



CITY COUNCIL STAFF REPORT

DATE: January 23, 2019 UNFINISHED BUSINESS

SUBJECT: ADOPTION OF A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, ADOPTING A CODE OF CONDUCT FOR ELECTED OFFICIALS

FROM: David H. Ready, City Manager

BY: Edward Z. Kotkin, City Attorney

SUMMARY

The City Council Code of Conduct Subcommittee recommends adoption by Resolution of a "Code of Conduct for Elected Officials," primarily with respect to Councilmember activities outside the context of meetings.

RECOMMENDATION:

Adopt "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, ADOPTING A CODE OF CONDUCT FOR ELECTED OFFICIALS."

STAFF ANALYSIS:

The City Council formed the Code of Conduct *ad hoc* Subcommittee (Holstege/Middleton) to develop and bring forward a proposed Code of Conduct for Councilmembers.

The Subcommittee held several meetings with staff to review and refine a proposed Code of Conduct ("Code"). The City of West Hollywood, CA, Code of Conduct was reviewed and found to be a reasonable model to build on. The Code, as originally envisioned by the subcommittee, would define the role of both elected and appointed officials. The Code's goal would be the maintenance of positive and effective working relationships between officials and employees. The Code would not replace any law, and indeed references legal authority as the assurance that officials will exercise their responsibilities appropriately. The Code would offer guidelines for officials, but would not anticipate or provide a rule for every situation.

The Code would be structured around seven (7) general policies.

ITEM NO. 4.A.

The Subcommittee presented the draft Code to the City Council on December 19, 2018 for discussion.

After this discussion, the Subcommittee drafted changes to the Code. They eliminated the applicability of the Code to Board and Commission Members, preferring to focus exclusively on City Councilmember conduct, and to have that conduct serve as an example. Also deleted were explanations of rules deemed extraneous to make the Code a shorter and clearer document.

At the subcommittee's request, staff reviewed the Code and made changes in accordance with the City Council comments at the December 19, 2018 meeting.

- Carve out for the City Manager and City Attorney in relation to City Council Interaction (Section 1.2)
- Insertion of non-disparagement language (Section 5.1)

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) DETERMINATION:

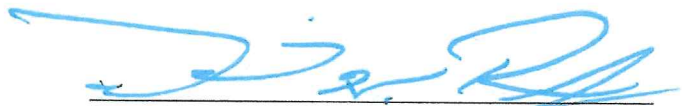
The proposed code of conduct and revisions to the City's meeting policies and procedures are not a "project" for purposes of the California Environmental Quality Act (CEQA), as CEQA defines that term in guidelines section 15378. A code of conduct addressing is an organizational or administrative activity by the City of Palm Springs in furtherance of its inherent power as a California charter city and municipal corporation, and will not result in a direct or indirect physical change in the environment, per section 15378(b)(5) of the Guidelines.

FISCAL IMPACT:

For budget purposes, staff does not believe there would be any general cost increases associated with the implementation of the proposed policy.



Edward Z. Kotkin
City Attorney



David H. Ready, Esq., Ph.D.
City Manager

Attachments:

- A. Proposed Resolution "Code of Conduct"

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
PALM SPRINGS, CALIFORNIA, ADOPTING A CODE OF
CONDUCT FOR ELECTED OFFICIALS

WHEREAS, the City Council formed the Code of Conduct *ad hoc* Subcommittee to develop and bring forward a proposed Code of Conduct for Councilmembers ("Code"); and

WHEREAS, the Subcommittee met and held meetings with staff to develop such a Code; and

WHEREAS, the Subcommittee presented a draft Code to the City Council on December 19, 2018 for discussion, and received Council input; and

WHEREAS, the Subcommittee drafted revisions to the Code based upon further reflection and Council input and presented the revised Code to the Council for adoption on January 23, 2019; and

WHEREAS, the City Council has considered a staff report, along with any verbal and/or written testimony submitted in this matter, and finds that the adoption of a Code is consistent with the best interests of this City.

THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, HEREBY RESOLVES, DETERMINES AND APPROVES AS FOLLOWS:

A. The true and correct recitals above are hereby incorporated in this Resolution by this reference as the findings and authority in support hereof.

B. Pursuant to the authority vested in the City Council by City Charter Section 300, the Council hereby adopts a Code of Conduct in the form attached to and incorporated in this Resolution as **Exhibit A**, subject to amendment by resolution of the City Council

PASSED, APPROVED, AND ADOPTED BY THE PALM SPRINGS CITY COUNCIL THIS 23rd DAY OF JANUARY, 2019.

DAVID H. READY, CITY MANAGER

ATTEST:

ANTHONY J. MEJIA, MMC, CITY CLERK

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF PALM SPRINGS)

I, ANTHONY J. MEJIA, City Clerk of the City of Palm Springs, hereby certify that Resolution No. _____ is a full, true and correct copy as was duly adopted at a regular meeting of the City Council of the City of Palm Springs on January 23, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ANTHONY J. MEJIA, MMC, CITY CLERK
City of Palm Springs, California

CITY OF PALM SPRINGS
CODE OF CONDUCT FOR ELECTED OFFICIALS

I. Introduction

The purpose of this Code of Conduct ("Code") is to define the role of elected officials in the governance of the City. This Code consists of policies and implementing rules intended to advance the City's goals of providing efficient and responsive services to its residents and providing a safe and productive work environment for its employees.

II. Background

Palm Springs is a charter city governed by the council/manager form of government. The City Council (refers to five members; Mayor, Mayor Pro Tempore and Councilmembers) is the legislative body of local government and with the assistance of its advisory commissions and boards makes policies and fundamental governmental decisions. The City Manager carries out the executive responsibility and is charged with implementing those policies and decisions and administering the day-to-day affairs of the City with the assistance of his/her/their 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 Councilmembers and employees.

III. Limitations

This Code addresses selective aspects of the governance of the City and supplements, but does not supplant, other laws and rules that prescribe the legal responsibilities of City Councilmembers. Those include, among others, the California Constitution, various provisions of the California Government Code (including the Brown Act and the Political Reform Act) and Labor Code, the city's Charter, federal laws prohibiting discrimination and harassment, and the provisions of the City's own Municipal Code.

It is not possible for a Code of this kind to anticipate and provide a rule of conduct for all situations. It is expected that Councilmembers will treat each other, City employees, residents, and business-people with courtesy and respect in a manner that reflects well on the City.

IV. Policies and Rules

What follows are general policies governing the conduct of City Councilmembers, and in some instances, rules that illustrate application.

Policy 1. City Councilmembers shall deal with the City's administrative services solely through the City Manager or their designee.

Rules:

1.1 Councilmembers shall not direct, order or make demands on any City employee, other than inquiries that can be answered routinely and without research and support requested in accordance with a protocol established by the City Manager. Nothing in this rule precludes a Councilmember from forwarding complaints and/or concerns to the City Manager, with a copy to the appropriate department head so as to secure the swiftest City response practicable.

City staff is organized in a hierarchical structure, and City employees work under the direction and control of several layers of management culminating with the City Manager. Individual Councilmembers are not part of that management structure and have no authority to direct employees.

1.2 With the exception of the City Manager and City Attorney who work directly for the City Council, Councilmembers shall not attempt to reorganize an employee's priorities or influence the manner by which City staff perform their assigned functions or duties. City employees are directed in their everyday tasks by their immediate supervisor in accordance with approved work plans.

All requests for work or research should be directed to the City Manager, and in instances when reasonably appropriate to secure a timely response, copied to a department director. Routine requests for information may be directed to a Department Manager; but all requests should be copied to the City Manager to the extent practicable.

1.3 Councilmembers shall not retaliate or threaten to retaliate against employees as a result of disagreements over policy recommendations.

1.4 Councilmembers shall not threaten a City employee with disciplinary action.

Policy 2. City Councilmembers shall act collectively in a properly noticed and constituted meeting; Councilmembers have no authority to make decisions or take actions on behalf of the body unless expressly authorized to do so.

Rules:

2.1 Councilmembers shall not make representations or promises to any third party regarding the future actions of the City or of the body of which they are a member, unless such representation or promise has been duly authorized by the appropriate body.

City Councilmembers have a fundamental responsibility to communicate with the public and to aid in the resolution of individual and collective public policy and constituent service matters.

When Councilmembers engage in conversations with residents, applicants, developers, lobbyists and officials of other governmental agencies, they should be cautious not to make representations or promises that they cannot legally make or keep. Future actions of a legislative body cannot be promised or predicted with certainty. Individual Councilmembers do not have authority to make commitments on behalf of the City unless expressly authorized to do so by the body of which they are a member.

2.2 When making public utterances, Councilmembers shall make it clear whether they are authorized to speak in an official capacity on behalf of the body of which they are a member, or whether they are presenting their own views.

2.3 Councilmembers shall not interfere with the manner by which the City Manager or the City Attorney performs his or her duties as directed by the Council acting as a body or by a duly appointed subcommittee or liaison.

2.4 City Councilmembers shall not interfere with the implementation by City staff of approved projects and programs, as the City Manager is charged with the implementation of approved projects or programs.

2.5 Councilmembers representing the City on regional and multi-agency bodies shall vote in a manner that is consistent with Council direction and/or policy or within a previously articulated City policy or program.

2.6 Proclamations should generally be issued on behalf of the entire City Council and signed by each member of the City Council. Individual City Councilmembers may opt out of signing a proclamation or ceremonial statement by the City

The City Manager shall establish a uniform system for processing any proclamation that ensures that each Councilmember has timely notice of pending proclamations with an opportunity to opt out of jointly issued proclamation.

Notwithstanding that proclamations are generally issued on behalf of the entire City Council, individual City Councilmembers may issue a proclamation individually. As a matter of courtesy, when an individual Councilmember issues a proclamation, they should provide advance notification and reasoning to their colleagues, with a copy of such notification to the City Manager.

Proclamations and ceremonial statements shall not address ballot measures or relate to campaign activity. City resources may not be used for advocacy in these contexts, but only for informational purposes.

2.7 A Councilmember should refrain from making statements as to an "official" City position, and from directing staff regarding an issue within the purview of a subcommittee of

which they are not a member.

Policy 3. The City Council as a whole or an authorized subcommittee or liaison shall provide direction and guidance to its subsidiary bodies

Policy 4. City resources shall be used solely for proper governmental purposes, and only with proper authorization.

Rules:

4.1 City letterhead must be used thoughtfully by City Councilmembers in conformance with this Code of Conduct.

City letterhead should be used in instances when it reflects the support of the majority of the City Council. It may be used to communicate official City policy or actions. All correspondence issued by a Councilmember on City letterhead shall be copied to the entire City Council and the City Manager.

4.2 City Councilmembers may have personal letterhead for use in their day-to-day performance of their duties.

City Councilmembers may use their personal letter head to express a personal point of view. However, when using personal letterhead to express a personal opinion, City Councilmembers must be clear that they are expressing a personal and not a collective opinion. Personal letterhead may never be used for any mass mailing or political purpose. Examples of a "political purpose" as used here include ballot measure advocacy, support of a political candidate, etc., and this prohibition is intended to match applicable State law and regulations. Councilmembers with questions about the use of personal letterhead should consult with the City Attorney. .

4.3 City Councilmembers shall not ask or direct employees to spend time on non-City business.

4.4 When traveling on City business, Councilmembers shall adhere to the City's AB 1234 Policy, last approved as Resolution Nos. 21691 and 21962, as that policy may be amended from time to time.

4.5 Councilmembers shall not use or disclose confidential information obtained through City service for improper purposes, such as personal financial gain.

Policy 5. When representing the City, Councilmembers shall conduct themselves in a dignified manner and in accordance with all legal requirements.

Rules:

5.1 When representing the City on official business, Councilmembers shall behave in a manner as to project a positive image for the City and shall not disparage the City or another Councilmember.

5.2 Councilmembers shall exercise best efforts to avoid the appearance of impropriety in the performance of their official duties.

5.3 Councilmembers shall identify themselves by their titles only when acting in an official City Councilmember capacity, or when it is directly relevant.

Policy 6. Councilmembers should conduct themselves in a professional and businesslike manner in the performance of their duties, during the meetings of the bodies of which they are members.

Rules:

6.1 Councilmembers shall treat each other, members of the public and staff with respect.

Policy 7. Each City Councilmember shall at all times conduct themselves in accordance with the principle that the oath of office administered to each of the City's elected officials creates a duty to serve and represent the best interests of all of the City as a whole.

7.1 Every effort should be made by each City Councilmember to direct constituent service questions and concerns to the Councilmember elected from the district of the resident or business.

V. Enforcement

The City is committed to maintaining a healthy, fulfilling and humane workplace. To that end, every City official is expected to observe the foregoing policies and rules when engaged in City business.

Complaints alleging a violation of this Code of Conduct by a City official should be directed to the City Manager or the City Attorney. Upon receipt of a complaint of a minor nature, the City Manager and the City Attorney shall together determine a course of action. The City Manager and the City Attorney shall, should they fail to resolve the complaint or should the complaint be of a serious nature, consult with the Mayor (unless the Mayor is the subject of the complaint, in which event they shall consult with the Mayor Pro Tem or other Councilmember, in order of seniority, as is appropriate under the circumstances) in order to determine an appropriate course of action.

The goal of enforcement of this Code of Conduct is corrective, rather than penal, and a progressive approach to curing violations shall be employed, beginning with informal methods and proceeding to more formal methods as necessary. If appropriate, informal counseling and instruction (including referral to the Employee Assistance Program if appropriate) shall be utilized to correct the official's behavior prior to recommending imposition of sanctions.

Should less drastic measures fail the City Council may in a public meeting impose one or more of the following sanctions:

- Reprimand
- Censure
- Travel or expense reimbursement restrictions
- Loss of committee or liaison assignments
- Removal from an appointed commission or board
- Loss of staff support or use of City resources
- Restrictions on access to City facilities
- Other penalties as may be applicable under the circumstances