

06/18/19
City Council Meeting

Handouts received after
agenda posted



Ref Item 4-1

Fiscal Year 2019-2020 Proposed Budget

JUNE 18, 2019

MICHELLE SPEER, ACM/ASD



FY 2020 General Fund Reserve Balance

- ▶ The FY 2018 audited general fund beginning fund balance was \$9,019,784

FY 19 Revenues of \$11,964,482 - FY 19 Expenditures of \$13,621,048 =
\$(1,656,566)

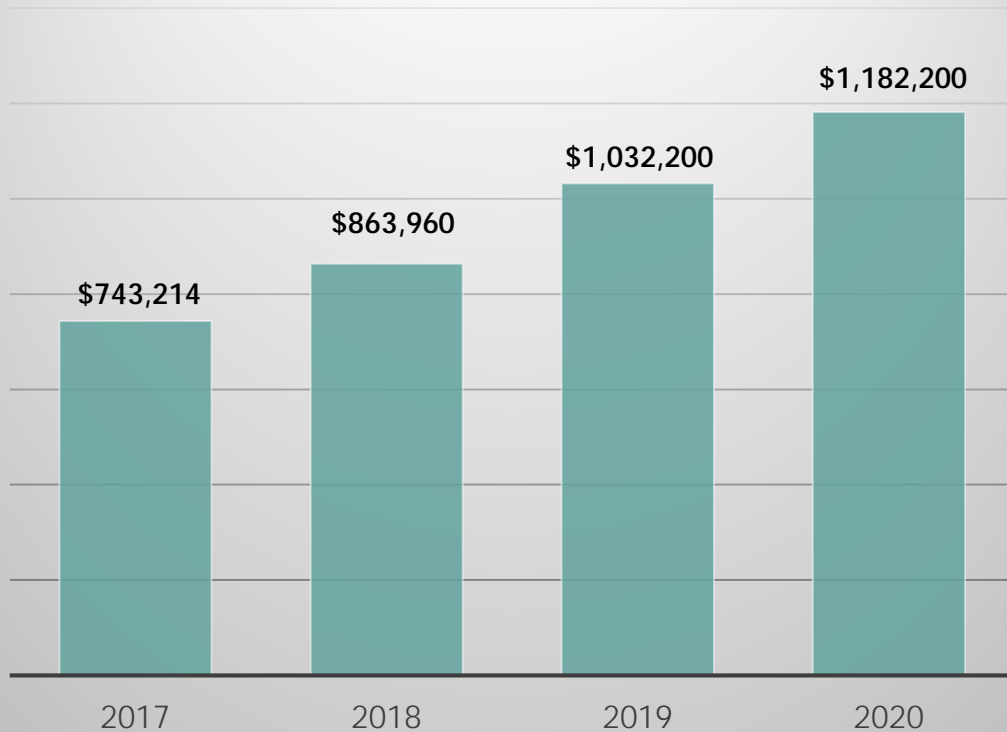
- ▶ The FY 2020 projected general fund beginning fund balance is \$7,363,218

FY 2020 Proposed General Fund

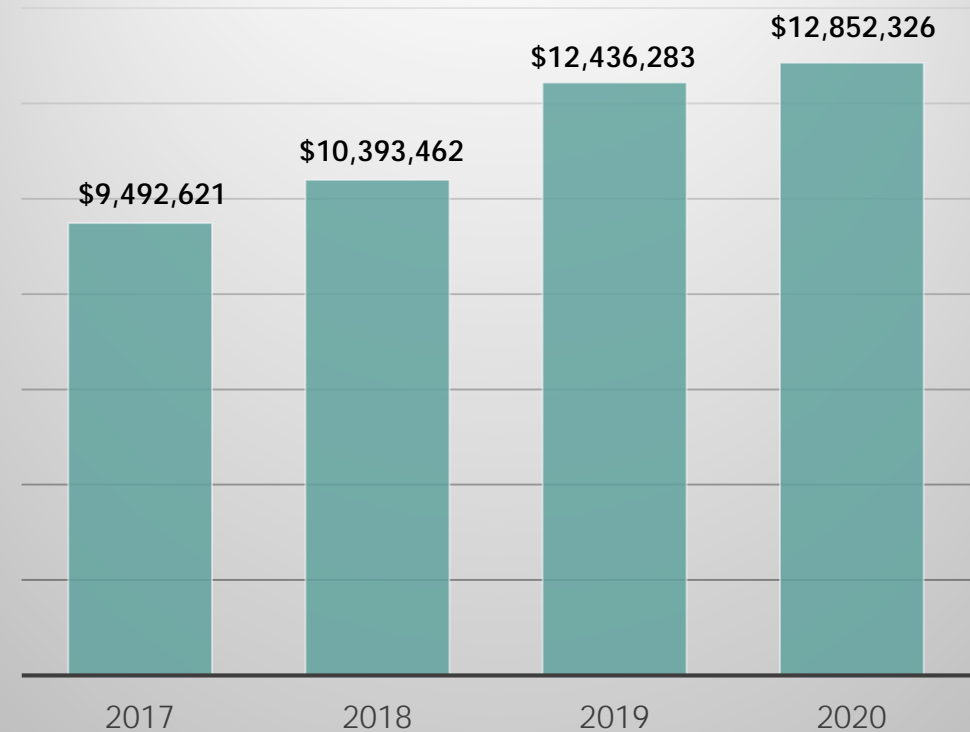
- ▶ Proposed revenues of \$11,336,606
- ▶ \$14,312,950 in annual operating expenses
 - ▶ \$9,177,640 in personnel salary and benefits
 - ▶ \$4,648,007 in services and supplies
 - ▶ \$487,303 in asset replacement
- ▶ \$447,055 in Capital Projects
- ▶ Proposed expenditures of \$14,760,005

Contributing Factors for Increased Expenditures

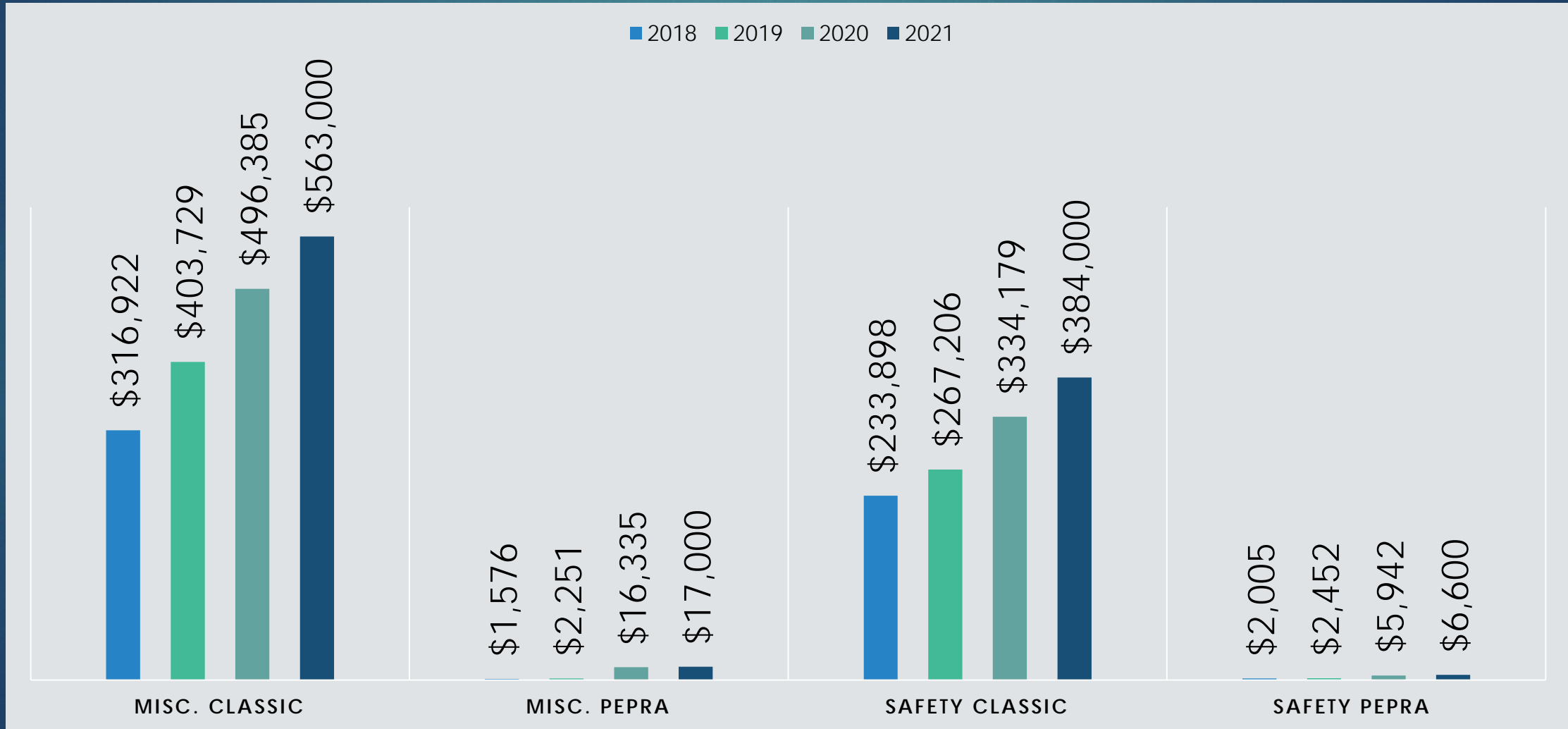
Risk Management Insurance
All Funds



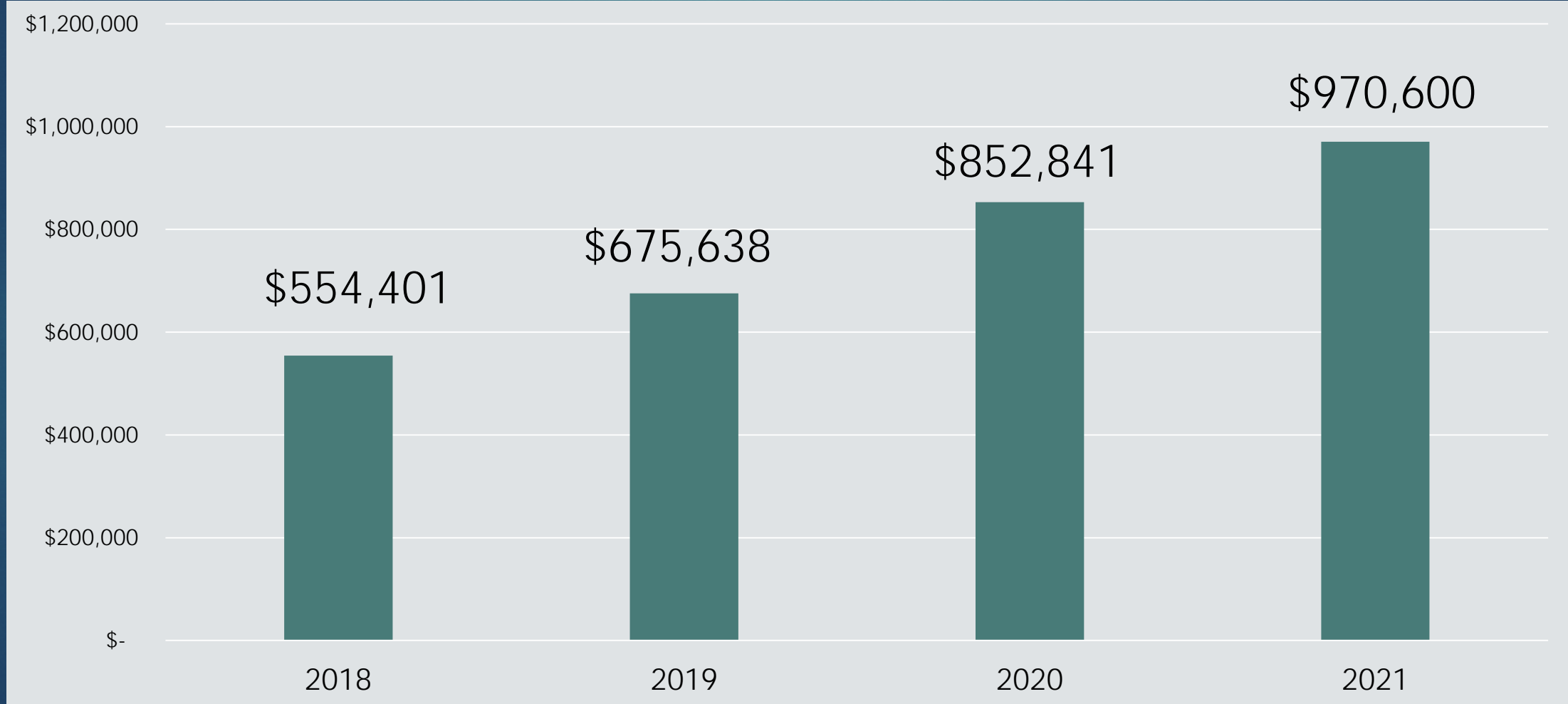
Salary & Benefits
All Funds



CalPERS Unfunded Liability



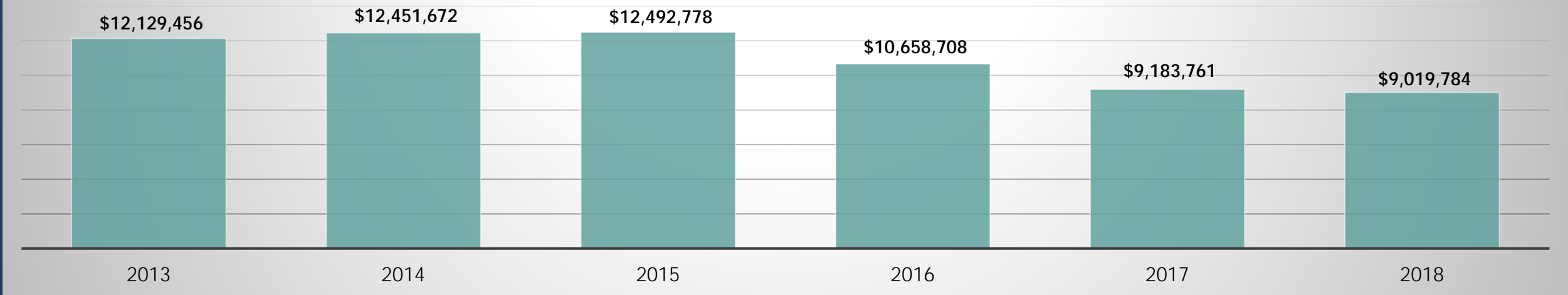
Unfunded Liability Totals



Schedule 3 –FY 2020 Budget

		Estimated Fund Balance 7/1/19	Receipts/ Transfers	Available Balance	Personnel Expense	Operating Exp.	Asset Replacement	Capital Projects	Debt Service	Total Expenditures	Project Fund Balance 6/30/20
001	GENERAL FUND – ANNUAL OPERATING GENERAL FUND	-	11,336,606	11,336,606	9,177,640	4,648,007	487,303	447,055		14,760,005	(3,423,399)
001	RESERVE	7,363,218		7,336,320						3,423,399	3,939,819

General Fund Reserve Balance



Enterprise & Special Funds – Fund Balances

FUND	Estimated Fund Balance 7/1/19	Receipts/ Transfers	Available Balance	Personnel Expense	Operating Exp.	Asset Replacement	Capital Projects	Debt Service	Total Expenditures	Project Fund Balance 6/30/20
040 FLEET MAINTENANCE	(1,168,661)	1,056,482	(112,179)	195,730	831,752	29,000	-	-	1,056,482	(1,168,661)
045 GOLF COURSE FUND	(622,942)	1,118,000	495,058	-	1,247,568	-	-	191,128	1,438,696	(943,638)
050 WATER FUND	5,831,820	9,401,900	15,233,720	1,304,620	5,072,605	63,000	2,478,000	-	8,918,225	6,315,495
056 REFUSE FUND	1,836,164	3,004,500	4,840,664	1,146,170	3,012,899	335,383	-	-	4,494,452	346,212
WASTEWATER/STORM 060 DRAIN FUND	9,350,063	3,398,000	12,748,063	988,160	2,658,204	56,000	2,555,000	-	6,257,364	6,490,699

Summary of Requested Changes in Position Allocation

- ▶ Reduction of one Police Officer in 4221 (Police Dept.)
- ▶ Reduction of one Fire Prevention Inspector in 4222 (Fire)
- ▶ Reclassification of Administrative Assistant II to Fire Prevention Inspector/Administrative Assistant II in 4222 (Fire)
- ▶ Addition of one Public Works Inspector in 4230 (Public Works)
- ▶ Transfer of one Administrative Assistant I from 4242 (Recreation) to 4250 (Water, 50%) and 4260 (Wastewater, 50%)
- ▶ Addition of two Maintenance Worker I/II to 4256 (Refuse)
- ▶ Net Changes: Increase of 1 positions
 - ▶ Decrease of two positions in the General Fund
 - ▶ Increase of three positions to enterprise funds

Long-Term Fiscal Solutions

- ▶ Increase revenues:
 - ▶ Potential .5% Public Safety Sales Tax
 - ▶ Adoption of Cannabis Ordinance
 - ▶ Potential increase of Transient Occupancy Tax (TOT)
- ▶ Assess budget impact of the Lemoore Golf Course
- ▶ Assess budget impact of the Fleet Department
- ▶ Development and Implementation of City Programs
 - ▶ 5-Year Capital Improvement Plan for Council review/adoption
 - ▶ Revisions to the City's Cost Allocation Plan
 - ▶ Creation and Implementation of an Asset Replacement program

Questions?

Janie Venegas

Subject: FW: Dispensaries in Lemoore

From: Angela Valenzuela <
Sent: Tuesday, June 11, 2019 12:48 AM
To: City Manager <citymanager@lemoore.com>
Subject: Dispensaries in Lemoore

Mr. Olson,

I am writing to you to voice my opposition and concern for the recent green light to allow dispensaries within the City of Lemoore (City Planning Commission). As a long-time resident (1974), I have seen economic growth, recession, and downturn. Let me tell you, Lemoore is resilient. We are a small community with ethics and values. Lemoore's Chamber of Commerce has seen great success here recently and I believe it is the positive creativity of staff. Anything is possible, as Amy Ward would say, "Teamwork makes the Dreamwork".

I realize that it has been increasing difficult to find revenue sources especially with department store closures and sales tax down recently, however, I sincerely believe that if we allow dispensaries, we would be just doing what is convenient to obtain easy money, dirty money. I am opposed to this for several reasons, such as the reasons Chief Smith outlined in the Ordinance Study Session regarding the impact to Colorado when we were looking at our Marijuana Ordinances. The whole, "if you can't beat them, join them" mentality is a sell out. I am not ready to see our great community drug through the mud and I never want to see the negative impacts to families. Also, the smell is horrendous, you want to lure new business to downtown Lemoore? Have it smell like skunk! Marijuana is still illegal federally and is a gateway drug. You will see more families torn apart, more homeless on the street and our healthcare costs will rise tremendously. I implore you to think again, go back to the drawing board and look for other sources of revenue. I know that you do not have a say in what Council votes on but you are a well respected leader within our community and your recommendation can make a difference. Your job has not been easy and some of it has to do with a certain council member's behavior and the impact to businesses wanting to do business with Lemoore because of it. Success doesn't happen over night but it does happen with hard work and perseverance. Thank you for your time and consideration in this matter. I would appreciate you giving this to the City Clerk to be placed in public record when the issue at hand is discussed.

Angela Valenzuela

Lemoore Resident



**COUNTY OF KINGS
GRAND JURY**

P.O. Box 1562
Hanford, CA 93232
Office: 449 C Street
Lemoore, CA 93245
grand.jury@co.kings.ca.us
(559) 852-2892

AGENCY TRANSMITTAL FORM

I hereby acknowledge receipt of:

City of Lemoore

This report may be published after two working days of receipt.

This copy is received by:

Print Name:

Janie Venegas

Signature:

Janie Venegas

Title / Position:

Dep City Clerk

Month/Day/Year:

5/30/19

Time:

9:53am

Grand Jury Witness:

J. A. Alvarado

Grand Jury Witness:

LC by AD

LEMOORE CITY COUNCIL

May 28, 2019

SUMMARY

The 2018-2019 Kings County Grand Jury was made aware of the public interest to review and evaluate the disruptive and dysfunctional conduct of the Lemoore City Council members at City Council meetings. Observations and interviews were conducted by the Grand Jury. There were violations and lack of enforcement of the Brown Act and the City's Rules of Procedures under which the City Council is required to function.

BACKGROUND

Over a period of months Grand Jury members attended meetings of the City Council. Violations of the Brown Act were noted as well as disruptive behavior of members of the City Council. There was a request for the Grand Jury to investigate the behavior and lack of control of their meetings. The purpose of this investigation was to pinpoint the causes and offer recommendations to assist the City Council in conducting its business in a more appropriate manner.

METHODOLOGY

Members of the Grand Jury attended the City Council meetings. Online research was conducted primarily to obtain and review the existing City Council's Rules of Procedures, City Council minutes and internet live feeds. Interviews were conducted with the Mayor of Lemoore and the City Attorney independently. This process was done to evaluate the awareness and potential actions to resolve the disruption and dysfunction of the City Council.

DISCUSSION

Grand Jury members who attended City Council meetings observed the interruptions of one councilmember which contributed to the disruptions of the meetings. This councilmember has been formally censured by the City Council but this admonishment has not been enforced.

It was also observed that the City Mayor and City Attorney were not able to control the City Council meetings. Thus, the ongoing interruptions led to constant violations of the Brown Act, Rosenberg Rules of Order, and the Lemoore City Council Rules of Procedures.

During the interview with the Mayor, while he is very much 'pro-Lemoore' and wants to help move the city forward, his lack of leadership experience handicaps him in leading the City Council effectively. During the interview, he said that he was told, "I cannot impose any sanctions against this person". Lemoore's Rules of Procedures details codes of conduct which includes remedies beyond censorship.

The Grand Jury interviewed the City Attorney and during the interview, she stated several times that enforcement of the City's Rules of Procedures was the 'duty of the City Council'. It became obvious that the attorney was a hands-off legal advisor who saw her role as reviewing documents rather than informing the Mayor and City Council of procedural violations as they occurred.

When Grand Jury members attended a city council meeting in the absence of the City Attorney, a substitute attorney from the same law firm took her place. During this meeting, Grand Jury members in attendance noted that this substitute attorney actively advised the City Council members when they violated the Brown Act. The substitute attorney also actively advised the Mayor of proper meeting protocols. Additionally, it was observed that the meeting was conducted in a more orderly manner.

FINDINGS AND RECOMMENDATIONS

Finding 1

It was discovered during the interview process that not all City Council members attended the local training where the Rules of Procedures would have been discussed. Some members chose not to attend, nor was it apparent that the Rules of Procedures were discussed.

Recommendation 1

The recommendation is that all City Council members are highly recommended to attend the League of California Cities annual conference which includes Brown Act training as well as other responsibilities of the City Council. Any members not attending the annual conference training are encouraged to attend the City Attorney training session that is offered. Training should be conducted by the City Attorney with specific emphasis on the Lemoore City Council Rules of Procedures and Brown Act.

Finding 2

The Mayor has demonstrated his inexperience in the position of Mayor which is not uncommon for a first-time mayor. He has not had time to become familiar with the duties and responsibilities of his position which has led to his inability to 'control' either the meeting or the City Council.

Recommendation 2

The recommendation is for the Mayor to attend all training sessions which include those offered by the League of California Cities and local training provided by the City Attorney. The content of this training should include specific issues of the City.

Finding 3

The City Attorney expressed her opinion that enforcement of the Rules of Procedures is the responsibility of the City Council. Due to the Mayor's lack of experience there is no one providing leadership to the City Council. The hands-off approach of the current City Attorney appears to contribute to this void in leadership.

Recommendation 3

The Grand Jury recommends that the City Council utilize an attorney with a more hands-on approach to the enforcement to the City Council Rules of Procedures. This was demonstrated with the substitute attorney's active participation during the meeting of March 5, 2019. The substitute attorney played an active role in the enforcement of the Brown Act and Rosenberg Rules of Order violations during an open session meeting.

Finding 4

There are additional remedies to City Council member violations in Chapter 3 section 2 of the Rules of Procedures under 'Norms and Expectations'. This section includes but is not limited to public censure.

Recommendation 4

It is the recommendation of the Grand Jury that a copy of these Rules be distributed to and then reviewed with the City Council. There should be enforcement of violations of these rules.

RESPONSE REQUIRED

California Penal Code §933 provides in part: "Within 90 days of receipt of a report the public agency shall submit its response to the presiding judge. If the report is on an elected public official, the response shall be submitted to the presiding judge within sixty days of receipt..."

Lemoore City Council

SEND FINAL REPORT RESPONSES TO:

Original to:

Donna Tarter Presiding Judge
Kings County Superior Court
1640 Kings Court Drive
Hanford, CA 93230

Copy to:

Kings County Grand Jury
Post Office Box 1562
Hanford, CA 93232



711 West Cinnamon Drive • Lemoore, California 93245 • (559) 924-6744 • Fax (559) 924-6708

June 18, 2019

Honorable Donna Tarter, Presiding Judge
Kings County Superior Court
1640 Kings Court Drive
Hanford, CA 93230

Re: City of Lemoore's Response to Grand Jury Report Dated May 28, 2019

Dear Judge Tarter:

The City of Lemoore has received the Grand Jury Report dated May 28, 2019, and entitled "Lemoore City Council.". As requested, we are providing the following comments to the recommendations contained in the report. While the City understands the Grand Jury has almost unfettered discretion to investigate and issue findings and recommendations on those investigations, the City is disappointed that the Grand Jury has issued this report in a manner that seems to attack two specific individuals. Additionally, despite the requirement of the Grand Jury to maintain confidentiality (Penal Code section 924.1), the Grand Jury chose to cite to the interviews and comments of these two individuals in an effort to support its allegations that they engaged in misconduct, a claim for which the Grand Jury has provided no facts or evidence in support of the inaccurate allegations.

Finding 1

It was discovered during the interview process that not all City Council members attended the local training where the Rules of Procedures would have been discussed. Some members chose not to attend, nor was it apparent that the Rules of Procedures were discussed.

Recommendation 1

The recommendation is that all City Council members are highly recommended to attend the League of California Cities annual conference which includes Brown Act training as well as other responsibilities of the City Council. Any members not attending the annual conference training are encouraged to attend the City Attorney training session that is offered. Training should be conducted by the City Attorney with specific emphasis on the Lemoore City Council Rules of Procedures and Brown Act.

City Response:

The City disagrees with the Finding 1. The City has provided training for Council on a regular basis, and the Council Members have attended same. Specifically, the current sitting members of the Council have attended the following trainings at the League of Cities:

- Blair and Brown
League of California Cities New Council training 1/18 – 1/20/17
- Blair and Neal
League of California Cities Annual training 9/13-9/15/17
- Brown and Neal
League of California Cities Annual training 9/12-9/14/18
- Lyons
League of California Cities Annual training 6/19-6/20/19

As part of an introduction to their position as council members, the City Attorney has also provided training to each of the Council Member Elects after confirmation of their appointment to the City Council on the following topics: Council Rules, the Brown Act, conflict of interest and other matters related to their roles as Council Members.

In addition to the above, the City Attorney has provided Council Trainings for Council Members. The List of City Attorney Trainings since 2015 are as follows:

- January 28, 2015 – Ethics & Public Service – Biennial Training;
- January 28, 2015 – Sexual Harassment Prevention Training;
- February 2017 – Council/Commission Governance, Ethics & Public Service: Biennial Training;
- September 7, 2017 – City Council Retreat Role of City Council, City Manager, City Staff and City Attorney;
- April and May 2018 - Preventing Sexual Harassment and Abusive Conduct in the Workplace; and
- December 5, 2018 – Ethics & Public Service: Biennial Training
May and June 2019- Ethics, Whistleblowing, Brown Act & Public Service

(Copies of the Training Materials are attached as Exhibit 1-A.)

As to the Grand Jury's statement that "Some members chose not to attend, nor was it apparent that the Rules of Procedures were discussed", this statement is wholly inaccurate.

First the Council Rules of Procedure were adopted by the City Council in early 2018, prior to the election of current Council Members Billingsley and Lyons, who were seated on December 18, 2018. Staff drafted and brought to Council at a Study Session in an agendaized regular meeting on March 20, 2018, proposed rules of procedure for the City Council, where such rules were introduced and discussed. Present at the meeting were Council Members, Blair, Brown, Neal and Madrigal. The Matter was again discussed at a Special Meeting on April 10, 2018, and specific

direction from the Council was provided to Staff. Finally, the Council Rules of Procedure were adopted at a Regular Council Meeting on April 17, 2018, on a vote of 3-1-1 (Ayes – Brown, Madrigal, Chedester; Noes – Blair, Absent – Neal) While Council Member Neal was absent for the vote, he had been present at the previous two meetings. Therefore, all members of the City Council at the time of the adoption of the Council Rules of Procedure reviewed and discussed the rules. (See Minutes of Meetings attached as Exhibit 1-B.)

Additionally, the Grand Jury's recommendation, if accepted as written, could require the City to expend public funds. The City may not be in a position financially to expend the funds for travel to the League of Cities for all Council Members annually. Therefore, the City cannot agree with the recommendation. While the City disagrees with the Grand Juries Finding 1, the City will continue to provide opportunities for training as required by law and as allowed by the City budget.

Finding 2

The Mayor has demonstrated his inexperience in the position of Mayor which is not uncommon for a first-time mayor. He has not had time to become familiar with the duties and responsibilities of his position which has led to his inability to 'control' either the meeting or the City Council.

Recommendation 2

The recommendation is for the Mayor to attend all training sessions which include those offered by the League of California Cities and local training provided by the City Attorney. The content of this training should include specific issues of the City.

City Response:

The City disagrees with Finding 2. This finding provides no specific facts or circumstances as a basis for the opinion provided. Even though no specific basis exists, the City responds as follows:

The current Mayor of Lemoore has been a Council Member since December of 2012. During his time as a Council Member he has seen several changes in the Council and experienced discord among members of previous Councils. However, the current situation which the City Council has faced is both unique and unusual.

The Mayor is responsible for implementing the parliamentary procedures of the meeting and has attempted to do so in a fair, legal and judicious process. Often times he is confronted with unanticipated interruptions or unpredictable conduct by other individuals. When these incidents occur, the Mayor has tried to maintain order by using those methods legally available to him including taking a recess, requesting that members get back on topic or wait to provide their comments, or admonishing the speaker.

Further, as established by the Lemoore City Council Rules of Procedure in Chapter 3 section 2, it is the City Council as a whole who is responsible for taking action against a council member who does not follow the expectations outlined in the rules, which this Council has attempted to do as a body. Additionally, please see the response to Finding 1 above.

Finding 3

The City Attorney expressed her opinion that enforcement of the Rules of Procedures is the responsibility of the City Council. Due to the Mayor's lack of experience there is no one providing leadership to the City Council. The hands-off approach of the current City Attorney appears to contribute to this void in leadership.

Recommendation 3

The Grand Jury recommends that the City Council utilize an attorney with a more hands-on approach to the enforcement to the City Council Rules of Procedures. This was demonstrated with the substitute attorney's active participation during the meeting of March 5, 2019. The substitute attorney played an active role in the enforcement of the Brown Act and Rosenberg Rules of Order violations during an open session meeting.

City Response:

The City disagrees with Finding 3. Other than the one opinion expressed regarding the meeting of March 5, 2019, the Grand Jury has provided no legal or factual basis for this opinion. The City also disagrees with Recommendation 3. The Grand Jury does not have the right or ability to direct the City Council on hiring choices. The Grand Juries authority is limited to procedural matters and not substantive policy concerns. (78 Ops.Cal.Atty.Gen. 290 (1995).) The Council has the ability to select the individuals they feel are the best for the City. Their choice of legal council is their choice and theirs alone.

Additionally, and understandably, it is apparent that the Grand Jury does not fully comprehend the roles of the individuals in the City. The City of Lemoore is a Charter City. Under both the Government code beginning at section 34450 and the City's Charter, the City Council has the right to determine its own rules and order of business. This same rule is the first sentence of the Lemoore City Council Rules of Procedure. These rules, the state code and the Lemoore Municipal Code all establish that the City is governed by the City Council as a collective body and policy maker for the City. The City Council directly hires both the City Manager and the City Attorney. The City Manager is in charge of the day to day operations of the City as directed by Council. The City Attorney is the legal advisor to the City and is obligated to follow all lawful directives provided to her by the City Council as a body.

As legal advisor, the City Attorney has an attorney-client relationship with the City. As such the City Attorney, who is bound by ethical rules and laws, owes an undivided duty of loyalty to the City and not any one individual member, the same as in any attorney client relationship. (California Rules of Professional Conduct 3-600.) It is the City Attorney's job to provide legal

guidance and advice to the City, not to make the decisions or policy for the City. The City Attorney, by law, must not act as a policy maker, which is the job of the Council, for to do so could be considered illegal. In the 9th Circuit case of *Biggs v. Best, Best & Krieger*, 189 F.3d 989, the Court held that a contract city attorney firm could be terminated because of political activity related to the city since she acted as a policymaker. (See also *Oasis West Realty, LLC v. Goldman* (2011) 51 Cal.4th 811.) Further, as the legal advisor, the City Attorney is prohibited from disclosing confidential information to anyone without the client's consent. (California Rules of Professional Conduct 3-600.) The City understands the assertion of this privilege was a position asserted by the City Attorney in this investigation.

Further, as established by the Lemoore City Council Rules of Procedure in Chapter 3 section 2, it is the City Council as a whole who is responsible for the conduct of individual Council Members.

The Grand Jury has alleged that the City Attorney is "hands off". While it is understandable that a lay person may view the City Attorney's actions or inaction as "hands off", inevitably there are multiple factors at play which will determine how a City Attorney interacts with the City Council and the public in specific circumstances. Often times the City Attorney is prohibited from making statements or taking actions that would exceed her authority, disclose privileged information, or create the appearance of liability on behalf of her client, the City. So while the public may view this as inaction, in reality the City Attorney is performing her function of protecting the legal interests of the City within the bounds proscribed by the City Council and the law.

Finding 4

There are additional remedies to City Council member violations in Chapter 3 section 2 of the Rules of Procedures under 'Norms and Expectations'. This section includes but is not limited to public censure.

Recommendation 4

It is the recommendation of the Grand Jury that a copy of these Rules be distributed to and then reviewed with the City Council. There should be enforcement of violations of these rules.

City Response:

The City disagrees with the Finding 4. Further the recommendation is unnecessary and simply a restatement of the actions already taken by the Lemoore City Council.

Please see the information in Response to Finding 1 above regarding the review and adoption of the Lemoore City Council Rules of Procedure.

As to enforcement for violations of the rules, the City has done everything in its power to control the conduct of its members. The City would note that the findings do not appear to be related to

Honorable Donna Tater, Presiding Judge

June 18, 2019

Page 6

one particular individual or circumstance. Despite this lack of clarity, the City in recent history has publicly admonished a member for not following the rules. When that did not work, the City publicly censured the member. When that did not work, the City Attorney sent a cease and desist letter. Ultimately when nothing else seemed to work the City filed a lawsuit in Kings County Superior Court, which was ultimately settled in a manner which to date, has corrected the conduct.

The City, the Council Members, and Staff have all addressed the issues as they have arisen and will continue to do so in a professional, legal and fair manner.

Sincerely,

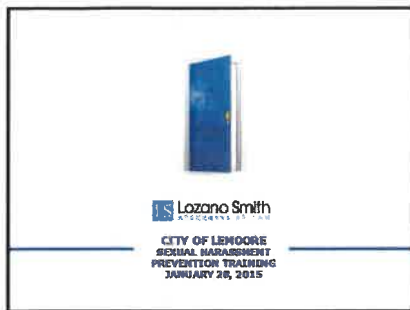
Edward Neal, Mayor
On Behalf of City Council
For City of Lemoore

Enclosures: Exhibit 1-A – Training Materials
Exhibit 1-B – Minutes

cc: Kings County Grand Jury
Post Office Box 1562
Hanford, CA 93232

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EXHIBIT 1-A




DISCRIMINATION LAW

- **Federal**
 - **Title VII**: 1964 Civil Rights Act. Prohibits discrimination based on specified categories, including sex, in the employer/employee context.
- **State**
 - **California Fair Employment and Housing Act**: Prohibits discrimination based on specified categories, including sex, and sexual orientation, in the employer/employee context.

Lozano Smith

Two Types of Sexual Harassment

1. Quid Pro Quo
2. Hostile Work Environment



Lozano Smith

Sexual Harassment & Abusive Conduct Prevention

Lozano Smith

DISCRIMINATION LAW

- Sexual harassment is a type of sex discrimination.
- The definition of sexual harassment is essentially the same under both state and federal law.
 - Unwanted and unwelcome
 - Sexual in nature
 - Detrimental effect on working conditions
- Does not need to be motivated by "sexual desire". (Added by SB 292)

Lozano Smith

Quid Pro Quo Sexual Harassment

*"You do something for me
and
I'll do something for you."*


Common situations:

- Person in position of authority either explicitly or implicitly conditions tangible benefits, such as raises or promotions, on sexual favors
- Person of authority withholds tangible benefits as retaliation for rejection of sexual advances

Lozano Smith

SECTION 1

WHAT IS SEXUAL HARASSMENT?




Lozano Smith

VIDEO 1

Lozano Smith

Quid Pro Quo

- While many of the initial sexual harassment cases filed in the 1970's involved quid pro quo harassment, it is now the minority of cases.
- Most cases involve "hostile work environment" situations.



Lozano Smith

Who Can Be The Harasser?

- Male ↔ Female
- Male ↔ Male
- Female ↔ Female
- Supervisor ↔ Employee
- Employee ↔ Employee
- Vendor ↔ Employee
- Employee ↔ Student
- Unpaid Intern ↔ Volunteer

Lozano Smith

Liability for Sexual Harassment

- Why do we care so much about preventing sexual harassment?
 - State and federal law prohibit it
 - Liability for the City – the City may be liable for sexual harassment of its employees
 - Personal liability – you may be liable for your own harassing behavior or if you aid or abet someone else



Lozano Smith

Employee Liability

- An employee of an entity subject to this subdivision is personally liable for any harassment prohibited by this section that is perpetrated by the employee, regardless of whether the employer or covered entity knows or should have known of the conduct and fails to take immediate and appropriate corrective action."

(Government Code section 12940(j)(3))

Lozano Smith

VIDEO 2

Lozano Smith

Employer Liability

- Quid Pro Quo Harassment by Supervisor:
 - City is strictly liable for harassment by supervisors
 - No defense
 - City's ignorance and supervisor's good intentions are irrelevant
- Harassment by Co-Workers or 3rd Parties:
 - City can be held liable if:
 - Knew or should have known of harassment; and
 - Failure to take prompt remedial action

Lozano Smith

SECTION 3 STANDARDS



Lozano Smith

SECTION 2

Liability for Sexual Harassment



Lozano Smith

Employer Liability

- Hostile Work Environment Harassment by Supervisor:
 - City is strictly liable
 - "Avoidable consequences" only mitigates damages, doesn't eliminate liability
 - Employer took reasonable efforts to prevent and correct workplace harassment
 - Employee unreasonably failed to use preventative and corrective measures provided
 - Reasonable use by employee of measures could have prevented some of the harm

Lozano Smith

Initial Standards to Consider



Lozano Smith

STANDARDS FOR SEXUAL HARASSMENT

1. Did the co-worker's conduct breach a standard?
2. Did the employer respond appropriately to the conduct?
3. What should the employer have done differently?

Lozano Smith

Abusive Conduct Defined

- Abusive Conduct is:
 - Conduct of an employer or employee
 - In the workplace
 - With malice
 - That a reasonable person would find:
 - Hostile
 - Offensive, and
 - Unrelated to an employer's legitimate business interests.

Lozano Smith

Abusive Conduct

- Recent polling suggests that:
 - 27% of Americans have suffered abusive conduct in the workplace
 - Another 21% have witnessed it
 - 72% indicated an awareness that workplace bullying goes on

(Workplace Bullying Institute (2014) Workplace Bullying Survey)

Lozano Smith

• SECTION 4 Abusive Conduct



Lozano Smith

Abusive Conduct Defined

- Abusive conduct may include:
 - Repeated infliction of verbal abuse
 - Derogatory remarks
 - Insults
 - Epithets
 - Verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating, or
 - Gratuitous sabotage or undermining of a person's work performance

Lozano Smith

Abusive Conduct Effects on Employees

- Abusive work environments can have serious effects on employees, including:
 - Shame
 - Humiliation
 - Stress
 - Loss of sleep
 - Severe anxiety
 - Depression

Lozano Smith

Abusive Conduct: Changes in the Law

- Assembly Bill 2053 (2014)
 - This bill requires managers and supervisors to receive abusive conduct prevention training within 6 months of employment and every 2 years thereafter.
 - The bill does not make workplace bullying illegal.
 - Indicates greater attention on abusive conduct

Lozano Smith

Abusive Conduct Defined

- A single act does not constitute abusive conduct
 - unless especially severe and egregious.



Lozano Smith

Abusive Conduct Effects on Employees

- Abusive work environments can have serious effects on employees as well, including:
 - Reduced productivity
 - Reduced morale
 - Higher absenteeism
 - Increased turnover
 - Increased medical and workers' compensation claims

Lozano Smith

SEXUAL ORIENTATION HARASSMENT

Compare to:
Plaintiff's male supervisor subjected him to sexually demeaning, crude, and offensive language. The supervisor's comments included that Plaintiff "had a nice ass" and would "look good in little girl's clothes".

Did the Plaintiff win his case?

Lozano Smith

PREVENTION THROUGH EDUCATION

- Title VII requires a notice be posted in conspicuous places on the premises, setting forth the pertinent sections of the statute and information pertaining to the filing of a complaint.
- Managers and supervisors can help the Personnel/Risk Management Department by ensuring that the notice remains posted and unobstructed.

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RESPONDING TO COMPLAINTS

- Review City policy
- Process employee complaints in accordance with Policy
- Evaluate need for police involvement

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No.

The Court determined, however, that this conduct was insufficient to establish sexual harassment as it was not harassment "because of sex". Since the conduct was not a result of Plaintiff's actual or perceived sexual orientation and was not an expression of his supervisor's actual sexual intent, the conduct did not establish sexual harassment.

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PREVENTION THROUGH EDUCATION

- Managers and supervisors are **role models**; demonstrate equal treatment and respect to both genders and never engage in sex-based jokes or banter.

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RESPONDING TO COMPLAINTS

- Call Personnel/Risk Management Department
- Listen to the complainant with an open mind
- Do not prejudge the complainant or the accused

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SECTION 4

• PREVENTING AND CORRECTING SEXUAL HARASSMENT



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SECTION 5

INVESTIGATING COMPLAINTS



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RESPONDING TO COMPLAINTS

- Advise the complainant and accused of any relevant policies and provide copies of same
- Advise the complainant and accused of the investigation process
- Do not promise confidentiality

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CITY OF LEMOORE

ETHICS & PUBLIC SERVICE: BIENNIAL TRAINING

January 28, 2015

Presented by:
City Attorney's Office

\$4K fine for former Carlsbad trustee

School official voted to award contract to future employer
Jan. 6, 2014 - San Diego Union Tribune

A former Carlsbad Unified School District board member who voted to award a \$100,000 contract to a law firm she then went to work for will pay \$4,000 to settle a state conflict-of-interest investigation.

Kelli Moon, who was elected to four terms before stepping down in August to work at the education law firm ... voted with the board majority July 24 to award a contract worth up to \$100,000...even though she agreed to work for the firm one day earlier.

In response to the coverage, the district opted to reconsider the legal contract and canceled it in September.

Jury: Ex-mayor must pay \$17,500

San Diego Union Tribune

A San Diego city councilman who was accused of using his position to get a contract for a law firm that he then worked for must pay \$17,500 to settle a lawsuit.

The jury found that the councilman, who was accused of using his position to get a contract for a law firm that he then worked for, must pay \$17,500 to settle a lawsuit.

The jury found that the councilman, who was accused of using his position to get a contract for a law firm that he then worked for, must pay \$17,500 to settle a lawsuit.

Guilty verdict in California city corruption trial



The Fresno Bee - Dec. 9, 2013
One of the key players in the massive corruption scheme in the city of Bell has been sentenced to 11 years and eight months in prison.

Angela Spaccia left the courtroom in an orange jumpsuit and in chains after Judge Kathleen Kennedy issued the sentence. The judge said "It was all about the money," calling Spaccia "a con artist" and a criminal whose weapon was the public trust. The judge also ordered the former Bell assistant city administrator to pay back more than \$6 million.

Former Rosemead Mayor gets 21 months in prison for witness tampering

California City News - July 22, 2014

On Monday, Ex-Rosemead Mayor John Tran was sentenced to 21 months in prison for witness tampering. The tampering occurred to resolve a bribery and extortion case involving a real estate developer.

The case revolves around alleged bribes being taken from the developer of a mixed-use project in Rosemead while Tran was still in office on the Rosemead City council. Prosecutors say an informant gave Tran payments totaling \$38,000 in order to help her secure permits for a building project.

He later met with the witness and asked her not to reveal that they had met and that she had given him money.

Castaneda ordered to quit school board; pay \$5,000 fine

Sept. 24, 2013 - thecalifornian.com

Embattled Salinas City Councilman Jose Castaneda was ordered to step down from his seat on the Alisal Union School board Friday following a Superior Court hearing in Monterey.



Presiding Superior Court judge Kay Kinsley granted the city's motion claiming that Castaneda was in violation of California law by holding the two offices simultaneously ... last December when Castaneda was sworn into his District 1 council seat without giving up his Alisal school board seat.

San Diego City Employee

San Diego City Employee ...

San Diego City Employee ...

Contractor: 'They drank all my liquor'

He says South County Officials favored vendors who gave

UTSan Diego.com - May 28, 2013

According to thousands of pages of grand jury testimony released Tuesday, Sweetwater schools and Southwestern College operated a brazen pay-to-play contracting practice that saw millions of dollars of work go to contractors willing to pick up the tab for trustees and administrators.



Cathedral City Mayor Pro Tem Arrested for Misappropriation of Public Funds

April 15, 2013 - Californian.com

Mayor Pro Tem, Charles Vasquez was arrested Monday on charges that he misappropriated over \$2,000 in public funds. ... Using a program that loans money to city officials and employees for ... electronic equipment ... Vasquez used the money to buy gift cards and other personal goods for then



ity. He also ... some equipment ... re pocketing the change. Vasquez posted a \$50,000 bond and could face up to 6

- New catchall rule: reasonably prudent person, using due care and consideration under the circumstances, would believe that it is reasonably foreseeable the decision would influence the market value of the official's property

18

2. Gifts From Others to the City

Not considered income or gifts to the individual when:

- Used for official City business
- The City Manager controls use of the donation
- Cannot select himself unless payment is for an item that provides for general use by agency officials and the city manager will have access to that use

21

3. Travel Payments From Others to the City

Not considered income or gifts to the individual when:

- Made directly to or coordinated with City
- Payment must be made to City or to travel provider but arranged by City

24

- Unclear how this determination will be made
- Be alert for actions affecting parcels owned by the official when other similarly situated properties are not affected the same



19

- Payment must be reported on a Form 801 and include details about the payment, donor, use of payment, including name and title of person who used the payment, and signature of City Manager
- Form is not posted on website unless in any quarter year the payments exceed \$2500

22

- Used for official agency business:
 - Contract expense
 - Regulatory inspection or audit
 - Provide training or educational information directly related to City's functions
 - Attend educational conference directly relating to City's functions

25

- Be alert for actions affecting area traffic levels, parking, noise, air quality, odors, privacy, view, etc.
- For leases: watch for actions affecting changes in termination date, rental value, allowable uses, use and enjoyment
(2 Cal. Code Regs. § 18705.2)

20

- This exception not applicable to tickets or travel payments. Specific rules govern those categories
(2 Cal. Code Regs. 18944)



23

- For training relating to officials job duties
- Food at a working group meeting with similar officials where official is representative of City



26

#5
Accept Gifts from Friends and Family. Return Gifts from Others.



36

#8
Be Open & Transparent



39

Character is doing the right thing when nobody's looking.
J.C. Watts

An ethical person ought to do more than he's required to do and less than he's allowed to do.
Bertrand Russell



42

#6
Ask the City to Pay for Your Business Travel Expenses



37

#9
Be Honest and Fair in All Your Dealings



40

PERSONAL FINANCIAL GAIN



43

#7
Do Personal Business Outside of Workplace



38

#10
Always Do the Right Thing Even When No One is Watching



41

Case Study #1

**Alderaan Development
Company Project**

44

- New catchall rule: reasonably prudent person, using due care and consideration under the circumstances, would believe that it is reasonably foreseeable the decision would influence the market value of the official's property

54

Penalties

- Invalidate decision
- Misdemeanor (possible loss of office)
- Fines (\$5,000 to \$10,000 per violation)
- Attorneys fees (yours and others)
- Embarrassment (personal/political)

57

Special Rules for Contracts

- Public officers may not be financially interested in a contract
- Prohibits participating in the development, negotiation, or execution of the contract
- Applies to both oral and written contracts

60

If You Are Disqualified

1. Do not participate
2. Do not discuss or influence (staff or colleagues)
3. Identify nature of conflict at meeting
4. Leave room (unless matter on consent)



55

Special Rules for Campaign Contributions

- Applies to candidates who are appointed members of boards and commissions
- May not receive campaign contributions in excess of \$250 from a donor with a pending matter for three months after the decision

58

- A legislative body cannot enter into a contract if a member has a financial interest in the contract
- Abstention does no good (Gov. Code § 1090)



61

- Okay to speak as a member of the public if official has a personal interest in the matter (2 Cal. Code Regs. § 18702.5)



56

- Must disqualify and disclose if received campaign contributions in excess of \$250 within 12 months preceding the decision (Gov. Code § 84308)



59

- Limited exceptions
- Rule of Necessity (essential goods or services)
 - Abstention required
- Harsh Penalties and Remedies
 - Contract is void and unenforceable
 - Criminal, civil, and administrative sanctions

62

- Elected officials and executive heads of public agencies, as well as those with significant decision making authority; be aware of gifts from all sources
- For others; be aware of gifts from sources that do business with the City

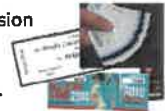
72

- **Gifts from Others to the City**
 - Must be used for official business
 - City Manager must control who uses the gift
 - Complete Form 801
- (2 Cal. Code Regs. § 18944)

75

Tickets and Passes

- Gift rules apply to event tickets and passes, even if provided to the City and passed through to the official
 - Includes admission to events the City operates
- (2 Cal. Code Regs. § 18944.1)



79

- Disqualification:** Disqualifying interest if \$460 or more in prior 12 months (effective 1/1/15)
- Reporting:** Gift filers report \$50 and up single source calendar year – cumulative
- Prohibition:** Gift filers limited to \$460 single source per calendar year (effective 1/1/15)
- Some exceptions
 - Proposal to lower to \$200 rejected
- (2 Cal. Code Regs. § 18940 et seq.; Gov. Code § 89503)

- **Gifts from the City to Officials**
 - Considered reportable gifts to the official unless food, beverage, etc., of nominal value or lawful expenditure of public funds
 - Gift rules apply to City raffles unless an employee donates gift or gift is paid for by City (except tickets)
 - Gift exchanges okay as long as gifts of similar value
- (2 Cal. Code Regs. §§ 18944.2, 18944.3)

- **Exception:** Tickets to the City may be provided to officials without being a reportable gift if the official treats the ticket as income for tax purposes
- **Exception:** Tickets from outside sources passed through the City may also be provided to an official without being reportable under the following circumstances:

- **Honoraria Ban (Gift Filers)**
 - Payments for speaking, writing or attending events
 - Such communications are part of the public official's service
 - Consequences/Penalties
 - Up to \$5,000 per violation
- (Gov. Code § 89501, 89506; 2 Cal Code Regs. §§ 18932.4, 18950.3)

74

City Policy

- Beware of City Gift Policy
- Additional restrictions
- Employees cannot receive gifts from anyone that does business with or seeks to do business with the City
- Some exceptions, such as holiday gift baskets shared by entire office



77

- The ticket is not earmarked by the original source for use by the official who uses the ticket
- The City determines in its sole discretion who uses the ticket



80

Travel Payment from Others to Officials

- A payment made for travel, including actual transportation and related lodging and subsistence expenses reasonably related to a governmental purpose is reportable but not subject to the gift limitation or honoraria ban under two circumstances:

90

Additional Exception:

- Payments in connection with campaign activities
 - Payments are considered contributions to campaign committee
- (2 Cal. Code Regs. § 18950.3)

91

Use of City Resources

Rule:

- Personal use of public resources prohibited (including staff time and agency equipment)
- Political use of public resources also prohibited, includes support or opposition of candidates or local ballot measures (see also Personnel Rules, § 5.17)

92

- In connection with a speech given by the official; limited to the day immediately preceding, the day of, and the day immediately following and the travel within the United States;

or

- Payment is by a government agency
- Could still be a disqualifying interest

(Gov. Code § 89506)



93

What is right is often forgotten by what is convenient.
Bodie Thoene



94

- **Purpose:** To restrict incumbent's advantages

(Penal Code § 424; Gov. Code §§ 1098, 8314; 2 Cal Code Regs. § 18901.1; *Stanson v. Mott*)



95

Additional Exception:

- Payments made in connection with a bona fide business trade or profession where:
 - Payments satisfy criteria for business expense income tax deduction
 - Predominant action is not making speeches
- (2 Cal. Code Regs. § 18950.2)

96

Transportation Carriers

- Elected and non-elected officials cannot accept free or discounted transportation from transportation carriers (Cal. Const. Art. XII, § 7)
- Does not apply to employees
- No distinction for personal or public business
- Penalty is forfeiture of office



97

Mass mailing restriction

- May not use public funds to send 200 or more mass mailers containing the name or picture of elected official, except under very limited exceptions

(Gov. Code §§ 82041.5, 89001; 2 Cal. Code Regs. § 18901.1)



98

- Exceptions for certain kinds of events as long as a majority does not consult among themselves.



108

Best Practices: Transparency Laws

- Assume all information is public or will become public
- Do not discuss agency business with fellow decision-makers outside meetings



111

Incompatible Employment

- Employees may not do outside work that interferes with ability to do job or creates divided loyalties
(Gov. Code § 1126; City Policies)



114

Consequences of Violations

- Nullification of decision
- Criminal sanctions for intentional violations (up to 6 months in jail/\$1000 fine)
- Intense adverse media attention



109

Common Law Bias

- Public hearings must be conducted in accordance with due process principles
- May not be tempted by personal or financial interest
- Disqualification even if no conflict under state law

112

Anti-Nepotism Laws

- City policy prohibits related persons from working under the supervision of the other where there is the potential for adverse impact on supervision, safety, security, or morale



115

Public Records

- Agendas and meeting materials
- Other writings prepared, owned, used, or retained by agency (including electronic)
- Must respond within 10 days
- Cost of duplication only
- **Penalties:** Adverse media attention plus attorney's fees if litigated

110

Incompatible Offices

- May not simultaneously hold two public offices that are incompatible (Possibility of a significant clash of duties or loyalties of office)
- **Penalty:** Forfeit the first office upon acceptance of the second office
(Gov. Code § 1099)

113

Anti-Nepotism Laws

- Police Department Policy 1053 provides additional rules for police officers



116

City of Lemoore
Council/Commission
Governance, Ethics &
Public Service:
Biennial Training
February 2017

Presented by
Jesal Marshall/Deborah
City Attorney

LS Lozano Smith
ATTORNEYS AT LAW

The Council's Role

1. Setting the direction for the City.
2. Establishing an effective and efficient organizational structure:
Determine Policy.
3. Providing support to the City Manager and staff as they carry out the Council's direction.

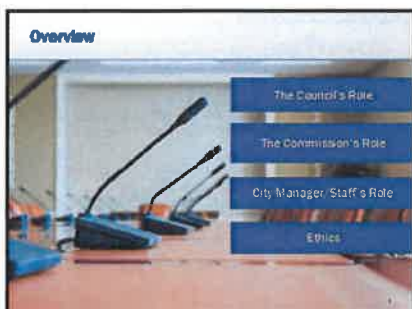
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The Commission's Role

1. Advise Council.
2. Establishing an effective and efficient organizational structure.
3. Providing support to the Council and staff.

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Overview



The Council's Role

The Commission's Role

City Manager/Staff's Role

Ethics

The Council's Role

Focus on the "What," not the "How"

Ensure clarity of roles/ responsibilities

Develop operational protocols

Agree upon a Code of Ethics

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City Manager/Staff's Role

1. Day to Day Operation of the City.
2. Implement Council Policy.
3. Community Interaction/Customer Service.
4. Provide Data and Information to Council.
5. Make Recommendations for prosperity of City.

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WHAT IS YOUR ROLE?

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The Mayor's Role

- Agenda Development
- Meeting Facilitation
- Spokesperson
- Governance Team Leader



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WHAT IS YOUR RESPONSIBILITY?

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Managing Complaints



- The Council's Role: Listen and direct the complaint to the City Manager.
- The Commissioner's Role: Listen and direct the complaint to the City Manager or Council.
- The City Manager's Role: Resolve the complaint and keep the Council informed.

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Why are we here?




- Required Biennial Ethics Training (All 1214 Gov. Code § 53235)
- Encourage Doing the Best Job for the Public Interest
- Learn How to Spot Issues Before They Become a Problem
- Keep Out of the Headlines

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Additional Resources

- Institute for Local Government
www.ca-ilg.org
- California Fair Political Practices Commission
www.fppc.ca.gov
- California Attorney General
www.oag.ca.gov/publications



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Self-Evaluation



- Agree to assess regularly
- Commit to long-term business striving for governance excellence

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Required Topics

- Personal Financial Gain
- Personal Advantages and Perks
- Governmental Transparency and Fair Processes
- General Ethics Principles Beyond the Law

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"City Attorney forms 'public integrity' anti-corruption unit" – The Fresno Bee, May 7, 2015

- Unit will investigate and, if necessary, prosecute public officials or public employees who commit crimes relating to their official duties.
- Investigations would be launched for improper use of public funds, elections violations, conflicts of interest, voter fraud, perjury or violating residency requirements when running for office, or the Brown Act while in office.



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ETHICS

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City Policies

- Reimbursement and Travel Policy
- City Purchasing Policy
- Other informal policies

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August 2014 Report: "An In-Depth Look at Public Corruption in California"



- Prepared by United States Common Sense
- Notes that on average approximately 1,000 public officials are convicted of corruption nationwide every year
- Studied 70 California corruption cases in detail – money was involved in over half the cases, and power in all of them.

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Inland Empire, CA

"Momentum for Inland Empire corruption cases still strong"
 - San Francisco, CA - April 15, 2016

"Six Jailed In \$43 Million Beaumont Public Corruption Case"
 - Riverside-Palmdale Press, April 15, 2016

"All seven former Beaumont officials plead not guilty in corruption case"
 - Central Daily News, April 20, 2016

"Arrestments delayed for 3 Beaumont corruption cases"
 - San Francisco, CA - April 15, 2016

"Beaumont: Assets may be frozen or seized"
 - Oakland A, Oakland Press, California, April 15, 2016




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South Texas

- City of Crystal City.
- Three Council members and the City Manager indicted for accepting bribes to promote an illegal gambling operation.
- Members were also gassing up their private vehicles from the City yard.
- A small agricultural town of 7,500 persons, mirrors in many ways the small towns throughout the South San Joaquin Valley.

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The Essentials



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Inland Empire, CA

- For the past 6 years, the FBI and City Attorney have investigated a number of local public agencies in Riverside and San Bernardino Counties.
- City of Beaumont: Former City Manager, Police Chief, Public Works Director, City Attorney, Economic Development Director, Finance Director, and City Planner all indicted on charges of embezzlement and misappropriation of public funds.
- Most were outside consultants; charges revolve around complex schemes to kickback money to consultant firms owned by the department heads.
- Bond refinancings, no interest loans, misappropriation of transportation development impact fees.

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Inland Empire, CA & South Texas

- Both examples involved much of the leadership and left those cities unable to function.
- Both involved raids of City Hall with the seizure of massive documents and disruption of the day to day business.
- Both involved the seizure of personal assets of the officials and very public arrests.



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Personal Financial Gain



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South Texas

"Why is Public Corruption so Common in South Texas?"
 - ABC 13 NEWS, San Antonio, May 2016

"South Texas a hotbed of public corruption"
 - San Antonio Express-News, March 12, 2016

"Town leaders face bribery charges"
 - San Antonio Express-News, March 12, 2016

"Indicted Texas Mayor posts bond after disturbance arrest"
 - The Associated Press, February 27, 2016



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What's New for 2016/2017



- Reorganization of rules continues with substantive changes in many of the standards.
- Basic principles still apply.
- May now be more cause to seek FPCC advice on certain issues.

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Personal Financial Gain

Bribery

Rule:

- Public officials may not solicit, receive or agree to receive a benefit in exchange for their official actions. (Penal Code §§ 67, 67.5, 68, 165)
- Penalties:** Loss of office, prison time, fines, restitution up to double the amount of the bribe and attorneys fees. Campaign funds cannot be used to pay restitution. (Penal Code § 86; Gov. Code § 89513)

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Personal Financial Gain

Materiality Standards

- Looking for financial interests from a governmental decision in: business entities, sources of income, gifts, personal finances of official or immediate family; and real property.
- Previous exception for "no financial effect" has been revised to read "nominal, inconsequential, or insignificant".

(2 Cal. Code Regs. 18702, et seq.)

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Personal Financial Gain

Source of Income

(Including spouse's income - \$500 or more, 12 months prior)

- Look to income from the sale of goods and services, including a salary; income from the sale of personal or real property.
- Nexus test:** "the official receives or is promised the income to achieve a goal or purpose which would be achieved, defeated, aided, or hindered by the decision."
- Exception for income of individual customers from retail sales of a business entity.

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Personal Financial Gain

Real property

(Ownership or lease - \$2,000 or more)

- 500 foot presumption for residential property.
- Commercial property apply business entity standards.
- Additional catchall rule:** reasonable prudent person, using due care and consideration under the circumstances, would believe that it is reasonably foreseeable the decision would influence the market value of the official's property.

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Personal Financial Gain

Types of Economic Interests



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Personal Financial Gain

Source of Gifts

(\$470 or more, 12 months prior)

- This section cross references other materiality standards (business, real property).
- New standard where non-profit is the source of gift. Materiality will exist "if the nonprofit will receive a measurable financial benefit or loss, or the official knows or has reason to know that the nonprofit has an interest in real property."

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Personal Financial Gain

"Port Hueneme councilman fined by state commission"



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Personal Financial Gain

Business Entities

(Investment, employee, or management - \$2,000 or more)

- New catchall test:** even if the business entity is not the subject of a governmental decision the effect is material "if a prudent person with sufficient information would find it reasonably foreseeable that the decision's financial effect would contribute to a change" in the value of the business entity or stock. (2 Cal. Code Regs. 18702.1)

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Personal Financial Gain

Personal Financial Effect

(Income, assets, liabilities - any 12 month period)

- Materiality standard of \$250 replaced with new standard: "the official or the official's immediate family member will receive a measurable financial benefit or loss from the decision."
- Exceptions:** participating in decisions affecting salary of same representative group, stipends for attendance at meetings, use of city vehicles, cellphones, credit card reward programs if used on official business.

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Personal Financial Gain - Real Property

Port Hueneme

- Councilman fined \$3,000 by FPPC because he did not recuse himself from a vote allowing for \$370,000 and \$762,000 in upgrades for Hueneme Beach Park and Moranda Park. His house is within 500 feet of the parks.
- Councilman argued that the improvements were minimal and that the 500-foot rule had become more of a "guideline" in recent years.

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Personal Advantages and Perks

Two Kinds of Perk Rules

1. Perks that others offer you (i.e., gifts).
2. Perks that you give yourself (i.e., use of public resources).



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Personal Advantages and Perks

Honoraria Ban (Gift Filers)

- Payments for speaking, writing or attending events.
 - Such communications are part of the public official's service.
 - Consequences/Penalties.
 - Up to \$5,000 per violation
- (Gov. Code § 89201, 89506; 2 Cal Code Regs. §§ 18932.4, 18950.3)

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Personal Advantages and Perks

City Policy

- Beware of City Gift Policy (Informal Policy).
- Additional restrictions.
- Employees should not receive gifts from anyone that does business with or seeks to do business with the City.
- Some exceptions, such as holiday gift baskets shared by entire office.



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Personal Advantages and Perks

Gifts from Others to Officials

- Public officials need to be aware of receiving gifts.
- Gifts do not always have bows, and can include meals, tickets to events, and travel expenses.
- The rules are many and complex.
- Elected officials and executive heads of public agencies, as well as those with significant decision making authority, be aware of gifts from all sources.
- For others, be aware of gifts from sources that do business with the City.

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Personal Advantages and Perks

Gifts from Others to City

- Must be used for official City business.
 - City Manager must control who uses the gift.
 - Complete Form 801.
- (2 Cal Code Regs. § 18944)



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Personal Advantages and Perks

Tickets and Passes

- Gift rules apply to event tickets and passes, even if provided to the City and passed through to the official.
 - Includes admission to events the City operates.
- (2 Cal Code Regs. § 18944.1)



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Personal Advantages and Perks

Disqualification: Disqualifying interest of \$470 or more in prior 12 months.

Reporting: Gift filers report \$50 and up single source calendar year – cumulative.

Prohibition: Gift filers limited to \$470 single source per calendar year

- Some exceptions

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Personal Advantages and Perks

Gifts from City to Officials

- Considered reportable gifts to the official unless food, beverage, etc., of nominal value or lawful expenditure of public funds.
 - Gift rules apply to City raffles unless an employee donates gift or gift is paid for by City (except tickets).
 - Gift exchanges okay as long as gifts of similar value.
- (2 Cal Code Regs. §§ 18944.2, 18944.3)

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Personal Advantages and Perks

Tickets and Passes, cont.

- **Exception:** Tickets to the City may be provided to officials without being a reportable gift if the official treats the ticket as income for tax purposes.
- **Exception:** Tickets from outside sources passed through the City may also be provided to an official without being reportable under the following circumstances:
 - The ticket is not earmarked by the original source for use by the official who uses the ticket.
 - The City determines in its sole discretion who uses the ticket.

Lozano Smith

Personal Advantages and Perks

Transportation Carries

- Elected and non-elected officials cannot accept free or discounted transportation from transportation carries (Cal. Const. Art. XII, § 7).
- Does not apply to employees.
- No distinction for personal or public business.
- Penalty is forfeiture of office.



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Personal Advantages and Perks

Misuse of Public Funds

- When not authorized or for a public purpose.
- Occurs when personal benefit is not merely incidental.



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Discussion Questions



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Personal Advantages and Perks

Use of City Resources

- Rule:
 - Personal use of public resources prohibited (including staff time and agency equipment).
 - Political use of public resources also prohibited, includes support or opposition of candidates or local ballot measures.
- Purpose: To restrict incumbent's advantages. (Penal Code § 424; Gov. Code §§ 1098, 8314; 2 Cal. Code Regs. § 18901.1; *Stanson v. Mott*)
- Mass Mailing Restriction: May not use public funds to send 200 or more mass mailers containing the name or picture of elected official, except under very limited exceptions. (Gov. Code §§ 62041.5, 89001; 2 Cal. Code Regs. § 18901.1)

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Personal Advantages and Perks

Consequences of Violations

- Civil penalties: \$1,000/day fine plus 3X value of resource used.
- Criminal penalties: 2-4 year prison term plus disqualification from office.
- Can also have income tax implications.
- Costs for hiring defense lawyers.



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Governmental Transparency and Fair Processes



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Personal Advantages and Perks

Authorized Expenditures

- Pursuant to City reimbursement policy.
- May only be for actual and necessary expenses.
- Know City policy and limits.
 - Rates for food, lodging, and transportation.
 - The importance of documentation
- New credit card use policy pending.



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Personal Advantages and Perks

Best Practices: Personal Advantages & Perks Laws

- Avoid perks and the temptation to rationalize about them.
 - Legally risky
 - Public relations headache



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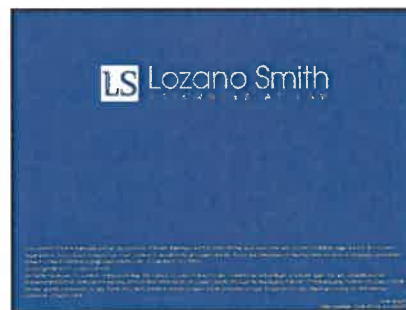
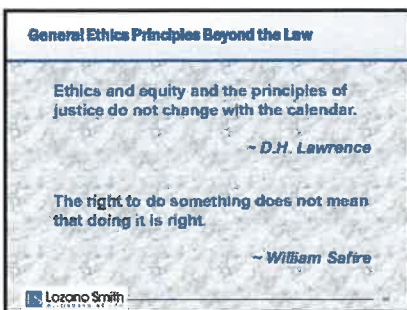
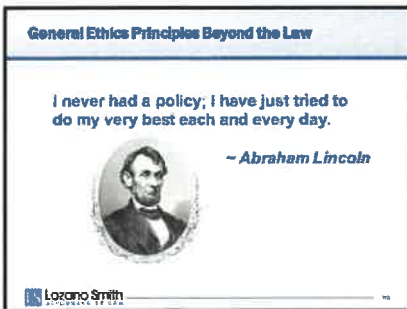
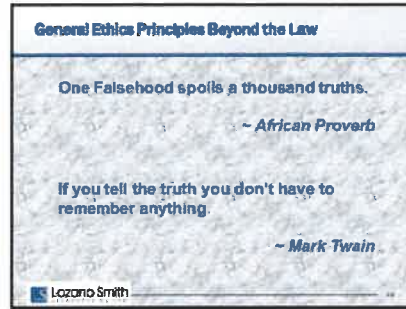
Governmental Transparency and Fair Processes

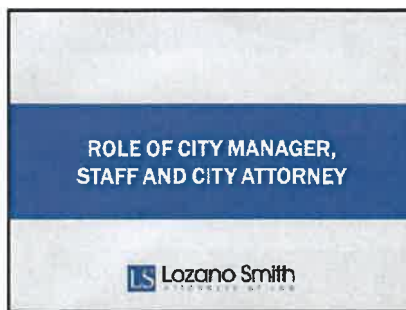
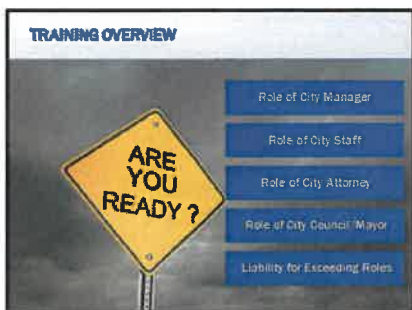
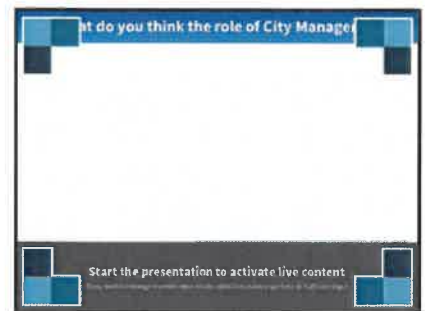
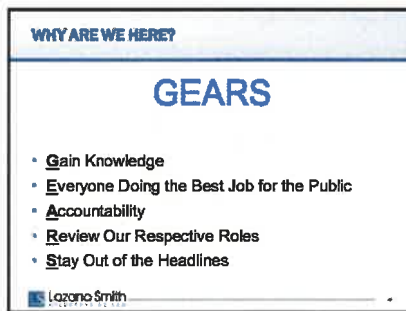
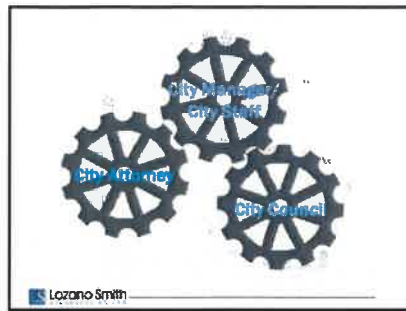
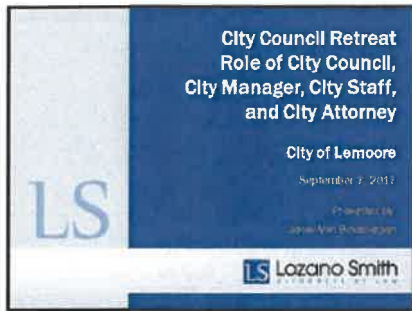
Financial Interest Disclosure

- Disclose economic interests which may give rise to a qualifying conflict of interest on the Form 700s when:
 - Assuming office
 - Annually while in office
 - Upon change in position leading to a different reporting obligation
 - Upon leaving office

(Gov. Code § 87500; 2 Cal. Code Regs. § 18723)

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What do you think the role of City Attorney

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ROLE OF CITY COUNCIL/MAYOR

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PHONES
DOWN



PHONES
DOWN



PHONES
UP

KEY INGREDIENT FOR SUCCESS



An effective City Council/
City Manager Relationship

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ROLE OF CITY ATTORNEY

- To make recommendations
- To advise of risk associated with particular decisions
- To educate



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What do you think your role is as a city council member?

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ROLE OF CITY COUNCIL



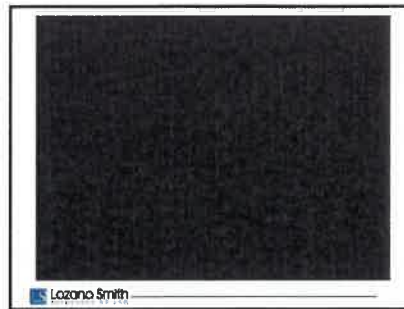
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ROLE OF MAYOR

- The Mayor is the presiding officer at City Council Meetings Pursuant to Government Code section 36802.

"The mayor shall preside at the meetings of the council. If he is absent or unable to act, the mayor pro tempore shall serve until the mayor returns or is able to act. The mayor pro tempore has all of the powers and duties of the mayor."

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EXCEEDING YOUR ROLE...

- City of Lemoore Code of Conduct

The Code of Conduct is supplemental to the Lemoore Municipal Code and the Code of Ethics and applies to the City Council. The Code of Conduct describes how Lemoore officials treat each other and work together for the common good of the community.

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ROLE OF MAYOR

- Presiding officer of all City council meetings and various ceremonial occasions in the community.
- Signs all official documents relating to local government.
- Is a voting member of the City Council.

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EXCEEDING YOUR ROLE

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WHAT COULD HAPPEN...

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If you were Mayor

What would you do if the following video occurred at a meeting?

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EXCEEDING YOUR ROLE...

- Government Code section 36813 provides:

"The council may establish rules for the conduct of its proceedings. It may punish a member or other person for disorderly behavior at a meeting"

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INDIVIDUAL LIABILITY AND CITY LIABILITY

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SOUTH TEXAS

"Why is Public Corruption so Common in South Texas?"
— Alan Greenblatt, *Greenblatt.com*, Mar 2015

- "South Texas a hotbed of public corruption"
— John Madomsky, *Argentinean.com*, Mar 16, 2015
- "Town leaders face bribery charges"
— Sarah Kahan, *Washington Post*, February 9, 2015
- "Indicted Texas Mayor posts bond after disturbance arrest"
— *The Associated Press*, February 21, 2015



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WHAT IF THE HEADLINE WAS




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- 2015: Parlier Unified: Grand jury spotlighted governance, administration and business practices that were costly, but not improving classroom achievement.
- 2011: City of Fowler: Citizen initiated complaint with grand jury because matters needed to be exposed including hundreds of unfinished police cases.
- 2016: Selma Unified: violations of the Brown Act

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Personal Financial Gain

Port Hueneme councilman fined by State
COUNCILMAN



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IT'S HAPPENED TO OTHER CITIES.....



2015: City of Sanger Governance: Grand jury found a town government in the community governance threatening to undermine gains made in recent years.

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PHONES UP

PERSONAL FINANCIAL GAIN - REAL PROPERTY

- Port Hueneme**
 - Councilman fined \$3,000 by FPPC because he did not recuse himself from a vote allowing for \$370,000 and \$762,000 in upgrades for Hueneme Beach Park and Moranda Park. His house is within 500 feet of the parks.
 - Councilman argued that the improvements were minimal and that the 500-foot rule had become more of a "guideline" in recent years.

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IT'S HAPPENED TO OTHER CITIES.....

- 2016 - The Kings County grand jury released a report this week accusing a Hanford City councilman of violating campaign finance requirements and misleading voters. ...



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where you think cities have been in news for misconduct of elected officials.



Start the presentation to activate live content


Preventing Sexual Harassment and Abusive Conduct in the Workplace

City of Lemoore

Presented by
Jenell Van Bindsbergen

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Sexual Harassment Prevention



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Initial Standards to Consider



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Presenter



Jenell Van Bindsbergen
Partner
jvanbindsbergen@lozanosmith.com

Jenell Van Bindsbergen is a Partner in Lozano Smith's Fresno office and co-chair of the firm's Local Government Practice Group. In addition to local government and labor and employment issues, she is also experienced with matters relating to the Americans with Disabilities Act, Family and Medical Leave Act, Piousness motions, OSHA matters, code enforcement, harassment, and discrimination issues, payroll, administrative and court rules for certified, civil service and classified dismissal, public safety and grievance issues.

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The Power Dynamic

- "[The victim] didn't report the alleged harassment initially because she had been a victim of harassment before and nothing came of it when she reported that problem."
- "...so intolerable that [the victim] was forced to resign from her position."
- "The interaction left the employee feeling 'uncomfortable,' 'targeted,' and intimidated."
- "[The lawsuit] claims the victim received a negative job evaluation from [the supervisor] for rejecting his sexual advances."
- "[The victim] first approached the situation delicately -- 'injecting some humor so as not to upset [the] Supervisor.'"

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Interactive Presentation!

1. Open your browser on your cell phone
2. Go to: pollev.com/lozanosmith


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Training Overview

- What is Sexual Harassment?
- Liability for Sexual Harassment
- Abusive Conduct
- Preventing Gender Identity Harassment
- Investigators

The Power Dynamic

A subordinate may go along with harassing behavior in order to avoid negative job consequences ... until they don't.



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Quid Pro Quo

- While many of the initial sexual harassment cases filed in the 1970s involved quid pro quo harassment, it is now less frequent.
- Most cases involve hostile work environment situations.



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Hostile Work Environment

- Term has become a catch-all for complaints about general work environment.
- A bad work environment alone does not rise to the level of harassment or discrimination unless coupled with a protected trait.



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Hostile Work Environment: Visual Harassment



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Hostile Work Environment

- Unwelcome** comments or actions, usually directed at the victim, that are:
 - **Sexual in nature**, or
 - **Hostile** to a protected class based on gender, gender stereotype, gender identity, gender expression, transgender status.



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Hostile Work Environment: Verbal Harassment



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Hostile Work Environment



- Conduct must be **"severe or pervasive"**
- Reasonable Man/Woman Standard

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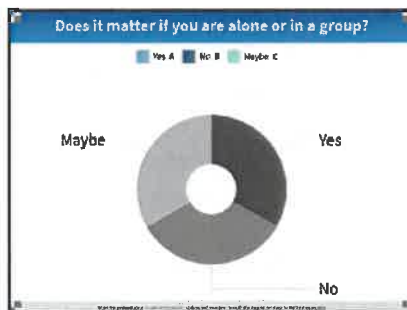
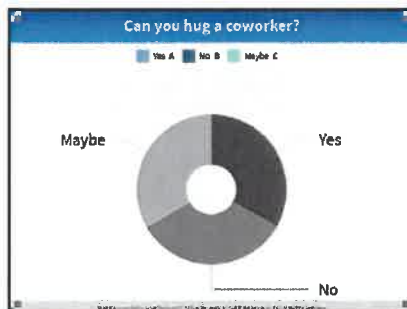
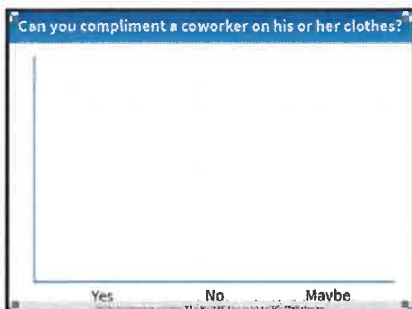
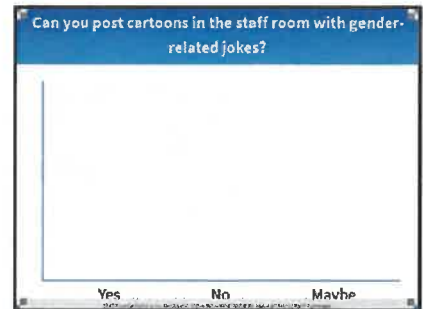
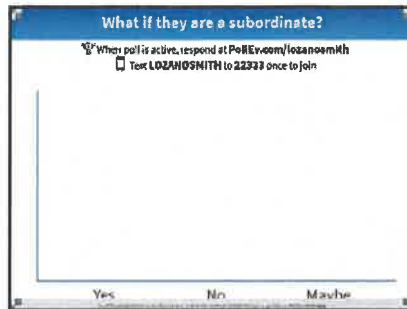


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Hostile Work Environment: Physical Harassment



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Sexual Harassment Case Study #1

Male Department Head at City

Female analyst accused Department Head of engaging in "severe and pervasive campaign" of sexual harassment over the course of about a year, including:

- Begging analyst to have sex with him 30 to 50 times
- Showing analyst mobile phone pictures of naked women and nude pictures of himself
- Describing his private parts and what he'd like to do to her
- Boasting how well he would treat analyst if they were together

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Sexual Harassment Case Study #2

How much did this behavior cost Employer?



- **\$490,000** for settlements with employees
- **\$316,000** in legal fees
- **\$14,429** for investigative services
- **TOTAL: \$820,429**

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How Do We Prevent Sexual Harassment?



- ☐ Trainings
- ☐ Recognizing & identifying the problem
- ☐ Creating an environment where victims are not afraid to file complaints
- ☐ Timely investigations
- ☐ If applicable, implementing remedial measures

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Sexual Harassment Case Study #1

How much did Supervisors behavior cost the Employer?

- Employer settled employee's lawsuit for **\$122,500**



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Sexual Harassment Case Study #3

Male Supervisor of XYZ

- Male mid management employee claimed manager created and maintained a sexually charged, hostile and offensive environment
- Manager asked mid management employee about his sex life
- Manager asked mid management employee if he thought certain staff members were gay
- Manager explained and simulated sex acts in front of administrators

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Sexual Harassment Case Study #2

Male Supervisor of XYZ Employer

- Repeatedly referred to female subordinates as b---- and c---
- Regularly made statements that he was going to "get" female employees or that they were "out"
- Commented on subordinate employees' breasts and made other sexually explicit remarks
- Called subordinate employees into his office under the guise of work related business to discuss his marriage counseling, his wife's orgasms and his planned vasectomy
- Stated that he would like to "bludgeon" a female employee with a 2x4

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Sexual Harassment Case Study #3

How much did this behavior cost Employer?

- Employer paid mid management employee **\$110,000** to settle his lawsuit



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Abusive Conduct & Protected Classes

- The law requires managers and supervisors to receive abusive conduct prevention training within 6 months of employment and every 2 years thereafter.
- The law does not make workplace bullying illegal.
- Indicates greater attention on abusive conduct and work place bullying

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Key Terminology




Sex Assigned at Birth	Sexual Orientation
Gender Expression	Gender Identity
Transgender	

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SB 179

SB 179 - Gender Recognition Act

- Provides a "nonbinary" gender option for state-issued identification documents.



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REPORTING & INVESTIGATING



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Gender Identity and Expression Discrimination

What is gender identity or gender expression discrimination?



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Gender Identity and Expression Discrimination

Employers may ask about:

- Employment history
- Personal references
- Other non-discriminatory questions

Employers **may not** ask questions intended to determine gender identity (marital status, spouse's name, relation of household members to one another)

Dress code and grooming standards **must** be enforced in a non-discriminatory manner

Employees have the right to use restrooms, showers and locker rooms that correspond with their gender identity or gender expression

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What Are You Investigating the Complaint Under?



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Gender Identity and Expression Discrimination

Consider:

- Use of facilities
- Accommodations
- Dress code requirements
- Terminology or misgendering

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How Do We Prevent Gender Identity and Expression Discrimination?



- ☐ Review and update policies
- ☐ Trainings
- ☐ Promptly address situations as they arise

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Responding to Complaints



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Lemoore Cemetery District

Ethics & Public Service: Biennial Training

December 5, 2018

Presented by
Jesse Van Brudenburgh, Esq.

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WHAT IS YOUR ROLE?

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WHAT IS YOUR RESPONSIBILITY?

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Why are we here?



- Required Biennial Ethics Training (MCL 1724, Gov. Code § 33235)
- Encourage Doing the Best Job for the Public Interest
- Learn How to Spot Issues Before They Become a Problem
- Keep Out of the Headlines

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The District's Role

1. Setting the direction for the District.
2. Present Matters to Board Who Determines Policy.
3. Providing support to the Board and carry out the Board's direction.

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Why is Differentiating Roles Important

- Stepping out of one's role and overlapping these responsibilities results in ineffective management.
- A lack of understanding regarding the role and function of the Board and District Manager results in *confusion* and *misunderstanding* among Board members, staff, and the community.



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Required Topics



- Personal Financial Gain
- Personal Advantages and Perks
- Governmental Transparency and Fair Processes
- General Ethics Principles Beyond the Law

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District Manager/Staff's Role

1. Day to Day Operation of the District.
2. Implement District Policy.
3. Community Interaction/Customer Service.
4. Provide Data and Information to District.
5. Make Recommendations for prosperity of District.

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Responsibilities at Meetings

- Attend Meetings
- Be prepared
- Actively participate
- Maintain positive attitude
- Be respectful, open to ideas and opinions, look for common ground
- Everyone has the same goal – make the District better for the citizens

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Brown Act, Continued

Response to Public Comments: Board or staff may **briefly** respond to statements made or questions posed by persons exercising their public testimony rights under Government Code section 54954.3.

Announcements: Board may also make a **brief** announcement, make a **brief** report on own activities, ask a question for clarification.

(Government Code §§ 54954.2, 54954.3, 54956, 54956.5.)

Governmental Transparency and Fair Processes

Public Records

- Agendas and meeting materials.
- Other writing prepared, owned, used, or retained by agency (including electronic).
- Must respond within 10 days.
- Cost of duplication only.
- **Penalties:** Adverse media attention plus attorneys' fees if litigated.

Governmental Transparency and Fair Processes

Incompatible Offices

- May not simultaneously hold two public offices that are incompatible (possibility of a significant clash of duties or loyalties of office).
- **Penalty:** Forfeit the first office upon acceptance of the second office.

(Gov. Code § 1036)



Brown Act and Voting Procedure

Voting: Members of the public are entitled to know how each district member voted on action items.

If not readily apparent from the record how a member voted, you must publicly report the action taken and the vote or abstention on that action of each member present for the action.

Recommended when it is likely to be difficult to determine from the record how a particular member voted, or whether a member abstained.

Governmental Transparency and Fair Processes

Best Practices: Transparency Laws



- Assume all information is public or will become public.
- Do not discuss agency business with fellow decision-makers outside meetings.

Governmental Transparency and Fair Processes

Best Practices: Fair Process Laws

- Think fairness and merit-based decision-making in your decisions.
- Keep politics separate from relationships with agency staff.



Governmental Transparency and Fair Processes

Consequences of Violations

- Nullification of decision.
- Criminal sanctions for intentional violations (up to 6 months in jail/\$1,000 fine).
- Intense adverse media attention.



Governmental Transparency and Fair Processes

Common Law Bias

- Public hearings must be conducted in accordance with due process principles.
- May not be tempted by personal or financial interest.
- Disqualification even if no conflict under state law.
- Quasi-judicial proceedings: refrain from taking a position before hearing all the evidence at the public hearing.

August 2014 Report: "An In-Depth Look at Public Corruption in California"

- Prepared by United States Common Sense.
- Notes that on average approximately 1,000 public officials are convicted of corruption nationwide every year.
- Stated 79 California corruption cases in detail – money was involved in over half the cases, and power in all of them.





Inland Empire, CA

- For the past 6 years, the FBI and City Attorney have investigated a number of local public agencies in Riverside and San Bernardino Counties.
- City of Beaumont: Former City Manager, Police Chief, Public Works Director, City Attorney, Economic Development Director, Finance Director, and City Planner all indicted on charges of embezzlement and misappropriation of public funds.
- Most were outside consultants; charges revolve around complex schemes to kickback money to consultant firms owned by the department heads.
- Bond refinancings, no interest loans, misappropriation of transportation development impact fees.

Inland Empire, CA & South Texas

- Both examples involved much of the leadership and left those cities unable to function.
- Both involved raids of City Hall with the seizure of massive documents and disruption of the day to day business.
- Both involved the seizure of personal assets of the officials and very public arrests.



Where the headlines have been for local government

South Texas

"Why is Public Corruption so Common in South Texas?"
- Kate Greenfield, Bloomberg, May 2014

- "South Texas is a hotbed of public corruption"
- John Heilman, 430 WPMR.com, March 15, 2014
- "Team leaders face bribery charges"
- Sarah Lewis, Washington Post, February 4, 2014
- "Indicted Texas Mayor posts bond after disturbance arrest"
- The Associated Press, February 17, 2014

It's Happened to Committees/Commissions ...

- 2013: Merced County Planning Commission. Court held Commission violated Brown Act when it discussed and took action on an item that did not clearly and unambiguously appear on the meeting agenda.
- 2017: Sonora Dome and Wildcat Ranch Advisory Committee. Meeting agenda not posted at the meeting location at least 72 hours before regular meeting began.
- 2017: San Francisco Ethics Commission. Commission voted to send Planning Commissioner letter demanding she recuse herself from a vote but motion to send the letter not on the agenda.

Inland Empire, CA

"Momentum for Inland Empire corruption cases still strong" - Joe Sabers, The Sun, April 24, 2014	"Arraignments delayed for 3 Beaumont corruption cases" - Bob Whelan, The Press-Enterprise, May 18, 2014	"Beaumont: Assets may be frozen or seized" - Richard C. Dwyer, Press Enterprise, May 24, 2014
"Six Jailed in \$4.3 Million Beaumont Public Corruption Case" - Robert Rodriguez, Palm, May 14, 2014		
"All seven former Beaumont officials plead not guilty in corruption case" - Chris Dunham, Press Enterprise, August 10, 2015		

South Texas

- City of Crystal City.
- Three Council members and the City Manager indicted for accepting bribes to promote an illegal gambling operation.
- Members were also gassing up their private vehicles from the City yard.
- A small agricultural town of 7,500 persons, which could mirror in many ways the small towns throughout Monterey County.

- Reorganization of rules continues with substantive changes in many of the standards.
- Basic principles still apply.
- May now be more cause to seek FPPC advice on certain issues.

Personal Financial Gain

General Rule

- You may not make, participate in making, or use official position to influence a governmental decision if the decision could have a reasonably foreseeable material financial effect on the official, immediate family, or any financial interest. (2 Cal. Code Regs. 18700.)
- Effect can be positive or negative.
- Previously these rules were described in 5 separate regulations.
- Not prohibited: ministerial actions, appearances as a member of the public solely relating to personal interests.

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Personal Financial Gain

Materiality Standards

- Looking for financial interests from a governmental decision in: business entities, sources of income, gifts, personal finances of official or immediate family; and real property.
- Previous exception for "no financial effect" has been revised to read "nominal, inconsequential, or insignificant".

(2 Cal. Code Regs. 18702, et seq.)

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Personal Financial Gain

Source of Income

- Including spouse's income - \$500 or more, 12 months prior.
- Look to income from the sale of goods and services, including a salary; income from the sale of personal or real property.
- Nexus test: "...the official receives or is promised the income to achieve a goal or purpose which would be achieved, defeated, aided, or hindered by the decision."
- Exception for income of individual customers from retail sales of a business entities.

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Personal Financial Gain

Public Generally Exception

- General rule: No conflict where financial effect is indistinguishable from the public generally.
- New tests: 25% affected the same: businesses or non-profit entities; real property (general, commercial, residential); individuals.
- Official's interest cannot be unique. Watch for disproportionate effect because of development potential of property, proximity, cumulative effect of multiple interests, substantially greater business volume, income, personal finances.

(2 Cal. Code Regs. 18703)

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Personal Financial Gain

Types of Economic Interests



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Personal Financial Gain

Source of Gifts

- \$470 or more, 12 months prior
- This section cross references other materiality standards (business, real property)
- New standard where non-profit is the source of income. Materiality will exist "if the nonprofit will receive a measurable financial benefit or loss, or the official knows or has reason to know that the nonprofit has an interest in real property."

Personal Financial Gain

The Fair Political Practices Commission

- Administers and enforces the Political Reform Act.
- Consultants are available to provide telephone or written advice.
- Only written advice will provide immunity from civil or criminal prosecution.

(Gov. Code §§ 91012.5, 91013.7)

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Personal Financial Gain

Business Entities

- Investment, employee, or management - \$2,000 or more.
- New catchall test: even if the business entity is not the subject of a governmental decision the affect is material "if a prudent person with sufficient information would find it reasonably foreseeable that the decision's financial effect would contribute to a change" in the value of the business entity or stock.

(2 Cal. Code Regs. 18702.1)

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Personal Financial Gain

Personal Financial Effect

- Income, assets, liabilities - any 12 month period.
- Materiality standard of \$250 replaced with new standard: "the official or the official's immediate family member will receive a measurable financial benefit or loss from the decision."
- Exceptions: participating in decisions affecting salary of same representative group, stipends for attendance at meetings, use of city/District vehicles, cellphones, credit card reward programs if used on official business.

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Personal Financial Gain



Best Practices:

- Avoid temptation to look at public service as an opportunity for financial gain.
- Look at every decision and ask yourself whether it involves some kind of financial interest for you.

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Whistleblowers



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Whistleblowers

Types of Whistleblowers

- "Passive": Do not actively volunteer their concerns
- "Active": Take affirmative action to voice their concerns
- "Incipient": Terminated in anticipation of passive or active opposition

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Whistleblowers



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Whistleblowers



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Whistleblowers

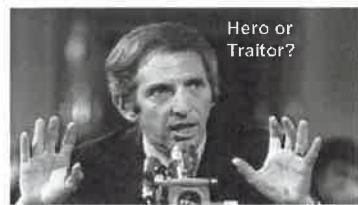
The Whistleblower Challenge

Employee Perspective: conflicting duties regarding disclosure:

- Obedience
- Loyalty
- Confidentiality
- To aid law enforcement
- To aid transparency and accountability
- To serve the public

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Whistleblowers



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Whistleblowers

whistleblower

pron whis-de blow-er \whis-uhl-bloh-er\

A person who raises questions about improper practices within an organization, which can include violations of company policy/rules, law, regulation, or threat to public interest/national security, as well as fraud, and corruption.

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Whistleblowers

The Whistleblower Challenge

Employer's Perspective: Employee's decision to disclose reflects belief his/her ethical views are superior to the organization's.

- Gained inside position through employment and promotion
- Using inside position to gain confidential information
- Voluntarily embarrassing the organization
- Acting based on privileged sense of ethical superiority
- Then insist that the employer is ethically required to treat them as if they did nothing wrong

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Personal Advantages and Perks



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Personal Advantages and Perks

Disqualification: Disqualifying interest of \$470 or more in prior 12 months.

Reporting: Gift filers report \$50 and up single source calendar year – cumulative.

Prohibition: Gift filers limited to \$470 single source per calendar year

- Some exceptions

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Personal Advantages and Perks

Gifts from District to Officials

- Considered reportable gifts to the official unless food, beverage, etc., of nominal value or lawful expenditure of public funds.
- Gift rules apply to District raffles unless an employee donates gift or gift is paid for by District (except tickets).
- Gift exchanges okay as long as gifts of similar value. (2 Cal Code Regs. §§ 18944.2, 18944.3)

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Personal Advantages and Perks

Two Kinds of Perk Rules

- Perks that others offer you (i.e., gifts).
- Perks that you give yourself (i.e., use of public resources).



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Personal Advantages and Perks

Honoraria Ban (Gift Filers)

- Payments for speaking, writing or attending events.
- Such communications are part of the public official's service.
- Consequences/Penalties.
 - Up to \$5,000 per violation.

(Gov. Code § 89201, 89506; 2 Cal Code Regs. §§ 18932.4, 18933)

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Personal Advantages and Perks

The District and Gifts

- Beware of Gifts.
- Employees should not receive gifts from anyone that does business with or seeks to do business with the District.
- Some exceptions may apply, such as holiday gift baskets shared by entire office.

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Personal Advantages and Perks

Gifts from Others to Officials

- Public officials need to be aware of receiving gifts.
- Gifts do not always have bows, and can include meals, tickets to events, and travel expenses.
- The rules are many and complex.
- Elected officials and executive heads of public agencies, as well as those with significant decision making authority, be aware of gifts from all sources.
- For others, be aware of gifts from sources that do business with the District.


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Personal Advantages and Perks

Gifts from Others to District

- Must be used for official District business.
- District Manager must control who uses the gift.
- Complete Form 801.

(2 Cal Code Regs. § 18944)




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Personal Advantages and Perks

Tickets and Passes

- Gift rules apply to event tickets and passes, even if provided to the District and passed through to the official.
- Includes admission to events the District operates.



(2 Cal Code Regs. § 18944.1)

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Personal Advantages and Perks

Travel Payments from Others to Officials

- Form 700 reporting now requires that gifts of travel payments specify the travel destination. This is required beginning with the 2016 annual statement.
- Nonprofit organizations that regularly organize and host travel for elected officials valued at \$10,000 or more per year or \$5000 for a single person, must disclose the names of donors to the nonprofit in excess of \$1000 and donors who accompanied the elected official either personally, or through a representative, for any portion of the travel.

(Gov. Code §7207, 89506; 2 Cal. Code Regs. 18940, 18942)

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Personal Advantages and Perks

Authorized Expenditures

- Pursuant to District reimbursement policy.
- May only be for actual and necessary expenses.
- Know District policy and limits.
 - Rates for food, lodging, and transportation.
 - The importance of documentation.
- New credit card use policy pending.



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Personal Advantages and Perks

Best Practices: Personal Advantages & Perks

Laws

- Avoid perks and the temptation to rationalize about them.
 - Legally risky.
 - Public relations headache.



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Personal Advantages and Perks

Transportation Carriers

- Elected and non-elected officials cannot accept free or discounted transportation from transportation carriers (Cal. Const. Art. XII, § 7).
- Does not apply to employees.
- No distinction for personal or public business.
- Penalty is forfeiture of office.



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Personal Advantages and Perks

Misuse of Public Funds

- When not authorized or for a public purpose.
- Occurs when personal benefit is not merely incidental.



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Questions



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Personal Advantages and Perks

Use of District Resources

- Rule:**
 - Personal use of public resources prohibited (including staff time and agency equipment).
 - Political use of public resources also prohibited, includes support or opposition of candidates or local ballot measures.
- Purpose:** To restrict incumbent's advantages. (Penal Code § 424; Gov. Code §§ 1098, 8314; 2 Cal. Code Regs. § 18901.1; *Stenson v. Mott*)
- Mass Mailing Restriction:** May not use public funds to send 200 or more mass mailers containing the name or picture of elected official, except under very limited exceptions. (Gov. Code §§ 82041.5, 89001; 2 Cal. Code Regs. § 18901.1)

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Personal Advantages and Perks

Consequences of Violations

- Civil penalties: \$1,000/day fine plus 3X value of resource used.
- Criminal penalties: 2-4 year prison term plus disqualification from office.
- Can also have income tax implications.
- Costs for hiring defense lawyers.

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City of Lemoore
Ethics, Whistleblowing
Brown Act & Public
Service:
Biennial Training 2019
Part I

Presented by:
David Van Dusenberger

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Required Topics

• PART II

- Personal Financial Gain
- Personal Advantages and Perks

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The Brown Act Overview

Open meeting law

Except authorized closed sessions

Applies to all local agency legislative bodies and their committees and subordinate bodies

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Why are we here?

Required Biennial Ethics Training

Doing the Right Thing in the Public Interest

Spotting Issues Before They Become a Problem

Keeping Out of the Headlines (in a Bad Way)

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PART I

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What Does The Brown Act Require?

Actions & deliberations be taken openly & in public

Meetings are public, unless closed session allowed

Meeting agendas and packets must be available

Agenda posted on City website

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Required Topics

• PART I

- Brown Act
- Governmental Transparency and Fair Processes
- General Ethics Principles Beyond the Law (Whistleblowing)

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Brown Act Basics

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What is A Meeting?

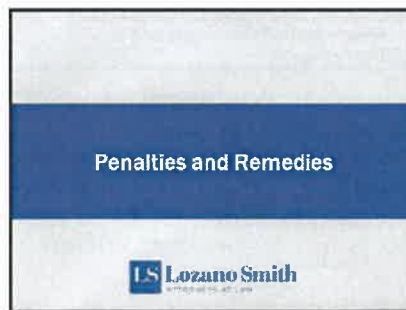
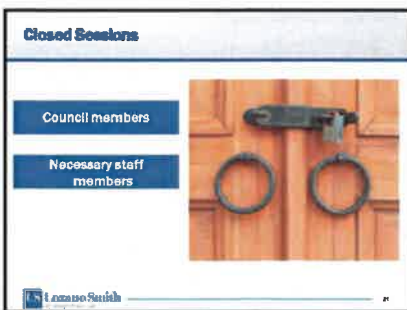
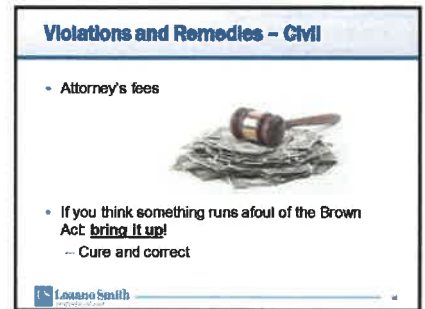
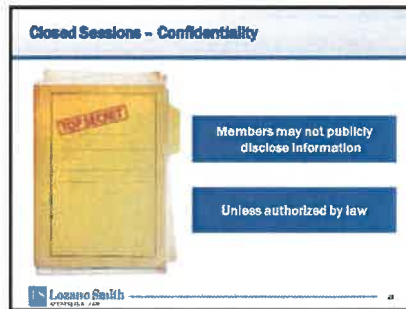
Majority of the members

At same time and place

To hear, discuss, or deliberate

Any Item In Agency's Jurisdiction

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Whistleblowers



Hero or Traitor?

US Leonardo Smith

Whistleblowers

Types of Whistleblowers

- "Passive": Do not actively volunteer their concerns
- "Active": Take affirmative action to voice their concerns
- "Incipient": Terminated in anticipation of passive or active opposition

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10 Rules of Public Service



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Whistleblowers



Hero or Traitor?

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Whistleblowers

Whistleblower Protection

- Federal:
 - U.S. Constitution, First Amendment
 - Civil Service Reform Act of 1978 (federal employees)
 - Whistleblower Protection Act of 1989 (federal employees)
- State:
 - Labor Code § 1102.5
 - Government Code § 9149.20, *et seq.*

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10 Rules of Public Service

1. Approach your job as a service to the public.
2. Promise only good, fair, and honest service.
3. Pay for your own lunch.
4. Buy your own tickets to events.
5. Accept gifts from friends and family. Return gifts from others.
6. Ask the City to pay for your business travel expenses.
7. Do personal business outside of workplace.
8. Be open and transparent.
9. Be honest and fair in all your dealings.
10. Always do the right thing even when no one is watching.

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Whistleblowers

whistleblower

noun whis-tle-blow-er \whis-uhl-bloh-er\

A person who raises questions about improper practices within an organization, which can include violations of company policy/rules, law, regulation, or threat to public interest/national security, as well as fraud, and corruption.

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Whistleblowers

No Retaliation or Interference

- No employees, elected officials, consultants, contractors, vendors or agents of the City should engage in any retaliatory personnel action against a whistleblower for:
 - Providing information;
 - Disclosing or threatening to disclose any activity that person believes to be wrongdoing; or
 - Objecting to or refusing to participate in wrongdoing
- If retaliation is suspected, it should be reported to the City Manager, the City Attorney or the Human Resources Division

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Questions



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City of Lemoore
Ethics, Whistleblowing
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Part II

Presented by:
David van Dinsbergen

LS Lozano Smith
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10 Rules of Public Service




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**PHONES
UP**

Required Topics



• **PART II**

- Personal Financial Gain
- Personal Advantages and Perks

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10 Rules of Public Service

1. Approach your job as a service to the public.
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9. Be honest and fair in all your dealings.
10. Always do the right thing even when no one is watching.

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How would you define corruption (using one to two words)?

PART II

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Interactive Presentation!

1. Open your browser on your cell phone
2. Go to: poliev.com/lozanosmith

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**PHONES
DOWN**

Inland Empire, CA

- For 6 years, the FBI and District Attorney investigated local public agencies in Riverside and San Bernardino Counties.
- City of Beaumont: Former City Manager, Police Chief, Public Works Director, City Attorney, Economic Development Director, Finance Director, and City Planner all indicted for embezzlement and misappropriation of public funds.
- Vehicles of corruption included:
 - Bond refinancing
 - No-interest loans
 - Misappropriation of transportation development impact fees

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PHONES
DOWN

Personal Financial Gain

Bribery

Public officials may not solicit, receive or agree to receive a benefit in exchange for their official actions.

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PHONES
UP

What if a Red Flag is raised?



- Stop and confer: Supervisor, City Attorney's office, online resources, FPPC, etc.
- Often, a conflict of interest is not readily apparent.
- There are hundreds of constantly changing rules that apply. Know when to ask questions.

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PHONES
UP

What is the right thing to do?

Be open and fair to others.

Avoid self-dealing.

Do not work on projects that might have a financial effect on you or your family.

Remain impartial.

Avoid bias, whether for personal or financial reasons.

All of the above.

Personal Financial Gain



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What are some possible consequences for accepting a bribe?

Personal Financial Gain

Business Entities

- New "Catch-all" Test: Even if the business entity is not the subject of a governmental decision, the effect is material "if a prudent person with sufficient information would find it reasonably foreseeable that the decision's financial effect would contribute to a change" in the value of the business entity or stock.

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Personal Financial Gain

Real Property

- As of March 22, 2019
 - Materiality standards --
 - Within 500-foot of officials' property - presumption of material impact
 - 500-foot to 1000 (Need to review factors)
 - More than 1000 – presumption no material impact
 - However, always look at the facts and ask: Would a reasonable person believe that it is reasonably foreseeable the decision would influence the market value of the official's property.

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Personal Financial Gain – Real Property

• Port Hueneme

- FPCC fined councilman \$3,000 because he did not recuse himself from vote allowing for \$370,000 and \$762,000 in upgrades for Hueneme Beach Park and Moranda Park. His house is within 500 feet of the parks.
- Councilman argued that the improvements were minimal and that the 500-foot rule had become more of a "guideline" in recent years.

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Personal Financial Gain

Source of Income

- Look to income from the sale of goods and services, including a salary, income from the sale of personal or real property.
- Nexus Test: "the official receives or is promised the income to achieve a goal or purpose which would be achieved, defeated, aided, or hindered by the decision."

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Personal Financial Gain

Real Property

- 500-foot to 1000 factors
 - a decision will have a material impact on the official's property interest if:
 - it would change the parcel's development potential, income-producing potential, highest and best use, market value, or, if it would change the parcel's "character by substantially altering traffic levels, intensity of use, parking, view, privacy, noise levels, or air quality."

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Personal Financial Gain

If You Are Disqualified:

1. Do not participate
2. Do not discuss or influence (staff or colleagues)
3. Identify precise nature of conflict at meeting
4. Leave room (unless matter on consent)



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Personal Financial Gain

Source of Gifts

(\$500 or more)

- This section cross-references other materiality standards (business, real property).
- New standard where the source is a nonprofit. Materiality will exist "if the nonprofit will receive a measurable financial benefit or loss, or the official knows or has reason to know that the nonprofit has an interest in real property."

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California Case Study

"Port Hueneme councilman fined by state commission"



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Personal Financial Gain

Special Rules for Contracts

- Public officers may not be financially interested in a contract.
 - Applies to both oral and written contracts.
 - A legislative body cannot enter into a contract if a member has a financial interest in the contract.
- Limited Exception: "Rule of Necessity" (essential goods or services).
- Abstention required

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Personal Advantages and Perks

Gifts from City to Officials

- Considered reportable gifts to the official unless food, beverage, etc., of nominal value or lawful expenditure of public funds.
- Gift rules apply to City raffles unless an employee donates gift or gift is paid for by City (except tickets).
- Gift exchanges okay as long as gifts of similar value.

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Personal Advantages and Perks

Travel Payments from Others to City

- Must be made directly to City or coordinated with City
- Must be for official City business, as defined, but confer no personal benefit.
- Must be consistent with City's Travel Reimbursement Policy.



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Personal Advantages and Perks

Authorized Expenditures

- Pursuant to City reimbursement policy
- May only be for actual and necessary expenses
- Know City policy and limits
 - Rates for food, lodging, and transportation
 - The importance of documentation

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Personal Advantages and Perks

Tickets and Passes

- Gift rules apply to event tickets and passes, even if provided to the City and passed through to the official.
- Includes admission to events the City operates.
- Within 45 days of distribution, City must complete and post FPPC Form 802



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Personal Advantages and Perks

Travel Payments from Others to Officials

- A payment for travel *reasonably related to a governmental purpose* is reportable but not subject to the gift limitation or honoraria ban under two circumstances:
 - In connection with a speech given by the official; limited to the days immediately preceding and immediately following, and travel within the United States;
 - or
 - Payment is by a government agency.

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Personal Advantages and Perks

Misuse of Public Funds

- When not authorized or for a public purpose.
- Occurs when personal benefit is not merely incidental.



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Personal Advantages and Perks

Gifts from Family & Friends

- Gifts from spouses, children, parents, grandparents, grandchildren, siblings, in-laws, aunts, uncles, nieces and nephews, first cousins, are not "gifts," unless intermediary for someone else.
- Gifts among friends exchanged at holidays, birthdays, or similar occasions if not substantially disproportionate value
- Wedding gifts must be reported at 50% value, but there is no limit on the amount.
- Exception for bereavement offerings, acts of neighborliness, dating relationships, acts of human compassion.

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Personal Advantages and Perks

Use of City Resources

- **Rule:**
 - Personal use of public resources prohibited (including staff time and agency equipment).
 - Political use of public resources also prohibited, includes support or opposition of candidates or local ballot measures.
- **Purpose:** To restrict incumbent's advantages.
- **Mass Mailing Restriction:** May not use public funds to send 200 or more mass mailers containing the name or picture of elected official, except under very limited exceptions.

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Personal Advantages and Perks

Consequences of Violations

- Civil penalties: \$1,000/day fine plus 3X value of resource used
- Criminal penalties: 2-4 year prison term plus disqualification from office.
- Can also have income tax implications.
- Costs for hiring defense lawyers.



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Scenario 2: What should Joe do?

Make all the necessary arrangements with the City and insure that the event will go off smoothly.

Appoint someone else to make all the arrangements.

Just not worry about it.

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Scenario 3: Receipt of Gift Baskets

- During the holiday season, some vendors provide gifts to the City for whom they do business or would like to do business. An engineering firm has provided 10 employees gift baskets valued at \$75.00 each.

QUESTION: Can the employees accept the gift?

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Scenario 4: Discounted Carpet Through Developer Account

- Nancy is an employee of the Planning Division. At a social function Nancy's husband Jim meets Frank, a local developer and tells Frank that they are shopping for new carpet. Frank gives Jim one of his business cards and says show it to the salesman at the "Thread Bare Carpet Store" which is known to have the best deals in town any way and tell the salesman you would like to get the company discount. The developer doesn't receive any money from Nancy or Jim, spend any money on Nancy or Jim, or even provide the store any personal direction.

QUESTION: Should Nancy take advantage of the discount?

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Scenario 2

CORRECT ANSWER: ?

- Joe does not have a financial conflict since he is an officer for a non-profit company and receives no compensation. However, he needs to watch for an unlawful use of City resources (staff time, use of City facilities and equipment). He should also look for the appearance of impropriety and ethics principles may apply even if no legal conflict.

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Scenario 3: Can the employees accept the gift?

Yes, the basket would look beautiful under your tree.

No, it is not ok, but everyone does it and it is an accented norm.

No, the employee may not accept the gift.

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Scenario 4: Should Nancy take advantage of the discount?

Yes, Nancy should present the card to the sales man at the Thread Bare Store and see if she can get a better price than what just happened.

No, Nancy should drop the card in the trash and continue ahead with shopping and negotiating elsewhere.

Nancy should continue to shop for carpet but avoid the Thread Bare Carpet Store, even if she has to pay more somewhere else.

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GIFTS AND SIMILAR PERKS

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Scenario 3

CORRECT ANSWER: #3.

- No, the employee may not accept the gift. City policy prohibits receipt of such gifts. For employees required to report gifts, such gifts would also be reportable since they exceed \$50.

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Scenario 4

CORRECT ANSWER: # 2.

- The value of the discount likely meets the threshold for having a personal financial effect on Nancy. If Nancy accepts the discount she will be disqualified from working on any projects involving the developer. Nancy can continue to negotiate with Thread Bare on terms available to the public generally.

Note: To avoid even the appearance of impropriety, Nancy may wish to return the card to the Developer.

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Scenario 7: How should John proceed?

Review the staff report, call staff with any questions, to the Commission, and fill comments with the location of the building and the regulations that determine during voting on the matter.

Refresh from all possible parties in the matter, including the deliberations.

Prior to the Commission's consideration of the matter, identify any financial interests because he may be becoming within 500 feet and receive funds from the matter within the matter of the matter.

Scenario 8: What should Susan do during the public hearing?

Indicate the neighborhood association and any other issues in opposition to the project.

State her concerns with the neighborhood association on the record but express her belief that she can be helpful and therefore participate as usual.

Resist her urge to participate in the proceedings because of her prior contact with the neighborhood association and pre-conceived opposition to the project.

What's New for 2019?



- Basic principles still apply.
- May now be more cause to seek FPPC advice on certain issues.

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Scenario 7

CORRECT ANSWER: # 2 and # 3.

- A land use decision within 500 feet of property owned or leased by the official is presumed to have a material financial effect. The Planning Commissioner may still speak as a member of the public to express his concerns.

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Scenario 8


CORRECT ANSWER: # 3.

- Although there is no financial conflict of interest, Susan's pre-conceived position and contact with the neighborhood association could be deemed to deprive the applicant of a fair hearing under common law bias/ due process principles. Query whether project applicants need to raise the bias issue. (*Nasha v. City of Los Angeles* (2004) 125 Cal.App.4th 470.)

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Additional Resources

- Institute for Local Government
www.ca-ilg.org
- California Fair Political Practices Commission
www.fppc.ca.gov
- California Attorney General
www.oag.ca.gov/publications



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Scenario 8: Council Member Contact with Neighborhood Association

- Susan is a council member. She had concerns about a project in an environmentally sensitive area. She met with members of a neighborhood association opposed to the project and discussed the project with them. The project came to the Council for consideration of discretionary permits. The neighborhood association came to the meeting and opposed the project.

QUESTION: What should Susan do during the public hearing?

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PHONES DOWN

Questions



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EXHIBIT 1-B

**March 20, 2018 Minutes
Study Session
City Council Meeting**

CALL TO ORDER:

At 5:30 p.m., the meeting was called to order.

ROLL CALL: Mayor: MADRIGAL
Mayor Pro Tem: NEAL
Council Members: BLAIR, BROWN, CHEDESTER
Council Member Blair arrived at 6:30 p.m.

City Staff and contract employees present: City Manager Olson; Assistant City Manager Speer; City Attorney Van Bindsbergen; Finance Director Corder; Parks and Recreation Director Glick; Police Commander Ochoa; City Clerk Venegas; Administrative Assistant Avalos.

PUBLIC COMMENT

There was no Public Comment.

5:30 pm STUDY SESSION

SS-1 Kings County Association of Governments

Terri King with Kings County Association of Governments introduced Consultant Kendall Flint who presented the Kings Regional Vision Scenarios.

- *What is KCAG and what do we do?*
- *What is Kings Regional Vision:*
- *What must the Plan do?*
- *What is a "Scenario"?*
- *Main Elements of Scenario Development*
 - *Alternative Fuel vehicles*
 - *Transportation*
 - *Land Use*
 - *Bike/Pedestrian*
- *Scenario A*
 - *Active Transportation focused*
- *Scenario B*
 - *Alternative Fuel focused*
- *Scenario C*
 - *Aggressive Fuel focused*
- *Scenario D*
 - *Balanced solution*
- *Upcoming Workshops*

SS-2 Lemoore City Council Rules of Procedure

City Clerk Venegas presented a PowerPoint on the following:

PUBLIC COMMENT

Rebecca Bell provide a brief summary of the Children's Storybook Garden and Museum. Volunteers are requested. The museum offers something for everyone. April 15th is Earth Day.

Crystal Jackson on behalf of the NAACP extended a personal thank you to Frank Rivera and his crew as well as Mellanie from Public Works. Most of the problems on Belinda have been resolved.

Jan Savage requested a change to the speed limit on 18th Street between D Street and Bush be changed from 25 mph to 30 mph.

CEREMONIAL / PRESENTATION – Section 1

1-1 Recognition of Naval Air Station Lemoore Liaison Marlana Brown

Mayor Madrigal thanked Naval Air Station Lemoore Liaison Marlana Brown for her service to the community. It has been greatly appreciated. Ms. Brown was not in attendance as she had already left for her next assignment.

DEPARTMENT AND CITY MANAGER REPORTS – Section 2

2-1 Department & City Manager Reports

Acting Public Works Director Rivera said staff has worked hard to get all street lights fixed. A study session will be held in the future regarding the street light outage process.

City Manager Olson introduced John Derrickson as the Interim Liaison for Naval Air Station Lemoore. Also, Peter from Union Pacific was contacted regarding the lease on property expiring and he was willing to add additional property to the lease. He is also the person to speak with regarding blight.

CONSENT CALENDAR – Section 3

- 3-1 Approval – Minutes – Special Meeting – February 25, 2018
- 3-2 Approval – Minutes – Regular Meeting – March 6, 2018
- 3-3 Approval – Transportation Development Act Fund Claim for Fiscal Year 2018-19 – Resolution 2018-09
- 3-4 Approval – Notice of Completion – CIP 5006 – 2017 Slurry Seal Project
- 3-5 Approval – Notice of Completion – Well 7 and 12 Rehabilitation
- 3-6 Approval – Budget Amendment – City Clerk's Annual Conference
- 3-7 Approval – Name Change from Opal Drive to Opal Avenue within Tract 797 – Phase 2 – Resolution 2018-10
- 3-8 Approval – Salary Range for Building Official/Superintendent – Resolution 2018-11
- 3-9 Approval – Budget Amendment – AP72 Equipment Lease

Council Member Blair pulled Items 3-6, 3-8 and 3-9 for separate consideration.

Motion by Council Member Chedester, seconded by Council Member Neal, to approve the Consent Calendar, excluding items 3-6, 3-8 and 3-9.

Ayes: Chedester, Neal, Brown, Blair, Madrigal

Public Hearing opened at 8:33 p.m.

Spoke: Rebecca Bell

Public Hearing closed at 8:37 p.m.

Motion by Council Member Chedester, seconded by Council Member Neal, to adopt Resolution 2018-12, approving the Initial Study/Negative Declaration (IS/ND) for the new well and storage tank, Well 15 project (CIP 5203).

Ayes: Chedester, Neal, Brown, Blair, Madrigal

NEW BUSINESS – Section 5

5-1 A Debt Issuance and Management Policy – Resolution 2018-13

Motion by Council Member Brown, seconded by Council Member Blair, to adopt Resolution 2018-13, regarding the adoption of a Debt Issuance and Management Policy.

Ayes: Brown, Blair, Chedester, Neal, Madrigal

5-2 Intention to Increase the Assessment in Landscape and Lighting Maintenance District (LLMD) No. 1, Zones 01, 05, 06, 07, 09, 10 and 11 for Fiscal Year 2018/2019 and Thereafter – Resolution 2018-14

*Spoke: Jim McGuire
Crystal Jackson
Chelsea Shannon*

Motion by Council Member Blair, seconded by Council Member Neal, to adopt Resolution 2018-14 declaring the City's intention to increase the assessment in Landscape and Lighting Maintenance District (LLMD) No. 1 Zones 01, 05, 06, 07, 09, 10 and 11 in the City of Lemoore, and levy and collect increased assessments in such for fiscal year 2018-2019 and thereafter.

Ayes: Blair, Neal, Chedester, Brown, Madrigal

CITY COUNCIL REPORTS AND REQUESTS – Section 6

6-1 City Council Reports / Requests

Council Member Blair thank you for your patience. Attended Farm Day at State Capital. Met with a few Senators after their caucus meetings. Communication has been great and the transition has been smooth. All have heart of City. Thank you to Council Members, City Attorney and City Manager.

Council Member Brown thank City Manager and staff for all they do. Would like consent to look into existing vehicle parking for big trucks in Lemoore. Thinking about ways to enhance downtown economic development and supporting the existing downtown businesses. Would also like consent to ask City Manager to look into way the costing of water, sewage and refuse service for downtown and other businesses in Lemoore that are not metered. Consensus by Council was received to look at parking in general and privately owned vacant lots as well as non-meter costing.

**April 10, 2018 Minutes
Lemoore City Council
Special City Council Meeting**

CALL TO ORDER:

At 5:30 p.m., the meeting was called to order.

ROLL CALL: Mayor: MADRIGAL
Mayor Pro Tem: NEAL
Council Members: BLAIR, BROWN, CHEDESTER

City Staff and contract employees present: City Manager Olson; Assistant City Manager Speer; City Attorney Van Bindsberge; Public Works Director Rivera; Community Development Director Holwell; Police Chief Smith; Parks and Recreation Director Glick; Finance Director Corder; City Clerk Venegas.

PUBLIC COMMENT

There was no public comment.

STUDY SESSION – Section 1

SS-1 Lemoore City Council Rules of Procedure (Olson)

City Clerk Venegas presented the Rules of Procedure. Corrections were made as recommended at the previous City Council meeting for clarification such as "change member to council member" throughout. Formatting will be addressed in the final draft once all edits are accepted.

Consensus by Council was received on each page there was an addition or correction.

Spoke:

*Tom Reed
Chelsea Shannon
Police Chief Darrell Smith
Dr. Gayle Cromes, President of NAACP
Crystal Jackson, NAACP representative
Connie Wlaschin*

Council Member Brown stated Council Member Blair's implied threats to Lemoore Police Department regarding a recent traffic stop, inappropriate facebook posts and negative comments concerning the senior age of participants during council meeting and community meetings could create an unneeded risk to the city. Council Member Brown asked to place council member conduct on the next agenda. Consensus was received to place the item on the next agenda.

Council Member Chedester stated please be careful of what post on social media, whether personal or not.

Mayor Madrigal believes council is held to a higher standard.

**April 17, 2018 Minutes
Lemoore City Council
Regular City Council Meeting**

CALL TO ORDER:

At 7:31 p.m., the meeting was called to order.

ROLL CALL: Mayor: MADRIGAL
Mayor Pro Tem: NEAL
Council Members: BLAIR, BROWN, CHEDESTER

City Staff and contract employees present: City Manager Olson; Assistant City Manager Speer; City Attorney Van Bindsbergen; Public Works Director Rivera; Community Development Director Holwell; Police Chief Smith; Finance Director Corder; Parks and Recreation Director Glick; Deputy City Clerk Lourenco; Management Analyst Beyersdorf.

PUBLIC COMMENT

John Dirickson invited council to join Captain James for a base tour on Thursday, May 24th at 9:00 AM.

Amy Ward thanked the Council and City staff for helping during the Pizza Festival. The support from the City during the event was the best it has ever been.

Ray Etchegoin commented about the communication between the City and residents. He informed council that there is no information regarding council meetings on the city website and navigation is difficult. He suggested the addition of a calendar on the new website.

CEREMONIAL / PRESENTATION – Section 1

There were no Ceremonial / Presentations.

DEPARTMENT AND CITY MANAGER REPORTS – Section 2

2-1 Department & City Manager Reports

Chief German updated Council on the monthly call report for LVFD for the month of March. A total of 158 calls were responded to, 135 EMT calls and 17 Fire calls.

CONSENT CALENDAR – Section 3

- 3-1 Approval – Minutes – Regular Meeting – April 3, 2018
- 3-2 Approval – Minutes – Special Meeting – April 10, 2018
- 3-3 Approval – Senate Bill 1 Road Maintenance and Rehabilitation Account Project List for Fiscal Year 2018/2019 – Resolution 2018-15
- 3-4 Approval – Resolution 2018-16 to change Daphne Street to Daphne Lane within Tract 921
- 3-5 Approval – Removal of Downtown Merchants Advisory (DMA) Committee Member
- 3-6 Approval – Website Development Contract – Change Order No 1 in the amount of \$1,880

Mayor Madrigal asked for consensus from the Council for staff to bring forth a formalized communication plan to an upcoming meeting. He would like to see the City be more consistent with advertising for events, possibly through Instagram, Twitter, Facebook and text messages.

ADJOURNMENT

At 9:50 p.m., the meeting adjourned.

Approved the 1st day of May 2018.

ATTEST:

APPROVED:

Mary J. Venegas
City Clerk

Ray Madrigal
Mayor

Thomas Reed

Mayor, Council Members:

Mayor Neal: The problems stated by the Grand Jury report did not begin with you. They began 2 years before you became Mayor. And, we all know why they started.

Matthew 5:9 says: Blessed are the peace makers, for they shall be called the children of God.

Mayor Neal, I truly believe you are a peace maker. I believe you do not want to offend anyone or to embarrass anyone. I also believe that you are a great ambassador for the City of Lemoore, but sometimes I believe that you may be too nice for some of the responsibilities you have.

I leave you with this, Isaiah 41:13: For I the Lord thy God will hold thy right hand, saying unto thee, fear not, I will help thee.

A handwritten signature in black ink that reads "Thomas R. Reed". The signature is written in a cursive, flowing style with a large, stylized 'T' and 'R'.

Thomas R. Reed

06/18/2019