #37: Policy and Guidelines for Malibu City TV
Recommendation: Delete Policy #37
This information is already included in the in the City's Administrative Guidelines pursuant to MMC Section 2.64.010
- Policy #38: Comprehensive Communications Policy
Recommendation: Delete Policy #38
Included in proposed City Council Policies and Protocols and already included in the City's Administrative Guidelines pursuant to MMC Section 2.64.010
- Policy #39: Interim Policy on the Disposal of Surplus Equipment
Recommendation: Delete Policy #39 and adopt by Resolution
- Policy #40: General Fund Grant Payments
Recommendation: Delete Policy #40 and adopt by Resolution
- Policy #41: Procurement Regulations – Use of Request for Proposals
Recommendation: Delete Policy #41
This information is already included in MMC Section 2.56 and 2.60
- Policy #42: Dial-A-Ride Program
Recommendation: Delete Policy #42 and adopt by Resolution

- Policy #43: Code Enforcement Policy
Recommendation: Delete Policy #43 and adopt by Resolution
- Policy #44: Budgetary Control
Recommendation: Delete Policy #44 and adopt by Resolution with Policies #2, #3, #5 and #6
- Policy #45: Neighborhood Traffic Plan Process
Recommendation: Delete Policy #45 and adopt by Resolution
- Policy #46: America Supporting Americans Procedures
Recommendation: Delete Policy #46
Evaluate the merits of the program and, if desired, enter into a Memorandum of Understanding with America Supporting Americans
- Policy #47: Road Race
Recommendation: Delete Policy #47 and adopt by Resolution
- Policy #48: Opportunity to Serve
Recommendation: Included in proposed City Council Policies and Protocols
- Policy #49: Integrated Pest Management Policy
Recommendation: Delete Policy #49 and adopt by Resolution
- Policy #50: Green Street Policy
Recommendation: Delete Policy #50 and adopt by Resolution
- Policy #51: City Council Public Records Management Policy
Recommendation: As a next step, the City Council Policy Review Ad Hoc Committee will review the City's records retention schedules and email policies and provide further recommendations to the City Council

Upon review by the Council, the proposed City Council Policies and Protocols will be returned to Council for final adoption. Final City Council Policies and Protocols can be revised by the Council as necessary. Policies proposed to be adopted via resolution will be drafted by City staff and returned to Council for final adoption.

ATTACHMENTS: Proposed City Council Policies and Protocols



**City Council Policies and Protocols
Adopted by the Malibu City Council
April __, 2021**

PREAMBLE

The purpose of these City Council Protocols is to set forth rules of order and procedures relating to City Council Meetings and conduct in order to ensure that government is conducted in the City of Malibu in an orderly, fair and open way, and that the rights of the people to speak and be heard on matters of public interest are protected. These Protocols rescind and supersede all prior City resolutions and policies setting forth rules of procedure for the conduct of City meetings. Wherever there is a conflict between these Protocols and any prior City resolution, the terms and rules in this Manual shall govern

The City of Malibu is governed by a five-member City Council elected at-large to four-year terms on a staggered biennial basis. Councilmember terms are staggered so that a measure of continuity is maintained in the transition from one City Council to the next. The City utilizes a mayoral rotation system in order to determine which Councilmembers shall be chosen to serve as Mayor and Mayor Pro Tem.

The Malibu City Council acts as a body. While the Mayor has some additional ceremonial and administrative responsibilities, no Councilmember has any power beyond those of the other members. In the establishment of policy, voting and in all areas except those identified below, all members are equal. Except where the law requires a certain number of affirmative votes, a majority vote of the City Council establishes policy and makes decisions for the City. While an individual member may disagree with a decision of the City Council, a decision of the majority does bind the City Council to a course of action. In turn, it is staff's responsibility to ensure that the policy of the City Council is implemented.

It is the overall responsibility of the City Council: a) to gather information and knowledge; b) to take counsel; c) to keep a long-range perspective; d) to hold itself to the highest standards of ethical and professional conduct in the performance of its duties without regard to personal advantage; e) to be free of favoritism; f) to listen carefully to the public; and g) to conduct a reasonable and reasoned period of discussion prior to making decisions.

To accomplish the above-stated responsibilities, and as guidance for the orderly governance of the City, the Malibu City Council has adopted the following protocols. These protocols are intended to be consistent with all legal requirements applicable to the conduct of City affairs. Upon certification of an election, these protocols will be provided to the newly elected members of the City Council.

It is expected that the City Council will renew these protocols periodically, in order to consider appropriate additions, deletions, and/or amendments.

It is not possible for protocols of this kind to anticipate and provide a rule of conduct for all situations. At bottom, it is expected that officials will manage their behavior in a manner consistent with the rules that follow, respect the chain of command and behave within the bounds of their authority. It is also expected that officials will treat each other, City employees, residents and businesspeople with courtesy and respect in a manner that reflects well on the City.

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I. CITY COUNCIL – MANAGER FORM OF GOVERNMENT

Malibu is a general law city governed by the council/manager form of government. The City Council, with the assistance of its advisory Commissions and Committees makes policies and fundamental governmental decisions; the City Manager is charged with implementing those policies and decisions and administering the day-to-day affairs of the City with the assistance of his or her staff. The City Council has direct authority over the City Manager and the City Attorney; all other employees of the City are under the direct authority of the City Manager. This Code establishes rules that contribute to the success of this basic structure and to maintaining positive and effective working relationships between officials and employees.

The employment relationship between the City Council and the City Manager honors the fact that the City Manager is the chief executive officer of the City who works for five independently elected officials. The City Council and City Manager should be a participatory team. Councilmembers should avoid situations that can result in the City staff being directed by one or two members of the Council. Regular communication between the City Council and the City Manager is important in managing open communications. All dealings with the City Manager, whether in public or private, should respect the authority of the City Manager in administrative matters.

The City Council is to evaluate the City Manager on a regular basis to ensure that both the City Council and the City Manager are in agreement about performance and goals.

II. ROLES OF THE MAYOR, MAYOR PRO TEM AND COUNCILMEMBERS

A. The Mayor's Role

1. The Mayor, as well as each Councilmember, recognizes the unique role of representing the City, and takes great care to ensure that this always takes precedence over representing oneself or one's own personal agenda.
2. Serves as the presiding officer of the City Council, preserving strict order and decorum at all meetings of the City Council; announces City Council decisions on all subjects; and decides all questions of order, subject to modification by the City Council.
3. Acts as a facilitator during public meetings. The Mayor ensures that all views are heard and that the meeting progresses in an orderly and timely fashion. The Mayor provides an equal opportunity for each Councilmember to be heard.
4. Leads the City Council into an effective, cohesive working team.
5. Represents the City, is its official spokesperson, and presides over all City Council meetings.

6. Informs the Council by providing the City Manager or City Clerk correspondence sent under the Mayor's signature which relates to city business. The Mayor, with assistance from the City Manager or City Clerk will also copy the Council on correspondence or email sent under his signature.
7. In consultation with the City Manager, sets the agenda for each City Council meeting.
8. Advocates for his or her views, just as other Councilmembers, but will not take advantage of the Mayor's status on the dais to coerce or to advocate in excess of what is allowed to other Councilmembers. The Mayor's role as a facilitator should not be compromised by his or her role as an advocate.
9. If a Councilmember, or City Council Committee, brings an issue forward to the City Council, it is appropriate for the Mayor to give that member or Committee members the opportunity to speak first on that particular issue.

B. Selection of the Mayor

1. There are five Councilmembers, each of whom is either elected or appointed to the City Council. Each Councilmember, regardless of whether elected or appointed, has an equal opportunity to serve as Mayor. . Because Councilmembers have four-year terms of office, a Councilmember may not be able to serve as Mayor in a given four-year period.
2. Effective December 2021, and thereafter, at the first meeting in December each year, the City Council shall elect one of its members as Mayor and one as Mayor Pro Tem according to the rule set forth above. The election of the Mayor and Mayor Pro Tem shall be by vote of a majority of members of the City Council. The Mayor shall be seated and assume the duties of presiding officer immediately following the election of Mayor and before the election of the Mayor Pro Tem, unless a motion is carried to elect and seat the Mayor and Mayor Pro Tem at the same time.
3. The procedure for selecting a Mayor can be changed at any time by a Council majority vote.

C. The Mayor Pro Tem

1. Serves as the presiding officer when the Mayor is absent.
2. Performs the duties of the Mayor in the Mayor's absence or at the request of the Mayor.

D. Councilmembers (including the Mayor and Mayor Pro Tem)

1. Participate in City Council meetings and in other public forums while demonstrating respect, consideration and courtesy to others.
2. Serve as a model of leadership and civility to the community.
3. Inspire public confidence in City government.
4. Demonstrate honesty and integrity in every action and statement.
5. Participate in regional, state and national programs and meetings which serve the best interests of the City of Malibu.
6. Provide policy direction to the City Manager. The City Manager, through City staff, implements City Council policy. Councilmembers should not interfere with the operating decisions of the City, which are the responsibility of the City Manager.
7. The City Manager keeps each Councilmember fully, and equally, informed as to all matters of importance to the city, including agenda items, financial conditions, needs of the City, resident concerns, staffing needs, and urgency items.
8. Endeavor not to burden the City Manager or staff with demands for individual time or attention on matters that the City Manager can better handle with general communications to the City Council as a whole.
9. Look to the City Manager, staff, Commissions and Committees for advice on City policies and legislative actions.
10. Comply with all laws relating to open meetings (Ralph M. Brown Act), public records (California Public Records Act), and conflicts of interest (Political Reform Act).
11. Encourage resident participation in the development of City policies.
12. Desire the public to be fully informed about decisions that impact the public and encourages public comment as policies are set.
13. Make adequate provision for the training and continuing education of the City Council, Commissions, and City staff.
14. Receive and review any documents shown or provided by City staff to any other Councilmember provided that receipt of such documents does not violate the Brown Act.
15. Inform the City Manager as far in advance as possible of when they will be out of town or otherwise unavailable to conduct City business.

16. Place up to one item on a City Council agenda. To do so, such items must be submitted to the City Manager not later than twelve days preceding the Council meeting. Individual City Councilmembers must submit any documents, information or supporting materials related to the agenda item by this deadline so that City staff may conduct an appropriate review. An additional item may be placed on the agenda where items co-sponsored.

E. City Council Preparation

1. Councilmembers should avoid surprising their colleagues or City staff. To the maximum extent possible, Councilmembers advise the City Manager in advance of issues or questions they intend to bring up at a public meeting. This refers to issues and questions that the staff would not normally anticipate or have researched for that particular meeting. Getting minor questions resolved with staff prior to a public meeting will shorten meetings and move the agenda forward in a timely manner.
2. Councilmembers should be prepared for City Council or Committee meetings, which includes having read all agendas and supporting documentation prior to the meeting.
3. Councilmembers stay abreast of regional issues affecting neighboring cities, counties, and the operations of other districts or agencies.

F. Appointment of City Manager, City Attorney and City Treasurer

The City Council appoints three positions within the City organization: the City Manager, the City Treasurer and the City Attorney (currently a contract attorney). All of these positions serve at the will of the City Council. The City Manager is an employee of the City and has an employment agreement that specifies certain terms of employment. The City Manager is responsible for all other personnel appointments within the City with the exception of staff of the City Attorney's office. The City Treasurer has a Professional Services Agreement that specifies certain terms and duties. The City Attorney has such duties as prescribed by the general laws of the State and the regulations of the City. At any time deemed appropriate by the Council, the City Manager, City Attorney and City Treasurer may be evaluated.

III. PUBLIC MEETINGS

1. Public hearings and discussion items at Council meetings proceed generally in the following order:
 - a. City staff presents a report of the item under consideration.
 - b. Councilmembers have an opportunity to ask questions of staff for clarification or to gather additional information.
 - c. Public testimony is taken from affected parties or members of the public who wish to be heard.

- d. At the close of public testimony, the Mayor allows staff to respond to any public testimony which staff wishes to supplement or regards as inaccurate or in need of clarification.
 - e. The Mayor allows other Councilmembers to speak first, and then summarizes or provides the final comments before asking for a motion or direction to staff on the item.
 - f. The order of Council comments is at the discretion of the Mayor. If the item under consideration was studied first by a Committee of the Council, members of the Committee would be expected to lead off the discussion.
- 2. Any Councilmember who desires to recuse himself or herself for conflict of interest or any other reason shall do so as soon as the item is called and shall leave the Council chambers until the item is concluded.
- 3. If any Councilmember is ill or away for any agenda item of special interest to that Councilmember, the item may be continued or tabled at that Councilmember's request subject to any applicable statutory time periods, and only if such delay would not be averse to the City's best interests. However, Councilmembers should not request a continuance without justifiable reason. Bear in mind that the public may attend expecting discussion or action on the issue, staff has prepared reports, and there may be staff or consultants present just for that item. Councilmembers should coordinate with the City Manager about future agendas and their own schedules to avoid missing items that may be of particular interest to them.
- 4. If any Councilmember becomes aware of an unexpected issue that may be brought up by a member of the public at a Council, Commission or Committee meeting, that Councilmember will, as a courtesy, inform the City Manager to inform the full City Council to the extent legally permissible.
- 5. Councilmembers are expected to attempt to persuade their colleagues to their point of view through reasoned debate, but also to accept the City Council's ultimate decision graciously and as final. Councilmembers should not place the City Manager or staff in the position of having to deal with minority positions which do not further established Council policy.
- 5. Public comments are limited to no more than three (3) minutes per speaker, but that time may be reduced per speaker at the Mayor's discretion if there are numerous speakers on a particular item.
- 6. The Mayor requests speakers to direct their comments to the Council and not to the audience or to the TV cameras.
- 7. The Mayor controls the meeting and discourages personal attacks of any kind from speakers by encouraging them instead to productively address the issues at hand. The Mayor may so address the public at the beginning on the meeting.
- 8. The Council listens carefully to the speakers and does not interrupt or engage in debate with the speakers. Time may be surrendered by deferring one minute to

another speaker, not to exceed a total of eight minutes. The speaker wishing to defer time must be present with the item is heard.

9. Subject to applicable legal deadlines, the Mayor or any Councilmember may move to refer back to staff any agenda item that is deemed to be incomplete or unready for final decision. The same rule applies to City Commissions.
10. A Councilmember may suggest a change in procedure if he or she feels it will be helpful for the conduct of a particular meeting. The Mayor runs the meeting and the City Council has discretion to move agenda items out of order upon a majority vote of City Councilmembers present.
11. While unanimity is not required or always possible, the Mayor attempts to find consensus on discussion items.
12. Councilmembers make the reasons for their votes clear to their colleagues and to the public. This is particularly important when the Council is divided on an issue.
13. The Mayor, Councilmembers, and all Commission and Committee members treat everyone with courtesy and respect.
14. All participants in a public meeting, including Councilmembers, staff and the public, shall make their remarks succinct, to the point, and as brief as possible. Participants shall avoid repeating remarks already made by others and may simply state agreement with those particular shared sentiments.
15. Direction to staff must be determined by a majority of the Council and must be clearly identified at the Council meeting. Tacit approval, or lack of disagreement by others, is not considered direction. The Mayor should ensure that the direction staff receives is clear and represents the majority view of the Council.
16. Every Council action should be:
 - a. A reasoned decision that was arrived at in a fair way.
 - b. Not to the personal advantage of any Councilmember.
 - c. Free of favoritism.
 - d. Based on information and opinions from a variety of sources, and particularly, from those who would be most affected.
17. Councilmembers do not have private communications, among themselves or with members of the public, via electronic communication devices or otherwise, from the dais during public meetings. Such prohibition includes a prohibition on text messages during public meetings.
18. All members of the public desiring to speak at a Council or Commission meeting should complete a speaker card which will be made available at all such meetings. The speaker should provide his or her name and address on the speaker card. Speaker cards shall be submitted to the City Clerk or meeting

staff prior to the time the item begins. It is within the discretion of the Mayor or meeting chair to accept a late submitted speaker card.

19. All meeting participants will tell the truth to the best of their knowledge and ability when presenting testimony or oral comments to the Council or Commission.
20. All meeting participants shall conduct themselves in an orderly manner. As a last resort, any person conducting themselves in a disorderly manner may be removed from the meeting room pursuant to California Government Code Section 54954.3(c).
21. The order of business of each meeting shall be contained in the agenda prepared by the Clerk/Secretary unless the majority of the Councilmembers consent to take items out of order. Unless otherwise re-ordered by the Council, the order of business at meetings of the City Council may be as follows:

Procedural Matters

- Call to Order
- Roll Call
- Pledge of Allegiance
- Approval of Final Agenda
- Report on the posting of the Agenda

1. Ceremonial and other Presentations
2. Written and Oral Communications
 - a. Public Comment (30 minutes)
 - b. Commission/Committee/City Manager Reports
 - c. City Council Reports
3. Consent Calendar
 - a. Previously Discussed Items
 - b. New Items
4. Ordinances and Public Hearings
5. Old Business
6. New Business
7. Council Items
8. Continued public comment

Adjournment

22. There is a specific item on the agenda referred to as “City Council Reports” for receiving general comments, announcements, and/or suggestions from members of

the City Council Body. This can be used to inform the public concerning upcoming events, report on members' attendance at conferences and seminars, or request that staff look into specific matters or similar matters. These matters may not be discussed, opined upon or deliberated. No action may be taken on such matters without being placed on a subsequent agenda.

23. At 10:30 p.m., if business is not concluded, no new business will be considered unless a majority of the City Council agrees to consider new business. Items under consideration at 10:30 p.m. may be concluded. If a majority does not agree to consider new business, the remaining items will be continued to the next regular council meeting.
24. The Mayor shall be seated at the center of the five members of the City Council. The Mayor Pro Tem shall be seated to the right of the Mayor.

IV. CITY COUNCIL INTERACTION AND COMMUNICATION

1. Councilmembers treat each other with the respect and courtesy as residents and public officials.
2. Each Councilmember has the responsibility to initiate action to resolve problems cooperatively and as soon as possible, either directly with other Councilmembers or with the City Manager.
3. The Council maintains a respectful decorum, and avoids personal attacks during public meetings, in the press, or at any other time. Legitimate dissent or opposition to another Councilmember's voting record or positions on issues are within the bounds of appropriate political discourse.
4. Difficult questions, challenges to a particular point of view, and criticism of ideas and information are legitimate elements of a free democracy in action. This does not allow, however, members of the Council to make belligerent, personal, impertinent, slanderous, threatening, abusive, or disparaging comments.
5. Councilmembers should be sensitive to the negative impact that inappropriate conduct has on the public perception of the City. Councilmembers should be mindful of the fact that they are representatives of the City in all their public activities.
6. Councilmembers are flexible and cooperative in filling in for one another at meetings or important functions.
7. Councilmembers do not engage in private discussions in violation of the Brown Act. A Councilmember who feels that a conversation is potentially a violation should express his or her concern and immediately withdraw from the conversation. Councilmembers are expected to honor such concerns and immediately cease the conversation even if they do not agree that the Brown Act applies in that particular instance.

8. Personal attacks are always off-limits. Councilmembers start with the assumption that other members have the best interests of the City at heart, even if they disagree with their positions.
9. Councilmembers shall accord the utmost courtesy to each other, to City employees, and to the public appearing before the Council and shall refrain at all times from rude and derogatory remarks, reflections as to integrity, abusive comments and statements as to motives and personalities, which disrupt, disturb or otherwise impede the orderly conduct of the meeting.
10. If a Councilmember takes a position in the media, or at any public hearing, critical of a decision, or critical of fellow Councilmembers or members' positions on issues, such public comments should stick to the issues under contention and never involve personal attacks. Councilmembers shall be mindful when representing views or making comments and, if they do not reflect the majority of the Council, must claim the comments as their own personal opinion. Positions set forth in writing on City letterhead should clearly indicate if the position stated is one officially voted on by the City Council, or if it only represents the position of the individual Councilmember.
11. Councilmembers should avoid expressions, comments, or opinions of City fault, responsibility, or liability in any matters involving property damage, personal injury or alleged breach of contract or alleged violation of law.
12. These Protocols do not, by themselves, carry the weight of law. Councilmembers are expected to abide by them out of a desire to have a well-run City that treats its residents respectfully and with dignity. A governing body that strives to be fair, informed, honest, diligent, dignified, efficient and respectful of others will win the respect and trust of its residents.
13. If any Councilmember feels that a Protocol is being violated, it is appropriate for that member to discuss it individually with the errant Councilmember. If the City Manager or staff are involved, it is appropriate to discuss it with the City Manager. If this does not resolve the situation, it is appropriate, as a last resort, to bring up the matter within the Council Items period of a public meeting and ask for the issue to be put on a future agenda.
14. A principal purpose of the Protocols is to establish or uphold procedures and behavior that win the trust of the public by promoting efficient, productive and civil interaction between Councilmembers. Any Councilmember who habitually ignores these Protocols should expect to be called to task by his or her fellow Councilmembers and by the public.
15. A Councilmember who originates an idea or program shall continue to be identified as the originator even if the idea or program is pursued by another Councilmember or City official.

16. Councilmembers may request, through the City Clerk, certificates or other awards recognizing special events, organizations or individuals of importance to the City. All such requests must be approved by the Mayor, who should ask the City Manager to vet the organization, if necessary. Such certificates or awards are normally to include the name and/or signature of all Councilmembers.
17. Councilmembers who plan to appear at programs or events which involve the use of City staff or resources shall provide notice of such programs or events to all Councilmembers.
18. All electronic mail communications between members of the City Council and any other person either relating to the City's business or communicated in the City Councilmember's official capacity must be sent using the City Councilmember's official electronic mail address issued by City staff. Council members are not to personally delete electronic mail communications from their accounts before the expiration of time identified in the City's retention policy.
19. Messages sent or received regarding City business using a non-official messaging account must be copied to the Councilmembers official electronic mail address or a complete copy of the message must be forwarded to the Councilmembers official electronic mail address not later than 20 days after original creation or transmission.
20. Checklist for Monitoring Conduct

Will my decision/statement/action violate the trust, rights or good will of others?

What are my interior motives and the spirit behind my actions?

If I have to justify my conduct in public tomorrow, will I do so with pride or shame?

How would my conduct be evaluated by people whose integrity and character I respect?

Even if my conduct is not illegal or unethical, is it done at someone else's painful expense? Will it destroy their trust in me? Will it harm their reputation?

Is my conduct fair? Just? Morally right?

If I were on the receiving end of my conduct, would I approve and agree, or would I take offense?

Does my conduct give others reason to trust or distrust me?

Am I willing to take an ethical stand when it is called for? Am I willing to make my ethical beliefs public in a way that makes it clear what I stand for?

Do I exhibit the same conduct in my private life as I do in my public life?

Can I take legitimate pride in the way I conduct myself and the example I set?

Do I listen and understand the views of others?

Do I question and confront different points of view in a constructive manner?

Do I work to resolve differences and come to mutual agreement?

Do I support others and show respect for their ideas?

V. CITY COUNCIL INTERACTION AND COMMUNICATION WITH STAFF

1. The Council and City Manager work together as a solution-oriented team.
2. Councilmembers feel free to communicate with the City Manager about any City issues, including resident concerns. However, Councilmembers are also mindful of the City Manager's busy schedule and competing requests for access.
3. Complaints or concerns about any City departments or staff are first taken up with the City Manager. It is not appropriate, in any situation, to critique staff to any staff person other than the City Manager.
4. Councilmembers may routinely request from department heads information relative to their department. Such requests should be copied to the City Manager. Inquiries that require extensive research, or reports that may occupy more than one hour of staff time should first be discussed with the City Manager. If a request by an individual Councilmember is determined by the City Manager to take one or more hours of staff time to complete, that request may be included on the formal City Council agenda for full City Council discussion.
5. Individual Councilmembers as well as the City Council as a whole shall receive the full cooperation and candor of staff in being provided with any requested information. The City Manager or appropriate staff will inform City Council when a critical or unusual event occurs about which the public would be concerned.
6. In cases where a staff response to an individual Councilmember request involves written materials that may be of interest to other Councilmembers, the City Manager will provide copies of the material to all other Councilmembers. In making this judgment, the City Manager will consider whether the information is significant, new, or otherwise not available to the City Council or of interest to the City Council.

7. To assist the City Manager in his or her ability to monitor the flow of information, requests for information are best tracked if submitted in writing. And to ensure proper responsiveness, questions and requests for information are to go to the City Manager, department head or department head's designee. Councilmembers are asked to copy the City Manager and the department head on any emails to their staff.
8. City staff will make every effort to respond in a timely and professional manner to all requests made by individual Councilmembers for information or assistance; except that, in the judgment of the City Manager, the request is not of a magnitude, either in terms of workload or policy, which would require that it would be more appropriately assigned to staff through the direction of the full City Council.
9. Department heads report to the City Manager. Councilmembers do not insert themselves into or interfere with that chain of command.
10. The Council should expect to be fully and promptly informed by the City Manager or his or his designee regarding any unusual activities or events of public concern.
11. Councilmembers keep a friendly, professional relationship with staff members, but avoid getting involved with personal matters, operational matters, work assignments or projects with any staff other than the City Manager.
12. It is staff's role to provide factual, objective, and unbiased information to the Council and the public in its reports. Councilmembers do not interfere or attempt to unduly influence the content of reports being prepared by staff. If a Councilmember disagrees with a staff recommendation, he or she is not obligated to vote for it and is likewise free to attempt to convince his or her colleagues on the Council of his or her position.
13. Councilmembers establish action and budget priorities for the City once a year during the annual budget review process.
14. Changes from the priorities or budget allocations established during the annual budget review process should be pursued only after careful consideration, as they may involve changes in staff work load and appropriations, and because the original priorities were established with the benefit of a public hearing.
15. Councilmembers should bring forward requests for deviations from the established budget priorities only if they involve a degree of urgency that cannot wait until the next budget review.
16. Councilmembers may individually ask the City Attorney general questions involving matters related to their performance as City officials. However, inquiries that require extensive research, opinions or reports should first be discussed with the City Manager and may require action or approval by the City Council.

VI. COMMITTEES OF THE COUNCIL

1. Committees of the City Council serve the entire City Council. Committees are not seen as territorial, but Councilmembers should not interfere in the Committee work of others.
2. The City Council endeavors to define the jurisdiction and area of study of each Committee so as to avoid conflicts or overlapping issues.
3. Committee members keep the rest of the City Council informed of their work, which may include the filing of reports, memoranda or minutes.
4. The City Council is available to advise Committees by placing items about which a Committee needs guidance on a City Council agenda.
5. Each City Council meeting agenda should include an opportunity for the making of Committee reports. Whenever possible, written reports are provided to the City Council prior to the public meeting.
6. Committees may recommend a course of action to the City Council, but they never supplant the decision-making authority of the City Council, unless authority to take specific action is expressly delegated to a Committee by a vote of the City Council at a public meeting.
7. Committee meetings are scheduled and (where applicable) proper public notice is provided through staff. Councilmembers who wish to call a Committee meeting do so by asking the City Manager to make the appropriate arrangements.
8. Council Committee assignments are nominated by Councilmembers and approved by majority vote of the City Council.

VII. COMMISSIONS AND BOARDS

1. Commission appointments are generally based on the recommendation of one nominee from each Councilmember. At large nominations are subject to approval by the entire City Council. The Commissions shall elect a Chair and Vice-Chair from among themselves, which positions shall rotate.
2. The City Council is responsible to make its vision for the City clear to all appointed and advisory bodies as policy guidance for those bodies.
3. The City Council holds Commissions, Boards, and other volunteers of the City to the highest standards of ethical and professional conduct in the performance of their appointed duties. Members on Commissions and Boards are held to the same standards as if they were Councilmembers.

4. Like the City Council, Commissions and Boards work for the benefit of the community and never for personal purposes.
5. The City Council defines the role, jurisdiction, authority and prerogatives of appointed bodies. The appointed bodies must confine themselves to their defined respective roles, authorities, and prerogatives.
6. Commissions and boards are expected to make specific recommendations on matters brought before them, and not merely to pass them on to the City Council for final decision.
7. Councilmembers do not dictate the decisions of Commissioners and other Board members. Commissioners and Board members come to their own conclusions based on the evidence, the City's Municipal Code, and other governing and visioning documents. Substantial consideration is to be given by Commissioners to the recommendations of staff contained in the agenda reports.
8. Commissioners are encouraged to discuss questions or concerns about any agenda item with the Commission's staff liaison prior to Commission meetings in order to be prepared to take action at public meetings. Commissioners are to be mindful of undue consumption of staff time and resources. Inquiries that require extensive research or reports that may occupy more than one hour of staff time, should first be discussed with the City Manager, and may require action or approval by the entire City Council.
9. Any Commission or Board action should clearly state for the record the specific justification for the decision, so that the Council and the public may have the benefit of its reasoning.
10. All persons requesting appointment to a Commission or Board shall make written application to the City Clerk. The City Clerk is to acknowledge receipt of each application by letter to the applicant which includes an explanation of the appointment process.
11. All nominations for appointment to a Commission or Board are to be placed on the City Council's public agenda with the applicant's name and a copy of the application (with personal information redacted). The City Clerk shall send a letter to all applicants stating the results of the appointment process in which they participated.
12. An individual appointee shall be limited to serving on only one commission, committee or board at any one time.

VIII. USING PERSONAL OR PROFESSIONAL SOCIAL MEDIA PLATFORMS

1. The Ralph M. Brown Act ("**Brown Act**") requires that public agencies deliberate and take action openly. Content and/or comments made by a City official via a social media platform on a City-related issue within their

jurisdiction could be subject to the requirements of the Brown Act. City Councilmembers and City Council-appointed Board, Committee and Commission members should refrain from corporately discussing, deliberating, or expressing opinions—including “liking,” “sharing,” or “retweeting” any published postings on a social media site, which may be interpreted as expressing an opinion and could lead to an inadvertent “serial meeting”—on any issue(s) within the subject matter jurisdiction of the City. Brown Act issues also have the potential to arise on private social media sites or pages. As such, City Council members and City Council-appointed Board, Committee and Commission members should also refrain from corporately discussing, deliberating, or expressing opinions on any City-related issue on private social media sites or pages.

2. While City Councilmembers and City Council-appointed Board, Committee and Commission members may maintain and use personal web pages and websites, blogs, and social networking sites, their status as elected/appointed officials requires that the content of any postings on those sites not be in violation of existing City by-laws, policies, directives, rules or regulations. Although the City acknowledges its officials have the First Amendment right to free speech, the right is not absolute when involving matters of official City business, issues, or concerns.
3. If an elected or appointed official conducts any City business or communication as an official from a personal account, professional account, or an account created for a Board/Committee/Commission/Council, including without limitation from any such account associated with a social media site, officials should assume that such communications, comments, or other postings will be subject to both the Public Records Act and the Brown Act.
4. To make a clear distinction between the social media site accounts of: (i) the City, (ii) a public official, (iii) a campaign, and (iv) a private individual (including a public official in his or her private capacity), it is recommended that, amongst other things, all accounts are appropriately titled. For example, the preferred title for a personal account would be “Jane/John Doe,” instead of “Jane/John Doe, Chair of Public Agency.” Where possible, public accounts on behalf of the City or public official would also be registered with the social media site provider as “Official”; in that same vein, personal or campaign social media accounts should avoid being designated as “official” or official “governmental” pages.
5. Professional and Personal Conduct Standards:
 - a. Officials should be honest and accurate when posting information or news, and should quickly correct any mistakes, misstatements and/or factual errors in content upon discovery.
 - b. Officials shall not post or share information known to be false about the City, its employees, constituents, other public officials, suppliers, vendors, or contractors.

- c. Unless the official has been designated to serve as a spokesperson, officials should never expressly or impliedly represent themselves as a spokesperson for the City Council, a City board or Committee, the City administration, or any City department.
- d. Officials are expressly prohibited from using personal or professional social media sites to engage in any activity or conduct that violates federal, state, or local law or any City rule or regulation.
- e. Officials are also prohibited from using professional social media accounts to circumvent election or campaign requirements, to campaign for re-election or endorse other candidates for public office.
- f. To avoid violating the California Public Records Act, officials are prohibited from deleting posts and related comments on any social media site account controlled or maintained by the public official regarding any City-related matters before consulting with the City Attorney. The official must maintain all deleted content for a reasonable time.
- g. Under California case law, posts and private messages related to public business in personal accounts may be subject to the Public Records Act. As such, officials are encouraged to conduct any and all public agency business through official agency accounts. Officials shall forward to all City-related customer comments, complaints, or inquiries received on personal accounts to the City; the City shall thereafter retain such records in accordance with the City's retention policy. It is recommended that if a public official receives comments, posts, or comments on his/her personal account related to City business, direct the commenter to the City's website and/or official accounts.
- h. Officials are prohibited from using City employees to operate and/or manage any campaign or personal account(s).
- i. Officials should be mindful that posting or responding to content regarding City-related matters could result, even inadvertently, in the violation of the Brown Act.
- j. Officials are prohibited from using social media sites to engage in any activity that constitutes a conflict of interest.

IX. CENSURE

- 1. It shall be a violation of these protocols for any sitting member of the City Council or any Commission to violate any general law or regulation, and any, rule, law, ordinance or resolution of the City of Malibu. It shall also be a violation of these protocols for any sitting member of the City Council or any Commission to violate an administrative policy of the City which has been adopted following a vote of the City Council or any Commission on the matter and which by its terms is expressly made applicable such body.
- 2. Any violation of the foregoing paragraph by a member of the City Council or any Commission may be punished through the administration of a public censure of the member by the member's body. Such censure may be in addition to any other punishment applicable to the violation. For purposes of this

Section, “censure” shall mean the adoption of a motion setting forth a statement of disapproval of a member’s conduct.

3. When evaluating a request for defense made by the censured member in litigation arising from the censured conduct, the record of the censure shall be considered by the City Council or any Commission. Such record shall not be determinative. Failure of the City Council or any Commission to censure the conduct of a member does not constitute waiver of the body’s right to refuse to defend the member in an action.
4. A member of the City Council or any Commission may not be made the subject of a motion for censure without first being given notice of the violation and an opportunity to correct the violation, if it can reasonably be corrected. Upon a continued violation or failure to correct, the charged member shall be given notice and an opportunity to be heard as follows:
 - a. Only a sitting member of the City Council or Commission whose member commits the violation may initiate proceedings for the censure of one of its members.
 - b. Proceedings shall be commenced by the presentation of a written statement of charges to the subject member with a copy delivered concurrently to the City Clerk/Secretary by the member initiating the charge. Initiation shall not require the prior approval of the City Council or Commission. The statement of charges shall be given at least 10 days prior to the meeting at which the censure motion is proposed to be brought. The notice shall contain, at a minimum, the designation of the specific rule, law regulation, etc. which the member is claimed to have violated and a statement of the date, place, and time at which the violation occurred. The statement shall further contain a description of the conduct of the member which is alleged to constitute the violation. The statement of charges shall be delivered to all other members of the City Council or Commission.
 - c. Within seven (7) days after delivery of the statement of charges, the charged member should deliver a written response to the other members of the City Council or Commission unless the charged member chooses to defer to response to the hearing. Copies should also be sent to the City Clerk.
5. The motion for censure shall be agendized and considered at the first regular meeting occurring 10 days following the delivery of the statement of changes to the member and City Clerk/Secretary. The hearing may not be continued except upon the absence from the meeting of a member of the City Council or Commission other than the member bringing the charge or the member who is the subject of the charge.
 - a. The hearing shall be conducted in an open session by the Mayor or Chair unless the Mayor or Chair is a party to the action, in which case the Mayor Pro Tem or Vice Chair or some other member shall conduct the proceedings.
 - b. The hearing shall generally proceed by a reading of the charges by the charging member. The charging member may present witnesses; the

charged member may answer in rebuttal; members of the public may speak in favor or opposed to the charge; and the remaining members may speak to the charges in that order.

- c. Passage of the motion for censure shall require a majority vote of the members of the City Council or Commission. The voting members shall not go into closed session for deliberation.
6. If the motion for censure does not pass the proceedings shall be at an end. A new motion for censure on the same grounds of violation may not thereafter be commenced against the same member of the City Council or Commission for a period of one calendar year from date of the vote. However, new proceedings may be commenced on the same charges within the one-year period on the vote of four members of the City Council or Commission.
7. If the motion for censure does pass, such motion shall become a part of the public record a copy of which shall be made available upon demand to any member of the public and notice of same shall be placed in the administrative file of the member of the City Council or Commission.
8. It shall be a violation of these protocols for any sitting member of the City

X. MANDATED TRAINING

1. Ethics Training. State Assembly Bill 1234 (AB 1234) requires Councilmembers to take Ethics Training because of the compensation received for service or the reimbursement received for expenses. Councilmembers are required to take training no later than one year from the first day of service. A refresher training is required every two years thereafter (City Clerk will send reminder notices).

A free online ethics training course is available at: <http://localethics.fppc.ca.gov>. Upon completion of the online course, Public Service Ethics Education Online Proof of Participation Certificate is issued, which must be signed, and the original Certificate filed with the City Clerk.

2. Sexual Harassment Training. State Assembly Bill 1661 requires all local agency legislative body members and any elected local agency officials who receive any kind of compensation, salary, or stipend in the performance of their duties to receive sexual harassment prevention and education training. As such, Councilmembers must participate in a minimum of two hours of sexual harassment prevention training and education within the first six months of taking office, and every two years thereafter.

XI. MISCELLANEOUS

1. Interpretation

These Protocols shall be liberally construed to effectuate their purpose and no ordinance, resolution, proceeding or other action of the Council shall be invalidated or the legality thereof otherwise affected by the failure or omission of the Council to technically comply with, observe, or follow the within rules. The City Council may, by resolution, adopt further rules of interpretation or practice.

2. Amendments

These Protocols may be amended from time to time as necessary by resolution passed by a majority vote of the City Council at any regular or special meeting, provided that no such amendment shall be adopted unless at least seven days' prior written notice thereof has been given to all Councilmembers members serving the City. Such notice shall identify the Section or Sections of these Protocols proposed to be amended.