

**RESOLUTION NO. 15-5087**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE CITY, CALIFORNIA, ADOPTING AMENDED RULES OF ORDER AND PROTOCOLS.

**WHEREAS**, Section 603(H) of the City Charter of the City of Temple City provides:

"The City Council may establish rules for the conduct of its proceedings, including, but not limited to, provision for the punishment of any person who engages in disorderly conduct at a City Council meeting;" and,

**WHEREAS**, on November 16, 2010, the City Council adopted Resolution 10-4695, approving Rules of Order and Protocols applicable to the City Council and all the City's Commissions and Boards; and,

**WHEREAS**, on May 19, 2015, the Rules of Order and Protocol Ad Hoc Committee conducted a review of the Rules of Order and Protocols and determined that it was in the best interest of the City and its citizens that certain provisions of the Rules of Order and Protocols be amended; and,

**WHEREAS**, the City Council finds that Section 5.2.10 "Campaign Contribution" of the Protocols should be amended to raise the campaign contribution limit from \$101 to \$250 from Contractors, Vendors or Developers to Members, and reduce the time period Members are recused from participating in any City Actions (unless participation is legally required) regarding any Contractor, Vendors or Developers for whom the Member has received a campaign contribution from forty eight months to twenty four months; and

**WHEREAS**, the City Council finds that no change or amendment to the Rules of Order is needed at this time.

**THE CITY COUNCIL OF THE CITY OF TEMPLE CITY DOES HEREBY RESOLVE, DETERMINE AND ORDER AS FOLLOWS:**

**SECTION 1. RULES OF ORDER**

The "Rules of Order for City Council and Commission Meetings," attached hereto and incorporated herein by this reference as Exhibit "A," is readopted without change or amendment.

**SECTION 2. PROTOCOLS**

Section 5.2.10 of the Protocols is being amended to read as provided below. A complete copy of the amended Protocols is attached.

5.2.10 Campaign Contributions. Members have a right to receive campaign contributions, as allowed by law, as part of running for elected office. However, Members shall not participate in any City Action (unless participation is legally required) regarding any Contractor, Vendor or Developer from whom the Member has received a campaign contribution of \$101-\$250 or more in the previous ~~forty-eight (48)~~ twenty-four (24) months.

For the purpose of this Section, "Contractor" and "Vendor" means any person or entity who has an existing contract, agreement, or other arrangement to provide the City with goods, services, or other items, or who has an interest in or expectation of obtaining such a contract, agreement or agreement in the future. The terms "Contractor" and "Vendor"

include agents and representatives of the Contractor or Vendor, and where the Contractor or Vendor is a business entity, includes all owner, principals, shareholders, partners (whether general or limited), members, officers, directors, and managers.

For the purposes of this Section, "Developer" means any person or entity who is currently seeking, or who has an interest in or expectation of seeking from the City a Specific Plan, Zone Change, Development Agreement, Density Bonus, Subdivision Tract Map, or a Conditional Use Permit for a sensitive use (i.e., adult business, massage parlor, etc.), or an industrial or commercial use having a building area of 20,000 square feet or more. "Developer" includes agents and representatives of the Developer, and where the Developer is an business entity, includes all owners, principals, shareholders, partners (whether general or limited), members, officers, directors, and managers.

**SECTION 3. APPLICABILITY**

(a) The Rules of Order and the Protocols will be used and followed by all members of the City Council, and its Commissions and Boards.

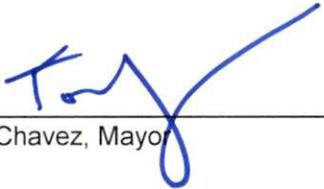
(b) All members of the City Council and its Commissions and Boards shall execute a statement, provided to them by the City Clerk, certifying that they have received and reviewed the Rules of Order and the Protocols.

(c) In the case of a Commission or Board, the term "Chairperson" shall be substituted for Mayor and the name of the Commission or Board shall be substituted for City Council or Council.

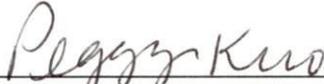
**SECTION 4. CLERK'S CERTIFICATION**

The City Clerk shall certify to the adoption of this resolution.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Temple City at a meeting held on the 2<sup>nd</sup> day of June, 2015.

  
\_\_\_\_\_  
Tom Chavez, Mayor

ATTEST:

  
\_\_\_\_\_  
Peggy Kuo, CITY CLERK

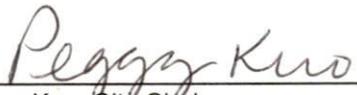
APPROVED AS TO FORM:

  
\_\_\_\_\_  
Eric Vail, CITY ATTORNEY

**CLERK'S CERTIFICATION**

I hereby certify that the foregoing resolution, Resolution No. 15-5087 was duly passed, approved and adopted by the City Council of the City of Temple City at a regular meeting held on the 2<sup>nd</sup> day of June, 2015, by the following vote:

AYES: Councilmember- Fish, Man, Sternquist, Yu, Chavez  
NOES: Councilmember- None  
ABSENT: Councilmember- None  
ABSTAIN: Councilmember- None

  
\_\_\_\_\_  
Peggy Kuo, City Clerk

**EXHIBIT "A"**  
**RULES OF ORDER**



**CITY OF TEMPLE CITY  
RULES OF ORDER  
FOR  
CITY COUNCIL AND CITY COMMISSION MEETINGS**

**SECTION 1. REGULAR MEETINGS**

Regular meetings shall be held at the location and at the time indicated by Ordinance unless a change in meeting date or time is authorized by the City Council; once convened, such meeting may be adjourned to another location within the City if unusually large crowds or other circumstances warrant.

A. Adjourned Meetings

All meetings may be adjourned to a time, place and date certain, but not beyond the next regular meeting. Once adjourned, the meeting may not be reconvened. Only matters listed on the Agenda may be discussed or decided.

B. Special Meetings

Special meetings may be called by the Mayor or majority of members of the Council on 24-hour notice, as set forth in Government Code 54950 et seq. (commonly known as the Ralph M. Brown Act – hereinafter the Brown Act). Only matters contained in the notice may be considered.

C. All meetings are open to the public except certain "personnel", litigation matters or real estate negotiations, or as otherwise prescribed by the Brown Act; closed sessions may be held only during a duly called meeting of the City Council.

**SECTION 2. NOTICE**

Notice of all regular, special and adjourned meetings must be provided and posted in accordance with the Brown Act. Seventy-two hours' notice is required for regular meetings; 24 hour notice for special meetings.

**SECTION 3. QUORUM**

Pursuant to Section 603(E) of the City Charter, three (3) members of the City Council shall constitute a quorum of the City Council. Motions may be passed 2-1 if only 3 attend, but resolutions, orders for the payment of money, and all ordinances require a recorded majority vote of the total membership of the City Council (Government Code Section 36936).

**SECTION 3(A). VOTING**

Unless disqualified (as defined in Section 3B(2)), Members of the City Council are entitled to exercise their right to cast their vote on items of business brought before the Council. There are two common methods of voting. The City Council hereby determines to use the following methods in the order presented, unless a certain method is required by law or demanded by any member of the City Council:

- (1) No Objection/Unanimous Consent: A properly offered and seconded motion may be passed by Unanimous Consent of the members. The Mayor shall declare a motion, duly made and seconded, is before the City Council. The Mayor shall then declare there being no objection, the motion is adopted by unanimous consent. Any motion adopted by this method shall be considered a recorded unanimous approval of the motion in the minutes by the City Clerk.
- (2) Roll Call: Any member of the City Council may demand any motion be voted upon by roll call vote. Upon such demand, the Mayor shall request the City Clerk conduct a roll call, with each member of the City Council declaring yea, nay, or abstain. Upon conclusion of the roll call, the City Clerk shall declare the results of the roll call. It shall not be in order for members to explain their vote before the next order of business.

**SECTION 3(B). FAILURE TO VOTE, DISQUALIFICATION, AND APPEAL OF CHAIR'S RULING**

- (1) Failure to vote: Every member should vote unless disqualified for cause accepted by vote of the Council or by opinion of the City Attorney. Self-disqualification, with approval, which results in a tie vote should be avoided as thwarting Council action, but no member can be forced to vote.
  - a. The abstainer, in effect, "consents" that a majority of the quorum may act for him/her.
  - b. Tie votes are "lost motions" and may be reconsidered later.
- (2) Disqualification: Where a Councilmember suffers a conflict of interest, bias, or predetermination, such member shall state the nature of the disqualification, leave the dais and the Council chamber and, his vote or lack of it shall not be considered, nor shall he be counted toward a quorum.
- (3) Appeal: Any decision or ruling of the Mayor may be appealed by request of any member. The Mayor shall call for a roll call to see if the Mayor shall be upheld. If the roll call loses, the Mayor is reversed.

**SECTION 4. CORRECT LEGAL DOCUMENT**

Upon occasion, ordinances or resolutions are submitted in longhand or in draft form with on-the-spot amendments. These preliminary papers may be re-typed in final form; such re-draft, when signed and attested, becomes the original and proper document to be retained in the files.

**SECTION 5. THE MINUTES**

Minutes are the concern of the City Clerk or Secretary until presented to the Council, Commission or Board for approval. The Council, Commission or Board may then, by motion, make such corrections as conform to fact.

- A. The minutes shall include the date, hour and place of the meeting; whether it is a regular, adjourned regular or special meeting; the names of the Councilmembers and staff present and absent; and any action taken by the City Council.
- B. If any Councilmember arrives late or departs before the adjournment, the minutes shall reflect his or her arrival or departure time.

- C. The minutes should be a clear and concise statement of the actions taken at the Council meeting, including the motions made and the vote thereon.
- D. Whenever the Council acts in a quasi-judicial proceeding such as assessment or zoning matters, it is necessary to compile a complete summary of the witnesses.

**SECTION 6. ACTIONS**

- (1) **Motions:** Any Councilmember may initiate an item for formal consideration by the City Council through the making of a motion. An individual Councilmember may make an independent motion, may make a motion to implement staff recommendation, or may request assistance from the City Manager or City Attorney as to the form of a proposed motion. Upon making of the motion, a second Councilmember may second the motion. A duly offered and seconded motion shall be restated by the Mayor, City Manager, or City Attorney. Unless withdrawn, the City Council shall vote upon the motion, as provided in Section 3(A).
- (2) **Resolutions:** A resolution is a formal document that records an action of the City Council. Resolutions are considered by the City Council upon motion and proper second. Resolutions are sometimes required by law or may be recommended by the City Manager or City Attorney to record an action of the City Council which is considered of particular importance.
- (3) **Ordinances:** Ordinances are the vehicle used by the City Council to repeal or amend existing law, as codified in the Temple City Municipal Code, or to enact new law. In accordance with Section 606 of the City Charter and the California Government Code, ordinances are considered by the City Council in a two-step process. Unless determined to be an item of Urgency by a four-fifths vote of the City Council, ordinances are introduced by the City Council at one meeting and then approved and adopted at a subsequent meeting. Thirty days after adoption, the ordinance becomes effective.
  - (a) Any ordinance may be read at both first and second reading/adoption "by title only", if reading in full is waived by majority vote.
  - (b) The motion to introduce or adopt the ordinance on reading by title only may be adopted by Unanimous Consent. Any member may demand a roll call vote and a majority vote is required, otherwise the motion fails and the ordinance must be read in full.
  - (c) No changes except clerical corrections are allowed after first reading or the ordinance returns for introduction and first reading.
  - (d) Adoption (which may occur only once five days have elapsed since first reading)
    - i. Either must be read in full or Unanimous Consent procedure to be read "by title only."
    - ii. The City Clerk reads title, then City Council votes on a motion to read by title only. Roll call, if demanded.
    - iii. If the motion to read, by title only, passes, the ordinance is ready for adoption, otherwise must be read in full.

iv. While Unanimous Consent procedure is legally sufficient, the roll call procedure to adopt is recommended. Each ordinance should be passed only by this double motion method: a combination motion to "adopt by reading title only" is dangerous in that if the Council splits, the passage may be defective.

(e) Effective date

All ordinances, except as provided in Section 36937 of the Government Code (Urgency Ordinances), shall become effective thirty days after adoption or upon such later date as may be designated in the ordinance.

(f) Publishing

It is the duty of the City Clerk to publish or post the ordinance as set forth in Section 36933 of the Government Code within fifteen days after adoption; failure to do so may invalidate the ordinance.

(g) Urgency Ordinances

If any Urgency Ordinance fails to receive an affirmative vote of 4/5ths of the members, such ordinance shall be as if it had not been read as an emergency enactment. Urgency ordinances must pass by a 4/5ths vote, and must be published and become effective immediately. Emergency ordinances may be declared void by the Courts if no true urgency existed.

(4) The right of a member to address the Council on a question of personal privilege shall be limited to cases in which his integrity, character, or motives are questioned, or to where the welfare of the Council is concerned may interrupt another speaker if the Mayor recognizes the privilege.

#### **SECTION 6(A). RECONSIDERATION**

Any member who voted with the majority may move a reconsideration of any action at the same (or "have entered on the minutes" for vote at the next succeeding meeting), providing no legal rights have intervened to create an estoppel. After a motion for reconsideration has once been acted upon, no other motion for a reconsideration thereof shall be made without unanimous consent.

#### **SECTION 7. PRECEDENCE OF MOTIONS**

A. Processing of Motions

When a motion is made and seconded, it shall be stated by the Mayor/Chair before debate. A motion may not be withdrawn by the mover without consent of the member seconding it and the approval of the Council.

1. Motions out of order

The Mayor may, at any time by Unanimous Consent, permit a member to introduce an ordinance, resolution, or motion out of the regular agenda order.

2. Division of question

If the question contains two or more divisible propositions, the Mayor may, and upon request of a member shall, divide the question and require a vote on each portion of the question.

B. Precedence of Motions

When a motion is before the Council, no motion shall be entertained except:

to adjourn  
to fix hour of adjournment  
to lay on the table  
for the previous question  
to postpone to a certain day  
to refer  
to amend  
to postpone indefinitely

These motions shall have precedence in the order indicated.

1. Motion to adjourn (not debatable)

A motion to adjourn shall be in order at any time, except as follows:

- a. when repeated without intervening business or discussion
- b. when made as an interruption of a member while speaking
- c. when the previous question has been ordered
- d. while a vote is being taken

A motion to adjourn "to another time" is debatable only as to the time to which the meeting is adjourned.

2. Motion to fix hour of adjournment

Purpose is to set a definite time at which to adjourn. Undebatable and unamendable except as to time set.

3. Motion to table

Purpose is to temporarily by-pass the subject. A motion to lay on the table is undebatable and shall preclude all amendments or debate of the subject under consideration. If the motion shall prevail, the matter may be "taken from the table" at any time prior to the end of the next regular meeting.

4. Motion for previous question

Purpose is to close debate on main motion. Undebatable. Just indicating "question" does not accomplish the same thing. If motion fails, debate is reopened; if motion passes, then vote on the main motion is in order.

5. Motion to amend (debatable only as to amendment)

A motion to amend an amendment is in order, but one to amend an amendment to an amendment is not. An amendment modifying the intention of a motion is in order, but an amendment relating to a different matter shall not be in order. A substitute motion on the same subject is acceptable. Amendments are voted first, then the main motion is amended.

6. Motion to postpone

A motion to postpone indefinitely is fully debatable and if the same is adopted, the principal question shall be declared lost. Motions to postpone to a definite time are amendable and debatable as to propriety of postponement and time set. Motions to refer are similarly not debatable, except to the propriety of referring.

7. Withdrawing a motion

A motion may be withdrawn if the motion has not been stated by the Mayor/Chair. A withdrawn motion does not appear in the minutes. Once a motion has been stated by the Mayor/Chair, it can be withdrawn only by Unanimous Consent or by a majority Roll Call vote.

**SECTION 8. CONDUCT OF PUBLIC HEARING**

A. Hearing: Mayor opens audience participation portion of public hearing.

B. Evidence: The parties concerned, at this point, must be prepared to submit all evidence pertinent to their position. However, in order to save time, anyone may refer to previous testimony or to documents previously filed, as all of the records, exhibits, and minutes of other meetings are before each member, all of which is part of the record.

Each speaker is required to abstain from irrelevant testimony, repetition, excessive hearsay, indulging in personalities or making statements not recorded by the secretary.

All parties are reminded to restrict their remarks to matters relevant to the pertinent portions of the Municipal Code.

C. Witnesses: Each person who desires to speak must first be recognized by the Mayor. Upon receiving recognition, the speaker should give his or her name and address for the record. If a person refuses to give their name and address for the record, then their statement will not be considered as evidence in the proceeding, but will be lodged as a comment from an anonymous member of the public in accordance with the Brown Act.

D. Format of hearing: The applicant will be given the opportunity to present his or her case first.

The opponents will then be permitted to present their case.

The applicant will then be allowed to present rebuttal (not supplemental) evidence.

E. Petitions - Letters: Evidence in administrative hearings may not be read unless the writer is present for cross-examination or unless the other side consents.

- F. Close of hearing: Mayor will call the public hearing to be closed. After the close of the hearing, the Mayor will ask for a motion disposing of the matter.

#### **SECTION 9. EX-OFFICIO MEMBERS**

Ex-officio members have all of the rights of any other member, but none of the obligations. They are not counted in quorum, but must be notified of all meetings.

#### **SECTION 10. ADDRESSING THE CITY COUNCIL**

- A. Public comment

Any person may address the City Council regarding any matter with which they are concerned. Comments on issues already on the agenda should be saved until that item is being discussed. All other comments regarding issues not on the agenda should be made during Oral Communications. While the purview of the City Council is broad, members of the public should make remarks or comments only on items within the jurisdiction of the City Council. Remarks not within the scope of the City Council's authority shall be ruled out of order by the Mayor.

- B. Each person addressing the City Council 1) should speak into the microphone at the speakers' podium; 2) should, but is not required to, state his or her name and address; 3) shall limit the address to Three (3) minutes unless additional time is granted by the Mayor; 4) no person other than the City Council and the person having the floor shall be permitted to discuss any matter either directly or through a member of the City Council without permission of the Mayor/Chair; and 5) shall address all remarks to the City Council as a body, not to any individual member or to the audience.
- C. No action may be taken on any matter which is not listed on the Agenda.
- D. When an identifiable group of persons wishes to address the City Council, on the same agenda item, the Mayor shall have the discretion to request that a spokesperson be chosen by the group to address the City Council. If additional issues are to be presented on the subject by any other member of such group, the Mayor may limit the number of persons and the time period for speaking to the City Council, to avoid unnecessary repetition of issues.
- E. Any person making personal, impertinent or slanderous remarks, or who becomes unruly while addressing the City Council, shall be barred from further speaking at said meeting before the City Council and may be ejected if his or her conduct disrupts the meetings.

#### **SECTION 11. AGENDA**

The Brown Act requires that no action may be taken at any time unless on a printed and posted Agenda containing sufficient information to apprise a reasonable person of the scope of any proposed action.

Individual Councilmembers may place an item on the Agenda by contacting the City Manager the Monday before the Agenda deadline. The City Manager will make every effort to place the item on the next succeeding Agenda. However, should the City Manager determine the Agenda item would require significant staff resources or be received late in the agenda process, the City Manager shall place the item on the Agenda within thirty (30) days of the meeting next following, as an "Informational and Directional"

item to ascertain if the City Council concurs with the allocation of staff resources or to provide sufficient time to research the Agenda item and present said research to the Council.

EXHIBIT "B"  
PROTOCOLS

*CITY OF TEMPLE CITY*

**CITY COUNCIL AND COMMISSIONER  
PROTOCOLS**

June 2, 2015

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## 1.0 Preamble

The Council declares that citizens of Temple City are entitled to have fair, open, ethical, efficient and accountable local government and that City officials should continually strive to earn the public's confidence. Toward that end, these Protocols establish higher standards of conduct for members of the City Council and members of City boards and commissions (collectively "Members") than are currently required under the laws of the State of California.

The Members pledge to hold themselves and each other Member responsible for observing the standards set forth in these Protocols, and to enforce these Protocols when necessary to preserve the integrity of City government or the public's image of the City.

## 2.0 Setting a Higher Standard within the Existing Framework

By adopting these Protocols, the Council intends to supplement and not to supersede California's existing legal framework applicable to local governments. Similarly, the Council intends that these Protocols will not merely restate existing legal obligations, but will establish a higher standard of conduct for Members in the governance of the City. Members are referred to Appendix "A" (Legal Framework & Resources) for pertinent resources. Members are expected to be familiar with and to seek guidance about the applicability of the legal framework.

## 3.0 Openness

Openness or transparency in decision making is of the utmost importance in maintaining ethical, representative local governance. Toward that end, Members will adhere to the following standards:

- 3.1 Public Meetings. Members will make it a priority to hold public meetings in accordance with the Ralph M. Brown Act. Members will seek guidance from the City Attorney as to the accepted interpretation of Brown Act requirements and will apply those provisions conservatively in favor of the public's right to participate in public decisions.
- 3.2 Council Communications & Serial Meetings. Communications between Members will be conducted in accordance with the Ralph M. Brown Act. Members will not engage in "*serial meetings*" with colleagues – a discussion of City issues among a majority of Councilmembers or Commissioners either collectively (i.e. all meeting together) or in a sequence (A talks to B who talks to C). Members will not use other persons as intermediaries to accomplish a serial meeting or to circumvent the Ralph M. Brown Act.
- 3.3 Closed Session Discussions. As part of a properly agendized meeting, Members may only hold sessions closed to the public, at advisement of the City Attorney, in accordance with the commonly accepted interpretation of Brown Act requirements. Discussions held in closed session are to be directly limited to the matter at hand. Such discussions, along with materials reviewed, are **confidential** and **shall not be disclosed** except as the City Attorney may advise.
- 3.4 Closed Session Materials. Confidential materials provided in preparation for and during closed sessions must be returned to the City Attorney at the conclusion of the closed session.

## 4.0 Fairness of Process

Members will comply with the meeting and hearing procedures set forth by Council Ordinance or Resolution. See (**Council Resolution 10-4695**). Additionally, in order to cultivate an environment of fairness and to encourage public confidence in City decisions, Members will adhere to the following standards of conduct:

- 4.1 Decisions on the Merits. Members will base their decisions on the facts and merits of each matter, not upon personal or other biases, and will strive to make decisions that are in the best interests of the community as a whole.
- 4.2 Meetings with Applicants & Interested Persons. Except as provided below, a Member may meet and/or communicate with any person interested in a Development Project (as defined below) at any time before or after the filing of an application for the Development Project. All meetings and communications must be in compliance with the Brown Act. After an application for an approval or permit has been filed with the City relating to the Developer Project, Members shall only meet and communicate with the project applicant and/or owners (including their agents, representatives and contractors) with regard to the Development Project as part of an agendaized public meeting, as may otherwise be directed by Council (e.g. an ad hoc committee), or in the presence of the City Manager or his/her designee.

For the purpose of this Section, a "Development Project" shall mean only those projects seeking or requiring a Specific Plan, Zone Change, Development Agreement, Density Bonus, Subdivision Tract Map, or a Conditional Use Permit for a sensitive use (i.e. adult business, massage parlor etc), or an industrial or commercial use having a building area of 20,000 square feet or more.

- 4.3 Disclose Information. Prior to any deliberations on a project or matter at a public meeting, Members shall publicly disclose information about the matter that they have obtained from sources, not presented in the staff report (e.g. their own site visit, from the public, from the applicant, etc.), which may influence their decision or that of Members.
- 4.4 Consider All Sides. Members should consider the various viewpoints related to a project or matter and afford project applicants and interested persons an adequate opportunity to comment upon a project or matter before action is taken. However, redundant comments or abusive or uncivil conduct will not be permitted.
- 4.5 Decorum. To ensure the fairness and integrity of the deliberative process, the presiding officer will preserve decorum and conduct meetings in an orderly manner. Members will remain attentive of the business at hand and conduct themselves in a manner that is civil, polite and respectful. Members will refrain from unnecessarily interrupting speakers and not engage in abusive conduct, personal charges or verbal attacks upon the character or motives of other Members, City staff and/or the public.
- 4.6 Attentiveness. Remain attentive at meetings. Do not make or receive phone calls, text messages or e-mails from the dais. Place cell-phones and other communication devices in "off" or "silent" mode. Refrain from side-bar conversations with other Members while at the dais.

## 5.0 Ethical Decision Making

Members will observe the highest standards of ethical conduct in dealing with the community and carrying out their official duties. In every action and decision, Members should **avoid even the appearance of impropriety** and are strongly encouraged to apply the guidelines for "Making Ethical Decisions" provided below:

### 5.1 Avoiding the Appearance of Impropriety.

- 5.1.1 **Make Ethical Decisions.** Members are referred to Appendix "B" (Guidelines for Making Ethical Decisions) for the process Members are encouraged to utilize in making City related decisions.

- 5.1.2 **You May Need to Refrain From Participating.** Conflict-of-interest issues are complex and opaque to the public. Some situations are not "legal" conflicts of interest, but may nevertheless pose the "appearance of impropriety" to the public. In such situations, the Member should not participate in the matter.
- 5.1.3 **Smell Test.** Do an ethical "smell check" or "gut check" regarding the matter. What is your conscience telling you?
- 5.1.4 **Get Help.** To assist in making a decision not to participate, Members should consult the guidelines for Making Ethical Decisions (below), the City Attorney or the FPPC helpline, and/or their constituents.

## 5.2 Ethical Principles to Follow.

- 5.2.1 **Be A Good Steward.** Good stewardship of the public's interest must be the Member's primary concern.
- 5.2.2 **The Common Good.** Members will work for the common good of the citizens and not for any private gain, political advantage or personal interest.
- 5.2.3 **Fairness and Equity.** Members will treat all members of the public and issues before them in a fair and equitable manner.
- 5.2.4 **Impartiality.** Members will be independent of special interests and impartial in decision making.
- 5.2.5 **Avoid Personal Interests.** Members are prohibited from using their official positions to influence decisions in which they have a personal financial interest, are members of an interested organization, or have a personal relationship that would be affected.
- 5.2.6 **No Personal Gain.** Members shall not take advantage of, or use, public property and equipment, public services, confidential public information, public resources, or other opportunities afforded by their office, for personal gain.
- 5.2.7 **City Stationery.** City letterhead or stationery or other City resources may not be used by Members to promote personal interests.
- 5.2.8 **Appearing before Council.** Members shall not appear before the City Council or other City board or commission representing any private interest or community group. Members are permitted to speak as a member of the public on any matter that affects them personally, but may not participate in the matter as a Member.
- 5.2.9 **Gifts.** Members will refrain from accepting gifts, favors or promises of future benefits that might compromise their independence, or the appearance that they are independent and unbiased.
- 5.2.10 **Campaign Contributions.** Members have a right to receive campaign contributions, as allowed by law, as part of running for elected office. However, Members shall not participate in any City action (unless participation is legally required) regarding any Contractor, Vendor or Developer from whom the Member has received a campaign contribution of \$250 or more in the previous twenty-four (24) months.

For the purposes of this Section, "Contractor" and "Vendor" means any person or entity who has an existing contract, agreement, or other arrangement to provide the City with goods, services, or other items, or who has an interest in or expectation of obtaining such a

contract, agreement or arrangement in the future. The terms "Contractor" and "Vendor" include agents and representatives of the Contractor or Vendor, and where the Contractor or Vendor is a business entity, includes all owners, principals, shareholders, partners (whether general or limited), members, officers, directors, and managers.

For the purposes of this Section, "Developer" means any person or entity who is currently seeking, or who has an interest in or expectation of seeking from the City a Specific Plan, Zone Change, Development Agreement, Density Bonus, Subdivision Tract Map, or a Conditional Use Permit for a sensitive use (i.e. adult business, massage parlor, etc.), or an industrial or commercial use having a building area of 20,000 square feet or more. "Developer" includes agents and representatives of the Developer, and where the Developer is an business entity, includes all owners, principals, shareholders, partners (whether general or limited), members, officers, directors, and managers.

## 6.0 Efficiency and Accountability

The City of Temple City operates under a council-manager form of government under which the Council's role is to provide legislative direction, set City policy and monitor its implementation. The City Manager serves as the City's administrative head and is responsible for directing the day-to-day operations of the City and for administering all City business.

### 6.1 Members Should Not Interfere with Operations.

6.1.1 **Basic Noninterference Rule:** The basic non-interference rule is stated in Section 609 of the City Charter:

"No member of the city council shall interfere with the execution by the city manger of his powers and duties; nor shall any councilman direct the city manger to appoint or remove any officer or employee of the city. Except for the purpose of inquiry, no councilman shall deal with the administrative services of city except by and through the city manager; nor shall any councilman give any order or direction to any subordinate officer or employee of city. This section shall not apply during period of disaster proclaimed by the governor or city council, nor during such times as there shall be no council designed city manger acting in that capacity."

### 6.1.2 **Implementing this Rule:**

- a) Stay Out of Personnel Matters. Members will ***not interfere*** with the appointment, evaluation, discipline, or removal by the City Manager of any Department Head or employee of the City.
  - (i) *Exception – City Attorney.* The City Attorney is hired, appointed, evaluated, and removed directly by the Council.
- b) Comments about City Employees. Members may express concerns about the behavior or work performance of City employees ***only privately to the City Manager***. Members may not reprimand or criticize employees directly.
- c) Orders and Direction to Employees. Only the City Manager may give orders and direction to City employees. Members may not direct the work or actions of City employees.
  - (i) *Requests for Information.* All Members will direct requests for information, research, or reports to the City Manager and applicable Department Head or their designee, and not to City Employees. If there is a legal question it should be directed to the City Attorney. Questions

regarding elections and disclosure statements may be addressed to the City Clerk.

- (ii) *Responses.* Responses to Member substantive information inquiries will be provided to all Members of the same category (e.g. a response to a request by a Councilmember will be provided to all Councilmembers).
  - (iii) *Notifications.* Where the City Manager or Department Head provides general facts or information about the City, a program, or a City event to one Member, it should be provided to all Members of the same category.
- d) Staff Liaisons to City Commissions / Committees and Outside Agencies. Members serving as the City's representative to a City Commission or Committee or to an outside agency may interact directly with the City employee assigned to that effort by the City Manager.
  - e) Operations and Service Levels. Criticisms of City operations and service levels may be made only to the City Manager and not to City employees or Department Heads, unless first cleared through the City Manager or expressed in general during a regular Council, board or commission meeting.
  - f) Political Solicitation & Activities. Members will not solicit political support from City employees (e.g., financial contributions, display of posters or lawn signs, name on support list, etc.). Members will not engage in political activities at City Hall or other City facilities. This provision is not intended to impair the free exercise of federal and state constitutional and statutory rights by City employees.

## 6.2 Interaction of Members.

### 6.2.1 **Positions of Mayor and Chairman.**

- a) Honorary Presiding Officer. The positions of Mayor and Mayor Pro Tempore on the City Council (created under Section 601 of the City's Charter) and the positions of chairman and vice chairman on City boards and commissions are generally considered honorary and ceremonial, but also serve an important procedural role as the presiding officer at meetings of their body. Persons appointed to those positions by a majority of their council, board or commission serve at the pleasure of their appointing body.
- b) Maintain Order, Decorum & Procedure. The Mayor and Chairman are responsible for maintaining order and decorum of their body's meetings and enforcing the City's decorum rules where necessary. They are responsible for the order of business at meetings, the efficient flow of business during meetings, and for preserving the right of the public to be heard in an orderly fashion.
- c) Ceremonial Head. The Mayor is the ceremonial head of the City and signs all proclamations, officiates at all City functions, and welcomes visiting dignitaries.
- d) Spokesperson. The Mayor is the official spokesperson for the City and has the lead responsibility for communications with the press and public on official City business. The Mayor will work on press releases and statements to the press with the City Manager and will report the majority position adopted by the Council, and not his or her personal opinion on matters.

### 6.2.2 At Public Meetings

- a) Follow Rules of Order, Decorum and Procedure. Members will adhere to the rules of order, decorum and procedure for the conduct of public meetings adopted by the City Council from time to time. Abiding by these rules will maintain civility and the orderly conduct of business.
- b) Keep Conduct Professional. Members will conduct themselves in an orderly, professional, and business-like manner to ensure that the business of the City shall be attended to efficiently and thoroughly.
- c) Professional Attire. Members should wear professional and business-like attire at public meetings. The Mayor or Chairman may allow business casual attire during the summer or for special events or occasions.
- d) Keep Comments On-Topic. Public meetings are to attend to and resolve City business. Members will avoid being overly repetitious and will endeavor to limit their comments to the subject matter at hand. Members are encouraged to fully express their views and to explore the views of others, but Members should also be mindful of avoiding lengthy or unproductive debates.
- e) Ask Questions in Advance. When preparing for public meetings, Members are encouraged to provide their questions far enough in advance to the City Manager or City employee responsible for the meeting so that meaningful information and responses can be shared at the meeting.

### 6.2.3 Relations with Fellow Members

- a) Civility. Members should always practice civility. By doing so you help the City to fulfill its potential by putting the common good ahead of personal rivalries or irritations. Civility is best fostered by a collective commitment to following established rules of procedure.
- b) Team Spirit. Members will foster a collegiate or team oriented environment among themselves.
- c) Retreats, Goal Setting and Training. To encourage a strong working relationship and communication, Members should have at least one retreat, goal setting session, and/or group training session each year.
- d) Different Points of View. Members will exercise tolerance for the different opinions, perspectives, and points of view of their colleagues and will recognize their right to express these views on matters of City business within the established rules of decorum and order of business.
- e) Managing Conflict. Members will manage disagreement with civility and professionalism and will not allow disagreement to turn into open conflict or hostility. Members will refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other Members, City employees and/or members of the public.

### 6.2.4 Public Communication and Appearance

- a) Personal versus City Positions. It is an important part of each Member's responsibility to communicate with the public. In communications regarding City

business, it is important to distinguish a Member's personal views and opinions and the adopted City position. When appearing before another governmental agency or organization, the Member should clearly set forth the City's official position, and then may express their own position.

- (i) *Expressing Dissent.* Each Member has a right under the First Amendment to express their views and opinions, even if contrary to the official position of the City. However, Members will express their dissenting views with tact and civility.
- b) Use of Official Titles. Members may use their official title only when conducting official City business, for informational purposes, or as an indication of background and expertise, after having carefully considered whether they are exceeding or appearing to exceed their authority.
- c) Response to Public Communication. Members are encouraged to respond promptly to letters, telephone calls and other communications received from member of the Public who have requested a response. Members are not required to respond to commercial solicitations or to anonymous, obnoxious or harassing communications.

## 7.0 Enforcement

7.1 Member Responsibility. Upon assuming office each Member shall sign a statement affirming that they have been provided with and will read these Protocols. Each Member is responsible for adhering to these Protocols as well as the laws that comprise the basic legal framework for local government discussed in the first part of the Protocols.

7.2 Council Authority. The City Council has authority, but not the legal obligation, to monitor each Member's adherence to these Protocols and to take corrective action for violations, as provided below.

7.2.1 **Training and Education.** The City Council will sponsor periodic training opportunities for Members to become more familiar with the Protocols and the legal framework (See Appendix "A").

7.2.2 **Councilmembers.** Under California law, the Council does not have the legal authority to remove Members elected or appointed to the City Council or to otherwise deprive them of their office. However, as provided in Section 7.4, a majority of the Councilmembers may remove a Councilmember from all Council honorary and/or ceremonial positions and ad-hoc and standing committees, as well as from positions with other governmental agencies or other organizations they hold by virtue of appointment by the City Council.

7.3 Violation of Oath of Office.

7.3.1 **Oath of Office.** All Members take an oath upon assuming office, pledging to uphold the constitution and laws of the City, the State and the Federal government. In addition, Members commit to disclosing to the appropriate authorities and/or to the City Council any behavior or activity that may qualify as corruption, abuse, fraud, bribery or other violation of the law.

7.4 Violation of Protocols.

7.4.1 **Complaint.** Where any Member, Councilmember, City employee, or resident of the City has substantial evidence that a Member has materially violated these Protocols or their Oath of Office, they may file a written statement with the City Clerk who will then provide

it to the City Manager and City Attorney and the affected Member. The name of the complainant shall initially be redacted and kept confidential and not disclosed until it has been determined as provided in Section 7.4.2 that there is substantial evidence that the Member has materially violated the Protocols.

**7.4.2 Investigation.** Upon receipt of a Complaint as provided in Section 7.4.1, or upon the direction of the City Council, the City Manager and City Attorney shall investigate and report, within not more than thirty (30) days, as to whether there is substantial evidence in support of an allegation that a Member has materially violated these Protocols or the Oath of Office. If the City Manger and City Attorney conclude that there is not substantial evidence to support an alleged violation or that the violation was not material they shall so report to the Council and the matter shall be deemed dismissed unless the Council directs that a public meeting be held pursuant to Section 7.4.3. If the City Manager and City Attorney conclude that there is substantial evidence to support an alleged material violation of the Protocols or Oath of office they shall, issue a report to the City Council and the Member. The affected Member shall have 30 days to provide any written comments or evidence to the City Manager, City Attorney and City Council in response to the report.

**7.4.3 Enforcement.** The City Council shall enforce these protocols against Members depending upon the extent and severity of the violation by means of either (i) a warning (ii) a written reprimand; (iii) censure; or (iv) removal from office. The following procedure shall be utilized:

- a) *Receipt of Report.* Upon receipt of the Report, the Council will hold a public meeting at which it will determine whether the complaint should be dismissed, a warning should be issued, a written reprimand should be issued, censure issued, or the Member (only if not a Councilmember) should be removed from their office. In the event the Council determines that it appears that anything other than a dismissal or warning is appropriate, it shall set a public hearing to be held within 30 days and provide written notice and opportunity to be heard to the affected member.
- b) *Dismissal.* Where the Council, based on the Report and any statement from the affected Member, determines that it is clear that no violation occurred or that only a trivial or de minimus violation occurred, or that the complaint was motivated by revenge or other improper motives, the Council may dismiss the complaint.
- c) *Warning.* Where the Council, based on the Report and any statement from the affected Member, determines that there is some evidence that only a minor violation or a questionable practice has occurred, the Council may issue a written warning to the affected Member specifying the violation(s) and requesting corrective action.
- d) *Reprimand.* Where the Council, based on the Report, any statement from the affected Member, and other evidence accepted, determines that there is substantial evidence that the Member has materially violated one or more provisions of the Protocols, the Council may adopt a resolution reprimanding the affected Member for their conduct, stating that any violations shall cease, and requesting corrective action. The affected Member may file a rebuttal to the Reprimand with the City Clerk which will become a matter of public record.
- e) *Censure.* Where the Council, based on the Report, any statement from the affected Member, and other evidence accepted at a public hearing of the matter, determines that there is substantial evidence that the Member has materially violated one or more provisions of these Protocols, and that such violation(s)

impugn the integrity or dignity of the City or that such violations are egregious or chronic in nature, then the Council may adopt a resolution censuring the affecting member by condemning their actions, removing the Member from all appointive positions representing the City in front of other governments and agencies, demoting them if they hold a position of mayor, mayor pro tempore, chairman or vice chairman, stating that the violations shall cease, and demanding corrective actions. The affected Member may file a rebuttal to the Censure with the City Clerk which will become a matter of public record.

- f) *Removal from Office.* Notwithstanding any of the provisions in this Section 7.0, the City Council may remove any commissioner or board member appointed by the City Council at its pleasure, and nothing in these Protocols effects or diminishes such power nor vests such commissioners or board members with any additional rights, including, without limitation, rights of procedural due procession.

## APPENDIX A – LEGAL FRAMEWORK & RESOURCES

### **1.0 Legal Framework**

<u>Law or Regulations</u>	<u>Citation</u>
<u>California Laws</u>	
California Constitutions <i>General City Authority</i>	Article XI §§ 2, 5, 7, & 11.
Ralph M. Brown Act <i>Open Meeting Laws</i>	Government Code §§ 54950 <i>et seq.</i>
California Public Records Act <i>Public Records Disclosure</i>	Government Code §§ 6250 <i>et seq.</i>
California Political Reform Act <i>Conflicts, Disclosures &amp; Campaigns</i>	Government Code §§ 81000 <i>et seq.</i>
FPPC Regulations <i>Conflicts, Disclosures &amp; Campaigns</i>	2 Cal. Code Regs. §§ 18109 <i>et seq.</i>
<i>Legally Required Participation</i>	2 Cal. Code Regs. §18708
California Anti-Self Dealing Law <i>Self Interest in Contracts</i>	Government Code §§ 1090 <i>et seq.</i> ,
California Incompatibility of Office Law <i>Holding Two Public Offices</i>	Government Code § 1126 & § 1099
<u>Temple City Documents</u>	
City's Charter	Articles I through XII
City Municipal Code	Title 2 "Administration" §§ 2100 <i>et seq.</i>
City Council Rules of Order and Protocols	Resolution 10-4695
Reimbursement Policy	Policy No. 3.02

### **2.0 Online Resources**

<u>Resource</u>	<u>Web Address</u>
State of California <i>Portal to State Websites</i>	<a href="http://www.ca.gov/index.asp">www.ca.gov/index.asp</a>
Official Cal Legislative Information <i>California Bills &amp; Codes Online</i>	<a href="http://www.leginfo.gov">www.leginfo.gov</a>
Cal. Fair Political Practice Commission <i>Conflict of Interest Info</i>	<a href="http://www.ca.fppc">www.ca.fppc</a>

Cal. Attorney General <i>See AG Opinions</i>	<a href="http://www.ag.ca.gov">www.ag.ca.gov</a>
Cal. Senate <i>Bill Information Online</i>	<a href="http://www.senate.ca.gov">www.senate.ca.gov</a>
Cal. Secretary of State <i>Election Information</i>	<a href="http://www.sos.ca.gov">www.sos.ca.gov</a>
LA County Registrar of Voters – Recorder <i>Election Information</i>	<a href="http://www.lavote.net">www.lavote.net</a>
League of California Cities <i>Municipal resources</i>	<a href="http://www.cacities.org">www.cacities.org</a>
Institute for Local Government <i>Municipal resources</i>	<a href="http://www.ca-ilg.org">www.ca-ilg.org</a>
Cal. Joint Powers Insurance Authority <i>Risk Management &amp; Training</i>	<a href="http://www.cjpia.gov">www.cjpia.gov</a>
Marrkula Institute for Applied Ethics <i>Ethical Decision Making</i>	<a href="http://www.scu.edu/ethics/practicing/decision">www.scu.edu/ethics/practicing/decision</a>
Institute for Local Self Government <i>Government Ethics</i>	<a href="http://www.ilsg.org">www.ilsg.org</a>

## APPENDIX B – GUIDELINES FOR MAKING ETHICAL DECISIONS

**[Please visit the Markkula Center for Applied Ethics at the University of Santa Clara]**

**How to Make an Ethical Decision.** When presented with an opportunity to participate in making a decision for the City, the City Official should:

- A. Recognize whether an ethical issue is involved.**
  1. Will the decision result in damage or injury to people?
  2. Is there a clear good or bad result?
  3. Is the result compelled under the law or does it hinge on budgetary, efficiency, or other community concerns?
  4. Ethical decisions are often not the easiest decision nor the most popular.
  
- B. Get the facts.**
  1. Read the staff report and get questions answered by the City Manager in advance.
  2. Are there alternatives that would lead to better or worse results?
  3. What are the viewpoints of the stakeholders? Are some more important than others?
  4. Are there any unanticipated consequences?
  
- C. Evaluate alternative actions. Which option will:**
  1. Produce the most good and do the least harm? (See The Markkula Center's Utility Test.)
    - a. Identify the *alternative actions* that are *possible* and the persons and groups (the stakeholders) *who will be affected* by these actions.
    - b. For each of the most promising alternatives, determine the *benefits and costs* to each person or group affected.
    - c. Select the action in the current situation that *produces the greatest benefits over costs for all affected*.
    - d. Ask *what would happen if* the action were a *policy for all similar situations*.
  2. Best respect the rights of all who have a stake? (See The Markkula Center's Rights Test.)
    - a. *Identify the right* being upheld or violated.
    - b. Explain why it *deserves the status* of a right.

- c. Ask whether that *right conflicts with the rights* of others.
3. Treat people equally or proportionately? (See The Markkula Center's Justice Test.)
  - a. What is the *distribution of benefits and burdens*? Is the distribution *fair*?
  - b. If disagreement persists over which outcome is fair, select a *fair process* to decide the issue.
4. Best serve the community as a whole? (See The Markkula Center's Common Good Test.)
  - a. *Identify* what parts of the *common good* are involved.
  - b. Explain obligations to *promote or protect* the common good.
  - c. Discern whether the proposed action *conflicts with* an obligation to promote or protect the *common good*.
5. Lead the City Official to act as the sort of person or official as they want to be? (See The Markkula Center's Virtue Test.)
  - a. Will the action help to *make you the kind of person you want to be*?
  - b. Will the action fit the City's reputation or vision of what it would like to be?
  - c. Will the action maintain the right balance between *excellence and success* for the City?

**D. Make a decision and test it.**

1. Which approach best suits the situation and arrives at the *most ethical decision*?
2. Which option is likely to be *most respected* by the Member's colleagues and constituents?

**E. Act and reflect on the outcome.**

1. How can the decision be *implemented to best reflect the intention and reasons* for the decision?
2. What was the end result of the decision and what feedback has the City Official received?