Meeting Date: 07 / 10/ 12

ACTION	TYPE OF ITEM
☐ Approved Recommendation	☐ Info/Consent
☐ Ord. No(s). _____	■ Report
☐ Res. No(s). _____	☐ Public Hearing (Info/consent)
☐ Other _____	☐ Other _____

Prepared By: Martin R. Erickson MRE Agenda Item No. O-2

Reviewed By: City Manager _____ City Attorney _____ Finance _____ Other *(Specify)*

DATE: June 29, 2012

TO: City Council

FROM: Alan Holmberg, City Attorney
City Attorney's Office

Martin R. Erickson, Special Assistant to the City Manager
City Manager's Office

SUBJECT: Draft City Council Procedures Manual/Ethics Training Update

RECOMMENDATION

That City Council:

1. Receive a report and draft copy of the City of Oxnard City Council Procedures Manual.

2. Consider edits and proposed changes to the draft Procedures Manual submitted during the 14-day comment period, and adopt the Procedures Manual.

3. Receive a verbal update on ethics training options and provide direction to staff.

DISCUSSION

The City Council formed the Oxnard City Council Procedures Committee in January, 2011, and appointed Mayor Pro Tem Irene Pinkard and Councilman Tim Flynn to serve on the Committee. The committee adopted the following mission statement on March 3, 2011:

> "It is the mission of the City Government to ensure Oxnard is a desirable, safe, and vibrant community in which to live and conduct business and to respond to the values and priorities of the residents in an open and transparent manner. In order to accomplish this mission, the Oxnard Council Procedures Committee has been created to develop guidelines and rules under which Council Members will operate and perform their role as legislators of the City of Oxnard."

The committee met on a monthly basis with meetings noticed in accordance with the Brown Act for over one year, producing the draft City Council Procedures Manual which is the subject of consideration this evening. City staff involved in the committee's work were: Alan Holmberg, City Attorney, Martin R. Erickson, Special Assistant the City Manager, Michelle Tellez, Human Resources Director, Christina Aerenlund, Public Information Officer, and LeAnne Daly, Law Office Manager. Meetings were held in the City's Human Resources Activity Room.

On May 15, 2012, the City Council received a presentation on the Procedures Manual and directed staff to establish a 14-day comment period. Comments were received from an Oxnard resident, and are summarized below. City Council may choose to include or not to include them in the final document. Comments of staff follow the italicized language. The resident's language is italicized.

1. On page 5, Annual Budget section, sentence reading, "[T]he document contains both a broad overview of the budget inclusive of descriptions of programs and services organized for convenience by lead department", *change "broad" to "detailed" so the ability to drill down for information is possible, and "lead departments" to" all departments."*
2. On page 12, Voting Procedures section, sentence reading, "[W]hen present, all Council Members are to vote unless prohibited by law or conflict of interest. Failure of a seated member to orally express a vote constitutes an affirmative vote," *change affirmative vote to negative vote.* The language should not be changed. California common law is that in general silence constitutes an affirmative vote.
3. On page 12, Voting Procedures section, sentence reading, "[N]o ordinance, resolution or motion approving the payment of money shall be passed or become effective without an affirmative vote by the majority with a quorum present," *add "of the city council" after the word majority.* [NO COMMENT]
4. On page 15, Correspondence from Council Members, add following language, "[A]*ll correspondence by elected Council Members shall be placed on the next agenda under "info/consent" for the public to read.[NO COMMENT]*
5. On page 18, Council roles, after sentence ending, "[A]nd to ensure proper responsiveness, Council Members are asked to "cc" both the department head and the City Manager on all correspondence with staff[.]" add following language, "*and share a copy with all other Councilmembers and the Mayor.*" [NO COMMENT]
6. On page 19, Dissemination of Information section, in paragraph reading, "[I]n cases where a staff response to an individual Council Member request involves written materials <u>that may be of interest to other Council Members,</u> the City Manager will provide copies of the material to all other Council Members. <u>In making this judgment, the City Manager will consider whether the information is significant, new, otherwise not available to the Council or of interest to the Council."</u> *Recommendation to delete underlined portion.* Staff suggests the following: "In cases where a response to an individual Council Member's request involves written materials which are significant, new, otherwise not available to the Council or of interest to the Council, the City Manager will provide copies of the material to all Council Members.

7. On page 22, Expenditure Guideline section, after sentence ending, "[I]t is also inappropriate for City funds to pay for a meal or other expenses of a private citizen" add "*or spouse, or significant other*". Spouse or significant other is a private citizen.

Staff has also included information from three ethics consultants and will present a verbal report on this information.

1. Judy Nadler, Senior Fellow in Government Ethics, Markkula Center for Applied Ethics.
2. Jan Perkins, Senior Partner Management Consultants, and Martha Perego, Director of Ethics for the International City/County Management Association.
3. Michael Josephson, Josephson Institute, Center for Public Service Ethics.

FINANCIAL IMPACT

There is no financial impact at this time.

Attachment #1 – Draft City Council Procedures Manual

Attachment #2 – Information from Judy Nadler, Senior Fellow in Government Ethics, Markkula Center for Applied Ethics, Santa Clara University

Attachment #3 – Information from Jan Perkins, Senior Partner Management Consultants, and Martha Perego, Director of Ethics for the International City/County Management Association

Attachment #4 – Information from Michael Josephson, Josephson Institute, Center for Public Service Ethics

CITY OF
OXNARD
CALIFORNIA

Procedures Manual
City of Oxnard City Council

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CITY OF OXNARD
Mission Statement

It is the mission of the City government to ensure that Oxnard will have clean, safe, prosperous and attractive neighborhoods with open, transparent government.

Specifically, the City fulfills its function by:

- Addressing the needs of the residents through the City Council, the appointed commissions, and the City staff.
- Providing easy and open access to information and encouraging dialogue, enabling residents to actively engage in civic life.
- Providing for the safety of its residents, businesses, and visitors.
- Providing timely and responsive service.
- Providing special assistance to those in need.
- Functioning effectively, efficiently and with accountability.
- Creating a positive and desirable workplace environment for City employees.
- Managing change for the betterment of the City.
- Creating and maintaining a viable revenue stream, and providing for the unpredictable nature of our economy.
- Implementing and maintaining City infrastructure, facilities, and programs.
- Formulating sound environmental policies.
- Recognizing and supporting the City's diverse neighborhoods and population.
- Acting as a responsible member of the greater region.

The City Council formed the Oxnard City Council Procedures Committee in January 2011, and appointed Mayor Pro Tem Irene Pinkard and Councilman Tim Flynn to serve on the Committee. The committee adopted the following mission statement on March 3, 2011.

OXNARD CITY COUNCIL PROCEDURES COMMITTEE
Mission Statement

It is the mission of the City government to ensure Oxnard is a desirable, safe, and vibrant community in which to live and conduct business and to respond to the values and priorities of the residents in an open and transparent manner. In order to accomplish this mission, the Oxnard Council Procedures Committee has been created to develop guidelines and rules under which Council Members will operate and perform their role as legislators of the City of Oxnard.

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C O N T E N T S

Chapter 1
Introduction
Purpose of Procedures Manual 5
Overview of City Documents 5
Orientation of New Council Members 6
League of California Cities Guide 6

Chapter 2
City Council: Powers and Responsibilities
City Council Generally 7
Role of Mayor & Mayor Pro Tempore 7
Appointment of City Manager, City Attorney 8
Role in Disaster 8
Appointment of Advisory Bodies 8

Chapter 3
City Council Meetings
General Procedures 9
Meeting Schedule 9
Special Meetings 9
Development of Agenda 10
Placing Items on Agenda 10
Notification and Advertising 10
Order of Business 10
Discussion Rules 11
Voting Procedures 12
Other Guidelines 12
Open Meeting Laws (the "Brown Act") 14

Chapter 4
Council Communications
Overview 15
Correspondence from Council Members 15
Speaking for "The City" 15
Local Ballot Measures 16
State Legislation, Propositions 16

DRAFT

ATTACHMENT 1
PAGE 3 OF 33

Chapter 5

Interaction with City Staff

Overview 17
Council-Manager Form of Government 17
Council-Manager Relationship 17
City Manager Code of Ethics 18
City Council-City Attorney Relationship 18
Roles and Information Flow 18
Dissemination of Information 19
Staff Relationship with Advisory Bodies 19

Chapter 6

Support Provided to City Council

Staff Support 20
Office Equipment 20
Meeting Rooms 20
Mail, Deliveries 21

Chapter 7

Financial Matters

Council Compensation 22
Expenditure Allowance 22
Expenditure Guidelines 22

Chapter 8

Conflicts & Liability

Conflict of Interest 23
City Attorney Advice 23
Conflict of Interest Forms 24
Liability 24

Chapter 9

Additional Training & Resource Materials

League of California Cities 25
Local Government Commission 25
International City Management Association (ICMA) 25
Other Reference Material on File 25

Appendix

A International City Manager's Association (ICMA) Code of Ethics
B Oxnard City Council Legislative Program

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CHAPTER 1

Introduction

The Oxnard City Council establishes policies and priorities for the community and is responsible for the fiscal health of a public corporation with an annual budget, including capital and general fund dollars of over $330 million. Oxnard is a "full service" city, with its own police, fire, water and refuse departments and is an organization with over 1,600 employees that has assets valued in excess of $1 billion (roads, buildings, parks, etc).

Purpose of the Procedures Manual

By developing and agreeing to adhere to the following guidelines and procedures, the effective administration of City Council affairs will be greatly enhanced. While attempting not to be overly restrictive, procedures are established so that expectations and practices can be clearly articulated to guide the Mayor and Council Members in their actions. It is anticipated that this Procedures Manual will be reviewed every two years by the City Council and may be revised from time to time.

Overview of City Documents

This procedures manual provides a summary of important aspects of City Council activities. However, it cannot incorporate all material and information necessary for undertaking the business of a city council. Many other laws, policies, plans and documents exist which bind the City Council to certain courses of action and practices. A summary of some of the most notable documents that establish City Council direction is provided below.

Municipal Code: The Municipal Code contains local laws and regulations adopted by ordinances. The Administrative Chapter of the Code shall incorporate by reference the rules and procedures established herein including the roles of the Mayor, Mayor Pro Tem and City Council. Included in the Administrative Chapter of the Code is appointment of certain city staff positions and the establishment, qualifications, appointment and terms applicable to certain advisory commissions. In addition to these administrative matters, the Municipal Code contains a variety of laws. The Municipal Code is available either on the City's website or from the City Clerk.

California Government Code: The State Government Code contains many requirements for the operation of city government. Many of these requirements are also replicated within the Municipal Code to ensure there is broad awareness of such requirements. Oxnard is a "general law" city, which means it is organized in accordance with provisions of the State Government Code. The government code provides for Oxnard's City Council-City Manager form of government, which was adopted as the City's form of government by ordinance. Basically, this form of government prescribes that a city council's role is to establish polices and priorities, while the role of the City Manager is to oversee the operations of the city government.

Annual Budget: The City's annual budget provides a description of City services and the resources used to provide services. The document contains both a broad overview of the budget, inclusive of descriptions of program's and services, organized for convenience by lead departments. The City operates on a July 1st through June 30th fiscal year with a budget that includes the following funds: general, capital, enterprise and internal services.

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General Plan: The General Plan is comprised of a number of elements, such as land use, transportation, open space, sea walls, sites, and housing, all in accordance with state requirements, and provides a policy framework for various matters that fall within these areas.

Orientation of New Council Members

It is important that members of the Council have an understanding of the full range of services and programs provided by the organization. As new members join the City Council the City Manager arranges for new member training, conferences and familiarization with all facets of City government.

League of California Cities Guide

A publication that provides additional useful information is the *Mayors and Council Members Resource Guide* published by the League of California Cities. The Guide contains general information on the role and responsibilities of city council members and on the specific requirements and laws that govern Council actions. The Guide is available from the City Clerk.

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C H A P T E R 2

Oxnard City Council: Powers and Responsibilities

City Council Generally

The powers of a city council in California to establish policy are quite broad. Essentially, councils may undertake any action related to the establishment of city policies that affect city affairs other than those that are denied by the California Constitution and general laws or are preempted by state or federal law. Specifically, *the Council shall have the power, in the name of the city, to do and perform all acts and things appropriate to a municipal corporation and the general welfare of its inhabitants, subject to statutory limitations and which are not specifically forbidden by the Constitution and laws of the State of California (California Government Code).*

It is important to note that the City Council acts as a body. No member has any extraordinary powers beyond those of other members. While the Mayor and Mayor Pro Tem have some additional ceremonial and administrative responsibilities as described below, in the establishment of policies, voting and in other significant areas, all members are equal. It is also important to note that policy is established by at least a majority vote of the Council. While individual members may disagree with decisions of the majority, a decision of the majority does bind the Council to a course of action. In turn, it is staff's responsibility to ensure the policy of the Council is upheld. Actions of staff to pursue the policy direction established by a majority of Council does not reflect any bias against Council Members who held a minority opinion on an issue.

The City Council has occasionally debated whether it should take positions of a broader nature or limit itself to purely municipal functions. Historically, Oxnard City Councils have chosen to not take positions on issues outside of their immediate authority to effect. The propensity of the City Council to involve itself in such issues reflects the personalities and outlooks of the members who make up the four-year Council sessions.

Limitations are imposed on a Council Member's ability to serve on appointed boards of the city. State law expresses that no member of the Council shall serve as a voting member of any city board, committee, or commission, whether composed of citizen volunteers, city employees, or a combination of both. This is not construed as prohibiting members of the Council from serving on committees or subcommittees of the Council itself, or of agencies representing other levels of government. In fact, Council Members often participate and provide leadership in regional and state programs and meetings. Council Members are strongly encouraged to provide a written report to the Council on matters discussed at subcommittees and other regional or state board/agency/group activities in which they have been involved.

Role of Mayor & Mayor Pro Tempore

Mayor: The Mayor is to preside at all meetings of the City Council. The Mayor does not possess any power of veto. As presiding officer of the Council, the Mayor is to faithfully communicate the will of the Council majority in matters of policy. The Mayor is also recognized as the official head of the City for ceremonial purposes only.

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The Mayor, unless unavailable, shall sign all ordinances, and other documents that have been adopted by the City Council and require an official signature; except in those instances when the City Manager, or other staff, have been authorized by Council action to sign documents. In the event the Mayor is unavailable, the Mayor Pro Tempore's signature will be used.

Mayor Pro Tempore: The City Council has specified that the Mayor Pro Tempore shall perform the duties of the Mayor during the Mayor's absence or disability. The Mayor Pro Tempore shall serve in this capacity at the pleasure of the City Council.

Appointment of City Manager and City Attorney

The City Council only has the authority to appoint two positions within the City organization: the City Manager and the City Attorney. Both 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 including an annual evaluation by the City Council. The City Manager is responsible for all other personnel appointments within the City. The current City Attorney is an employee of the City and has an employment agreement that specifies certain terms of employment including an annual evaluation by the City Council.

Role in Disaster

In consultation with the City Manager, the City Council may be asked to participate at the City's Emergency Operations Center (EOC), located within the Fire Department, to provide policy guidance and to receive information in an emergency. Should the City Council not be available during an emergency, state law specifies a hierarchy of others who may serve in place of the City Council.

Appointment of Advisory Bodies

The City has a number of standing advisory bodies, the rules, regulation and requirements of which can be found in the Administrative Chapter of the City Code.

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CHAPTER 3

City Council Meetings

General Procedures

Resolution number 13,126 states that the City Council has agreed to adhere to the latest revised edition of Roberts Rules of Order.

Presiding Officer: The Mayor is the presiding officer and acts as chair at Council meetings. In the absence or incapacity of the Mayor, the Mayor Pro Tempore serves as presiding officer.

Seating arrangement of the Council: The Mayor Pro Tempore is seated immediately next to the Mayor. The Mayor, with the approval of individual Council Members, shall establish the seating arrangement for regular Council meetings.

Quorum: Three-fifths of the Council Members constitute a quorum for the transaction of business.

Meeting Schedule

Regular meetings are usually held in the Council Chambers, at 305 West Third Street, on Tuesdays at 7:00 p.m. Closed sessions are generally convened, as needed, prior to or at the end of a regularly scheduled meeting.

No Council meeting will typically be held in the event that a regular meeting of the Council falls on a legal holiday or in the same week of a legal holiday. Council does not meet on the fifth Tuesday of the month. Other meetings throughout the year may be cancelled. The Mayor and Council Members should inform the City Manager's secretary as soon as possible if they intend to be out of town on a set meeting date.

Special Meetings

Special meetings may be called by a majority of the City Council in compliance with the Brown Act (California Government Code). Written notice must be given to the public and to the media twenty-four (24) hours prior to a special meeting. No business other than that officially noticed may be discussed. The City Council may call a special meeting to discuss goals and priorities for the upcoming year.

Public Comment: At all regular and special meetings, public comments must be permitted before or during consideration of any agendized item. Public comment is appropriate on any matter within the jurisdiction of the City Council.

Meeting Notices and Minutes: Notice requirements of the Brown Act are complied with for all meetings; minutes of the meeting are taken by the City Clerk or designee and made available for public inspection.

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Development of Agenda

By Ordinance number 2,368 the City Council has established their meeting calendar. A copy of the agenda is transmitted to the Council on the Thursday prior to the scheduled meeting. All agenda materials are available during normal business hours, after 6:00 p.m. on the Thursday before the Tuesday Council meeting, or on Monday when offices are closed on Friday at the Main Branch of the Public Library and after 8:00 a.m. on Friday in the Office of the City Clerk. Website posting of the agenda concurs with the Council calendar.

Placing Items on Agenda

City Council: A Council Member may request an item be considered on a future agenda and, upon agreement of a majority of Council, staff will prepare a staff report if formal Council action is required. Council Members may make this request verbally during a public meeting or may submit written requests by and through the City Manager. Normally, the process involves two steps: (1) initial consideration of the request considering information provided by the City Manager regarding the potential impact the request will have on established priorities and staff workload before expenditure of significant staff resources, by the full Council at the soonest possible regularly scheduled meeting; and (2) if a majority agrees, the matter is then scheduled for further consideration on an upcoming meeting agenda; however, if a majority of the Council so agrees the matter may be scheduled without the initial consideration described above.

Emergency and Non-Agendized items: Emergency and non-agendized items may be added to an agenda only in accordance with state law. Emergency items are only those matters affecting public health or safety such as work stoppages, disasters and other severe emergencies. Adding an emergency item requires a majority vote. Emergency items are very rare. More likely, after the agenda has been posted an item arises that the Council would like to act on. Non-agendized items may be added to the agenda only if the Council makes findings that (1) the need to consider the item if it arose after the posting of the agenda, and; (2) there is a need to take immediate action at this meeting of the City Council. These findings must be approved by a four-fifths vote; if less than five members of Council are present, the findings require a unanimous vote of those present.

Notification and Advertising

The City will continue to publicize matters of significant neighborhood or community public interest that appear on a City Council agenda, as well as all matters where advertising is required by law.

Order of Business

Per Council Resolution number 13,126 the City Council has established the Rules of Procedure for the Conduct of City Council meetings.

Public Comment: A block of thirty (30) minutes time is set aside at the beginning of the meeting to receive general public comment about issues not on the agenda. Public comments not heard during this thirty-minute period will be heard just prior to adjournment. Comments on agendized items are not heard until the appropriate item is called. Individuals desiring to speak are to address the Council from the speaker podium. Speaker cards should be filled out and given to the City Clerk prior to Public Comment.

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Comments should focus on a specific matter within the Council's jurisdiction. Members of the public are encouraged to present written comments, preferably in advance of the meeting, as a way to fully communicate their thoughts on agendized or non-agendized items. When written materials are presented, they should be submitted to the City Clerk for distribution and record keeping ahead of time. Comments are typically limited to three minutes per speaker so that all may have an opportunity to address the Council.

Videos, PowerPoint or similar presentations during public comment ordinarily are not permitted. Prior notice and coordination with the City Clerk is strongly encouraged and the Mayor reserves the privilege to limit such requests as necessary for the effective conduct of the meeting. Speakers are to address their comments to the City Council from the podium.

Public Comment on regular business items normally follows staff's presentation of the staff report, clarifying questions from Council members and applicant comments as necessary and appropriate.

Discussion Rules

To assist the City Council in the orderly discussion of items, rules are followed which represent accepted practices for the management of Council meetings.

1. **Obtaining the Floor**: A member of the City Council or staff shall first address the presiding officer to gain recognition. Comments and questions should be directed through the Chair and limited to the issue before the Council. Cross-exchange between Council Members and public should be avoided.

2. **Questions to Staff**: A Council Member shall, after recognition by the presiding officer, address questions to the City Manager, City Attorney, department head or designated staff member. If a Council Member has questions on an agenda item, that member should preferably contact the City Manager prior to the meeting in order to allow the City Manager to direct staff with enough time to research a response for the meeting.

3. **Interruptions**:
   a. Once recognized, a Council Member is considered to have the floor, and another Council Member may not interrupt the speaker except to make a point of order or point of personal privilege. In such a circumstance, the Council Member holding the floor shall cease speaking until the point of order or privilege is resolved.

   b. Upon being recognized by the Chair, members of the staff shall hold the floor until completion of their remarks or until recognition is withdrawn by the Chair.

4. **Discussion:** A Council Member should not speak more than once on a particular subject until every other Council Member has had the opportunity to speak. Council Members are encouraged to discuss items during the decision-making process and may ask staff to respond when appropriate. The Mayor normally allows other members to speak first, then will give his/her views and summarize.

5. **Tabling Procedure**: Tabling an item immediately stops discussion and causes a vote to postpone a matter indefinitely or to a time and date certain. A motion to "continue" an agenda item has the same effect, but is generally used when a scheduling problem arises or when insufficient time is available to address the matter thoroughly.

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6. **Right of Protest**: A Council Member is not required to state reasons for a dissenting vote.

7. **Calling for the Question**: The purpose of calling for the question is to disallow further debate and put an issue to an immediate vote. A Council Member may move to "call for the question" on an item which is being considered. The motion requires a second, is not debatable, and must pass by a four-fifths vote. If the motion carries, the item is no longer debatable and the City Council must vote on it.

8. **Conducting Business at a Late Hour**. According to Council policy, no new items will be taken up by the City Council after 11:00 p.m. unless there is a three-fourths vote taken to extend the meeting.

Voting Procedures

When present, all Council Members are to vote unless prohibited by law or conflict of interest. Failure of a seated member to orally express a vote constitutes an affirmative vote.

No ordinance, resolution or motion approving the payment of money shall be passed or become effective without an affirmative vote by the majority with a quorum present.

A conflict of interest shall be declared whenever appropriate and in compliance with state law. The affected Council Member will step down from the dais and leave the Chambers.

Council Members may declare general consensus at the discretion of the presiding officer, if there are no negative votes or objections.

Upon the request of any Council Member, a roll call vote will be taken and recorded.

Tie Vote: A tie vote is equivalent to a motion that has failed. The presiding officer may publicly explain the effect of the tie vote for the audience or may direct the City Attorney to do so.

Motions: There are a number of types of motions, each of which must meet certain requirements before a vote can be taken. Enactment of an ordinance, adoption of a resolution, as well as approval of a motion or order involving a payment of money require the vote of three Council Members. Other motions or action require a vote in favor of the action or motion by a majority of a quorum of Council Members present.

Reconsideration: Reconsideration of an item shall be allowed in accordance with the following Council guidelines. A member of the prevailing majority when the previous vote was taken must make a motion for reconsideration. The City Council has determined that any motion for reconsideration should be made at the meeting immediately following that at which the action was taken. No motion for reconsideration will be entertained after this time unless the City Council determines significant new information has arisen which warrants such action.

Other Guidelines

Other guidelines have been developed to ensure that meetings of the Council are conducted in a civil and professional manner. Council Members and staff shall:

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1. Work to preserve appropriate order and decorum during all meetings.

2. Discourage side conversations, disruptions, interruptions or delaying efforts.

3. Inform the presiding officer before departing from a meeting.

4. Limit disruptive behavior. The presiding officer will call persons demonstrating rude, boisterous, or profane behavior to order. If such conduct continues, the presiding officer may call a recess, request the removal of such person(s) from the Council Chambers, adjourn the meeting, or take such other appropriate action. The Council has a policy to discourage applause, booing or other similar behaviors from the public during meetings.

5. Recognize that only the City Council, staff, advisory body chairs or designated representatives, and those authorized by the presiding officer shall be permitted to sit at the Council or staff tables.

6. Limit breaks of the City Council to 5-10 minutes. The Mayor will resume the meeting if a quorum exists and other members have not returned from the break within the announced time period.

7. Impose time limits on speakers. While the City Council encourages and embraces the need for and right of public participation, it acknowledges that public comments must, at times, be limited. The Mayor, as presiding officer, may poll the audience for an indication of the number of people wishing to speak on a particular item, and to impose time limits per speaker. Typically, speakers are limited to three minutes but a shorter time limit may be established as deemed necessary; however, project applicants, developers of a project under consideration, representatives of affected homeowners associations, neighborhood councils or similar groups may, at the discretion of the presiding officer be granted a longer time period for comment. After the time limit, Council may ask questions of the speaker for clarification, if needed. Each speaker will be thanked for his or her participation.

8. Meetings outside the City of a majority of City Council, even if permissible under the Brown Act, are discouraged, so as to maximize public participation.

Values of Respect: The City Council has also recognized the importance of approaching the public's business in an environment of personal respect and courtesy, which places emphasis on the consideration of policy and avoids personalization of comments. Some guidelines utilized by the City Council include:

1. Discussion should focus on policy matters

2. Personal criticism of members is inappropriate

3. Proper decorum should be displayed as other members express their views

4. Treat members of the public equally, applying rules in a fair and consistent manner

Enforcement of Order: The Police Chief or his designee acts as the Sergeant-At-Arms. Any Council Member may request the presiding officer to enforce the rules of protocol. Upon motion and majority vote, the presiding officer shall be required to do so.

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Open Meeting Laws (the "Brown Act")

Operations and procedures of the City and City Council incorporate requirements of the State's open meeting laws (commonly referred to as the Brown Act). Because this law is such an important part of local government operations, some specific requirements of the law are highlighted below.

Applicability and Penalties: The entire City organization conducts its business in compliance with the Ralph M. Brown Act, State Government Code Section 54950. The intent of the Act is to ensure that deliberation and actions of local public agencies are conducted in open and at public meetings.

A. Applicability: The Act applies to Council and all commissions, boards and Council appointed subcommittees (except if comprised entirely of two Council Members) and task forces that advise Council. Staff cannot promote actions that would violate the Act.

B. Meetings: All meetings shall be open and public. A City Council meeting takes place whenever a quorum (3 or more members) is present and information about the business of the body is received; discussions qualify as a meeting. Social functions (e.g., receptions, dinners) do not fall under the Act unless City business is discussed.

   Serial meetings take place when any member of Council or City staff contact more than two Council Members for the purpose of deliberating or acting upon an item pending before the City Council. This restriction does not apply to the public or media who may contact Council Members. Correspondence that merely takes a position on an issue is acceptable. Note that the Brown Act applies to City Council Members immediately after their election and prior to their swearing-in ceremony.

C. Agendas: Agendas for regular meetings must be posted 72 hours in advance of the meeting and must meet various requirements.

D. Actions: No action can be taken on any item not appearing on the posted agenda.

   Exceptions: 1) An emergency situation exists (determined by a majority of the Council). 2) The need to take action arose subsequent to the agenda being posted and there is a need for immediate action (determined by two-thirds vote of the Council; or if less than two-thirds are present, by unanimous vote). 3) The item was continued to another meeting that was scheduled and posted within 5 days of the original agenda.

E. Public Input: The Brown Act contains provisions concerning Public Comment on matters within the City Council's jurisdiction and particular matters on the agenda, summarized elsewhere in this manual. These provisions will be followed by the City Council.

F. Public Disruptions: A portion or all of the public may be removed if willful disruption makes conducting the meeting "unfeasible"; the press may remain unless they participate in the disruption.

G. Correspondence: All writings distributed for discussion or consideration at a public meeting are public records.

H. Special Meetings: Special meetings may be called by the Mayor or a majority of the Council with strict notification requirements for delivery to the media and Council twenty-four (24) hours before the time of the meeting.

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I. Emergency Meetings: Emergency meetings may be called without notification due to the disruption or threatened disruption of public facilities. Only work stoppages or crippling disasters that impair the public health and/or safety qualify for emergency meetings.

J. Other Provisions: The Brown Act provides many other restrictions and requirements; this chapter is intended merely as a Council summary and overview of the Brown Act, and nothing in this Chapter supersedes the provisions of the Brown Act. Please check with the City Attorney and/or the City Clerk for more information.

CHAPTER 4

Council Communications

Overview

Perhaps the most fundamental role of a Council Member is communication—communication with the public to assess community opinions and needs—communication with staff to provide policy direction and to gain an understanding of the implications of various policy alternatives. Because the City Council performs as a body (that is, acting based on the will of the majority as opposed to individuals), it is important that general guidelines be understood when speaking as a Council Member. Equally important, when members are expressing personal views and not those of the Council, the public should be so advised.

Correspondence from Council Members

Members of the City Council may occasionally be called upon to write letters to citizens, businesses or other public agencies. Typically, the City Manager will be charged with transmitting the City's position on policy matters to outside agencies on behalf of the City Council. Correspondence sent on behalf of the Council is placed on official City letterhead and is signed by the Mayor or City Manager. Individual members of Council may prepare letters to constituents in response to inquiries or to provide requested information. Individualized City Council Member letterhead is available for this purpose, and staff can assist in the preparation of such correspondence. Council Members are encouraged to provide copies of any correspondence on City letterhead to every Council Member and the City Manager.

On occasion, Council Members may wish to transmit correspondence on an issue upon which the Council has yet to take a position or about an issue for which the Council has no position. In these circumstances, Council Members should use their personalized letterhead and clearly indicate within letters that they are not speaking for the City Council as a whole, but for themselves as one member of Council.

After the City Council has taken a position on an issue, official correspondence should reflect this position. While Council Members who may disagree with a position are free to prepare correspondence on such issues as private citizens, City letterhead, official Council title, and staff support should not be utilized in order to avoid confusion. In addition, City letterhead and staff support cannot be utilized for personal or political purposes.

Council Members may be asked to prepare letters of recommendation for students and others seeking appointment. Council Members may utilize City letterhead and their Council titles, but should indicate that the views expressed are those of the Council Member (as opposed to the City Council). No review by the full Council is required; however, copies will be kept on file.

Speaking for "the City"

Similar to written correspondence, when Council Members are requested to speak to groups or are asked the Council's position on an issue, the response should reflect the position of the Council as a whole. Of course, a Council Member may clarify their vote on a matter by stating, for example, "While I voted against "X", the City Council voted in support of it." When representing the City at meetings or other venues, it is important that those in attendance gain an understanding of the City Council's position rather than that of an individual member.

Local Ballot Measures

At times measures that affect City Council policy may be placed on the ballot. There are restrictions regarding what actions a City Council or individual Council Members may take on ballot measures. Guidelines as to what is permissible are available from the City Clerk or City Attorney upon request.

State Legislation, Propositions

In 2007 the City adopted a Legislative Program to enable the City to respond the pending state and federal legislation in a proactive manner (the 2011-2012 Legislative Program is included as Appendix B). The Mayor (or Mayor Pro Tem in the Mayor's absence) would be authorized to sign correspondence expressing the City Council's position on legislation consistent with the Legislative Program and/or other positions approved by the City Council.

Staff maintains direct and consistent contact with contracted state and federal lobbyists and monitors the League of California Cities' Priority Focus, California Water Association and other sources to identify pending legislation that may impact the City. Letters expressing the City's position will be drafted for the Mayor's signature, with copies distributed to each Council Member. Pending legislation not addressed by the Legislative Program, or staff recommendations that deviate from the Legislative Program, would be agendized for City Council consideration.

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C H A P T E R 5

Interaction with City Staff

Overview

City Council policy is implemented on a daily basis through staff. Therefore, it is critical that the relationship between Council and staff be well understood by all parties so that policies and programs may be implemented successfully. The City of Oxnard has a long tradition of positive relationships between members of the City Council and staff. To maintain these effective relationships it is important that roles are clearly recognized.

Council-Manager Form of Government

Like most California cities, Oxnard has adopted a City Council-City Manager form of government. The Council appoints a City Manager to implement policy, enforce its laws, to direct the daily operations of city government, and to prepare and monitor the municipal budget. The Municipal Code specifies roles and responsibilities and requires that Council Members work through the City Manager in dealing with City staff unless simply requesting information from department heads or other staff members. The City Manager is responsible to the City Council as a body rather than to individual Council Members.

Council-Manager Relationship

The employment relationship between the City Council and City Manager reflects the fact that the City Manager is the chief executive officer of the City. The City Manager has an employment agreement with the City Council. Regular communication between the City Council and City Manager is important in maintaining effective interpersonal relations. All dealings with the City Manager, whether in public or private, should be consistent with the authority of the City Manager in administrative and personnel matters. Council Members should avoid situations that can result in City staff being directed, intentionally or unintentionally, by one or more members of the City Council. Further, Council Members should avoid involving themselves in matters regarding individual City employees or related affairs.

The City Council evaluates the City Manager's performance annually to ensure that both the City Council and City Manager are in agreement about organizational performance and priority goals that are based on mutual trust and common objectives which are put forth in the mandatory annual strategic summit.

As in any professional relationship, it is important that the City Manager keep the City Council informed. The City Manager respects that the final responsibility for establishing the policy direction of the City is held by the City Council. The City Manager communicates with City Council in various ways. In addition to the formal Council meetings, there are periodic briefing meetings with individual Council members and written memoranda and email. Communication must be undertaken in such a way that all Council Members are treated similarly and kept equally informed and provided with updates on significant fiscal matters, major projects, or other critical issues. It is also important that the Council provide ongoing feedback, information and perceptions to the City Manager including responses to written communications and surveys requesting feedback.

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City Manager Code of Ethics

The City Manager is subject to a professional code of ethics that binds the City Manager to certain practices that are designed to ensure his or her actions are in support of the City's best interests. Violations of such standards can result in censure. Appendix A is a copy of the City Manager's Code of Ethics.

City Council-City Attorney Relationship

The City Attorney is the legal advisor for the Council, City Manager and departments. The general legal responsibilities of the City Attorney are to: 1) provide legal assistance necessary for formulation and implementation of legislative policies and projects; 2) represent the City's interest, as determined by the City Council, in litigation, administrative hearings, negotiations and similar proceedings; 3) prepare ordinances, resolutions, contracts and other legal documents to best reflect and implement the purposes for which they are prepared; and 4) keep City Council and staff apprised of court rulings and legislation affecting the legal interest of the City. It is important to note that the City Attorney does not represent individual members of Council, but the City Council as a whole.

Roles and Information Flow

Objectives: It is the intent of staff to ensure Council Members have free and easy access to information from the City and to ensure that such information is communicated completely, with candor and without bias. Individual Council Members may not intervene in staff decision-making, the development of staff recommendations, scheduling of work, or executing department priorities without the prior knowledge and approval of the City Council as a whole. This is necessary to protect staff from undue influence and pressure from individual Council Members, and to allow staff to execute the priorities given by management and the Council as a whole without fear of reprisal. Undue influence exercised by Council Members may result in censure.

Council roles: The full City Council retains power to accept, reject, amend, influence, or otherwise guide and direct staff actions, decisions, recommendations, service levels, work loads and schedules, departmental priorities, and the performance of City business. If a Council Member wishes to influence the actions, decisions, recommendations, workloads, work schedule, and priorities of staff, that member must prevail upon the Council in accordance with the Brown Act, preferably in open session, to do so as a matter of Council business.

Should a Council Member become dissatisfied about a department, he/she should always talk it over with the City Manager and/or the Assistant City Manager, not the department head. Concerns about a department head must be taken to the City Manager only.

To assist the City Manager in his/her ability to monitor the flow of information, requests for information are best tracked if submitted in writing, either in memorandum form or through email. And to ensure proper responsiveness, Council Members are asked to "cc" both the department head and the City Manager on all correspondence with staff.

Staff roles: The Council recognizes the primary functions of staff as serving the community, executing Council policy and actions and keeping the Council informed. Staff is obligated to take guidance and direction only from the Council as a whole or from the appropriate

management supervisors. Staff is directed to report to the City Manager any attempts by individual members of the Council to unduly direct or otherwise pressure them into making, changing or otherwise influencing recommendations.

City staff will make every effort to respond in a timely and professional manner to all requests made by individual Council Members for information or assistance; provided 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. If a request by an individual Council Member is determined by the City Manager to take one hour or more of staff time to complete, that request may be included on the formal Council agenda for full Council discussion.

Dissemination of Information

In cases where a staff response to an individual Council Member request involves written materials that may be of interest to other Council Members, the City Manager will provide copies of the material to all other Council Members. In making this judgment, the City Manager will consider whether the information is significant, new, otherwise not available to the Council or of interest to the Council.

Staff Relationship with Advisory Bodies

Staff support and assistance is typically provided to commissions and task forces. However, advisory bodies do not have authority over City employees. While staff may work closely with advisory bodies, staff members remain responsible to their immediate supervisors and ultimately the City Manager and City Council. The members of the commission/ board/committee are responsible for the functions of the advisory body, and the chairperson is responsible for committee compliance with City policies and practices.

Staff support often includes preparation of an agenda and its posting in compliance with the Brown Act. Staff may also prepare reports providing background on the issue, alternatives, a recommendation, and appropriate backup materials, if necessary. Advisory body members should have sufficient information to reach decisions based upon a clear explanation of the issues. The assigned staff person may serve as secretary, taking minutes as needed. Staff members are to assist the advisory body chair to ensure appropriate compliance with state and local laws and regulations.

It is important that advisory bodies wishing to communicate recommendations to the City Council do so through approved Council agenda procedures. In addition, if a commission wishes to correspond with an outside agency, that correspondence will be prepared by staff for review by the City Manager and possible approval by the City Council. Individuals who would like staff to perform research or for the commission to review a particular issue must gain the approval for such a request from the full City Council before any work is planned or done.

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CHAPTER 6

Support Provided to City Council

Staff Support

General administrative support to members of the City Council is provided through the City Manager's Office. Secretarial services including scheduling of appointments, receipt of telephone messages, and word processing are available as needed. Sensitivity to the workload of support staff members in the City Manager's Office is appreciated. Should requested tasks require significant time commitments, prior consultation with the City Manager is requested.

Office Equipment

To enhance Council Members' ability to communicate with staff and the public, the City Council office is equipped with a computer and telephones with voicemail. The Council can also receive and send faxes.

Council Members may be connected from their home to the City's computer network. Information Services staff will provide initial assistance in setting up necessary software and hardware. While staff will maintain those computer applications related to City affairs, staff cannot provide assistance for personal computer applications. When individual Council Members have completed their term of office, any installed software and external modems must be returned to the City.

These technologies facilitate efficient communication by Council Members. However, their use also raises important legal issues to which Council Members must pay special attention. First, the Brown Act prohibits members from using "technological devices" to develop a concurrence by a majority regarding an action to be taken by the Council. "Technological devices" under the Brown Act include phones, faxes, computer email, public access cable TV and video. Council Members should not use e-mail, faxes or phones for communicating with other Council Members in order to develop a majority position on any particular issue that may come before the full Council.

Second, be aware that most emails sent by Council Members probably are public records under the Public Records Act. Even though it does not create paper, sending email is more similar to mailing a letter than placing a telephone call. The information in the email is stored on the computer network until deleted, and may continue to exist on the network's back-up systems even after being deleted. As a result, emails can become records of the City maintained in the course of business, and thus available for public disclosure under the Public Records Act.

Finally, the City's email system is intended for the conduct of official business, and not for political reasons. See Chapter 8 for a detailed discussion on the prohibition against using City property and funds for personal or political purposes.

Meeting Rooms

Conference rooms are available in the City Manager's Office for shared use by members of the City Council. Council Members can also reserve larger meeting space for use by contacting the City Manager's Office staff.

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Mail, Deliveries

Members of the City Council receive a large volume of mail and other materials from the public, private interests and staff. The City Manager's Office staff maintains a mailbox for each member. Meeting agenda materials are available for pick up Thursday evenings at 5:30 p.m. and are posted on the City's website. Members are encouraged to return unwanted reports and documents to staff for distribution to the public or for recycling.

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C H A P T E R 7

Financial Matters

Council Compensation

State law and the Municipal Code provide for modest compensation to members of the City Council. State law limits an increase in City Council salaries to 5 percent per year, effective only following the next election after adoption. Currently, Council Members receive a monthly stipend. Council Members are also eligible for participation in group insurance benefits including retirement, medical, dental, vision, and life insurance plans available at the level provided to management employees.

Expenditure Allowance

The annual City budget includes limited funding for members to undertake official City business. Eligible expenses include travel for attendance at conferences or educational seminars, and the purchase of publications and annual subscriptions. Donations to organizations are not eligible nor are meals for individuals other than Council Members.

Expenditure Guidelines

It is important to note that any expense must be related to City affairs. Public property and funds may not be used for any private or personal purpose. Courts have ruled that this prohibition includes personal political purposes. For example, reimbursement could not be allowed to pay for meals at a meeting designed to discuss political or campaign strategies. It is also inappropriate for City funds to pay for a meal or other expenses of a private citizen.

City budgetary practices and accounting controls apply to expenditures within the City Council budget. Reimbursement requests should be made through the City Manager's Office monthly with receipts. Expenditure records are public information.

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CHAPTER 8

Conflicts & Liability

Conflict of Interest

State laws are in place to prevent an action by a Council Member that would or may constitute a conflict of interest. The purpose of such laws and regulations is to ensure that all actions are taken in the public interest. At any time a Council Member believes a potential for conflict of interest exists, he/she is encouraged to consult with the City Attorney or private legal counsel for advice. Staff may also request an opinion from the City Attorney regarding a member's potential conflict. Laws that regulate conflicts are very complicated. Violations may result in significant penalties including criminal prosecution.

There are two primary laws that govern conflicts of interest for public officials in California - the Political Reform Act and Government Code section 1090. In general terms, the Political Reform Act prohibits a public official from having a financial interest in a decision before the official; section 1090 prohibits a public official from having an interest in government contracts.

The Political Reform Act prohibits public officials from making, participating in, or in any way attempting to use their official position to influence a governmental decision in which they know, or have reason to know, that they have a financial interest. Therefore, if a public official has a conflict of interest, the official must disqualify himself or herself from acting on or participating in the decision before the City. Once a year Council Members and certain staff are required to file statements of economic interests.

Government Code section 1090 is similar to the Political Reform Act, but applies only to City contracts in which a public official has a financial interest. The financial interests covered by section 1090 are different from those in the Political Reform Act. A Council Member having an interest in a contract may preclude the City from entering into the contract at all. In addition, the penalties for violating section 1090 are severe. If a Council Member believes that he or she may have any financial interest in a contract that will be before the Council, the Council Member should immediately seek advice from the City Attorney or the Council Member's personal attorney.

There are a number of other restrictions placed on Council actions that are highlighted in the League of California Cities' *Guide*. Such restrictions include prohibitions on secrecy and discrimination as well as assurance that all city funds are spent for public purposes. Violations of these restrictions may result in personal liability for individual Council Members.

City Attorney Advice

The City Attorney has an affirmative duty to protect the City and City Council from conflicts of interest wherever possible. It is critical to note that while the City Attorney can render advice on the interpretation of State laws and regulations on conflict matters, such advice is solely an interpretation of the law. The only authority that can provide binding interpretations on such matters is the State Fair Political Practices Commission (FPPC). Council Members or the full Council may also solicit opinions on such matters directly from the FPPC; however, such opinions often take time to develop and may not readily respond to urgent matters. It is

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important to note that the City Attorney does not represent individual members of Council, but the City Council as a whole.

Conflict of Interest Forms

Annual disclosure statements are required of all Council Members, designated commissioners and senior staff which indicate potential conflicts of interest including sources of income, ownership of property and receipt of loans and gifts. Council Members and the City Manager often serve on the governing board of other agencies as a result of their positions. These agencies also require submittal of disclosure forms. These forms require information including income, loans, receipt of gifts, and interest in real property among other items.

Liability

The City is a large institution offering a variety of services and may occasionally find itself subject to legal actions through lawsuits. For example, those involved in automobile accidents sometimes choose to take actions against a City since the accident occurred on a City roadway. The City must always approach its responsibilities in a manner that reduces risk to all involved; however, with such a wide variety of high-profile services all risk cannot be eliminated. The City belongs to an agency with other governments to manage insurance and risk activities.

It is important to note that violations of certain laws and regulations by individual members of the City Council may result in that member's being personally liable for damages which would not be covered by the City's insurance. Examples may include discrimination, harassment or fraud.

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C H A P T E R 9

Additional Training & Resource Materials

League of California Cities

The League is an association of virtually all cities in California. It provides many services including the production of educational conferences for local officials, publication of various newsletters and the monthly magazine *Western City*. The League has lobbyists on staff to represent the interest of cities before the state legislature and federal government and supports committees having local officials as members that are organized to address issues as they arise. The League has an Internet web site at *www.cacities.org*. The City of Oxnard participates in League activities through the Channel Counties Division.

Local Government Commission

The Commission is a California-based organization that focuses largely on planning and resource conservation issues. It conducts workshops, offers periodic seminars, and publishes newsletters.

International City/County Management Association (ICMA)

ICMA is a professional association of local government chief executives/city managers. The association has an extensive list of publications to assist local officials.

Other Reference Material Available

The Brown Act - Open Meetings for Local Legislative Bodies

Report on City Participation in Ballot Measure Campaigns

A Guide to the Politcal Reform Act

Elected Officials Handbooks:

- Setting Goals for Action: An Overview of Policy Development
- Building a Policy-Making Team.
- Setting Policies for Service Delivery
- Pursuing Personal Effectiveness

City of Oxnard Municipal Code

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APPENDIX A

International City Manager's Association (ICMA) Code of Ethics

The mission of ICMA is to create excellence in local governance by developing and fostering professional local government management worldwide. To further this mission, certain principles, as enforced by the Rules of Procedure, shall govern the conduct of every member of ICMA, who shall:

Tenet 1

Be dedicated to the concepts of effective and democratic local government by responsible elected officials and believe that professional general management is essential to the achievement of this objective.

Tenet 2

Affirm the dignity and worth of the services rendered by government and maintain a constructive, creative, and practical attitude toward local government affairs and a deep sense of social responsibility as a trusted public servant

Tenet 3

Be dedicated to the highest ideals of honor and integrity in all public and personal relationships in order that the member may merit the respect and confidence of the elected officials, of other officials and employees, and of the public.

Tenet 4

Recognize that the chief function of local government at all times is to serve the best interests of all people.

Tenet 5

Submit policy proposals to elected officials; provide them with facts and advice on matters of policy as a basis for making decisions and setting community goals; and uphold and implement local government policies adopted by elected officials.

Tenet 6

Recognize that elected representatives of the people are entitled to the credit for the establishment of local government policies; responsibility for policy execution rests with the members.

Tenet 7

Refrain from all political activities which undermine public confidence in professional administrators. Refrain from participation in the election of the members of the employing legislative body.

Tenet 8

Make it a duty continually to improve the member's professional ability and to develop the competence of associates in the use of management techniques.

Tenet 9

Keep the community informed on local government affairs; encourage communication between the citizens and all local government officers; emphasize friendly and courteous service to the public; and seek to improve the quality and image of public service.

Tenet 10

Resist any encroachment on professional responsibilities, believing the member should be free to carry out official policies without interference, and handle each problem without discrimination on the basis of principle and justice.

Tenet 11

Handle all matters of personnel on the basis of merit so that fairness and impartiality govern a member's decisions, pertaining to appointments, pay adjustments, promotions, and discipline.

Tenet 12

Seek no favor; believe that personal aggrandizement or profit secured by confidential information or by misuse of public time is dishonest.

APPENDIX B

City of Oxnard
2011-2012 Legislative Program

The foundation for the City's legislative priorities is based in the mission statement adopted by the Oxnard City Council in January of 2005:

> "The City of Oxnard will have clean, safe, prosperous and attractive neighborhoods with open, transparent government."

The following Legislative Program was developed to enable the City to respond to pending state and federal legislation in a proactive manner. The Mayor (or Mayor Pro Tem in the Mayor's absence) would be authorized to sign correspondence expressing the City Council's position on legislation consistent with this Legislative Program and/or other positions approved by the City Council.

Staff would maintain direct and consistent contact with contracted state and federal lobbyists and monitor the League of California Cities' *Priority Focus,* California Water Association, and other sources to identify pending legislation that may impact the City. Letters expressing the City's position will be drafted for the Mayor's signature, with copies distributed to each Councilmember. Pending legislation not addressed by the Legislative Program or staff recommendations that deviate from the Legislative Program would be agendized for City Council consideration.

Basic Principles

A. Local Control

1. Support legislation mandating that the state and federal governments provide full cost reimbursement to cities for all required programs and for all programs resulting in revenue loss to cities.
2. Support legislation that protects the ability of cities to recover the costs of mandated programs through fees that are exempt from Proposition 218.
3. Advocate legislation that enhances local control of resources and tools that assist the City Council to address the needs of City residents.
4. Oppose legislation that limits or interferes with City Council authority over local municipal affairs.
5. Oppose legislation that eliminates or restricts the taxing authority of cities over development; weakens existing Government Code section 66000 fee authority; or redefines any development tax, condition, or other monetary change as development fees.

6. Oppose legislation that mandates changes that interrupt the City's operations, services to the community, or impairs or weakens its infrastructure.

B. Local Budget

1. Advocate for state and federal funding supporting City infrastructure projects and City programs.
2. Support reforming the local government finance structure in a way that establishes long-term financial stability to assure future growth and provide needed public facilities and services.
3. Support discretionary revenue sources to cities over directed and limited sources.
4. Advocate for fair implementation and distribution of state infrastructure bond funds to assure the City has access to receiving an adequate share for local improvements and programs.
5. Oppose legislation that negatively impacts the City's fiscal viability by adding further financial burden through unfunded mandates.
6. Oppose legislation that reduces the City's revenue base.
7. Oppose legislation that cuts state or federal grant funding for existing programs and services, e.g., Community Development Block Grant (CDBG).

Time Sensitive/Specific Issues

A. Telecommunications

1. Oppose legislation that negatively impacts the City Council's authority to manage and control the public right-of-way and for the City to receive compensation for its use.
2. Oppose legislation that diminishes or eliminates the collection of local franchise fees or diverts its collection by the federal or state governments.
3. Oppose legislation that authorizes "redlining" or "cherry picking" and precludes equal access to affordable cable television, Internet and digital services.

B. Transportation Needs

1. Advocate for state and federal transportation funding to construct critical transportation projects in the City of Oxnard, including the projects in the Port Intermodal Corridor (Rice Avenue/5th Street Grade Crossing, Hueneme Road Widening), and the Del Norte/101 Freeway Interchange.
2. Support increased funding to enhance existing public transportation programs.
3. Advocate for state and federal funding for street, road, and alleyway repair within the City of Oxnard.
4. Advocate for state and federal funding for Transit Oriented Development (TOD)

projects that support the goals of SB 375 (Steinberg).

5. Advocate that fundamental responsibility for transportation decision making should be at the local level.

6. Oppose any state or federal reductions to existing transportation grants and programs, including Americans with Disabilities Act funding.

7. Oppose legislation that limits and/or decreases the existing amount of retention proceeds withheld from any payment by a public entity to a contractor on a public project.

C. Waste Management

1. Support legislation that provides cities with financial assistance for programs designed to provide for the safe disposal of solid, hazardous, and special waste.

2. Support legislation that strengthens cities' ability to direct municipal solid waste flow to designated solid waste facilities.

3. Support legislation that streamlines AB 939 tracking and reporting requirements.

4. Support legislation that promotes recycling and expands the market for recycled materials.

5. Support legislation that encourages the innovative use of biosolids for regional beneficial uses, including, but not limited to alternative daily cover for landfills and soil amendments.

6. Oppose legislation that would restrict or limit the City Council's authority to franchise refuse and recycling collection services, to direct municipal solid waste flow, or to contractually require haulers to guarantee achievement of AB 939 goals.

D. Water Resources

1. Support legislation and funding to clean up contaminated soil and/or polluted water wherever found, including but not limited to, surface water, ground water, estuaries, or near shore ocean areas.

2. Support legislation and funding to abate sources of soil and/or water pollution wherever found, including septic systems, leaking underground fuel tanks, and agricultural and residential applications of fertilizers and pesticides.

3. Support legislation and funding to develop recycled water as an alternate water source, including treatment, storage, and distribution.

4. Support legislation and funding to develop brackish groundwater.

5. Support legislation and funding to manage groundwater and surface water salinity.

6. Support legislation and funding that encourages innovative and cooperative

water resources projects that will be of regional benefit.

7. Support legislation that provides a mechanism to fund the construction, operations, maintenance, and administration of stormwater programs and projects that improve quality, minimize runoff, maximize infiltration and beneficial uses, maximize flooding protection, and minimizes negative environmental impacts, and exempt fees and charges supporting these programs and projects from Proposition 218 restrictions.

8. Support legislation that prohibits the use of numeric criteria for stormwater discharges until the State Water Resources Control Board develops a policy for same.

9. Support legislation that encourages the development of consistent statewide water quality policies for the development and implementation of standards for impaired water bodies (303(d) listed), including Total Maximum Daily Loads (TMDL) allocations, National Pollutant Elimination System (NPDES) permits, and monitoring programs.

10. Support legislation that establishes a fee-sharing program for general stormwater permits issued by the State Water Resources Control Board.

11. Advocate for amendments to the existing California Water Code to support local collection and discharge of groundwater.

12. Oppose legislation that would establish drinking water quality standards or treated water quality discharge standards without sound scientific basis.

E. Redevelopment/Economic Development

1. Oppose legislation that would prohibit or limit the establishment of new redevelopment project areas and/or the expansion of existing project areas.

2. Oppose legislation that reduces the amount of gross tax increment allocable to redevelopment agencies.

3. Oppose measures that would diminish the current authority or financing capabilities of redevelopment agencies.

4. Support actions that fully fund CDBG as a direct allocation to cities, with the broad objective of helping low and moderate income people.

F. Affordable Housing

1. Support legislation that provides financial support and incentives for programs that provide affordable housing for disabled and low-income residents, families, and senior adults.

2. Support legislation that protects and maintains existing affordable housing opportunities for disabled and low income residents, families, and senior adults.

G. Public Safety

1. Support legislation that allows use of state and federal public safety grants for intervention and prevention efforts to curb gang crime and youth violence.
2. Support legislation that would provide cities with a greater share of fines and forfeitures.
3. Support legislation that promotes the efforts of the Oxnard Police Department in its role to serve and protect the community with relevance to local enforcement.
4. Support legislation that allows law enforcement to better combat gun violence through investigation, interdiction, and prevention of firearm related crimes.
5. Support legislation that allows use of state and federal public safety grants for maintenance efforts in addition to service increases.

H. Land Use Planning

1. Support legislation that provides for shared land use determinations among counties and cities when the general plan of the city establishes a planning area consistent with Government Code provisions.
2. Support efforts that are consistent with the doctrine of "home rule" and the local exercise of police powers, through planning and zoning processes, over local land use.

I. General Government

1. Support legislation that provides financial assistance for local public libraries without the imposition of new taxes
2. Advocate for federal stimulus funding to support City infrastructure projects and City programs.
3. Support legislation that limits libraries' contributions to the Educational Revenue Augmentation Fund.
4. Support legislation that makes funds available to refurbish and improve parks.
5. Oppose legislation that reduces funding for libraries including public library funds.
6. Support legislation that makes funds available to upgrade, remodel existing libraries, and build new libraries.
7. Support legislation that improves library services.
8. Support legislation and programs that maintains or enhances funding for the Oxnard School District's school safety and intervention and preventions; oppose legislation which reduces funding to these programs.
9. Oppose legislation that reduces or restricts local authority to regulate public right-of-way.
10. Support legislation and funding for energy-efficiency projects and programs for

public buildings and facilities.

11. Support legislation and seek funding for the needed construction, repair, and enhancement of the Santa Clara River levee system, *including SCR-3 Reach 4, the "GAP".*

12. Support legislation and seek funding for the complete remediation of the EPA Superfund Site located on Perkins Road in Oxnard (former Halaco site).

J. Military Bases

1. Support legislation that provides funding or additional missions to the military bases in Ventura County.
2. Support the legislative efforts of the Ventura County Regional Defense Partnership for the 21st century (RDP-21).
3. Support legislation to add aircraft for the firefighting capability of the Air National Guard within Ventura County.

Proposal to the City of Oxnard, California
for Ethics and Public Confidence Program
Submitted by
Judy Nadler
Senior Fellow in Government Ethics
Markkula Center for Applied Ethics
Santa Clara University

Goal: To engage the public officials of Oxnard in an interactive discussion about creating and strengthening a culture of ethics. To identify common ethical dilemmas facing elected and non-elected officials and to provide practical tools for ethical decision making. To present best practices associated with public service and public confidence in local government.

Format: Workshop. Date and length to be determined.

Materials: Electronic copies of materials will be provided to the City of Oxnard for reproduction. Materials will include "A Framework for Ethical Decision Making," worksheets, and case studies illustrating key issues.

Faculty: Judy Nadler, Senior Fellow in Government Ethics, Markkula Center for Applied Ethics, and adjunct faculty in the department of political science, Santa Clara University. Ms. Nadler's experience in government has spanned 25 years, serving as a councilmember and directly-elected mayor of the City of Santa Clara, California. She is a member of the Council on Governmental Ethics Laws (COGEL), and has served on the League of California Cities Ethics Education Task Force. Nadler has been a featured speaker on ethics and public confidence for the League of California Cities, U.S. Conference of Mayors, and has presented workshops for municipal government as well as governmental agencies and special districts.

Scope of work: Judy Nadler will develop the workshop program, write and publish materials to deliver to the elected officials and leadership team. She will meet with each council member and key executive staff as part of the research process, and to coordinate and tailor content.

The City of Oxnard will provide administrative support and cover the costs for gathering pertinent background materials, securing the workshop location, arranging for refreshments, notifying participants, and other associated details. The City of Oxnard will also provide access to city officials or staff, as needed, to assist in the development and delivery of materials.

Continued on page two

Projected costs:

Meet with city manager, city attorney, city clerk, other senior staff as necessary	
5 hours at $375/hour	$1,875
Meet with elected officials	
5 hours at $375/hour	$1,875
Research and writing	
2 days at $3,000/day	$6,000
Workshop including travel	
1.5 days @ $3,000/day	$4,500
Analysis, final report, and recommended action plan	
1/2 day at $3,000/day	$1,500

Program cost (reflects government discount) $15,750

Note: Does not include airfare, ground transportation, hotel, or meals. It is anticipated that there will be a minimum of two trips to Oxnard associated with this project. These will be billed as reimbursement costs.

Management Partners

July 2, 2012

Mr. Martin Erickson
Special Assistant to the City Manager
City of Oxnard
305 W. Third Street
Oxnard, CA 93030

Dear Mr. Erickson:

Thank you for the opportunity to submit a proposal to design and conduct an ethics workshop for the City Council and management team. We understand the importance of taking time to having an open dialogue about ethical principles and practices, along with values and expectations, as a way to strengthen the foundation of local government. We have the experience and skills to organize and conduct such a workshop and would be pleased to work with the City of Oxnard.

We are proposing a partnership between Management Partners and the International City/County Management Association (ICMA) to conduct the desired ethics workshop for the City. Jan Perkins, Senior Partner with Management Partners and an ICMA Senior Advisor, and Martha Perego, Director of Ethics for ICMA, will serve as the team for this engagement. Brief qualifications for each are provided below.

Management Partners is a professional management consulting firm specializing in helping local government leaders. The firm is staffed with 50 professionals who are experienced public service managers as well as qualified management consultants. Our consultants carry out a full range of projects for local government leaders including teambuilding, strategic planning, organization reviews, executive coaching, performance management, and development process reviews. Each assignment we undertake receives careful, professional attention and we take pride in the quality of our work.

ICMA is a professional association devoted to creating excellence in local governance by developing and fostering professional local government management worldwide. At the core of ICMA is the mission to promote an ethical culture in local government. Since the development of the ICMA Code of Ethics in 1924, the organization has built an extensive collection of advice on ethics issues, case studies and model local government documents. This knowledge base has

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5 Park Plaza, Suite 1520 • Irvine, CA 92614 • 949 222 1082 • www.managementpartners.com

been translated into training courses, consulting services and ethics textbooks and other educational publications designed to further the organization's mission throughout the world.

Approach

To make the best use of Council members' and management team members' time and to ensure that the workshop is focused on the issues pertinent to the City of Oxnard, careful advance planning will be done. This planning will include reviewing background materials, conducting interviews, preparing an agenda and reviewing it with the City, and coordinating with your staff on workshop logistics. Following the workshop we will prepare a report that documents the direction provided by the Council.

The ethics workshop will be planned using a collaborative approach between Jan Perkins and you to ensure that the session is productive and meets the Council's and your objectives. Jan will coordinate the schedule with you. The following describes the plan of work anticipated for the engagement.

Activity 1 – Prepare for the Ethics Training Workshop
We will start by reviewing background materials that will provide context for the workshop to be designed and conducted. We will prepare a schedule and work plan and review it over the phone with you. Jan Perkins will then conduct in-person interviews with the Mayor, each Council member, the Interim City Manager, the City Attorney and you. During the interviews, Jan will ask about objectives for the workshop and issues each person would like to have included. Jan will also facilitate a meeting of the management team to hear their objectives for the workshop. The results of the interviews and management team meeting will be a critical part of the workshop design.

Jan and Martha will then design the workshop and prepare a draft agenda. The agenda will be focused on the interests and needs identified during the interviews and management team meeting and will be designed in a way to achieve the desired outcomes. An ethics workshop involves a discussion of values, norms and expectations of the City, and ethical principles and practices.

We will review the draft agenda with the City and finalize it based on feedback. Typical outcomes include reaching agreements about a set of values and norms and a clear understanding of ethical ways of dealing with dilemmas and situations that occur in a municipal government. We will prepare appropriate materials and handouts, including a PowerPoint presentation. We will coordinate with designated City staff about workshop logistics.

Activity 2 – Facilitate the Session
Jan and Martha will co-facilitate the workshop. The session will be engaging and interactive involving a combination of small and large group discussions. The workshop will be facilitated in a way that enables participants to productively discuss the issues, reach agreement on values, norms and expectations, and determine the follow up steps to be taken.

Activity 3 – Summarize Results
After the workshop, we will prepare a report summarizing the agreements made by workshop participants and subsequent actions to be taken.

Facilitators

Jan Perkins, Senior Partner, has nearly 30 years of management experience in local government. Before joining Management Partners in 2005 she served in several California and Michigan jurisdictions, including as city manager in Fremont and Morgan Hill, California. She also served the cities of Santa Ana, California; Grand Rapids, Michigan; and Adrian, Michigan. She provides assistance to government leaders in organizational analysis, leadership development, facilitation, strategic planning, teambuilding, executive coaching and performance evaluation, workforce and succession planning, and policy board/staff effectiveness. Jan has authored a number of articles, including "Hiring 2.0: 23 Creative Ways to Recruit and Keep Great Staff," which appeared in the January/February 2011 issue of *Public Management* magazine; "Successful Leadership," March 2005, *Public Management* magazine; and "The Value of Going Back to the Basics," co-authored with former Fremont Mayor Gus Morrison, June 2005, *Western City* magazine. Jan is an ICMA Credentialed Manager, is an ICMA Senior Advisor and teaches ethics for ICMA.

Martha Perego, Director of Ethics for the International City/County Management Association, has been in this role since 1998. Martha provides advice, guidance and training to ICMA members on applying the principles of the ICMA Code of Ethics to the local government profession. She oversees the ethics enforcement process and provides support to the ICMA Committee on Professional Conduct. In addition, Martha conducts training sessions for appointed and elected officials on ethical issues. She also writes about ethical issues and is the author of the monthly column *Ethics Matter!* in ICMA's *PM Magazine.* Martha serves as the Team Leader for ICMA's Membership, Professional Development and Member and Customer Services and is part of ICMA's Leadership Team. Prior to joining ICMA, Martha worked in local government for 17 years including serving as a city manager, assistant manager, and finance director. She holds an undergraduate degree in public service from The Pennsylvania State University, a MPA from the University of North Carolina at Chapel Hill and completed the Senior Executive Institute at the University of Virginia.

References

Three workshop references are provided for which Jan Perkins served as facilitator, along with some of the organizations for which Jan has conducted ethics training. Additionally, several cities are listed for which Martha Perego has provided ethics training and facilitation.

San Luis Obispo, California

Management Partners designed and facilitated a workshop for the City's boards, commissions, Council and management team. The purpose was to foster greater effectiveness among the boards and commissions and to assist members in dealing with challenging situations. The workshop was interactive, involving both small and large group discussions, case studies, and a PowerPoint Presentation.

Client Contact: Mr. Ken Hampian, Former City Manager
kchampian@charter.net

Laguna Hills, California

The City of Laguna Hills engaged Management Partners to conduct a workshop with the City Council and City Manager to confirm the City's mission, vision and values; confirm or modify Council procedures and practices; and determine biannual goals. The day-long session was interactive, engaging all Councilmembers in a dialogue of each of these items. The result was consensus on mission, vision, values, procedures and goals. Management Partners conducted individual interviews with each Councilmember and the City Manager, created an agenda, facilitated the workshop and prepared a report summarizing the results of the workshop.

Client Contact: Mr. Bruce Channing, City Manager
City Hall
24035 El Toro Road
Laguna Hills, CA 92653
(949) 707-2610

Santa Barbara County Association of Governments, California

Management Partners facilitated a strategic planning process for the Santa Barbara County Association of Governments (SBCAG), a regional planning agency responsible for transportation, housing and the development of a sustainable communities strategy to reduce greenhouse gases. The project included conducting interviews with SBCAG's Board of Directors, facilitating a focus group with County and city managers, and facilitating a staff workshop to develop a draft mission, vision, values and goals for the Board to consider. In spite of the extremely diverse interests and needs of participating agencies, Management Partners was able to help the SBCAG reach consensus on the strategic plan and priority goals for the next five to ten years.

Client Contact: Mr. Jim Kemp, Executive Director
260 N. San Antonio Road, Suite B
Santa Barbara, CA 93110
(805) 961-8908
jkemp@sbcag.org

Ethics Training Workshops and Presentations (Jan Perkins):

- City of Lancaster, California (ethics training for entire City staff)
- City of Beverly Hills, California (ethics training for management team)
- City of Thousand Oaks (ethics training for management team)
- City of Redondo Beach (ethics training for management team)
- City of West Hollywood (ethics training for management team)
- International City/County Management Association (ethics training at annual conferences)
- California Society of Municipal Finance Officers (annual conference presentations and other workshops on ethics)
- Municipal Management Association of Northern California (annual conference presentations on ethics
- Municipal Management Association of Southern California (annual conference presentations on ethics
- California Municipal Treasurers' Association (annual conference presentation on ethics)
- New Mexico City Management Association (annual conference presentations on ethics)

Ethics Training Workshops and Presentations (Martha Perego)

- Fairfax County, Virginia (developed an ethics training video for 12,000 employees)
- Cedar Rapids, Iowa (designed an ethics training program to be delivered by city staff via a train the trainer program; conducted train the trainer workshops)
- Arlington County, Virginia (conducted training for the County's executive leadership)
- City of Shoreline Washington (conducted training for elected officials, board and commission appointees and all staff)
- City of Manhattan, Kansas (provided technical assistance to work with and guide a team of city staff members responsible for developing a code of ethics, promoting the code and conducting regular training for staff and officials)
- City of Oregon City, Oregon (conducted training for elected officials, board and commission appointees and all staff)
- City of Plano, Texas (conducted training for the City's leadership academy)

Project Hours and Cost

Management Partners estimates 52 hours will be required for the ethics workshop. We will complete the plan of work described above for a fixed fee of $12,900, which includes our expenses and those of ICMA.

We would enjoy working with you on this important undertaking. Please feel free to contact either Jan Perkins at 949-202-8870 or me if you have any questions.

Sincerely,

Andrew Belknap
Regional Vice President

Accepted for the City of Oxnard by:

Name: _____

Title: _____

Date: _____

ATTACHMENT 3
PAGE 6 OF 6

CUSTOMIZE A PROGRAM

Build a program targeted to your organization's needs with our forums, trainings, and seminars.

Josephson Institute provides numerous approaches for community- or organization-based ethics training along with ongoing consulting. The Institute's ultimate goal is to help organizations develop ethical initiatives that are meaningful, measurable, and sustainable. The Institute will work with you to customize a program that meets your specific needs and addresses your challenges. The cost of customized services varies according to program.

The Importance of Ethics: An Inspirational Introduction

The importance of ethics is brought to life by our passionate speakers. This is the perfect way to build buy-in from the people in your organization who may not see the personal, professional, and societal value in ethics education. This forum can vary from 1-3 hours in length with no audience-size limits.

Crisis Management: Planning for a More Ethical Future

This ½-day working session is designed for a small group of your organization's leaders to develop an ethics program in response to an immediate crisis or long-term problem. If you have experienced a lawsuit, recall of an elected official, or company scandal, this session is essential. A small group of leaders will work with Institute staff to assess the state of the organization, develop strategies for repairing damage in the aftermath of a disruptive crisis, and determine strategies for strengthening the culture. Most of the work is completed through discussion. Pre-program interviews and research are required.

Ethical Decision Making: Risk Management at Its Best

No one can simply read about ethics and become ethical. Ethics involves making decisions every day – in every context. This introductory program raises awareness about the importance of ethical decision making and provides an overview of how a well-defined and practiced value system can improve your organization. This forum can be used as a jumping-off point for more extensive training. The number of participants is unlimited.

Creating an Ethical Work Culture: A Highly Focused Leadership Training

This one-day training will be custom designed to equip leaders in your organization to address your most pressing issues, learn to manage risk, and create an ethical work culture. Pre-program interviews and research will be conducted. Class size is limited to 25 to allow for participation and exercises.

Train-the-Trainer Seminar

Through highly interactive individual and group exercises, this two-day program provides the skills for a select group in your organization to train others about ethical decision making and climate change. Utilizing universal values, we show you how to incorporate customizable tools to begin your own ethics initiative. To ensure the best learning environment, the two-day program is limited to 40 participants and includes pre- and post-training materials.

Ethical Climate Assessment

This anonymous survey will measure the alignment of actual behaviors, beliefs, and attitudes with stated organizational values. It will reveal areas of vulnerability in your organization and opportunities for improvement and risk management.

For more information on customized services, please contact us at **800.711.2670.**

www.JosephsonInstitute.org
800.711.2670

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From: Chris Feely <cfeely@jiethics.org>
To: Martin.Erickson@ci.oxnard.ca.us
Date: 7/2/2012 12:22:01 PM
Subject: Article by Michael Josephson

Hi Martin:

Below is the article that Michael mentioned on our call last week. Thanks for your patience.

Chris

Elements of an Exemplary Corporate Ethics Program - Check-the-Box Compliance Programs Won't Meet New Federal Standards
by Michael Josephson
FEBRUARY 16, 2012

Serious and sincere efforts to understand and create strategies to deal with the extensive and complex legal dimensions of a growing body of Federal and state legislation has consumed so much time and resources that very few companies have devoted adequate attention to the challenge of creating policies, practices and procedures that actually meet government standards.

These are precarious times.

Corporate vulnerability to criminal prosecution, civil liability, regulatory sanctions, debarment from government contracts and reputation damaging, resource-draining morale destroying public accusations has never been higher. And the trend toward greater regulation and more aggressive and hostile media coverage (including an ever expanding, unregulated and unruly army of bloggers) is likely to continue.

Most corporations are still struggling to develop and implement adequate processes and procedures to deal with current interpretations of the Federal Foreign Corrupt Practices Act, Sarbanes-Oxley and Dodd-Frank as well as continually evolving state variations of these laws.

Serious and sincere efforts to understand and create strategies to deal with the extensive and complex legal dimensions of a growing body of federal and state laws has consumed so much time and resources that almost none of them have devoted adequate attention to the challenge of creating policies, practices and procedures that actually meet government standards.

These standards, articulated most extensively in the U.S. Justice Department's Principles of Federal Prosecutions of Business Organizations and the 2010 Federal Sentencing Guidelines Manual are profoundly important to every corporation. The standards and guidelines establish minimum requirements of an effective compliance program. This is crucial for many reasons:

1. The ability of corporate lawyers to convince prosecutors that the company had an effective program in place at the time of a violation is a major factor prosecutors will use in determining whether the government brings charges against a corporation (as opposed to merely prosecuting the offending individuals).

2. Under the Federal Sentencing Guidelines, demonstrating the existence of a program that meets Federal standards has a huge impact on the range of penalties the company will be subjected to if convicted.

3. Establishing a program that meets or exceeds Federal standards is likely to be a condition imposed by Federal Agencies regarding efforts to re-instate a company that had been debarred because of past misconduct.

4. It is very likely that state prosecutors and judges will adopt the standards in their own prosecution and sentencing standards.

5. Civil attorneys filing suits against corporations and journalists writing about scandals will use the Federal guidelines as a "standard of care" to establish liability for the misconduct of corporate employees.

In the end, all the efforts to technically comply with the law will not make any difference unless they actually change the attitudes and conduct that produce or condone misconduct. Often this misconduct is committed by employees who, in the pursuit of corporate goals and a desire to preserve their jobs, deliberately or inadvertently violate the laws and company policy against violating laws. It is these actions that result in criminal prosecution, civil liability and damaging allegations.

The legal value of meeting the Federal standards is very substantial but the burden is on the accused corporation to prove its efforts to detect and prevent intentional and careless violations meet the guidelines established by the Department of Justice.

The simple fact is that traditional "check the box" on line compliance programs, cursory rules-oriented training efforts and expanded codes of conduct provide no meaningful protection from reputation-damaging, resource-draining and morale-withering attacks and accusations. They may even increase exposure.

I have never seen a single credible study that shows that the traditional ethics programs - usually consisting of minimal generic (not functionally specific) training, extensive codes of conduct and on-line reviews of policies and code - has had any discernible impact on increasing detection or reducing misconduct.

A general consensus has emerged among prosecutors, educators and corporate ethics and compliance officers that rules-based compliance programs have little chance of preventing serious misconduct unless they are anchored in core ethical values advocated, modeled and enforced by the corporation. This insight is the basis of work the Josephson Institute of Ethics has done with the Department of Defense to help them move from a rules-based compliance culture to a values-based ethical culture.

The U.S. Justice Department's Principles of Federal Prosecutions of Business Organizations (Title 9-28.800 Corporate Compliance Programs) explicitly instructs prosecutors to: "determine whether a corporation's compliance program is merely a "paper program" or whether it was designed, implemented, reviewed, and revised, as appropriate, in an effective manner. . . . This will enable the prosecutor to make an informed decision as to whether the corporation has adopted and implemented a truly effective compliance program that, when consistent with other federal law enforcement policies, may result in a decision to charge only the corporation's employees and agents or to mitigate charges or sanctions against the corporation."

Other statements in the document reinforce the vital importance of establishing a truly effective program.

"[T]he critical factors in evaluating any program are whether the program is adequately designed for maximum effectiveness in preventing and detecting wrongdoing by employees and whether corporate management is enforcing the program or is tacitly encouraging or pressuring employees to engage in misconduct to achieve business objectives.

"The fundamental questions any prosecutor should ask are: Is the corporation's compliance program well designed? Is the program being applied earnestly and in good faith? Does the corporation's compliance program work?

"In addition, prosecutors should determine whether the corporation has provided for a staff sufficient to audit, document, analyze, and utilize the results of the corporation's compliance efforts.

"Prosecutors also should determine whether the corporation's employees are adequately informed about

the compliance program and are convinced of the corporation's commitment to it.

"Compliance programs should be designed to detect the particular types of misconduct most likely to occur in a particular corporation's line of business."

Basic Elements of an Effective Compliance-Plus Values-Based Ethical Business Culture Program

Building on several decades of experience designing and administering vulnerability assessments and comprehensive strategies to restore or strengthen the ethical culture of Fortune 500 companies and major government agencies, the Josephson Institute of Ethics has created a model for creating an exemplary ethics and compliance culture. This model provides the framework for a new cluster of integrated services providing state-of-the-art tools and strategies to help companies increase public and employee trust and insulate themselves from reputation-damaging and resource-draining litigation and controversy.

We are not suggesting that a company cannot create a sustainable exemplary ethical culture without the assistance of the Institute, but we do contend this is not a process that a company can credibly handle alone. For one thing, the effort must start with an independent comprehensive audit with respect to: 1) the current culture of the company and 2) the content, scope and effectiveness of its efforts to detect or prevent misconduct.

Assessing the Company's Ethical Culture. How does one assess the ethical culture of an organization? The Josephson Institute's model assessment is designed to develop data regarding: 1) workforce and executive knowledge of and commitment to legal, policy and values-based requirements; 2) the level of confidence the workforce has that the leaders of the corporation want, expect and personally model ethical behavior; 3) the frequency and nature of illegal, unethical or questionable conduct; and 4) the opinions of employees re: the operational values at the respondent's work location and the company as a whole.

This information will yield reliable data on which to base a description of the company's current culture.

Assessing the design, implementation and impact of all the components of the company's ethics and compliance strategy. Government standards of minimal effectiveness explicitly require examination of three aspects of a company's values and compliance efforts:

1. Is the program well designed?
2. Is the program being applied earnestly and in good faith?
3. Does it work?

These three questions should provide the structure of the assessment: design (content), implementation and effectiveness (impact). The Josephson Institute's model identifies nine focal points that correlate to government standards of effectiveness:

Seminal Documents (such as a mission and/or vision statement; a statement of philosophy, guiding principles, values or core beliefs; a Credo; or any combination of these) - review documents and websites to determine if they consistently and effectively articulate core ethical values;

Standards of Conduct - review to determine if the standards clear (easy to understand), practical (realistic to apply), comprehensive (they cover all know risk areas), credible (employees believe the company wants and expects them to comply) and relevant (functionally specific;

Written Policies and Employee Manuals to determine if they are clear, easily accessible, consistent and integrated;

Company Communications to determine if they remind internal and external stakeholders that its business decisions and relationships are governed by its values;

Policies and Practices Governing Personnel Decisions - review to determine if the company employs systems and strategies designed to assure that it acquires, retains and develops people with the competency and character to advance the organization's mission and objectives in a manner that honors ethical values; that the people who represent the organization in implementing its human resource policies and practices conscientiously model ethical values, and that implementation assures application of the company's values in all aspects of the HR process (from hiring to termination).

Reporting Channel - determine if the company provides employees and external stakeholders with a safe (trusted) easily accessible channel to report suspected improper actions of any Board member, executive, manager, supervisor, employee or business partner of the organization and whether employees know about, have confidence in and use the reporting channel.

Training Materials- review to determine if they are prominently grounded in the company's values and whether all suggested answers to discussion questions are consistent with the organization's values, standards of conduct and policies;

Training Activities - assess each of the following aspects of the company's training activities regarding ethics and compliance: a) Content design, b) Delivery method, c) Duration, d) Selection, training and evaluation of instructors, e) Consistency of implementation, f) Level of participation, g) Effectiveness (impact on attitudes and behavior);

Risk Assessments - determine if the company has an effective method of assessing risks including periodic all-employee surveys to determine the level of knowledge and compliance with laws, policies and organizational values and identify risks and vulnerabilities of illegal or unethical conduct. This assessment of each of these components of the program should yield a comprehensive set of findings and recommendations presented to leadership for action.

These recommendations invariably require the company to fortify its policies, practices and procedures so that they at least satisfy the government standards. Often this requires revision of current materials and the creation of new materials and training strategies.