



CITY OF  
**HAYWARD**  
HEART OF THE BAY

## Special Meeting

### CITY MANAGER'S OFFICE

#### Council Appointed Officers Committee Meeting

Date: February 7, 2011

Time: 3:00 pm

Room: 4B, City Hall

777 B Street

Hayward, CA 94541

#### AGENDA

*Public Comments: (Note: For matters not otherwise listed on the agenda. The Committee welcomes your comments under this section, but is prohibited by state law from discussing items not listed on this agenda. Your item will be taken under consideration and referred to staff.)*

1. Revisions to Council Member Handbook
2. Council Appointed Officers Assessment Process and Timelines
3. Next Meeting Date: To Be Determined

#### Distribution:

Mayor and City Council  
City Manager  
City Attorney  
City Clerk  
Assistant City Manager  
Director of Finance

Development Services Director  
Fire Chief  
Human Resources Director  
Library Director  
Police Chief  
Public Works Director

Maintenance Services Director  
Daily Review  
Interested Parties  
Post

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Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Interested persons must request accommodations at least 48 hours in advance of the meeting by contacting the Assistant City Manager at (510) 583-4300 or TDD (510) 247-3340.

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CITY OF  
**HAYWARD**  
HEART OF THE BAY

**DATE:** February 7, 2011

**TO:** Council Appointed Officers Committee

**FROM:** City Manager  
City Attorney  
City Clerk

**SUBJECT:** Revisions to Council Member Handbook

**RECOMMENDATION**

That the Committee discusses and provides recommendations to Council on proposed changes to the Council Member Handbook.

**DISCUSSION**

Attachment I to this report provides revised language for the Council Member Handbook on Council and Public Decorum and Order at meetings. Staff has revised this language pursuant to comments received prior to the December 14, 2010 Council meeting and is seeking further input and comment from the Committee.

*Prepared by:* Kelly McAdoo Morariu, Assistant City Manager

Approved by:

Fran David, City Manager

Attachments:

Attachment I – Proposed Council Member Handbook Language

**Attachment I – Proposed Council Member Handbook Language  
February 7, 2011**

**Decorum and Order - Council Members**

(a) Any Council Member desiring to speak shall address the Chair and, upon recognition by the Mayor, shall confine himself/herself to the question under debate.

(b) A Council Member desiring to question a staff member shall address his/her question to the City Manager, City Attorney, or the City Clerk in appropriate cases, who shall be entitled to answer the inquiry himself/herself or to designate some member of the staff for that purpose.

(c) A Council Member, once recognized, shall not be interrupted while speaking unless called to order by the Mayor; unless a Point of Order is raised by another Council Member; or unless the speaker chooses to yield to questions from another Council Member.

(d) Any Council Member challenged while speaking, shall cease speaking immediately until the question of order is determined. If ruled to be in order, he/she shall be permitted to proceed. If ruled to be not in order, he/she shall remain silent or shall alter his/her remarks so as to comply with rules of the Council.

(e) Council Members shall accord the utmost courtesy to each other, to City employees and to the public appearing before the Council, and shall refrain at all times from rude and derogatory remarks, reflections as to integrity, abusive comments, and statements as to motives and personalities.

(f) Any Council Member may move to require the Mayor to enforce the rules and the affirmative vote of a majority of the Council shall require him/her to so act.

(g) Section 611 of the City Charter provides that the City Council may determine its own rules of procedure, may punish its members for disorderly conduct and compel their attendance at Council meetings. In addition to the sanctions identified herein, the failure of a Council Member to observe these rules of decorum may warrant his or her removal from the Council Chambers in accordance with the procedures described in the section entitled "Enforcement of Decorum" below.

**Sanctions and Procedures for Violations of Rules of Decorum and Order**

(h) Council Members who fail to observe these rules of Decorum and Order, or violate any state or federal law, the City Charter, or any City ordinance or policy, may be reprimanded or formally censured, lose seniority or committee assignments (both within the City of Hayward or with

**Attachment I – Proposed Council Member Handbook Language**  
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inter-government agencies), have official travel restricted or be ordered to attend Council meetings, if the Council Member is absent without justification. Serious infractions of these rules of Decorum and Order could lead to other sanctions as deemed appropriate by the Council, including, but not limited to, referral to the Alameda District Attorney and/or Civil Grand Jury if the conduct is egregious or allegedly criminal in nature. Council Members should point out to the offending Council Member any perceived infraction of these rules of Decorum and Order as it occurs. No Council Member shall be reprimanded, sanctioned or censured for the exercise of his or her First Amendment rights. However, nothing herein shall be construed to prohibit the City Council from individually or collectively condemning or expressing disapproval of behavior in violation of these rules.

(i) It is the responsibility of the Mayor to initiate formal action if a Council Member's behavior may warrant reprimand, sanction or censure. If no action is taken by the Mayor, action on the alleged violation may be placed on a future agenda for consideration by a majority of the full Council.

(j) Reprimand is the least severe form of action for a violation of these rules and may be issued by majority vote of the City Council without findings of fact or investigation. Reprimand is not considered a sanction or censure.

(k) Formal censure, loss of seniority or committee assignments and travel restrictions may be requested by any Council Member in writing submitted to the Mayor. The written request must set forth specific allegations of violations of state or federal law, the City Charter, or City ordinances or policies, including these rules of Decorum and Order, upon which the proposed sanction is based. If the Mayor determines that the request for censure or sanction warrants Council consideration, the request shall be scheduled for consideration by the Council at the next regularly scheduled Council meeting. If a majority of the Council wishes to take action on the request for sanction or censure, the request shall be scheduled for public hearing far enough in advance to give the affected Council Member adequate time to prepare a response to the request. The Council Member shall be given the opportunity to make opening and closing statements; to present or question witnesses; and is entitled to be represented by an advisor or counsel of his or her choosing. The Mayor, or the Mayor Pro Tempore if the Mayor is the subject of the sanction request, shall preside over the proceedings. The rules of evidence shall not apply. The City Attorney or his or her designee shall provide legal advice to the Council, as needed. A decision to censure or impose other sanction requires the adoption of a resolution containing findings with respect to the specific charges, based on substantial evidence, by a two-thirds vote of the Council.

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**DECORUM AND ORDER - PUBLIC**

Members of the Public attending Council meetings shall observe the same rules of order and decorum applicable to the Council

Each person who addresses the Council from the podium shall do so in an orderly manner and shall not make personal, slanderous, or profane remarks to any member of the Council, staff, or general public. Any person who makes such remarks, or who utters loud, threatening, personal, or abusive language, or engages in any other disorderly conduct which disrupts, disturbs, or otherwise impedes the orderly conduct of any Council meeting, whether from the podium or in the audience, may, at the discretion of the Mayor after observance of the procedure for enforcement of decorum described below, be escorted from Council Chambers and barred from further audience before the Council during that meeting. These rules shall be enforced as set forth in the section entitled "Enforcement of Decorum" below.

**ENFORCEMENT OF DECORUM**

The Chief of Police or his/her representative shall be ex-officio Sergeant -at-Arms of the Council. He/she shall carry out all orders and instructions given him/her by the Mayor for the purpose of maintaining order and decorum in the Council Chambers. Upon instructions from the Mayor, it shall be the duty of the Chief of Police or his/her representative to eject any person from the Council Chambers or place him/her under arrest or both.

As set forth in the Brown Act (Government Code Section 54957.9), in the event that any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are willfully interrupting the meeting, the members of the Council may order the meeting room cleared and continue in session. Only matters appearing on the agenda may be considered in such a session. Representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section. Nothing in the section shall prohibit the legislative body from establishing a procedure for readmitting an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting.

Decorum and order shall be enforced in the following manner:

(a) **Warnings.** The Mayor shall ask that any person violating the rules of decorum be orderly and silent. The warning shall be in substantially the form described below. If, after receiving a clear warning from the Mayor, the person persists in disturbing the

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meeting, the Mayor may order a brief recess of the Council to regain order. If the person persists in disturbing the meeting, despite having been previously warned, the Mayor may order him or her to leave the Council meeting. If the person does not depart the Council chambers of his or her own volition, the Mayor may order any law enforcement officer who is on duty at the meeting as Sergeant-at-Arms of the Council to escort that person from the Council chambers.

(b) Text for Warning. The Mayor shall deliver the requisite warning in substantially the following form:

You are hereby advised that your conduct is in violation of the Rules of Order and Decorum of the City Council and California Penal Code Section 403, and you are directed to be orderly and silent. Penal Code Section 403 states that any person who, without authority of law, willfully disturbs or breaks up a lawfully convened meeting of the City Council is guilty of a misdemeanor. Continued disruption of this City Council meeting will result in your removal from the meeting by the Sergeant-at-Arms and you will not be permitted to return to Council chambers for the duration of the meeting. In addition, any continued disruption of this meeting is grounds for your being arrested and charged with a misdemeanor. Do you understand this admonition?

(c) Removal. Any law enforcement officer who is serving as Sergeant-at-Arms of the Council shall carry out all orders and instructions given by the Mayor for the purpose of maintaining order and decorum at the Council meeting. Upon instruction of the Mayor, it shall be the duty of the Sergeant-at-Arms to remove from the Council meeting any person who is disturbing the proceedings of the Council. Removal of a disruptive member of the public from Council chambers shall be accomplished by the Sergeant-at-Arms or other sworn law enforcement officers only.

(d) Misdemeanor. Any person who willfully disturbs or breaks up a Council meeting may be arrested and charged with a misdemeanor, pursuant to California Penal Code Section 403.

(e) Motion to Enforce. If the Mayor fails to enforce the rules set forth above, any member of the Council may move to require the Mayor to do so and, by an affirmative vote of a majority of the Council, shall require the Mayor to do so. If the Mayor of the Council fails to carry out the will of a majority of the Council, the majority may designate the Mayor Pro Tempore to act as Presiding Officer for the limited purpose of enforcing these rules of decorum.

**Attachment I – Proposed Council Member Handbook Language  
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Attendance at Council Meetings does not provide individuals or groups immunity of protection when their conduct is in violation of any other laws (California Penal Code, City of Hayward Municipal Code, etc.). The Sergeant-at-Arms should and will be called upon by the Mayor to enforce these laws at Council Meetings.



CITY OF  
**HAYWARD**  
HEART OF THE BAY

**DATE:** February 7, 2011  
**TO:** Council Appointed Officers Committee  
**FROM:** City Manager  
**SUBJECT:** Council Appointed Officers Assessment Process and Timelines

**RECOMMENDATION**

That the Committee discusses and provides recommendations to Council on the process and timelines for conducting annual Council Appointed Officer accountability and performance reviews.

**DISCUSSION**

One of the key roles of the newly formed Council Appointed Officers Committee is “scheduling and coordinating annual evaluations of appointed officers.” At the December 1, 2010 CAO Committee meeting, the Committee discussed elements of a proposed process and timeline for annual assessments of the appointed officers. Attached to this report is an overview of the proposed process discussed at the December meeting, along with proposed schedules to complete this and next years’ assessments (Attachment I).

Staff is providing background information in this report regarding the timing of each officer’s assessment to assist the Committee in formulating recommendations to Council on the annual schedule and process for the assessments. Creating an annual schedule will enable increase executive accountability and allow for adequate preparation and scheduling of meetings with the Council to accomplish the assessments within the established timeframes.

*Prepared by:* Kelly McAdoo Morariu, Assistant City Manager

Approved by:

  
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Fran David, City Manager

**Attachments:**

**Attachment I – Proposed Council Appointed Officer Assessment Process and Timelines**

**Attachment I - Proposed Process for Council Appointed Officer Evaluations (Draft One)**  
**February 7, 2011**

- 1) CAO to prepare report to include:
  - Annual accomplishments – how have Council priorities been supported? How have they done versus the last evaluation?
  - Self-evaluation
  - Proposed goals for upcoming yearReport to be provided to Council prior to first Closed Session
  
- 2) Closed Session #1: For each CAO, the Council will hold an initial closed session to hear the CAO's summary presentation of the report from #1 above, and to begin the conversation about the CAO's performance. The Council may excuse the CAO at the end of the meeting to continue their discussion.
  
- 3) Closed Session #2: The Council and CAO meet together (preferably one-two weeks after the initial closed session) to continue the dialogue about overall performance. This session may also include establishment of goals for the upcoming year and discussion of changes to contract terms and/or compensation. The Council may excuse the CAO at the end of the meeting to discuss any final comments and to discuss elements of evaluation summary to be provided to CAO.
  
- 4) CAO Committee: The CAO Committee may meet at any point in the process to facilitate the conversation between Council and CAO, draft any needed documents or written positions for Council's consideration, and to finalize the written evaluation summary. After approval by Council, the evaluative document will be provided to the CAO.
  
- 5) Closed Session #3 (optional): After finalizing the evaluation summary, either the Council or CAO may request another closed session to discuss the summary document or any remaining items.
  
- 6) The City Attorney will review all employment contracts other than his/her own prior to Council approval. The City Manager will review the City Attorney's contract prior to Council Approval.
  
- 7) Working through the City Manager, the Human Resources Director will be available to the Council and Committee to provide requested compensation analysis or other information related to salary and benefits for CAOs related to "market".
  
- 8) Working through the City Manager, the Assistant City Manager will be assigned to staff the CAOC, and to provide support to the Committee through the annual CAO evaluative process.

Proposed Schedule – 2010 Evaluations

City Manager:

- Complete for 2010

**Attachment I - Proposed Process for Council Appointed Officer Evaluations (Draft One)**  
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City Clerk:

- Annual Report finalized – 2/10/2011
- Closed Session 1: 2/15/2011
- Closed Session 2: 3/1/2011

City Attorney:

- Annual Report finalized – 3/10/2011
- Closed Session 1: 3/15/2011
- Closed Session 2: 4/5/2011

Proposed Schedule – Future Evaluations

City Manager (Contract provides for annual evaluation in December each year):

- Annual Report finalized – Thursday prior to last November Council meeting
- Closed Session 1: Last November Council meeting
- Closed Session 2: Third December Council meeting

City Clerk (annual contract renewal date – March 16):

- Annual Report finalized – Thursday prior to last February Council meeting
- Closed Session 1: Third February Council meeting
- Closed Session 2: First March Council meeting

City Attorney (annual contract renewal date – January):

- Annual Report finalized – Thursday prior to last December Council meeting
- Closed Session 1: Last December Council meeting
- Closed Session 2: First January Council meeting