



CITY OF
FOLSOM
DISCOVERING BY NATURE

Folsom City Council Staff Report

MEETING DATE:	5/25/2021
AGENDA SECTION:	Old Business
SUBJECT:	Workshop Discussion Regarding Governance Manual (Part 2 of 2) and Direction to Staff
FROM:	City Clerk's Department

RECOMMENDATION / CITY COUNCIL ACTION

Staff recommends the City Council conduct the second part of a two-part workshop discussion of a proposed governance manual and provide direction to staff. After the City Council has reviewed both parts of the governance manual, it will be presented to the City Council for final approval.

BACKGROUND / ISSUE

In November 2019, the City Council discussed the possibility of adopting a governance manual. The fundamental concept was that a documented governance manual would establish and clarify mutually agreed upon governance norms. The envisioned governance manual would benefit the City organization and the community by elucidating roles and responsibilities, clarifying specific processes, and documenting governing protocols. The governance manual is not intended to be punitive, nor is it proposed to stifle councilmembers' individualism in their representative role. Instead, the governance manual's purpose is to establish uniform standards that help form governance norms and provide clear guidance in procedural areas of uncertainty.

The governance manual has been deferred due to the redirection of staff activities in response to the COVID-19 pandemic. As Folsom and the Sacramento region begin returning to normalized operations, the governance manual now returns to the City Council for further consideration. The City Council held a workshop on the first part of the proposed

governance manual on April 13 and provided direction to staff for amendments and additions.

POLICY / RULE

Folsom Municipal Code section 2.06.070(C) provides that the City Council may adopt rules governing its meetings, proceedings, and business.

ANALYSIS

The term governance refers to the process of governing. A governance manual can be a useful tool that details the City Council and City Manager's effective governing process norms.

The governance manual is divided into four sections:

- Section 1. Effective Governance *(reviewed at the April 13 meeting)*
- Section 2. Roles and Responsibilities *(reviewed at the April 13 meeting)*
- Section 3. Communications Protocols *(for consideration at this meeting)*
- Section 4. Meeting Protocols *(for consideration at this meeting)*

Section 3 - Communications Protocols provides communication norms between the City Council and the City Manager and between individual City Council members. Section 3 addresses communication parameters within the legal confines of the Brown Act and provides related safe conduct guidelines for communication on social media platforms. This section suggests that City Council members proactively keep each other informed of their City-related activities in the community and the region. This section includes a collaborative reminder that all City Council members have an equal voice and standing on all matters affecting the City and that no single City Council member “owns” a particular issue. This section incorporates standards for speaking for the city and speaking as individual members when in a member holds a different position than the majority of the City Council. Lastly, this section provides guidelines when representing the city on regional agencies and recommends proactive sharing of activity information from regional agencies.

Section 4 - Meeting Protocols memorializes general meeting protocols, such as the different manners of agenda item placement and requests by external parties for agenda items and ceremonial documents. This section addresses the use of Robert’s Rules of Order and meeting norms and provides motion guidelines. Lastly, this section provides an overview of how to address conflicts of interest. In closing, this section acknowledges other policy documents (related to City Council meetings and code of ethics) that should be considered as companion documents to the governance manual.

FINANCIAL IMPACT

This action has no financial impact.

ENVIRONMENTAL REVIEW

This action is not considered a project under Section 15061(b)(3) of the California Environmental Quality Act Guidelines, and as such is exempt from environmental review.

ATTACHMENTS

1. Section 3. Communications Protocols
2. Section 4. Meeting Protocols

Submitted,

Christa Freemantle, CMC
City Clerk

Attachment 1.

Section 3. Communications Protocols

3. Communication Protocols



Effective communication brings individuals together to achieve desired outcomes, and it requires clear sharing of information and attentive listening. Successful communication builds and maintains strong relationships, develops reciprocal trust, promotes transparency, supports understanding with the community, and facilitates good decision-making. As importantly, effective communication reduces misunderstanding and decreases the potential for conflict.



Communication between the City Council and the City Manager

Folsom's council-manager form of government directs the City Council to communicate with the City Manager on all matters related to City operations, and City Council members are therefore encouraged to contact the City Manager with questions about city operations or issues. The City Manager will obtain the requested information or direct the appropriate staff member to assist. When an individual City Council member seeks information that the City Manager believes may be of interest or use to other City Council members, the City Manager may share that information with the entire City Council to keep all members equally informed. The City Council should be aware that the City Manager may not readily share some items due to employment law, privacy rights, investigations, etc.

Agenda review sessions with the City Manager and individual City Council members are scheduled in advance of each City Council meeting. City Council members are strongly encouraged to ask questions about agenda items during their review session rather than hold all the City Council meeting questions. Asking questions before the meeting allows staff time to do additional research if necessary. City Council members are welcome to ask the questions again at the council meeting to benefit other members and the public.

Direction to City Manager at City Council Meetings

In providing direction to the City Manager and staff during City Council meetings, the City Council should ensure that direction and motions provide unambiguous policy direction,

including specificity and scope of the desired action. If a motion seems unclear, City Council members should ask for clarification to be sure all agree on the proposed direction.

Communication between City Council Members

City Council Members should treat each other with dignity and respect and observe a high level of professional decorum both on and off the dais. This respectful approach supports a productive sense of camaraderie and sets an example for civil decorum in City Council meetings.

Brown Act

The California open meeting law, commonly known as the "Brown Act," requires all City Council meetings to be open to the public (subject to a few limited exceptions). A meeting is defined as any congregation of a majority of the members of a legislative body at the same time and place to hear, discuss, and deliberate upon any item that is within the subject matter jurisdiction of the legislative body. Accordingly, meetings or discussions between three or more members of the Folsom City Council could violate the Brown Act if such meeting is to discuss any matter within the subject matter jurisdiction of the City Council (e.g., City parks and recreation programs, budget, staffing, streets and traffic, public improvements, or private development projects, etc.) without first complying with agenda-posting and noticing requirements of the Brown Act.

Meetings subject to the Brown Act are not limited to face-to-face gatherings. They also include any communication medium or device (for example, telephone conversations, text messages, social media postings, etc.) through which a majority of the City Council discusses, deliberates, or acts on an item of business outside of a noticed meeting. Communication technologies present particular Brown Act challenges. For example, standard email practices of forwarding or replying to messages can easily lead to a serial meeting prohibited by the Brown Act, as can participation by a majority of the Council members in an internet chatroom, social media format, a Facebook page posting, or blog dialogue.

Social Media

City Council members should use the same professionalism and sound judgment exercised in public meetings when communicating on social media. Beyond standards of professionalism, City Council members should also be mindful of legal restrictions on their social media activity.

In 2020, State legislation (AB 992) amended the Brown Act to address public officials' use of social media, and two particular elements are essential to keep in mind. First, AB 992 clarifies that a public official may have their separate conversation on social media platforms to answer questions, provide information to the public, or solicit information

from the public regarding a matter within the legislative body's subject matter jurisdiction. However, this is legally permissible as long as a majority of the members of the legislative body do not use the social media platform to discuss among themselves of the same matter, including making posts, commenting, and even using digital icons that express reactions (i.e., emojis, "liking", thumbs up, thumbs down, etc.) to the discussion made by other members of the legislative body.

Key Point: *A City Council member may have their own conversation on social media about a matter within the City Council's subject matter jurisdiction, up to the point when a majority of the City Council members starts to have the same conversation on their own. Once there is a majority of City Council members having their own "separate" conversation on social media about the same subject matter, then those conversations must cease altogether. Simply using a digital icon (such as emojis) constitutes having a conversation under AB 992.*

Secondly, AB 992 goes further by prohibiting a member of a legislative body from responding directly to any communication on an internet-based social media platform regarding a matter that is within the subject matter jurisdiction of the legislative body that is made, posted, or shared by any other member of the legislative body. In other words, if a public official posts a comment in response to another public official's social media post about an agency issue, that could be a Brown Act violation under AB 992 (assuming both public officials serve on the same legislative body). AB 992 covers commonly-used social media platforms such as Facebook, Instagram, Snapchat, Twitter, blogs, TiKTok, and Reddit.

Key Point: *Be careful not to comment on another City Council member's posting on social media, including posting comments, retweeting, "liking," "disliking," responding with positive or negative emojis, and reposting. Violations of the Brown Act can potentially lead to invalidation of future City Council actions, payment of a challenger's attorney fees, and even criminal prosecution for the offender.*

Keeping Each Other Informed of Activities and Reporting on Regional Agency Action

City Council members should proactively keep each other informed of their City-related activities in the community and the region. City Council members should also report on important discussions and actions from the regional agencies they serve. This reporting of activities and actions is best accomplished at a City Council meeting either during discussion of related agenda items or during the Council Comments segment of a meeting.

The proactive sharing of activities contributes to the collaborative nature of the City Council's work and respects the role of all members. Importantly, this sharing of information honors the standard that no single City Council member "owns" a particular

issue or effort. It also reinforces the notion that all members have an equal voice and standing on all matters affecting the City.

Communication between City Council Members and the Public

Speaking for "the City"

When a City Council Member is requested to speak to a group or is asked the Council's position on an issue, the response should reflect the Council's position as a whole as taken in open session. Of course, a member may clarify their vote on a matter by stating, "While I voted against 'X,' the City Council voted in support of it." When representing the City at meetings or other venues, those in attendance must understand the Council's position as well as the position of an individual member.

Safeguarding Confidential, Sensitive and Closed Session Information

Confidential or sensitive City information, including closed session materials and discussions, shall not be disclosed in any circumstances, including via electronic communication.

Correspondence

Members of the City Council will often be called upon to write letters to residents, businesses, or other public agencies. Typically, the Mayor will transmit the City's position on policy matters to outside agencies on behalf of the City Council. Individual members of the Council will often prepare letters for constituents to respond to inquiries or provide requested information. City letterhead is available for this purpose, and staff can assist in the preparation of such correspondence. Requests for assistance should be made to the City Manager.

On occasion, members may wish to transmit correspondence on an issue upon which the Council has yet to take a position or has no position. In these circumstances, members should indicate either in correspondence or verbally that they are not speaking for the City Council as a whole, but for themselves as a private citizen or as one member of the Council. Council Members should avoid expressing opinions that could be perceived as biased or creating an appearance of bias when communicating about a matter that has the potential of coming before the Council for action.

After the City Council has taken a position on an issue, official City correspondence related to the issue should reflect this position. Similar to verbal communication standards, a City Council member who disagrees with the majority opinion may express their position by indicating that, "While I voted against 'X,' the City Council voted in support of it." In

addition, City letterhead and staff support cannot be utilized for any personal purpose or in the Council Member's own campaign, including letters of recommendation.

Representing the City on Regional Agencies

City Council members are assigned to represent the City on a variety of regional agency boards and commissions. Active participation by City Council members on regional agencies ensures the City's interests are adequately represented, advances Folsom's standing in the region, and allows City Council members to gain additional experience while developing connections with leaders from other jurisdictions. City Council members should exhibit the same dedication to regional agency meetings as they do to Council meetings through regular attendance, knowledge of the agenda, and engagement in policy discussions. If a City Council member is unable to attend a meeting, they should advise the alternative representative.

Assignments to regional agencies are generally proposed by the Mayor and require the concurrence of the City Council. Care should be taken to distribute the workload as evenly as possible and capitalize on subject matter expertise. Keeping regional assignments as consistent as possible year-to-year maintains the City's knowledge and seniority on regional agency.

Council meetings provide an opportunity to "report out" on regional activity so that all City Council members, staff, and the public are fully informed. See "[Keeping Each Other Informed of Activities and Reporting on Regional Agency Action](#)" earlier in this section for additional details.

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Attachment 2.

Section 4. Meeting Protocols

4. Council Meeting Protocols



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.

California Brown Act



Conducting Open Meetings

Folsom City Council meetings are held in compliance with the California Brown Act, which prescribes requirements for open and public meetings, notice of meetings, public participation, and general agenda title guidelines.

Placing an Item on the Agenda

Folsom Municipal Code section 2.06.070(A)(1) places the responsibility to develop the agenda for City Council meetings on the Mayor and the City Manager. Generally, items placed on the agenda will be generated by staff, but occasionally items may be proposed by either a City Council member or a member of the public.

Agenda Items Proposed by a City Council Member

A City Council member may request an item be placed on a future agenda by contacting the Mayor or City Manager. When the proposal entails wholly new policy direction or an issue that has not previously been considered, the Mayor and City Manager may place the item on an agenda to seek preliminary consensus from the City Council whether to investigate the proposal further. Staff will not conduct research or prepare a staff report until receiving direction to do so from the City Manager.

Agenda Items Proposed by Members of the Public

A member of the public may propose an item be placed on a future agenda by contacting a City Council member, pursuant to Folsom Municipal Code section 2.06.070(A)(2). The City Council member should communicate the request to the Mayor and City Manager for appropriate handling and scheduling.

Rules of Order

The City Council generally meets twice per month to conduct the public's business, and it is essential that meetings be orderly, efficient, and well-run. The City Council may establish and adopt by resolution its meeting procedures, and as to matters not covered by Council-adopted procedures, the Folsom Municipal Code provides that those matters shall be governed under the most current edition of Robert's Rules of Order. The Mayor presides over meetings of the City Council; in the absence of the Mayor, the Vice Mayor shall preside. In the absence of the Mayor and Vice Mayor, the City Council may designate a senior member of the City Council to serve as temporary presiding officer to facilitate the conduct of the meeting.

City Council Meeting Norms

For most agenda items, the following sequence of steps will occur:

1. Staff presentation
2. Questions from the City Council
3. Public hearing or public comment (depending upon the nature of the item)
4. Discussion and deliberation by the City Council
5. Motion or proposed direction to staff (see below for more detail regarding motions)
6. Vote on motion, or verbal expression of consensus

Certain hearings (such as appeals, community facility district formations, utility rate increases, etc.) may require additional procedures, and the City Attorney will provide appropriate instructions to guide the City Council's sequence of steps in those instances.

Making and Seconding Motions

Direction is given by the City Council through motions, which are verbal tools to focus discussion on proposed action and, eventually, to memorialize City Council direction. A motion supports orderly deliberation and ensures all voices are heard.

Motions should begin with “I move . . .” to make it clear that this is a motion for action. Most staff reports contain staff’s suggested motion-ready language within the “recommendation” section at the beginning of each staff report, but City Council members may make any desired motion. Motions require another City Council member to “second” the motion, which indicates there is interest in taking action on the motion. Motions are seconded by verbalizing “I second the motion”. Any City Council member or the Mayor may make or second a motion.

Before the Mayor asks the City Clerk to call the question, the City Council may continue to discuss and deliberate on the merit of the motion. The maker of a motion has the right to speak so the City Council understands the basic premise of the motion, and to address any argument or opposition to the motion.

The most commonly used motions are:

Motion Type	Action Accomplished	Language
Main/Original motion	The first motion made which proposes action	“I move that...”
Amending a motion	Either adds or subtracts to the preceding motion	“I move that the motion be amended by...”
Refer to a commission or committee	Refers the matter to a commission or committee	“I move that the issue be referred to the [appropriate commission or committee]”
Continue or Postpone	Continues or postpones action to a future date (this can be to a date certain, or off-calendar to indicate open-ended continuation)	“I move that the issue be [continued to [specific date or off-calendar]”
Previous Question	Ends discussion and compels a vote	“I move the previous question”

Limit Debate	Re-focuses lengthy or off-topic discussion, without blocking further discussion	"I move to limit discussion to [time limit or topic]"
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In addition, a "point of order" question serves to bring discussion that has detoured away from meeting norms back to conformance with proper procedures. The Mayor or any City Council member may call a point of order.

The City Attorney provides advice during meetings in response to legal or procedural inquiries from the Mayor and City Council members. The City Attorney may also assist the City Council in framing complex motions to ensure clarity of intent and legal sufficiency.

Proclamations and Resolutions of Commendation

From time to time, the City receives requests from external parties for proclamations and resolutions of commendations. These requests are generally submitted to the Mayor, as the Folsom Municipal Code identifies the Mayor as responsible for representing the City for ceremonial purposes. If the Mayor approves the request and indicates the item should be placed on a City Council agenda, staff will prepare the appropriate item.

External presentations

From time to time, the City receives requests from external parties to make a presentation to the City Council. Similar to agenda items proposed by members of the public, requests by external parties to make a presentation before the City Council should be communicated to the Mayor and City Manager for appropriate handling and agenda scheduling.

Reporting and Avoiding Conflicts of Interest

The Political Reform Act of 1974 ("the Act") establishes conflict-of-interest laws in California. The Act limits the receipt of specified gifts and honoraria and promulgates the principle that public officials should perform their duties serving the public in an impartial manner, free from bias caused by their own financial interests or the interests of persons who have supported them. In addition, the Act

sets up a mechanism whereby assets and income of public officials which may be materially affected by their official actions shall be disclosed and in certain circumstances the officials are disqualified from acting within their official capacity so that conflicts of interest may be avoided.

To determine whether a conflict of interest exists under the Act, the California Fair Political Practices Commission (FPPC) prescribes a four-step process, which is complex and time-consuming to properly analyze. The four considerations are:

STEP 1: Is it reasonably foreseeable that the governmental decision will have a financial effect on any of the public official's financial interests?

STEP 2: Will the reasonably foreseeable financial effect be material?

STEP 3: Will the material financial effect on the public official's financial interest be indistinguishable from its effects on the public generally?

STEP 4: Is the public official "making, participating in making, or in any way attempting to use his or her official position to influence the governmental decision"?

Key Point: It is of paramount importance that City Council members consult with the City Attorney to determine the existence of a conflict of interest. This consultation should happen before a City Council meeting when a possible conflict exists related to an agenda item. The City Attorney will assist City Council members in determining whether a conflict of interest exists. If a conflict exists, and no exceptions apply, disqualification is required. The rules and interpretation are complicated, and the Act deals with conflict-of-interest situations on a transactional, or case-by-case, basis. This means that situations must be assessed for possible conflicts of interest in the light of their individual facts. The Act demands continual attention on the part of officials. They must examine each transaction to determine if a conflict of interest that triggers disqualification exists.

When a conflict is determined to exist in relation to an agenda item before the City Council, the conflicted City Council member must:

1. Publicly identify the nature of the conflict / financial interest that causes the conflict (except that he or she need not disclose the street address of a residence);

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2. Recuse from discussing and voting on the matter; and
 3. Leave the meeting room and refrain from participating in discussion of the item until after the decision has been made
 - a. Exception: Conflicted City Council members do not need to leave the dais for items on the Consent Calendar, but they still must disclose the nature of the conflict / financial interest and refrain from voting on that item

Companion Documents

The City Council has previously approved the below-referenced policies, which should be considered as companion documents to this Governance Manual.

1. Resolution No. 9689 – A Resolution of the City Council of the City of Folsom Relating to City Council Meetings, Proceedings, and Business (2015)
2. Resolution No. 7788 – A Resolution Adopting a Code of Ethics Applicable to the City Council, City Commissions and Committees (2006)

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