



PLEASE BRING YOUR CALENDARS

Keep Hayward Clean and Green Task Force
Hayward City Hall, Room 2A
Regular Meeting – New Member Orientation - 6:00 PM
September 25, 2014

Agenda

- I. Welcome (Chair Blytha Bowers) (6:00pm)
- II. Public Comments: *(The Public Comments section provides an opportunity to address the Task Force on items not listed on the agenda. The Task Force welcomes your comments and requests that speakers present their remarks in a respectful manner, and focus on issues which directly affect the City or are within the jurisdiction of the City. As the Task Force is prohibited by State law from discussing items not listed on the agenda, your item will be taken into consideration, and may be referred to staff).* (6:05pm)
- III. Brown Act, Attendance Policy, and Conflict of Interest Rules - Michael Lawson, City Attorney (6:10pm)
- IV. Mission and Priorities (6:30pm)
- V. Initiatives and Ad Hoc Committees (6:45pm)
- VI. Monthly Clean-Up Events, Special Programs and Projects (7:00pm)
- VII. Attendance Policy, Standards and Expectations (7:15pm)
- VIII. Review KHCG Webpage & Access Hayward (7:30pm)
- IX. Adjournment



Please do not wear scented products to this meeting.

People who have environmental sensitivities may be in attendance. Assistance will be provided to those requiring accommodations for disabilities in accordance with the Americans with Disabilities Act of 1990. Please request needed accommodations at least 72 hours in advance of the meeting by calling (510) 583-4340, or by calling the TDD line for those with speech and/or hearing disabilities at (510) 247-3340



TO: Boards and Commissions and Keep Hayward Clean and Green Task Force

FROM: Office of the City Attorney

SUBJECT: Review of the Brown Act, Attendance Policy and Conflict of Interest Rules

This memorandum presents a broad overview of the Brown Act, the City Council’s attendance policy and conflict of interest regulations for the City’s Boards and Commissions and the Keep Hayward Clean and Green Task Force. This memorandum also references the required trainings in Ethics and Harrassment prevention.

Ralph M. Brown Act

The Ralph M. Brown Act (“Brown Act”) is California’s “sunshine” law for local governments. Based upon state policy that the people must be informed so that they can maintain oversight of their government, the Brown Act requires that all meetings of the legislative bodies of a local agency be open and public, unless an exception exists. The City Council and all the City’s boards and commissions, including the Keep Hayward Clean and Green Task Force, are legislative bodies for purposes of the Brown Act.

Meetings: Under the Brown Act, a meeting is any congregation of a majority of the members of a legislative body at the same time and the same place to hear, discuss or deliberate on any item that is within the subject matter jurisdiction of the local agency. All deliberations during a meeting of the legislative body must be conducted in open session. The Brown Act, however, does not limit individual contacts between a member of the legislative body and any other person, except in the context of "serial meetings" which are discussed below. The Brown Act also permits the majority to attend a social gathering, provided that agency business is not discussed.

Under the Brown Act, the public has a right to address the City’s legislative bodies at any meeting on any topic that is within that body’s subject matter jurisdiction. However, the City has the right to limit public speech through the imposition of agendas and rules of order and decorum.

Discussing Items Not On The Agenda: While the Brown Act generally prohibits acting on or

discussing items not on the posted agenda, it allows the following actions:

- Brief responses to statements made or questions posed by persons exercising their public comment rights.
- Questions of staff or the speaker for clarification.
- Brief announcements.
- Brief reports on Commissioner or Board Member activities.
- Referrals to staff for additional information or action.
- Reports back to the Board or Commission on any matter.
- Direction to staff to place a matter of business on a future agenda.

While neither the legislature nor the courts have provided guidance on what a “brief” statement, comment, announcement or report may be, discretion dictates that the remarks be completed within a few minutes. Caution should be used to avoid any discussion or action on an item that has not been agendized.

Technological Communications and Serial Meetings: The Brown Act applies to all meetings of the City’s legislative bodies. One of the most frequently asked questions about the Brown Act involves serial meetings. The serial meeting may be a "daisy-chain" style meeting in which one member contacts another member and that member contacts a third member who then contacts a fourth member, etc., until a quorum has been reached. Another type of serial meeting is the hub-and-spoke meeting, in which one member or a staff person contacts all other members. The Brown Act is violated if several one-on-one conferences leads to a discussion, deliberation or action by a majority of the members of the legislative body. Communications among a majority of members in person or through e-mail, text, telephone or participation in an on-line forum (“blogs”) may result in a "meeting" for purposes of the Brown Act.

Remedies for Brown Act Violations: The District Attorney or any interested person can file a civil action to compel a local agency to comply with the Brown Act. Persons who wish to invoke the Brown Act's civil remedies must first provide the legislative body notice and an opportunity to cure its actions. An interested person who successfully invalidates a legislative body's action can recover attorney's fees and costs from the local agency (not the individual members). However, a violation of the Brown Act by a member of the legislative body who acts with improper intent is punishable as a misdemeanor. The member must intend to deprive the public of information to which the member knows or has reason to know the public is entitled in order to be found guilty of a misdemeanor.

Attendance Policy

The City's Charter requires that the appointed members of the City's boards, commissions and task force comply with some attendance standards. Under the Charter, if a member is absent for three consecutive regular meetings, then that member's seat shall be declared vacant by the City Council. The City Council also adopted Resolution No. 87-323, which requires that the appointed members shall be required to attend not less than 75% of all regular meetings. Attendance records are reviewed each year by the City Council, and the failure to meet the attendance requirements may result in the removal of a member from his or her appointed position by the City Council. A copy of Resolution No. 87-323 is attached.

Conflicts of Interest

Public officials, including members of the City's boards, commissions and the Keep Hayward Clean and Green Task Force, are governed by several different conflict-of-interest laws. The most comprehensive conflict of interest rules are enacted by the Fair Political Practices Commission (FPPC) and derive from the California Political Reform Act. Common law conflict-of-interest rules also may preclude a public official from acting in a manner that creates an appearance of impropriety.

The FPPC conflict-of-interest analysis involves answering a series of questions:

- (1) Are you a public official?
- (2) Are you making, influencing or participating in a governmental decision?
- (3) What are your economic interests?
- (4) Are your economic interests directly or indirectly involved in the governmental decision?
- (5) Are your economic interests material?
- (6) Is it reasonably foreseeable that the materiality standard will be met by the governmental decision?
- (7) If you have a conflict of interest, does the "public generally" exception apply?
- (8) If you have a disqualifying conflict of interest, is your participation legally required?

Members of the City's boards, commissions and the Keep Hayward Clean and Green Task Force are public officials who participate in governmental decisions, either directly or in an advisory capacity. Economic interests include real property (owned or leased), businesses, investments, gifts, salaries and other sources of income belonging to you or your immediate family. For example, if an applicant is the source of \$500 in income to you - either personally, or through a family member or a business that you own - in the 12 months prior to the time of your action on an applicant's application, you likely have a conflict of interest on that particular application. Generally speaking, public officials are precluded from participating in a decision if they own property that is within 500 feet of the property that is the subject of the action.

Once the public official determines that a conflict of interest exists, the public official must publicly identify the economic interest involved, including specific details about the economic interest. For real property, this means the location of the real property must be disclosed, unless it is the public official's residence. This disclosure must be done after the announcement of the agenda item but before discussion of the item. The public official must then immediately leave the room.

An overview of conflicts regulations prepared by the FPPC is available either on-line at www.fppc.ca.gov or from City staff. Violations of the Political Reform Act may result in fines and/or criminal, civil or administrative proceedings. As the conflict of interest analysis is both factually and legally intensive, it is always wise to consult with the City Attorney's office in advance so that a thorough review can be conducted.

FPPC Form 700

California law and the City's regulations require that members of the City's boards, commissions and the Keep Hayward Clean and Green Task Force periodically file a Statement of Economic Interest, also known as a Form 700. The information that must be disclosed on the Form 700 is determined by the disclosure categories to which the member's board, commission or task force has been assigned. The City's conflict of interest code and its disclosure categories are established by the City Council and reviewed every two years.

Every City board, commission and task force member is required to file a Form 700 upon assuming office, annually thereafter, and upon leaving office. Because the types of disclosure varies, as do the economic interests of the City's appointed officials, it is beyond the scope of this memorandum to discuss Form 700 specific requirements. The FPPC has prepared a reference pamphlet to assist public officials in completing the form, and staff in the City Clerks' office and the City Attorney's office are available to answer questions. The City Clerk's office will notify members when a Form 700 filing is due.

Ethics and Harrassment Prevention

Each of you will receive a letter from the City Clerk advising of the requirement to complete two hours of training in Ethics and two hours of training in Harrassment Prevention. These courses will be available to you online and must be completed every two years.



Keep Hayward Clean and Green Task Force Priorities

Our mission is to preserve the environment and enhance the visual appearance of the City of Hayward through the joint efforts of individuals, volunteer groups, businesses, and municipal resources.

CLEAN UP EVENTS

Goal: Preserve the environment and enhance the visual appearance of the City

- KHCG Monthly Clean Up Events
- KHCG Adopt-a-Block Program
- Support and Sponsorship of Community Clean Up Events
- Community Clean Up Tool Kit (living document)

EDUCATION AND MARKETING

Goal: Utilize education and outreach to ensure individuals, volunteer groups, businesses, and municipal resources are involved and participate in keeping our city clean and green

- Environmental Education Initiative
- Neighborhood Partnership
- HARD Partnership
- HUSD Involvement
- Chamber of Commerce
- Community Engagement Activities
- Youth Organizations
- Access Hayward Utilization

CLEAN AND GREEN POLICY

Goal: Suggest, influence, and promote City Ordinances and processes that support a clean and green environment

- Graffiti Reporting and Documentation
- Graffiti Vandalism Restitution
- Illegal Dumping
- Blight Reduction
- Clean and Green City Ordinances

Keep Hayward Clean and Green Task Force Attendance Policy

In Resolution 87-323 C. S. the Hayward City Council implemented Section 905 of the City Charter establishing policy with regard to board and commission attendance.

In Resolution 12-146, the Council approved the addition of clean-up events as a factor in attendance.

WHEREAS, the City Council of the City of Hayward recognizes that the Keep Hayward Clean and Green (KHCG) Task Force, though unique, services as a commission and therefore subject to the attendance policy of boards and commissions.

WHEREAS, the KHCG Task Force considers it's Monthly Clean-Up Events as an invaluable function and therefore equally part of its attendance policy.

WHEREAS, the mention of "regular meetings" in Resolutions 87-323 C. S. and 12-146 include "Monthly Clean-Up Events and regular meetings" for KHCG Task Force members.

1. Members of boards or commissions shall be required to attend not less than 75% of all regular meetings held;
2. In compliance with the City Charter, failure by a member to attend three consecutive regular meetings of a board or commission will be cause for Council to declare the members position vacant;
3. Boards and commissions shall not excuse or otherwise grant permission to their members to be absent from any future regular meeting of the board or commission;
4. Attendance records will be reviewed by the City Council in June of each year based on the previous 12-month period (June 1 through May 31), except for appointments effective July 1st or thereafter;
5. The City Council will remove or not reappoint any board or commission member who has failed to attend at least 75% of all regular meetings held during the 12-month period noted in paragraph (4) above, unless, upon the appeal of a board or commission member that is filed within seven (7) days of notification that such attendance requirement has not been met, the City Council determines that a lesser attendance record is the result of unusual and excusable circumstances.

Examples of unusual and excusable circumstances that may, but need not, result in retention of a board or commission member include a comparatively infrequent meeting schedule of the board or commission upon which the member serves over the 12-month period; absences that result from the member's attendance at other City-sponsored or City-endorsed functions that conflict with a board or commission meeting time; and the illness or injury of a family member that required the absence of the board or commission member from the City. In all cases in which the City Council considers the appeal of a board or commission member under this paragraph, the Council shall take into account the attendance of the board and commission member for the entire period that the member has served on City boards and commissions and the likelihood that the member's current year attendance will meet the 75% attendance standard in the future.

KHCG Attendance Policy Process:

- A. Attendance records will be maintained by KHCG Task Force City Staff.
- B. Members requesting to be excused from Task Force Meetings or Monthly Clean-Up Events must notify the Task Force Chair AND Task Force City Staff prior to the meeting or event.
- C. Attendance standards imply members will be on time for meetings (currently 7PM) and clean-up events (currently 8AM).
- D. The Task Force Staff will excuse members based on the "unusual and excusable circumstances" noted in City Resolution 87-323 C. S.
- E. Task Force attendance will be reviewed every four months of the fiscal year; October 30th, February 29th (28th), June 30th. (See example, **Attachment 1**)
 - a. Members below 75% attendance (regular meetings and Monthly Clean-Up Events combined) or members that have missed two or three consecutive meetings will be sent a letter from the City Clerk's Office reaffirming the attendance policy.
 - b. Failure to maintain attendance standards by the next review will result the member's position being declared vacant by the City Council.

Attachment 1

KHCG Task Force Attendance Example

Review Date: October 30th	Review Period				
	July	August	September	October	Total (4 months)
Meetings per Month	1	1	1	1	4
Events per Month	1	1	1	1	4
Total Meetings & Events					8 100%
Total must attend to meet 75%					6 75%

Review Date: February 29th (28th)	Review Period				
	November	December	January	February	Total (4 months)
Meetings per Month	1	0	1	1	3
Events per Month	1	0	1	1	3
Total Meetings & Events					6 100%
Total must attend to meet 75%					5 83%

Attachment 1

KHCG Task Force Attendance Example

Review Date: June 30th	Review Period					
	March	April	May	June	Total (4 months)	
Meetings per Month	1	1	1	1	4	
Events per Month	1	1	0	1	3	
Total Meetings & Events					7	100%
Total must attend to meet 75%					6	86%

Note: Period for new members starting in September will be adjusted (i.e. 4 total, 3 needed for 75%).

In addition, members must not miss three consecutive meetings to be in compliance.