The Brown Act provides an opportunity for members of the public to directly address the legislative body on any item of interest to the public before or during the Commission’s consideration of the item. If you wish to speak regarding an agenda item, please fill out a speaker’s slip and give it to the Minutes Clerk who will forward it to the Chair. If you wish to speak concerning an item not on the agenda, you may do so under Oral Communications.

The City of Escondido recognizes its obligation to provide equal access to services to those qualified individuals with disabilities. If you need special assistance to participate in this meeting, please contact our ADA Coordinator at 839-4641. Notification 24 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility.

1. **Roll Call** – City Clerk

2. **Oath of Office** – City Clerk

3. **Election of Chair and Vice-Chair**
   
   Selection of a Chair and Vice-Chair.

4. **Oral Communications**

   “Under State law, all items under Oral Communications can have no action and will be referred to the staff for administrative action or scheduled on a subsequent agenda.”

   This is the opportunity for members of the public to address the commission on any item of business within the jurisdiction of the commission.

5. **Ralph M. Brown Act and Conflicts of Interest**

   Presentation of Brown Act and Conflict of Interest memorandums by City Attorney's Office: Allegra Frost.
6. **Overview of the Districting Process**

   Staff PowerPoint presentation summarizing the districting process and requirements.

7. **Retention of Expert Consultant**

   Presentation of Staff Report providing information on recommended redistricting expert, Doug Johnson. (Staff Report presented by City Attorney’s Office: Allegra Frost). Possible presentation by National Demographics Corporation.

8. **Commission Calendar and Timeline**

   Presentation of a Staff Report regarding the purpose, requirements and timeline of the Districting Commission. Discussion of upcoming meetings and public hearings, including dates, times and locations. The Commission may direct staff to research and/or reserve possible locations for future meetings.

   Staff recommends that the Commission members review the timeline for processing the Districting Plan; discuss with and provide direction to staff for establishing dates, times and locations for the six (6) required public hearings. (Staff Report presented by City Clerk’s Office: Diane Halverson).

9. **Commission Budget**

   Presentation of Staff Report and proposed Districting Commission budget. Discussion of budgetary requirements of the Districting Commission, including an expert consultant, translation services, and noticing. Possible action. (Staff Report presented by City Clerk’s Office: Diane Halverson).

10. **Future Agenda Items**

    The purpose of this item is to identify issues presently known to staff or which members of the Commission wish to place on an upcoming Commission agenda. Commission comment on these future agenda items is limited by California Government Code Section 54954.2 to clarifying questions, brief announcements, or requests for factual information in connection with an item when it is discussed.

11. **Adjournment**
TO: INDEPENDENT DISTRICTING COMMISSION MEMBERS

FROM: JEFFREY R. EPP, City Attorney
      ALLEGRA FROST, Deputy City Attorney

SUBJECT: Ralph M. Brown Act and Conflicts of Interest Training

Welcome and thank you for your service as a Districting Commissioner. The attached materials provide important information regarding the Ralph M. Brown Act and Conflicts of Interest laws which apply to you. Please contact either City Attorney Jeff Epp (839-4897) or Deputy City Attorney Allegra Frost (839-4591) if you have any questions regarding these laws.

Respectfully submitted,

JEFFREY R. EPP
City Attorney

ALLEGRA FROST
Deputy City Attorney

Staff Report – Independent Districting Commission
July 29, 2013

TO: COMMISSION MEMBERS

FROM: JEFFREY EPP, City Attorney

SUBJECT: Ralph M. Brown Act, California Government Code Section 54950 et seq.

The Ralph M. Brown Act ("Brown Act") requires all action and deliberation of legislative bodies of local agencies to be taken and conducted openly. It is important for you to be aware of the provisions of the Brown Act, so that your job is carried out within the requirements of the law. This memorandum will give you an overview of the requirements of the Brown Act. In addition, the City Attorney's Office is always available and encourages any specific questions you may have regarding the Brown Act. You may call either myself or Deputy City Attorney Allegra Frost at 839-4608.

INTENT:

The intent of the California Legislature in passing the open meeting law is strongly stated by Government Code Section 54950:

"The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created."

BASIC REQUIREMENT:

The basic requirement of the Brown Act is stated in Government Code Section 54953(a):

"All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency. . . ."

WHO IS COVERED:

Government Code Section 54952 defines the term "legislative body" to specifically include not only the city council, but all boards and commissions of the city council, including advisory commissions.

The Brown Act also applies to committees which are composed of less than a
quorum of the legislative body, if they are "standing committees" which either have continuing subject matter jurisdiction or a meeting schedule established by formal action of the legislative body. See Government Code §54952(b). Temporary, ad hoc committees continue to be exempt from the Brown Act, provided they consist of less than a quorum of the legislative body.

In 1997, the Legislature adopted Government Code §54952.2(c)(6) to allow meetings involving:

The attendance of a majority of the members of a legislative body at an open and noticed meeting of a standing committee of that body, provided that the members of the legislative body who are not members of the standing committee attend only as observers.

The Attorney General has since issued an opinion interpreting the phrase allowing the additional member to attend standing committee meetings "as an observer." The Attorney General concluded that although attendance is permitted, members of the legislative body of a local public agency may not ask questions or make statements while attending a meeting of a standing committee of a legislative body as observers, nor may members of the legislative body of a local public agency sit in special chairs on the dais while attending a meeting of a standing committee of the legislative body as observers.

For purposes of noticing such meeting, the law provides that meetings of advisory committees or standing committees are considered as regular meetings of the legislative body. This means that there are no special meeting type of notice requirements for the meetings of advisory or standing committees.¹

The Act applies to members of a legislative body from the time they are elected to office, even if they have not yet assumed the duties of the office.

**MEETINGS:**

The term "meeting" includes much more than simply a formal and official gathering. A meeting is a gathering of a quorum, no matter how informal, where business of the board or commission is discussed or transacted. Therefore, any time a quorum of your group is gathered, and the business of that group is discussed, the Brown Act will apply.

The Brown Act also provides that "any use of direct communication, personal intermediaries, or technological devices that is employed by a majority of the

¹ On February 17, 1999, the City Council designated all City Council subcommittees to be considered "standing subcommittees." The City Council also voted unanimously to allow members of the public to attend all subcommittee meetings. In light of this Council action, all subcommittee meetings constitute "meetings of the legislative body" subject to the legal requirements set forth in the Brown Act.
members of the legislative body to develop a collective concurrence as to action to be taken on an item...is a meeting. Thus, use of electronic mail, telephones, and so forth can amount to a meeting.

Meetings can also include situations where a series of smaller meetings ultimately involve a majority of the legislative body and a decision-making process. Although staff or members of the public will meet with individual councilmembers from time to time to answer questions or provide information regarding a matter within the local agency's jurisdiction, care must be taken to assure that comments or positions of any member of the legislative body are not relayed from meeting to meeting.

The Brown Act includes six important exceptions to the definition of a “meeting”. These are:

1. Individual contacts or conversations between a member of a legislative body and any other person provided a series of individual communications are not used to take actions on any item of business that is within the subject matter jurisdiction of the legislative body.

2. The attendance of a majority of members of a legislative body at a conference or similar gathering open to the public that involves a discussion of issues of general interest to the public -- provided that a majority of the members do not discuss among themselves business of a specific nature that is within their subject matter jurisdiction.

3. The attendance of a majority of the members of a legislative body at an open and publicized meeting organized to address a topic of local community concern -- provided the members do not discuss among themselves business of a specific nature within their subject matter jurisdiction.

4. The attendance of a majority of the members of a legislative body at an open and noticed meeting of another body of the local agency, or at an open and noticed meeting of a legislative body of another local agency -- provided that a majority of the members do not discuss among themselves business of a specific nature that is within their subject matter jurisdiction.

5. The attendance of a majority of the members at a purely social or ceremonial occasion, again provided that a majority of the members do not discuss among themselves business of a specific nature within their subject matter jurisdiction.

6. The attendance of a majority of the members of a legislative body at an open and noticed meeting of a standing committee, provided that the members who are not members of the standing committee attend only as observers. Gov't Code §54952.2.

Other than the six specific exceptions noted above, other gatherings are defined as
Commission Members  
July 29, 2013  
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a "meetings" and majority of the City Council cannot gather and discuss City business except at an open and properly noticed meeting.

**AGENDA:**

Each legislative body must have an agenda for their meetings. The agenda must be posted in a public place at least 72 hours before each regular meeting. The agenda must contain a brief general description of each item of business to be transacted or discussed at the meeting, and must also specify the time and location of the regular meeting. Agendas must be posted in a location that is freely accessible to members of the public and effective January 1, 2012, must be posted on the local agency's internet website. The law also requires that if non-confidential writings related to an agenda item are distributed less than 72 hours prior to the meeting at which it is to be discussed, the writing must be made available for inspection without delay, and no later than when the material is distributed to the Councilmembers – at a public office or location the agency designates. The City may also post last minute materials to its website.

The general rule is *that no action or discussion can occur on any item that does not appear on the posted agenda.* The following exceptions to this rule exist:

1. If a majority of the legislative body determines that an emergency situation exists, an item may be considered even though it does not appear on the agenda.

2. If two-thirds of the legislative body (or a unanimous vote of those present if two-thirds are not present) determined that the need to take action arose subsequent to the agenda being posted, the item may be considered even though it does not appear on the agenda.

3. Discussion can also occur on an off-agenda item if the item was properly posted for a prior meeting of the legislative body, the prior meeting took place not more than five calendar days before the date action is usually taken on the item, and the item is continued from the prior meeting to the current meeting. In this case, the item may be considered even though it does not appear on the agenda.

Generally speaking, groups are rarely in a position to take advantage of one of the above exceptions. All business should consist of items which were placed on the agenda in advance.
Because the Brown Act has been specifically worded to indicate that no action or discussion shall be taken on any item which does not appear on the posted agenda, responding to members of the public raising off agenda issues can be awkward. In these circumstances, the Act provides that a member of the legislative body may:

1. “Briefly respond” to the statement.
2. Ask for clarification.
3. Provide the necessary reference to staff or other resources for factual information.
4. Request staff to report back to the legislative body at a later meeting.
5. Direct staff to place a matter of business on the future agenda.

**RECORDING OF MEETINGS:**

The Brown Act provides that any person attending a meeting has a right to record the proceedings with audio or video tape recorders, and may also broadcast the meeting. There is a limited exception that the recording or broadcasting cannot continue if it would constitute a disruption of the proceedings.

**PLACE OF REGULAR MEETINGS:**

With respect to the City Council, the previous rule was that no meetings could be held outside the jurisdiction of the local agency. That has now been clarified to list specific exceptions when the legislative body may meet outside the City limits. These include situations to:

1. Comply with a State or Federal law or court order.
2. Inspect real or personal property.
3. Participate in meetings or discussions of multi-agency significance.
4. Meet with elected or appointed officials of the United States or the State of California when a local meeting would be impractical, solely to discuss a legislative or regulatory issue affecting the local agency.
5. Visit the agency’s legal counsel for a closed session on pending litigation.
SECRET BALLOTS:

The Brown Act prohibits legislative bodies from taking any action whatsoever by secret ballot. Any ballots taken are open to public inspection.

ORAL COMMUNICATIONS:

Each agenda for the City Council and a Board or Commission should have a place on it entitled "oral communications." The Government Code requires all agendas for regular meetings of legislative bodies to provide an opportunity for members of the public to directly address legislative bodies. The members of the public may address the legislative body on items of interest to the public that are within the jurisdiction of the legislative body. However, unless a specific exception is used, no action can be taken on items raised during oral communications.

SPECIAL MEETINGS:

Special meetings may be called at any time by the presiding officer of the legislative body, or by a majority of the members of the legislative body. This is accomplished by delivering personally or by mail, notice to each member of the body and to each local newspaper of general circulation, radio or television that has requested such notice in writing and effective January 1, 2012, by posting a notice on the local agency’s internet website. All notices must be received at least 24 hours before the time of the meeting. The notice must also specify the time and place of the special meeting and the business to be transacted. No other business can be considered at these meetings. Effective January 1, 2012, a legislative body shall not call a special meeting regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits, of a local agency executive.

Certain exceptions to all of the above rules are still available in emergency situations. An emergency situation is defined as a work stoppage or other activity which severely impairs public health and safety, or a crippling disaster which severely impairs the public health and safety, as determined by a majority of the members of the legislative body.

CLOSED SESSIONS:

Closed or “executive” sessions can only be held if they are for one of the purposes specified in the law. Generally, closed sessions can only be held to discuss specific litigation items, personnel matters, labor relations, and purchases of real property. Although the City Council regularly has a need to meet in closed session, it is difficult to envision a circumstance where an advisory board or commission would meet in closed session. The sole exception is perhaps the Personnel Review Board, which occasionally considers confidential personnel matters.
Because of the strict confidentiality that is associated with closed sessions of the legislative body, the Government Code has specific rules regarding the manner in which closed sessions appear on the agenda, and governing the manner in which specific matters might be disclosed following a closed session. While some disclosures are legally required, there are important exceptions which are essential to preserve confidentiality. The City Attorney and City Clerk will prepare all closed session agendas, and handle any required disclosures. Elected officials should always avoid discussing closed session matters without consulting the City Attorney.

**PUBLIC CRITICISM:**

The Brown Act provides that “the legislative body of a local agency shall not prohibit public criticism of the policies, procedures, programs, or services of the agency or the acts or omissions of the legislative body.” However, local agencies may adopt reasonable regulations to ensure everyone has an opportunity to be heard in an orderly manner.

**PENALTIES:**

A violation of the Brown Act which occurs with wrongful intent to deprive the public of information can be punished as a misdemeanor, which is punishable by a fine up to $1,000 or up to six months in jail or both. Further, any action taken which is found to be in violation of the Brown Act can be nullified.

**REMEDIES FOR VIOLATION:**

Any interested person may commence a court action to obtain a judicial determination that action taken by the legislative body in violation of the above sections is null and void. However, before any action can be commenced, the interested person must make a demand of the legislative body that they correct the alleged error. The demand must be in writing and must clearly describe the challenged action and the nature of the alleged violation. The enforcement provisions of the Brown Act also specifically include the District Attorney as an interested person that may commence an action to enforce the Act, or prevent threatened violations of the Act. Additionally, the law has a mechanism to require the closed sessions of a legislative body to be tape recorded if there is a determination by a court that the Brown Act has been violated.

No person can challenge an action of the legislative body as being in violation of the Brown Act if the action was taken in substantial compliance with the relevant sections of the Brown Act. Court costs and reasonable attorney’s fees can be awarded to the person bringing an action challenging violation of the Brown Act. If the court finds that the action was clearly frivolous or totally lacking in merit, court costs can also be awarded against the person bringing the action.


CONCLUSION:

It is important that your business be conducted in compliance with the law. This memorandum gives you the basics of the Brown Act. If you want further information or have specific questions, you are encouraged to call the City Attorney’s office at 839-4608.
July 29, 2013

TO:       COMMISSION MEMBERS
FROM:     JEFFREY R. EPP, City Attorney
SUBJECT: Conflict of Interest and Related Laws

As a public official, there are several important laws which apply to your position and affect the way you do business. The first step in the prudent exercise of your duties is a general awareness of when legal issues may arise. The following material alerts you to laws relating primarily to conflicts of interest. As well, the City Attorney's office is always available and encourages your questions. Please call either myself (839-4897) or Deputy City Attorney Allegro Frost (839-4591).

FINANCIAL CONFLICT OF INTEREST UNDER THE POLITICAL REFORM ACT

The primary law controlling conflicts of interest applies to financial conflicts, and is found in Government Code Section 87100. It provides:

"No public official at any level of state or local government shall make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest."

An excellent analysis of financial conflicts of interest is found in the attached Fair Political Practices Commission ("FPPC") fact sheet entitled "Can I Vote?" In addition, the FPPC has additional information regarding these issues on its web page which is located at www.fppc.ca.gov.

Penalties for violating the Political Reform Act are severe, and violations can also result in significant public criticism. In addition to possible fines and jail sentences for a misdemeanor conviction, the FPPC can impose civil fines and injunctions, and can prohibit you from holding further elective office for up to four years.

If you have a question about financial conflicts, your first contact should be with the City Attorney. However, because we represent the City and not individual council members or commissioners, our primary role will be assisting you through the process of getting proper advice. The Political Reform Act is unusual in that it provides you with an absolute defense to any FPPC enforcement action if you seek and follow the written advice of the FPPC. Your reliance on the FPPC advice will also be evidence of your good faith in any subsequent civil or criminal action. Our office will assist you in obtaining the necessary advice from the FPPC.

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1 The FPPC has determined that advice from our office would not necessarily be protected by the attorney-client privilege, since that advice would be given to you in an individual capacity.
DISCLOSURE OF ECONOMIC INTERESTS

Under California law, elected officials and most appointed officials must file statements of economic interest. These statements are public records and disclose certain assets and income of the official. You are generally required to file a statement when taking office, annually while in the office, and upon leaving office.

GIFTS AND HONORARIUMS

California law significantly affects the gifts and honorariums you may receive as a public official. Generally, you should be aware of the possible ramifications any time you receive any payment, gift, or thing of value while you are a public official. The Political Reform Act prohibits you from accepting a gift or gifts from any single source totaling more than $440.00 in a calendar year. The reporting threshold is $50.00. The FPPC recently made several substantive amendments to the gift regulations. A summary of gift regulations effective January 1, 2013 is attached.

CONTRACTUAL CONFLICT OF INTERESTS

Government Code Section 1090 deals with public contracts in which a public official has a financial interest. This provision is in addition to the restrictions of the Political Reform Act.

Government Code Section 1090 states:

City officers or employees shall not be financially interested in any contract made by them in their official capacity, or by any body or board of which they are members. Nor shall . . . City officers or employees be purchasers at any sale or vendors at any purchase made by them in their official capacity. . . .

This code section contains an absolute prohibition on a public officer or employee entering into a contract in which the official or employee has a financial interest. Penalties for violating Section 1090 are severe, including felony prosecution and a lifetime preclusion from holding public office. In addition to civil and criminal penalties imposed against the public official, a violation of Section 1090 renders the City contract unenforceable. This can have severe implications on the City's budget and operations.

MASS MAILING

Proposition 73, approved by the voters in June of 1988, provided that: "No newsletter or other mass mailing shall be sent at public expense." Generally speaking, this Proposition and the implementing regulations prohibit 200 copies of any document being mailed or delivered to any person if an elected officer affiliated

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2 This gift limit is modified every two years to reflect changes in the Consumer Price Index.
with the agency is featured, and public funds are used. As you may imagine, there is a great deal of explanatory material regarding whether or not the elected officer is featured, whether or not the mailing is prepared or sent at the direction of the officer, and so forth. However, anytime you are mailing more than 200 items at City expense, you should be alert to the mass mailing regulations. We will assist you in determining whether or not the particular issue is subject to the regulations.

**Incompatible Offices**

California Government Code Section 1126 codifies the common law doctrine of incompatible public offices. This section generally prevents a public official from holding two public offices which present the potential for a significant clash of interests. The rule permits the person to hold the second acquired office, but on assuming the second acquired position the official is automatically disqualified from continuing to hold the first public office.

**Bias in a Quasi-Judicial Proceeding**

Whenever a public official is acting in a quasi-judicial capacity, common law prohibits the official from holding a bias in that decision-making process. If the official is biased in favor of or against the party involved in the quasi-judicial decision, the official is disqualified from acting. It should be noted that mere familiarity with the facts does not necessarily constitute bias. The official must be prepared to apply the law to the particular fact situation presented during the hearing regardless of whatever pre-hearing opinions the official may hold.

When drawing City Council district boundaries, you will be acting in a quasi-judicial capacity.

**Common Law Conflicts**

Most public attorneys in California believe that the common law rule prohibiting conflicts of interest continues to have vitality in California law notwithstanding the pervasive effect of the Political Reform Act. Common law principles of conflicts of interest, which are embodied in several of the areas discussed above, require that justice not only be done, but that it is seen to be done. Thus bias, for example, taints the process and violates this common law requirement.

**AB 1234 Ethics Training for Local Officials**

The legislature of the State of California adopted AB 1234 which requires local elected officials and the City's Boards and Commissions who hold office as of January 1, 2006, to receive at least two hours of ethics training every two years. Newly elected and appointed officials must receive their first training within one year of commencing service. After that, the requirement is every two years. The City Clerk and City Attorney have the responsibility of preparing and coordinating ethics training and will forward to you information regarding upcoming training opportunities.
in the near future.

CONCLUSION

As noted before, this memorandum is designed simply to familiarize you with the possible legal issues which may arise in the course of your duties as a public official. Please review the enclosed materials thoroughly. After doing so, if you spot one of these issues arising, please give us a call and we will provide more detailed information and analysis to assist you.

Attachments: FPPC Fact Sheet "Can I Vote?"
FPPC Local Gift Fact Sheet 2013
Can I Vote? Overview of the Conflicts Laws

"My home is near the proposed new shopping mall. Can I vote on the issue at next month's Planning Commission meeting?"

Many of you may have been confronted with such questions. This booklet is offered by the FPPC as a general overview of your obligations under the Political Reform Act's conflict-of-interest rules. Using non-technical terms, the booklet is aimed at helping you understand your obligations at the "big picture" level and to help guide you to more detailed resources.

Stripped of legal jargon:

- You have a conflict of interest with regard to a particular government decision if it is sufficiently likely that the outcome of the decision will have an important impact on your economic interests, and

- a significant portion of your jurisdiction does not also feel the important impact on their economic interests.

The voters who enacted the Political Reform Act by ballot measure in 1974 judged such circumstances to be enough to influence, or to appear to others to influence, your judgment with regard to that decision.

The most important thing you can do to comply with this law is to learn to recognize the economic interests from which a conflict of interest can arise. No one ever has a conflict of interest under the Act "on general principles" or because of personal bias regarding a person or subject. A conflict of interest can only arise from particular kinds of economic interests, which are explained in non-technical terms later in this booklet.

If you learn to understand these interests and to spot potential problems, the battle is mostly won because you can then seek help on the more technical details of the law from your agency's legal counsel or from the California Fair Political Practices Commission. The Commission's toll-free advice line is 1-866-ASK-FPPC (1-866-275-3772).

Under rules adopted by the FPPC, deciding whether you have a financial conflict of interest under the Political Reform Act is an eight-step process. If you methodically think through the steps whenever there may be a problem, you can avoid most, if not all, mistakes. These steps are spelled out and explained in general terms in this booklet.

If you learn nothing else from this booklet, remember these things:

- This law applies only to financial conflicts of interest; that is, conflicts of interest arising from economic interests.
• Whether you have a conflict of interest that disqualifies you depends heavily on the facts of each governmental decision.

• The most important proactive step you can take to avoid conflict of interest problems is learning to recognize the economic interests from which conflicts of interest can arise.

Here are the eight steps:

• **Step One:** Are you a "public official" within the meaning of the rules?

• **Step Two:** Are you making, participating in making, or influencing a governmental decision?

• **Step Three:** What are your economic interests? That is, what are the possible sources of a financial conflict of interest?

• **Step Four:** Are your economic interests directly or indirectly involved in the governmental decision?

• **Step Five:** What kinds of financial impacts on your economic interests are considered important enough to trigger a conflict of interest?

• **Step Six:** The important question: Is it substantially likely that the governmental decision will result in one or more of the materiality standards being met for one or more of your economic interests?

• **Step Seven:** If you have a conflict of interest, does the "public generally" exception apply?

• **Step Eight:** Even if you have a disqualifying conflict of interest, is your participation legally required?

Next, here is a non-technical explanation of each:

**Public Official**

**Step One:** Are you a "public official," within the meaning of the rules?

The Act's conflict-of-interest rules apply to "public officials" as defined in the law. This first step in the analysis is usually a formality - you are probably a public official covered by the rules. If you are an elected official or an employee of a state or local government agency who is designated in your agency's conflict-of-interest code, you are a "public official." If you file a Statement of Economic Interests (Form 700) each year, you are a "public official" under the Act (even if you are not required
to file a Form 700, in some cases you may still be considered a public official because the definition covers more than specifically designated employees). The cases that are tougher to determine typically involve consultants, investment managers and advisers, and public-private partnerships. If you have any doubts, contact your agency's legal counsel or the FPPC.

Governmental Decision

Step Two: Are you making, participating in making, or influencing a governmental decision?

The second step in the process is deciding if you are engaging in the kind of conduct regulated by the conflict-of-interest rules. The Act's conflict-of-interest rules apply when you:

- **Make** a governmental decision (for example, by voting or making an appointment).

- **Participate** in making a governmental decision (for example, by giving advice or making recommendations to the decision-maker).

- **Influence** a governmental decision (for example, by communicating with the decision-maker).

A good rule of thumb for deciding whether your actions constitute making, participating in making, or influencing a governmental decision is to ask yourself if you are exercising discretion or judgment with regard to the decision. If the answer is "yes," then your conduct with regard to the decision is very probably covered.

When you have a conflict - Regulation 18702.5 (special rule for section 87200 public officials)

Government Code section 87105 and regulation 18702.5 outline a procedure that public officials specified in section 87200 must follow for disclosure of economic interests when they have a conflict of interest at a public meeting. The full text of this law and regulation may be viewed in the Regulations section of the FPPC's website at [http://www.fppc.ca.gov](http://www.fppc.ca.gov).

Public officials specified in section 87200 of the Government Code, such as council members, planning commissioners, and boards of supervisors, must publicly identify in detail the economic interest that creates the conflict, step down from the dais and must then leave the room. This identification must be following the announcement of the agenda item to be discussed or voted upon, but before either the discussion or vote commences.

Additionally, the disqualified official may not be counted toward achieving a quorum while the item is being discussed.

The identification of the conflict and economic interest must be made orally and shall be made part of the public record.

Exceptions:

- If the decision is to take place during a closed session, the identification of the economic interest must be made during the public meeting prior to the closed session but is limited to a declaration that the official has a conflict of interest. The economic interest that is the basis for

http://www.fppc.ca.gov/print.php?id=37

7/25/2013
the conflict need not be disclosed. The official may not be present during consideration of the closed session item and may not obtain or review any non-public information regarding the decision.

• A public official is not required to leave the room for an agenda item on the consent calendar provided that the official recuses himself or herself and publicly discloses the economic interest as described above.

• A public official may speak as a member of the general public only when the economic interest that is the basis for the conflict is a personal economic interest, for example, his or her personal residence or wholly owned business. The official must leave the dais to speak from the same area as the members of the public and may listen to the public discussion of the matter.

Examples:

• The Arroyo City Council is considering widening the street in front of council member Smith's personal residence, which he solely owns. Council member Smith must disclose on the record that his home creates a conflict of interest preventing him from participating in the vote. He must leave the dais but can sit in the public area, speak on the matter as it applies to him and listen to the public discussion.

• Planning Commissioner Garcia is a greater than 10% partner in an engineering firm. The firm represents a client who is an applicant on a project pending before the planning commission. Commissioner Garcia must publicly disclose that the applicant is a source of income to her requiring her recusal. Commissioner Garcia must step down from the dais and leave the room. Since this is not a personal interest that is the basis for the conflict, she may not sit in the public area and listen to the discussion.

• Supervisor Robertson rents a home to a county employee. The county employee is the subject of a disciplinary matter in a closed session of the Board of Supervisors. During the open session prior to adjourning to closed session, Supervisor Robertson announces that he must recuse himself from participating in the closed session but does not disclose that the reason for his recusal is a source of income nor does he name the county employee that is the source of income to him. He may not attend the closed session or obtain any non-public information from the closed session.

Economic Interests

Step Three : What are your economic interests? That is, what are the possible sources of a financial conflict of interest?
From a practical point of view, this third step is the most important part of the law for you. The Act’s conflict-of-interest provisions apply only to conflicts of interest arising from economic interests. There are six kinds of such economic interests from which conflicts of interest can arise:

- **Business Investment.** You have an economic interest in a business entity in which you, your spouse, your registered domestic partner, or your dependent children or anyone acting on your behalf has invested $2,000 or more.

- **Business Employment or Management.** You have an economic interest in a business entity for which you are a director, officer, partner, trustee, employee, or hold any position of management.

- **Real Property.** You have an economic interest in real property in which you, your spouse, your registered domestic partner, or your dependent children or anyone acting on your behalf has invested $2,000 or more, and also in certain leasehold interests.

- **Sources of Income.** You have an economic interest in anyone, whether an individual or an organization, from whom you have received (or from whom you have been promised) $500 or more in income within 12 months prior to the decision about which you are concerned. When thinking about sources of income, keep in mind that you have a community property interest in your spouse’s or registered domestic partner’s income, a person from whom your spouse or registered domestic partner receives income may also be a source of a conflict of interest to you. Also keep in mind that if you, your spouse, your registered domestic partner or your dependent children own 10 percent of more of a business, you are considered to be receiving "pass-through" income from the business’s clients. In other words, the business's clients may be considered sources of income to you.

- **Gifts.** You have an economic interest in anyone, whether an individual or an organization, who has given you gifts which total $440 or more within 12 months prior to the decision about which you are concerned.

- **Personal Financial Effect.** You have an economic interest in your personal expenses, income, assets, or liabilities, as well as those of your immediate family. This is known as the "personal financial effects" rule. If these expenses, income, assets or liabilities are likely to go up or down by $250 or more in a 12-month period as a result of the governmental decision, then the decision has a "personal financial effect" on you.

On the Statement of Economic Interests (Form 700) you file each year, you disclose many of the economic interests that could cause a conflict of interest for you. However, be aware that not all of the economic interests that may cause a conflict of interest are listed on the Form 700. A good example is your home. It is common for a personal residence to be the economic interest that triggers a conflict of interest even though you are not required to disclose your home on the Form 700.
Directly or Indirectly Involved?

Step Four: Are your economic interests directly or indirectly involved in the governmental decision?

An economic interest which is directly involved in "and therefore directly affected by" a governmental decision creates a bigger risk of a conflict of interest than does an economic interest which is only indirectly involved in the decision. As a result, the FPPC's conflict-of-interest regulations distinguish between economic interests that are directly involved and interests that are indirectly involved.

Once you have identified your economic interests, you must next decide if they are directly involved in the governmental decision about which you are concerned. The FPPC has established specific rules for determining whether each kind of economic interest is directly or indirectly involved in a governmental decision.

The details of these rules are beyond the scope of this guide. In general, however, an economic interest is directly involved if it is the subject of the governmental decision. For example, if the interest is real property, and the decision is about building a donut shop down the block from the property, then the interest is directly involved. If the interest is a business, and the decision is whether to grant a license for which the business has applied, the interest is directly involved.

These are just examples; you should contact your agency counsel, the FPPC and the specific regulations if you have questions as each case arises. Note also that the next step in the analysis "applying the right standard to determine whether an impact is material" depends in part on whether the interest is directly or indirectly involved. The regulations, Sections 18704 through 18704.5, and other helpful information can be found on the FPPC's web site, http://www.fppc.ca.gov.

Materiality (Importance)

Step Five: What kinds of financial impacts on your economic interests are considered important enough to trigger a conflict of interest?

At the heart of deciding whether you have a conflict of interest is a prediction: Is it sufficiently likely that the governmental decision will have a material financial effect on your economic interests? As used here, the word "material" is akin to the term "important." You will have a conflict of interest only if it is reasonably foreseeable that the governmental decision will have an important impact on your economic interests.

The FPPC has adopted rules for deciding what kinds of financial effects are important enough to trigger a conflict of interest. These rules are called "materiality standards," that is, they are the standards that should be used for judging what kinds of financial impacts resulting from governmental decisions are considered material or important.

There are too many of these rules to review in detail in this booklet. Again, you can seek advice for your agency counsel or the FPPC. However, to understand the rules at a "big picture" level, remember these facts:

- If the economic interest is directly involved in the governmental decision, the standard or threshold for deeming a financial impact to be material is stricter (i.e. lower). This is because an
economic interest that is directly involved in a governmental decision presents a bigger conflict-of-interest risk for the public official who holds the interest.

- On the other hand, if the economic interest is not directly involved, the materiality standard is more lenient because the indirectly involved interest presents a lesser danger of a conflict of interest.

- There are different sets of standards for the different types of economic interests. That is, there is one set of materiality standards for business entities, another set for real property interests, and so on.

- The rules vary by the size and situation of the economic interest. For example, a moment's thought will tell you that a $20,000 impact resulting from a governmental decision may be crucial to a small business, but may be a drop in the bucket for a big corporation. For example, the materiality standards distinguish between large and small businesses, between real property which is close or far from property which is the subject of the decision.

Does a Conflict of Interest Result?

Step Six: Is it substantially likely that the governmental decision will result in one or more of the materiality standards being met for one or more of your economic interests?

As already mentioned in the introduction, the heart of the matter is deciding whether it is sufficiently likely that the outcome of the decision will have an important impact on your economic interests.

What does "sufficiently likely" mean? Put another way, how "likely" is "likely enough?" The Political Reform Act uses the words "reasonably foreseeable." The FPPC has interpreted these words to mean "substantially likely." Generally speaking, the likelihood need not be a certainty, but it must be more than merely possible.

A concrete way to think about this is to ask yourself the following question: Is it substantially likely that one of the materiality standards I identified in step five will be met as a result of the government decision? Step six calls for a factual determination, not necessarily a legal one. Also, an agency may sometimes segment (break down into separate decisions) a decision to allow participation by an official if certain conditions are met. Therefore, you should always look at your economic interest and how it fits into the entire factual picture surrounding the decision.

"Public Generally" Exception

Step Seven: If you have a conflict of interest, does the "public generally" exception apply?

Now that you have determined that you will have a conflict of interest for a particular decision, you should see if the exceptions in Step 7 and Step 8 permit you to participate anyway. Not all conflicts of interest prevent you from lawfully taking part in the government decision at hand. Even if you otherwise have a conflict of interest, you are not disqualified from the decision if the "public generally" exception applies.
This exception exists because you are less likely to be biased by a financial impact when a significant part of the community has economic interests that are substantially likely to feel essentially the same impact from a governmental decision that your economic interests are likely to feel. If you can show that a significant segment of your jurisdiction has an economic interest that feels a financial impact which is substantially similar to the impact on your economic interest, then the exception applies.

The "public generally" exception must be considered with care. You may not just assume that it applies. There are specific rules for identifying the specific segments of the general population with which you may compare your economic interest, and specific rules for deciding whether the financial impact is substantially similar. Again, contact your agency counsel, the FPPC and the specific rules for advice and details. The regulations outlining the steps to apply the "public generally" exception can be found on the FPPC website at http://www.fppc.ca.gov under regulations 18707-18707.10.

Are you required to participate?

Step Eight: Even if you have a disqualifying conflict of interest, is your participation legally required?

In certain rare circumstances, you may be called upon to take part in a decision despite the fact that you have a disqualifying conflict of interest. This "legally required participation" rule applies only in certain very specific circumstances in which your government agency would be paralyzed, unable to act. You are most strongly encouraged to seek advice from your agency legal counsel or the FPPC before you act under this rule.

Conclusion

Generally speaking, here are the keys to meeting your obligations under the Political Reform Act's conflict-of-interest laws:

- Know the purpose of the law, which is to prevent biases, actual and apparent, which result from the financial interests of the decision-makers.

- Learn to spot potential trouble early. Understand which of your economic interests could give rise to a conflict of interest.

- Understand the "big picture" of the rules. For example, know why the rules distinguish between directly and indirectly involved interests, and why the public generally exception exists.

- Realize the importance of the facts. Deciding whether you have a disqualifying conflict of interest depends just as much, if not more, on the facts of your particular situation as it does on the law.

- Don't try to memorize all of the specific conflict-of-interest rules. The rules are complex, and the penalties for violating them are significant. Learn to understand the "big picture." You'll then be able to look up or ask about the particular rules you need to apply to any given case.

http://www.fppc.ca.gov/print.php?id=37

7/25/2013
Don't be afraid to ask for advice. It is available from your agency's legal counsel and from the FPPC.

An important note

You should not rely solely on this booklet to ensure compliance with the Political Reform Act, but should also consult the Act and Commission regulations. The Political Reform Act is set forth at Cal. Gov. Code §§ 81000-91014, and the Fair Political Practices Commission regulations are contained in Title 2, Division 6 of the California Code of Regulations. Both the Act and regulations are available on the FPPC's web site, http://www.fppc.ca.gov. Persons with obligations under the Act or their authorized representatives are also encouraged to call the FPPC toll-free advice line "1-866-ASK-FPPC" as far in advance as possible.

How to Contact Us:

- Mail:
  Fair Political Practices Commission
  428 J Street, Suite 620
  Sacramento, CA 95814

- Website:
  www.fppc.ca.gov

- Telephone:
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  Regular line: 1-916-322-5660
  Enforcement hot-line: 1-800-561-1861

(revised 7-27-05)
Limitations and Restrictions on Gifts, Honoraria, Travel and Loans

A Fact Sheet For

- Local Elected Officers and Candidates for Local Elective Offices
- Local Officials Specified in Government Code Section 87200
- Judicial Candidates
- Designated Employees of Local Government Agencies

California Fair Political Practices Commission

Toll-free advice line: 1 (866) ASK-FPPC
Email advice: advice@fppc.ca.gov
Web site: www.fppc.ca.gov

January 2013
Introduction

The Political Reform Act\(^1\) (the "Act") imposes limits on gifts, prohibits honoraria payments, and imposes limits and other restrictions on the receipt of travel payments received by:

- Local elected officers and other local officials specified in Government Code Section 87200,\(^2\) excluding judges;\(^3\)
- Designated employees of local government agencies (i.e., individuals required to file statements of economic interests under a local agency’s conflict of interest code); and
- Candidates\(^4\) for any of these offices or positions and judicial candidates. (Sections 89502 and 89503.)

The Act also imposes limits and other restrictions on personal loans received by certain local officials.

This fact sheet summarizes the major provisions of the Act concerning gifts, honoraria, travel, and loans. You should not, however, rely on the fact sheet alone to ensure compliance with the Act. If you have any questions, contact the Fair Political Practices Commission at (866) 275-3772 or advice@fppc.ca.gov or visit our website at www.fppc.ca.gov. Commission advice letters are available on our website. You may also be subject to local restrictions on gifts, honoraria, or travel.

Ethics Training

Most local agency officials are required to complete an ethics training course. Contact your agency for course information. Also see the FPPC website for a link to local agency ethics training.

Enforcement

Failure to comply with the laws related to gifts, honoraria, loans, and travel payments may result in monetary penalties of up to $5,000 per violation. (Section 83116.)

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\(^1\) The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

\(^2\) Local officials specified in Government Code Section 87200 include: members of boards of supervisors and city councils, mayors, city/county planning commissioners, city/county chief administrative officers, city/county treasurers, district attorneys, county counsels, city managers, city attorneys, court commissioners and public officials who manage public investments.

\(^3\) The gift limits and honoraria ban in the Political Reform Act do not apply to a person in his or her capacity as judge. However, candidates for judicial offices are subject to the restrictions contained in the Political Reform Act. (Sections 89502 and 89503.)

\(^4\) For purposes of the gift limit and honoraria prohibition, you become a "candidate" when you file a statement of organization (Form 410) as a controlled committee for the purpose of seeking elective office, a candidate intention statement (Form 501), or a declaration of candidacy, whichever occurs first. If you are an unsuccessful candidate, you will no longer be subject to the gift limit and honoraria prohibition when you have terminated your campaign filing obligations, or after certification of election results, whichever is earlier. (Sections 89502(b) and 89503(b).)
Gifts

Limitations

If you are a local elected officer, a candidate for local elective office, a local official specified in Government Code Section 87200, or a judicial candidate, you may not accept gifts from any single source totaling more than $440 in a calendar year. (Section 89503.)(5)

If you are an employee of a local government agency who is designated in the agency’s conflict of interest code, you may not accept gifts from any single source totaling more than $440 in a calendar year if you are required to report receiving income or gifts from that source on your statement of economic interests. (Section 89503(c).)

What is a “Gift”?  

A “gift” is any payment or other benefit provided to you that confers a personal benefit for which you do not provide payment or services of equal or greater value. A gift includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public. (Section 82028.) (See FPPC Regulation 18946 for valuation guidelines.)

Except as discussed below, you have “received” or “accepted” a gift when you know that you have actual possession of the gift or when you take any action exercising direction or control over the gift, including discarding the gift or turning it over to another person. This includes gifts that are accepted by someone else on the official’s behalf and gifts made to others at the direction of the official. (Regulation 18941.)

Gifts to Family Members

Under certain circumstances, a gift to an official’s family member is considered a gift to the official. (Regulation 18943.) Anything given to a family member is presumed to be a gift to the official if: (1) there is no established relationship between the donor and the family member where it would generally be considered appropriate for the family member to receive the gift or (2) the donor is someone who lobbies the official’s agency, is involved in an action before the official’s agency in which the official may foreseeably participate, or engages in business with the agency in which the official will foreseeably participate. (Wedding gifts are treated differently, see below.)

“For purposes of this rule, an official’s “family member” includes the official’s spouse; registered domestic partner; any minor child of the official who the official can claim as a dependent for federal tax purposes; and a child of the official who is aged 18 to 23 years old, attends school, resides with the official when not attending school, and provides less than one-half of his or her own support.

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(5) The gift limit is adjusted biennially to reflect changes in the Consumer Price Index. For 2013-2014, the gift limit is $440. (Section 89503; Regulation 18940.2.) Gifts aggregating $50 or more must be disclosed, and gifts aggregating $440 or more may subject you to disqualification with respect to the source. (Section 87103(e).) Designated employees should consult the “disclosure category” portion of their agency’s conflict of interest code to determine if a particular source of income or gift must be disclosed. Some conflict of interest codes require very limited disclosure of income and gifts. If your agency’s conflict of interest code requires you to disclose income and gifts only from specified sources, gifts from sources that are not required to be disclosed on your Form 700 are not subject to the $440 gift limit.
Gift Exceptions

The Act and Commission regulations provide exceptions for certain types of gifts. (Section 82028; Regulations 18940-18946.5.) The following payments are not gifts:

1. Items that are returned (unused) to the donor, or for which you reimburse the donor, within 30 days of receipt. (Section 82028(b)(2); Regulation 18941.)

2. Items that are donated (unused) to a non-profit, tax-exempt (501(c)(3)) organization in which the official, or a member of the official’s immediate family, does not hold a position or a government agency within 30 days of receipt without claiming a deduction for tax purposes. (Section 82028(b)(2); Regulation 18941.)

3. Gifts from your spouse (or former spouse), child, parent, grandparent, grandchild, brother, sister, current or former parent-in-law, brother-in-law, sister-in-law, aunt, uncle, niece, nephew, or first cousin or the spouse of any such person, unless he or she is acting as an agent or intermediary for another person who is the true source of the gift. (Section 82028(b)(3); Regulation 18942(a)(3).) This exception includes great-grandparents, great uncles and aunts, great nieces and nephews, and first-cousins once-removed.

4. Gifts of hospitality including food, drink or occasional lodging that you receive in an individual’s home when the individual or a member of his or her family is present and the individual is someone with whom the official has a relationship, connection, or association unrelated to the official’s position and the hospitality is provided as part of that relationship. (Regulation 18942(a)(7); Regulation 18942.2.)

5. Gifts commonly exchanged between you and another individual (other than a lobbyist) on holidays, birthdays, or similar occasions to the extent that the gifts exchanged are not substantially disproportionate in value. (Regulation 18942(a)(8)(A).)

6. Reciprocal exchanges between you and another individual (other than a lobbyist) that occur on an ongoing basis so long as the total value of payments received by the official within the calendar year is not substantially disproportionate to the amount paid by the official and no single payment is $440 or more. For example, if two people get together regularly for lunches and rotate picking up the check so that each pays approximately half the time over the course of the calendar year, no gift need be reported. (Regulation 18942(a)(8)(B).)

7. Informational material provided to assist you in the performance of your official duties, including books, reports, pamphlets, calendars, periodicals, videotapes, or free or discounted admission to informational conferences or seminars.

“Informational material” may also include scale models, pictorial representations, maps, and other such items, provided that if the item’s fair market value is more than $440. You have the burden of demonstrating that the item is informational. In addition, on-site demonstrations, tours, or inspections, including air flights over an area that is the subject of the information and designed specifically for public officials are considered informational material. However, this exception does not apply to meals or to transportation to the site unless the transportation is not commercially available. (Section 82028(b)(1); Regulations 18942(a)(1) and 18942.1.)

8. A devise or inheritance. (Section 82028(b)(5); Regulation 18942(a)(5).)

9. Campaign contributions, including rebates or discounts received in connection with campaign activities. (Section 82028(b)(4); Regulation 18942(a)(4).) However, campaign contributions must be reported in accordance with the campaign disclosure provisions of the Act and may be subject to other limitations imposed by the Act.
10. Personalized plaques and trophies with an individual value of less than $250. (Section 82028(b)(B); Regulation 18942(a)(6).)

11. Admission for the official and one guest at an event where the official performs a ceremonial role, such as throwing out the first pitch at a Dodgers’ game, so long as the official’s agency complies with the posting provisions set forth in Regulation 18944.1(d). (Regulation 18942(a)(12); Regulation 18942.3.)

12. A prize or award received in a bona fide contest or competition, or game of chance. This must be reported as income if over $500 unless it is received in the California State Lottery. To qualify for this exception the contest or competition must have a broad base of contestants and the competition must be unrelated to the official’s duties. (Regulation 18942(a)(13).)

13. Benefits received as a guest attending a wedding reception where the benefits are the same as those received by the other guests at the reception. (Regulation 18942(a)(14).)

14. Bereavement offerings, such as flowers at a funeral received in memory of a close family member. (Regulation 18942(a)(15).)

15. Benefits received as an act of neighborliness such as the loan of an item, an occasional ride, or help with a repair where the act is consistent with polite behavior in a civilized society and would not normally be part of an economic transaction between like participants under similar circumstances. (Regulation 18942(a)(16).)

16. Personal benefits commonly received from a dating partner. These gifts are not discreditable or limited but are subject to disqualification under the conflict of interest laws. (Regulation 18942(a)(17)(A).)

17. Acts of Human Compassion. Assistance, financial or otherwise, to offset family medical or living expenses that the official can no longer meet without private assistance because of an accident, illness, employment loss, death in the family, or other unexpected calamity; or to defray expenses associated with humanitarian efforts such as the adoption of an orphaned child, so long as the source of the donation is an individual who has a prior social relationship with the official of the type where it would be common to provide such assistance, or the payment is made without regard to official status under other circumstances in which it would be common to receive community outreach. (Regulation 18942(a)(17)(B).)

Note: The exception does not apply if the individual providing the benefit to the official is involved in some manner with with business before the official. (See Regulation 18942(a)(17)(D)(i-iii).) For example, (i) a lobbyist, lobbying firm, lobbyist employer, or other person required to file reports under Chapter 6 of the Act and registered to lobby the official's agency; (ii) a person who has, or may reasonably foreseeably have, a contract, license, permit, or other entitlement for use pending before the official's agency, and for 12 months following the date a contract is signed or a final decision is rendered; (iii) a person, or an agent of a person, involved in a licensing or enforcement proceeding before a regulatory agency that employs the official and in which the official may reasonably foreseeably participate, or has participated, within 12 months of the time the gift is made.

18. Benefits received from a long-time personal friend where the gift is unrelated to the official's duties. The exception does not apply if the individual providing the benefit to the official is involved in some manner with with business before the official. (Regulation 18942(a)(17)(C), see note above about restrictions under Regulation 18942(a)(17)(D)(i-iii).)

19. Benefits received from an individual who is not a lobbyist registered to lobby the official's agency, where it is clear that the gift was made because of an existing personal or business relationship unrelated to the official's position and there is no evidence whatsoever at the time the gift is made that the official makes or participates in the type of governmental decisions that may have a reasonably foreseeable
material financial effect on the individual who would otherwise be the source of the gift. (Regulation 18942(a)(16).)

20. Two tickets for admission, for your own use, to attend a fundraiser for a campaign committee or candidate, or to a fundraiser for an organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code. The ticket must be received from the organization or committee holding the fundraiser. (Regulation 18946.4.)

21. Passes or tickets that provide admission or access to facilities, goods, services, or other benefits (either on a one-time or repeated basis) that you do not use and do not give to another person. (Regulation 18946.1.)

22. Gifts provided to your government agency. This may include passes or tickets to facilities, goods, or services, travel payments, and other benefits. However, this exception does not apply to elected officials and officials specified in Government Code Section 87200 with regard to travel payments. In addition, certain conditions must be met before a gift received by an official through his or her agency would not be considered a gift to the official. An agency must disclose specified payments on its website. (Regulations 18944—18944.3.) Contact the FPPC for detailed information.

23. Generally, payments made by a third party to co-sponsor an event, or that are principally legislative, governmental or charitable in nature. In some cases, these payments may be considered "behested payments" also requiring disclosure.

24. Leave credits (e.g., sick leave or vacation credits) received under a bona fide catastrophic or emergency leave program established by your employer and available to all employees in the same job classification or position. Donations of cash are gifts and are subject to limits and disclosure. (Regulation 18942(a)(9).)

25. Food, shelter, or similar assistance received in connection with a disaster relief program. The benefits must be received from a governmental agency or charity (501(c)(3)) and must be available to the general public. (Regulation 18942(a)(10).)

26. Items awarded in an employee raffle, received by the agency from an agency employee who is not acting as an intermediary for another donor. This exception applies when an agency holds an employee raffle and the item awarded in the raffle has been obtained with agency funds, or is otherwise an asset of the agency and not donated to the agency by a non-agency source. This exception does not apply to passes or tickets of the type described in Regulation 18944.1. (Regulation 18944.2(a) and (b).)

27. Items received by an employee during an employee gift exchange, so long as the item received is provided by another employee of the agency and the gifts are not substantially disproportionate in value. (Regulation 18944.2(c).)

Source of Gift

Under most circumstances, it is clear who is the source of a gift, but if the circumstances indicate that the gift is being provided by an intermediary, you must determine both the donor and the intermediary in reporting the gift. Regulation 18945 provides the rules for determining the source of the gift.

Gifts from Multiple Sources

In determining the cumulative value of any reportable gifts, separate gifts from an individual and an entity that the individual controls or where the individual directs the payment of the gift must be aggregated as one source in complying with the reporting and limit requirements. For example, separate gifts from J.R. Ewing and Ewing Oil Company would be treated as if from one source if J.R. owns more than a 50 percent interest in the company unless the making of the gift was determined by someone else.
in the company. In that case, the gift from Ewing Oil would be aggregated with any gifts made by that individual. (Regulation 18945.1)

Group gifts, where you received a single gift from multiple donors (such as a retirement gift from coworkers) need not be reported unless any one individual contributes more than $50 to the total cost of the gift. (Regulation 18946.2.)

Valuation of Gifts

The general rule for determining the value of a gift is to apply the fair market value at the time the gift is received. Fair market value can be determined by finding any local or Internet advertisement for the item. Special exceptions to the fair market value rule are contained in Regulations 18946.1 through 18946.5 covering admission to ticketed and invitation-only events, wedding gifts, attendance at nonprofit and political fundraisers, and air travel. (Regulation 18946.)

Gifts Reported by the Official’s Agency

The following exceptions are also applicable to gifts, but the official’s agency may be required to report these items on a Form 801 or Form 802 instead of the official reporting the items on a statement of economic interests (Form 700).

Form 801: For an item to be considered a gift to the official’s agency instead of a gift to the official, the payment (or item) must provide a personal benefit to a public official, such as a travel payment; and, in order for an agency to convert the payment into an agency gift, the payment may only be used for official agency business and the agency must control the payment. If the payment meets these requirements, the agency must report it on a Form 801 and the item is not reported on the individual’s statement of economic interests (Form 700). (Regulation 18944.)

Form 802: When an official’s agency provides an entertainment or sporting ticket or pass to a public official in order for it not to be reported as a gift on the individual’s statement of economic interests (Form 700), the agency must have a written policy stating the public purpose for distribution of the tickets. The ticket or pass cannot be earmarked by the original source for use by a particular agency official, the agency must determine, in its sole discretion, which official may use the ticket or pass. The Form 802 is also used to report tickets provided for officials who perform a ceremonial role on behalf of the agency. (Regulation 18944.1.)

Behosted Payments

The following payments are not considered gifts, but the official may be required to report these items on a Form 803.

Form 803: Behosted payments are payments made principally for legislative, governmental, or charitable purposes. These payments are not for personal or campaign purposes. For example, an elected official may ask a third party to contribute funds to a school in his or her district, or to a job fair or health fair. Generally, a donation will be made "at the behest" if it is requested, solicited, or suggested by the elected officer, or otherwise made to a person in cooperation, consultation, coordination with, or at the consent of, the elected officer. This includes payments behosted on behalf of the official by his or her agent or employee. Behosted payments totaling $5,000 or more from a single source in a calendar year must be disclosed by the official on a Form 803, which is filed with the official’s agency within 30 days of the date of the payment(s). (Section 82015; Regulation 18215.3.)
Reportable Gifts Not Subject to Limits

The following exceptions are also applicable to gifts, but you may be required to report these items on a statement of economic interests (Form 700) and they can subject you to disqualification:

1. Certain payments for transportation, lodging, and subsistence are not subject to gift limits but may be reportable. Travel payments are discussed below. See Regulation 18946.5 to determine the value of gifts of air transportation.

2. Wedding gifts are not subject to the gift limit but are reportable. For purposes of valuing wedding gifts, one-half of the value of each gift is attributable to each spouse. (Regulation 18946.3.)

3. A prize or award received in a bona fide competition not related to your official status is not subject to the gift limit, but must be reported as income. Therefore, it is reportable if the value of the prize or award is $500 or more. (Section 87207; Regulation 18942(a)(13).)

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5 Designated employees should consult the "disclosure category" portion of their agency's conflict-of-interest code to determine if a particular source of income or gifts must be disclosed.
Honoraria

The Prohibition

If you are a local elected officer, a candidate for local elective office, a local official specified in Government Code Section 87200, or a judicial candidate, you may not accept honoraria payments. (Section 89502.)

If you are an employee of a local government agency who is designated in the agency's conflict of interest code, you may not accept honoraria payments from any source if you are required to report receiving income or gifts from that source on your statement of economic interests. (Section 89502(c).)

What is an "Honorarium"?

An "honorarium" is any payment made in consideration for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, meal, or like gathering. (Section 89501.)

A "speech given" means a public address, oration, or other form of oral presentation, including participation in a panel, seminar, or debate. (Regulation 18931.1.)

An "article published" means a nonfictional written work: 1) that is produced in connection with any activity other than the practice of a bona fide business, trade, or profession; and 2) that is published in a periodical, journal, newspaper, newsletter, magazine, pamphlet, or similar publication. (Regulation 18931.2.)

"Attendance" means being present during, making an appearance at, or serving as host or master of ceremonies for any public or private conference, convention, meeting, social event, meal, or like gathering. (Regulation 18931.3.)

Exceptions

The Act and Commission regulations provide certain exceptions to the prohibition on honoraria. (Section 89501; Regulations 18930-18933.) The payments described below are not prohibited and are not required to be disclosed on a statement of economic interests (Form 700):

1. An honorarium that you return (unused) to the donor or the donor's agent or intermediary within 30 days. (Section 89501(b); Regulation 18933.)

2. An honorarium that is delivered to your government agency within 30 days for donation to the agency's general fund or equivalent account for which you do not claim a deduction for income tax purposes. (Section 89501(b); Regulation 18933.)

3. A payment that is not delivered to you but is made directly to a bona fide charitable, educational, civic, religious, or similar tax-exempt, non-profit organization. However:
   -- You may not make the donation a condition for your speech, article, or attendance;
   -- You may not claim the donation as a deduction for income tax purposes;
   -- You may not be identified to the non-profit organization in connection with the donation; and
   -- The donation may have no reasonably foreseeable financial effect on you or on any member of your immediate family. (Regulation 18932.5.)
4. A payment received from your spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person. However, a payment which would be considered an honorarium is prohibited if one of these persons is acting as an agent or intermediary for someone else. (Regulation 18932.4(b).)

5. Items 6, 8, and 9 under "Exceptions to the Definition of 'Gift'" discussed earlier in this fact sheet. (Regulation 18932.4.)

Exceptions That May Be Reportable as Income or Gifts

The following payments are not considered "honoraria" but may be reportable and can subject you to disqualification:7

1. Payments received for a comedic, dramatic, musical, or other similar artistic performance, and payments received for the publication of books, plays, or screenplays. (Regulations 18931.1-18931.2.) However, such payments are reportable income.

2. Income earned for your personal services if the services are provided in connection with a bona fide business, trade, or profession — such as teaching, practicing law, medicine, insurance, real estate, banking, or building contracting — and the services are customarily provided in connection with the business, trade, or profession.

   This exception does not apply if the sole or predominant activity of the business, trade, or profession is making speeches. In addition, you must meet certain criteria to establish that you are practicing a bona fide business, trade, or profession (such as maintenance of business records, licensure, proof of teaching position) before a payment received for personal services which may meet the definition of honorarium would be considered earned income and not an honorarium. (Section 89501(b); Regulations 18932-18932.3.) Earned income is required to be reported. Contact the FPPC for detailed information.

3. Certain payments for transportation, lodging, and subsistence are not considered honoraria but may be reportable and subject to the gift limit. (Sections 89501(c) and 89506.) Travel payments are discussed below.

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7 Designated employees should consult the "disclosure category" portion of their agency's conflict-of-interest code to determine if a particular source of income or gifts must be disclosed.
Travel Payments

The Act and Commission regulations provide exceptions to the gift limit and honoraria prohibition for certain types of travel payments. (Section 89508; Regulations 18950-18950.4.)

The term “travel payment” includes payments, advances, or reimbursements for travel, including actual transportation, parking and related lodging and subsistence. (Section 89508(a).)

Exceptions

The following types of travel payments are not subject to any limit and are not reportable on a statement of economic interests (Form 700):

1. Free admission to an event at which you make a speech, participate on a panel, or make a substantive formal presentation, transportation, and necessary lodging, food, or beverages¹, and nominal non-cash benefits provided to you in connection with the event so long as:
   a. The speech is for official agency business and the official is representing his or her government agency in the course and scope of his or her official duties; and
   b. The payment is a lawful expenditure made only by a federal, state, or local government agency for purposes related to conducting that agency’s official business.

   The exception does not apply to state or local elected officers and officials specified in Section 87200. (Regulation 18950.3(b).)

2. Travel payments provided to you by your government agency or by any state, local, or federal government agency which would be considered income and not a gift (i.e., payments for which you provide equal or greater consideration). (Section 89508(d)(2); Regulation 18950.1(d).)

3. Reimbursements for travel expenses provided to you by a bona fide non-profit, tax-exempt (501(c)(3)) entity for which you provide equal or greater consideration. (Section 82030(b)(2).)

4. Travel payments provided to you directly in connection with campaign activities. However, these payments must be reported in accordance with the campaign disclosure provisions of the Act. (Regulations 18950.1(c); 18950.4.)

5. Any payment for travel that is excluded from the definition of “gift” as described earlier in this fact sheet.

Reportable Payments Not Subject to Limit

The following travel payments are not subject to the gift limit but may be reportable on a statement of economic interests (Form 700):

1. Travel that is reasonably necessary in connection with a bona fide business, trade, or profession, and which satisfies the criteria for federal income tax deductions for business expenses specified in Sections 162 and 274 of the Internal Revenue Code. (Section 89506(d)(3); Regulation 18950.1(e).) For reporting purposes, these travel payments would be considered part of the salary, wages, and other income received from the business entity and would be reported on Schedule A-2 or C of Form 700.

¹ Lodging, food, or beverages are “necessary” only when provided on the day immediately preceding, the day(s) of, and the day immediately following the speech, panel, seminar, or similar service.

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FFPC Advice: advice@fppc.ca.gov (866.275.3772)
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2. Travel within the United States that is reasonably related to a legislative or governmental purpose — or to an issue of state, national, or international public policy — in connection with an event at which you give a speech, participate in a panel or seminar or provide a similar service. Lodging and subsistence expenses in this case are limited to the day immediately preceding, the day of, and the day immediately following the speech, panel, or other similar service. (Section 89506(a)(1); Regulation 18950.1(a)(2).

Note that this exception is different than travel payments described earlier. Under the circumstances described in this paragraph, transportation within the United States is not subject to the gift limit but is reportable and can subject a public official to disqualification.

As discussed earlier, most local government employees are not required to report travel payments paid by a governmental agency in the course of employment. (Regulation 18950.3.)

3. Travel not in connection with giving a speech, participating in a panel, or seminar or providing a similar service but which is reasonably related to a legislative or governmental purpose — or to an issue of state, national, or international public policy — and which is provided by:
   -- A government, governmental agency, foreign government, or government authority;
   -- A bona fide public or private educational institution defined in Section 203 of the California Revenue and Taxation Code;
   -- A non-profit organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code; or
   -- A foreign organization that substantially satisfies the requirements for tax-exempt status under Section 501(c)(3) of the Internal Revenue Code.

(Section 89506(a)(2); Regulation 18950.1(b).)
Loans

Personal loans received by elected and appointed officials are subject to limits and other restrictions and, in some circumstances, a personal loan that is not being repaid or is being repaid below certain amounts may become a gift to the official who received it.

Limitations on Loans from Agency Officials, Consultants, and Contractors

If you are an elected official or an official specified in Section 87200 (see footnote 2 on page 1), you may not receive a personal loan that exceeds $250 at any given time from an officer, employee, member, or consultant of your government agency or an agency over which your agency exercises direction and control. (Section 87460(a) and (b).)

In addition, you may not receive a personal loan that exceeds $250 at any given time from any individual or entity that has a contract with your government agency or an agency over which your agency exercises direction and control. This limitation does not apply to loans received from banks or other financial institutions, and retail or credit card transactions, made in the normal course of business on terms available to members of the public without regard to official status. (Section 87460(c) and (d).)

Loan Terms Applicable Only to Elected Officials

In addition to the limitations above, if you are an elected official, you may not receive a personal loan of $500 or more unless the loan is made in writing and clearly states the terms of the loan. The loan document must include the names of the parties to the loan agreement, as well as the date, amount, interest rate, and term of the loan. The loan document must also include the date or dates when payments are due and the amount of the payments. (Section 87461.)

The following loans are not subject to these limits and documentation requirements:

1. Loans received by an elected officer’s or candidate’s campaign committee.

2. Loans received from your spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person unless he or she is acting as an agent or intermediary for another person not covered by this exemption.

3. Loans made, or offered in writing, prior to January 1, 1998. (Sections 87460 and 87461.)

Loans as Gifts

Under the following circumstances, a personal loan received by any public official (elected and other officials specified in Section 87200, as well as any other local government official or employee required to file statements of economic interests) may become a gift and subject to gift reporting and limitations:

1. If the loan has a defined date or dates for repayment and has not been repaid, the loan will become a gift when the statute of limitations for filing an action for default has expired.

2. If the loan has no defined date or dates for repayment, the loan will become a gift if it remains unpaid when one year has elapsed from the later of:
   -- The date the loan was made;
   -- The date the last payment of $100 or more was made on the loan; or
   -- The date upon which the official has made payments aggregating to less than $250 during the previous 12 months. (Section 87462.)
The following loans will not become gifts to an official:

1. A loan made to an elected officer’s or candidate’s campaign committee. This loan would, however, be a campaign contribution. Consult the FPPC campaign manual for local candidates (Manual 2) for more details.

2. A loan described above on which the creditor has taken reasonable action to collect the balance due.

3. A loan described above on which the creditor, based on reasonable business considerations, has not undertaken collection action. (However, except in a criminal action, the creditor has the burden of proving that the decision not to take collection action was based on reasonable business considerations.)

4. A loan made to an official who has filed for bankruptcy and the loan is ultimately discharged in bankruptcy.

5. A loan that would not be considered a gift as outlined earlier in this fact sheet (e.g., loans from certain family members). (Section 87462.)
TO: Independent Districting Commission Members
FROM: Allegra Frost, Deputy City Attorney
SUBJECT: Recommended Expert Consultant

RECOMMENDATION:

It is recommended that the Districting Commission retain Doug Johnson of National Demographics Corporation as an expert consultant.

BACKGROUND:

The Consent Decree requires the Commission, once constituted, to retain an expert consultant familiar with the requirements of the California Voting Rights Act and Federal Voting Rights Act, census data and its use in redistricting, public engagement in redistricting, and with drawing voting districts. (Consent Decree p. 11, IX.C).

Doug Johnson is the President of National Demographics Corporation, which is located in Glendale California. National Demographics Corporation has extensive experience with districting and redistricting local governments, including transitioning cities from at-large elections to district-based elections. Doug Johnson and National Demographics Corporation have the experience required by the Consent Decree and can provide technical consulting services, including data processing, GIS analysis, and mapping support to develop the preliminary and recommended districting plans. Additionally, the company has experience engaging the public in the districting process. If retained as the consulting expert, National Demographics Corporation would follow the Commission’s direction and present options and impartial advice to the Districting Commission.

National Demographics Corporation has previously provided CVRA consulting services to the City of Escondido. Mr. Johnson and National Demographics Corporation were also retained as the expert consultant to the City of San Diego’s 2010 Redistricting Commission. Other past clients of National Demographics Corporation include the State of Washington; the County of Los Angeles; the Cities of Agora Hills, Buckeye, Colton, Corcoran, Elk Grove, Glendale, Hanford, Lemoore, Mesa, Modesto, Moreno Valley, Pasadena, Peoria, Phoenix, Pomona, Reedley, and Vista; San Diego City Schools; San Diego Unified School District; Palomar-Pomerado Health System; Elsinore Valley Municipal Water District; San Bernardino Water District; and Yucaipa Water District.
Doug Johnson and the National Demographics Corporation have written numerous articles and publications on the topic of districting. Mr. Johnson has also been asked to speak at local and national redistricting conferences and forums.

Respectfully submitted,

[Signature]

Allegra Frost
Deputy City Attorney

Attachment: Resume of Douglas Johnson
Douglas Mark Johnson

P.O. Box 5271
Glendale, CA 91221
djohnson@NDCresearch.com

mobile: (310) 200-2058
office: (909) 624-1442
fax: (818) 254-1221

Employment
President, National Demographics Corporation, 2006 – present.
Fellow, Rose Institute of State and Local Government, 2001 – present.
Project Manager and Senior Manager at three internet startup companies, 1999 – 2001.

Education
UCLA Anderson Graduate School of Management, MBA, 1999.
Claremont McKenna College, BA, 1992.

Academic Honors
Graduated Cum Laude from Claremont McKenna College.
Phi Beta Kappa. Philip Roland Prize for Excellence in Public Policy.

Publications
Restoring the Competitive Edge: California's Need for Redistricting Reform and the Likely
Latinos and Redistricting: "Californios For Fair Representation" and California Redistricting in
Los Angeles Times Opinion Articles:
 "Where a porn palace stood" (article on redevelopment), July 30, 2006.

Speaker or Panelist
National Conference of State Legislatures, Redistricting and Elections Standing Committee: 2007
Spring Forum, "The Arizona Independent Redistricting Commissions’ experiences with the
first-ever independent redistricting."
National Conference of State Legislatures, Redistricting and Elections Standing Committee: 2008
Spring Forum, "Communities of Interest In Redistricting: A Practical Guide."
National Conference of State Legislatures, Redistricting and Elections Standing Committee: 2009
Fall Forum, "The Key to Successful Redistricting."
National Conference of State Legislatures, Redistricting and Elections Standing Committee: 2010
Spring Forum, "Communities of Interest in Redistricting: A key to drawing 2011 plans (and for
their defense)."
National Conference of State Legislatures, Redistricting and Elections Standing Committee: 2011
Winter Forum, "Citizen Voting Age Data from a line-drawer's viewpoint."
Luncheon Keynote Speaker, Santa Barbara’s Channel Cities Club, "California's next experiment:
independent, public redistricting." January 18, 2011.
Annual Conference, Presenter at "Redistricting Law and the Voting Rights Act: What It
Douglas Mark Johnson


Arizona Election Law 2010 Continuing Legal Education Conference, "Communities of interest and technology in redistricting," sponsored by the Arizona State Bar Association, March 2010

California’s New Independent Redistricting Commission, sponsored by the Irvine Foundation and the California Redistricting Collaborative, December 15, 2009


Building a National Reform Movement, Salt Lake City, Utah, 2006, conference on redistricting reform hosted by the League of Women Voters, Campaign Legal Center, and The Council for Excellence in Government

Texas Tech University, “A Symposium on Redistricting,” May, 2006

California League of Cities, "Introduction to the California Voting Rights Act."

Voices of Reform, a project of the Commonwealth Club of San Francisco: multiple forums on redistricting and / or term limits, 2006 – 2007

Classroom speaker at Pepperdine University, the University of La Verne, Pomona College and Claremont McKenna College

Consulting Clients

Served as a consultant on matters involving redistricting, the California and/or Federal voting rights acts, public opinion surveys, and/or public outreach for the following jurisdictions (partial list):

**Counties**
Kings County
Los Angeles County
Merced County
San Bernardino County
San Diego County
Yuma County

**County Offices of Education**
Fresno County
San Diego County
San Joaquin County
San Luis Obispo County
Tulare County
Tuolumne County

**Cities**
Alhambra
Anaheim
Brawley
Compton
Duvall
Elk Grove
Escondido
Fresno
Fowler
Glendale
Madera
Merced
Mesa
Modesto
Moreno Valley
Palm Desert
Pomona

**Water, Irrigation & Conservation**

**Districts**
Alta Irrigation
Fresno Irrigation
Mojave Water
Palmdale Water
Rowland Water
San Bernardino Water
Santa Clara Valley Water
Three Valleys Municipal Water
Upper San Gabriel Valley
Western Municipal Water
Winton Water

**School Districts**
Alpine Union

...
School Districts (cont.)
Fallbrook Union Elementary
Fallbrook Union High
Firebaugh-Las Deltas Unified
Fresno Unified
Greenfield
Grossmont Union (high)
Jamul-Dulzura Union Elementary
Julian Union Elementary
Julian Union High
Kerman Unified
Kern High
Kings Canyon Unified School District
Kings River
Kingsburg Elementary
Kingsburg High
La Mesa-Spring Valley
Lake Elsinore
Lakeside Union Elementary
Lakeside Union School
Lemon Grove Elementary
Lindsay Unified
Madera Unified
Merced Union High School District
Modoc Unified
Monson Union
Mountain Empire Unified
Napa Valley Unified
National Elementary
Oak Grove Elementary School District
Oceanside Unified
Pacific Union
Panama Buena Vista
Pasadena Unified
Pleasant View
Porterville
Poway Unified
Poway Unified
Ramona Unified
Rancho Santa Fe Elementary
Rancho Union District
Riverside Unified
San Diego Union High
San Marcos Unified
San Pasqual Union Elementary
San Ysidro Elementary
Santa Fe Elementary
Selma Unified
Solano Beach Elementary
South Bay Union
Sponsor Valley Elementary
Strathmore Elementary
Sundance Union Elementary
Sweetwater
Tulare City Elementary
Tulare City High
Tulelake
Turlock Unified
Twin Rivers Unified
Vallecitos Elementary
Valley Center Pauma Unified
Visalia Unified
Vista Unified
Walnut Valley Water
Warner Unified
Washington Union
Whittier Union High
Woodlake Union

States
Arizona Independent Redistricting Commission
Florida State Senate
New Jersey Redistricting Commission

Other Special Districts
Juniper Community Service District
Los Angeles County Fire Protection
Sun Gabriel Valley Association of Cities
Tulare Hospital
Westside Community Health Care District

Private Entities
Hemet Action Group
Los Angeles County Fairplex
Southern California Disposal
TO: Independent Districting Commission Members

FROM: Diane Halverson, City Clerk

SUBJECT: Commission Calendar

RECOMMENDATION:

It is recommended that the Commission members review the following timeline for processing the Districting Plan; discuss with and provide direction to staff for establishing dates, times and locations for the six (6) required public hearings.

Timeline for Processing District Plan

No later than 60 days after appointment (Monday, Sept. 16)
- Budget adopted and submitted (September 11 Council Meeting)
  - Documents turned into City Clerk by Tuesday, August 27
  - Agenda posted Thursday, September 5
  - Includes payment for Expert Consultant

No later than 150 days after the members are appointed (Sunday, Dec. 15)
- Six (6) Public Hearings have been held in diverse locations
  - Notices published in English, Spanish, Vietnamese, Filipino and Chinese
  - Three week lead time for translation and publication in newspaper
- Preliminary districting plan prepared
- Preliminary plan with report filed with City Clerk; Plan made available to public

30 days after filing the plan with Clerk
- Three (3) Public Hearings held and conducted in English and Spanish
- Notices published in English and Spanish
  - Three week lead time for translation and publication in newspaper

No later than 40 days after filing the plan with Clerk
- Commission approves plan by majority vote
- Recommended Plan submitted to the City Council
  - Two week lead time for agenda review and posting requirement
Commission Calendar  
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Page 2

No later than 40 days after submission of Recommended Plan to Council
  • Council Holds at least one (1) Public Hearing
    o Three week lead time for publication in newspaper and agenda posting
  • Council Approves/Disapproves Recommended Plan
If Council disapproves, within 40 days of submission of Council’s reasons for disapproval
  • Commission submits same or altered Recommended District Plan to Council

June 20, 2014
  • All GIS maps, shapefiles and Election Consolidation resolutions submitted to ROV (last available Council Meeting: June 18, 2014)

BACKGROUND:

On Thursday, July 18, 2013 the Selection Panel appointed seven (7) members to the Independent Districting Commission. Per the Consent Decree, a minimum of six (6) public hearings are to be held in geographically diverse locations throughout Escondido no later than 150 days after the Commission’s members are appointed (December 15, 2013).

Respectfully submitted,

Diane Halverson
City Clerk
TO: Independent Districting Commission Members

FROM: Diane Halverson, City Clerk

SUBJECT: Commission Budget

RECOMMENDATION:
It is recommended that the Commission members review the following budget estimates for processing the Districting Plan; and discuss with and provide direction to staff for adoption of a budget.

- Estimate for translation services: $5,000; includes translation of six (6) public hearing notices into four (4) languages (Spanish, Chinese, Vietnamese and Filipino) and three (3) public hearing notices into one (1) language (Spanish).

- Estimate for publication of public hearing notices in the local newspaper: $6,000; includes publishing six (6) public hearing notices in five (5) languages (English, Spanish, Chinese, Vietnamese and Filipino) and three (3) public hearing notices into two (2) languages (English and Spanish).

- Estimate for providing interpretation services: $11,000; includes interpretation services in four (4) languages (Spanish, Chinese, Vietnamese and Filipino) during the pre-map public hearings and services in Spanish for three (3) preliminary plan hearings.

- Estimate for expert consultant: $75,000; consultant should be familiar with the requirements of the CVRA and FVRA, census data and its use in redistricting, public engagement in redistricting, and with drawing voting districts.

- Estimate for office supplies, support staff services, printing and meeting expenses: $10,000.

BACKGROUND:
On Thursday, July 18, 2013 the Selection Panel appointed seven (7) members to the Independent Districting Commission. Per the Consent Decree, a budget will be adopted and submitted to Council no later than 60 days after the appointment of the members (September 16, 2013). The City Clerk’s Office will need the report by Tuesday, August 27, 2013 for posting with the September 11, 2013 City Council agenda. The City Council shall appropriate to the Commission and to the City Clerk the funds necessary for the Commission to accomplish its task, including paying for an expert consultant.

Respectfully submitted,

Diane Halverson
City Clerk

Staff Report – Independent Districting Commission