

**CITY OF EL PASO, TEXAS
AGENDA ITEM
AGENDA SUMMARY FORM**

DEPARTMENT: City Manager's Office

AGENDA DATE: June 11, 2019

CONTACT PERSON NAME AND PHONE NUMBER: Cary Westin (915) 212-1063

DISTRICT(S) AFFECTED: All Districts

STRATEGIC GOAL: Goal 6: Set the standard for Sound Governance and Fiscal Management

SUBJECT:

APPROVE a resolution / ordinance / lease to do what? OR AUTHORIZE the City Manager to do what? Be descriptive of what we want Council to approve. Include \$ amount if applicable.

This item is a presentation of the proposed Code of Conduct for Elected Officials and Boards and Committees.

BACKGROUND / DISCUSSION:

Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action? What are the citizen concerns?

Item is being brought forward as a management response to an internal audit finding from January, 2019 and recommendation that the City establish a Code of Conduct for Elected Officials.

PRIOR COUNCIL ACTION:

Has the Council previously considered this item or a closely related one?

No

AMOUNT AND SOURCE OF FUNDING:

How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?

None

*****REQUIRED AUTHORIZATION*****

RESOLUTION

WHEREAS, the City Council wishes to formally adopt a Code of Conduct for Elected Officials and Boards and Commissions, that will serve as a guiding set of norms governing interactions among and between City Council members, as well as governing interactions between City Council, City entities and staff and non-City entities, including the media and the public;

WHEREAS, the Code of Conduct shall assist in setting the foundation for the highest standards of professional conduct from City Council members and shall foster an environment of trust and ethical behavior.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

THAT the City Council hereby adopts the Code of Conduct for Elected Officials and Boards and Commissions, attached hereto and made part of this Resolution, to serve as a public statement of the City of El Paso's commitment to high standards and proper conduct not only by City Council, but also by the City as an organization and in the City's interaction with non-City entities, include the media and the public.

(Signature page to follow)

(Signature Page)

SIGNED this _____ day of June 2019.

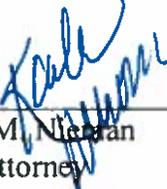
CITY OF EL PASO

Dee Margo
Mayor

ATTEST:

Laura D. Prine
City Clerk

APPROVED AS TO FORM:



Karla M. Niebran
City Attorney

City of El Paso

The City of El Paso has a mission to **deliver exceptional services to support a high quality of life and place for our community**. In pursuing its mission, the City recognizes that stewardship of the public interest must be the primary concern of the elected and appointed officials, as well as employees. Everyone must work together for the common good of the people of El Paso and not for any private or personal interest, and must assure fair and equal treatment of all persons, claims and transactions.

The following Code of Conduct has been designed to preserve the values adopted by the City of El Paso - *Integrity, Respect, Excellence, Accountability and People*. *This Code of Conduct applies to all elected officials and Board/Committee members.*

Members of the City Organization

Mayor

- Recognized as head of the City Government for all ceremonial purposes, but has no administrative duties except as provided in the City Charter
- Is a non-voting member of and presides over the City Council, except for the limited purpose of breaking tie votes and as otherwise permitted by the City Charter
- Has the authority to veto legislation, except for any City Council action which removes the City Manager or the City Attorney
- Responsible for leading the Council into an effective, cohesive working team

City Council

- Responds to citizen concerns
- Represents various segments of the community
- Appoints and directs City Manager and City Attorney
- Enacts ordinances, resolutions and sets policy
- Approves budget

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- Determines tax rates

City Manager

- Serves Council and community
- Administers City projects and programs
- Recruits, hires and supervises City staff
- Serves as Council's chief advisor and shall have the right to take part in discussion but shall not vote
- Carries out Council's policies
- Prepares budget for Council's consideration

City Attorney

- Serves as chief legal adviser to Mayor and Council
- Serves as chief legal adviser and attorney to all City departments in matters relating to their official duties
- Oversees all civil litigation in which the City is a party
- Enforces municipal ordinances and prosecutes violations thereof

Boards/Committees

- Serve in an advisory capacity to City Council
- Established to gather, encourage and foster community input
- Act as advocates for the City

City Employees

- Serve the community under the direction of the City Manager, who directs the administration of all City departments
- Work together to build a good working environment within the organization
- Share leadership and unique skills necessary for specific department to meet the goals of the City and the departments

City Volunteers

- Serve the community under the direction of the City Manager, who directs the administration of all City departments
- Share unique skills that assist assigned departments to meet the goals of the City and the departments, without compensation

Five Pillars of Conduct

I. Comply with the spirit & letter of the law and City Policy

Comply with the laws of the nation, State of Texas and the City of El Paso.

(Ethics Ordinance 2.92.050)

II. Make decisions and act on facts

Maintain an open mind and base your decisions and actions on the facts presented and the law.

(Texas Penal Code 39.02, 39.03)

III. Never disclose confidential information

Confidential information shall never be disclosed without proper legal authorization, or be used to advance personal, financial or other private interests.

(Texas Penal Code Ch. 39.06)

IV. Respect City Process

Perform duties in accordance with City Manager form of government and the processes and rules of order established by the City Council.

(Ethics Ordinance 2.92.050)

V. Maintain a Positive Work Place Environment

Support and maintain a positive and professional work place environment. Abusive conduct, personal and verbal attacks are not acceptable. It is imperative to uphold the values of the City and create a positive perception at all times with staff, businesses and the community. (City Charter, Ethics Ordinance 2.92.050, Texas Penal Code 39.)

ELECTED OFFICIALS CONDUCT WITH ONE ANOTHER

In Public Meetings

- Practice civility, professionalism, and decorum during discussions and debate. Keep in mind that criticism of ideas and expression of differing points of view are legitimate elements of a free democracy in action.
- Refrain from making belligerent, personal, impertinent, slanderous, threatening, abusive, or disparaging comments. No shouting or physical actions that could be construed as threatening will be tolerated.
- It is the responsibility of the Mayor to maintain order and keep the comments of Officials on track during public meetings. Officials should maintain focus on the current agenda item being discussed. If there is disagreement about the agenda or the Mayor's actions, those objections should be voiced politely and with reason, following parliamentary procedure. The City follows Roberts Rule of Order for meeting management, to the extent they are not in conflict with other City procedural rules and/or orders.
- Demonstrate effective problem-solving approaches. Officials have a public stage to show how individuals with disparate points of view can find common ground and seek a compromise that benefits the community as a whole.
- Be respectful of everyone's time. Be punctual and keep comments relative to topics being discussed.

In Private Settings

- Continue respectful communications in private. The same level of respect and consideration of differing points of view deemed appropriate for public discussions should be maintained in private conversations.
- Be mindful that written notes, voicemail messages, and e-mails may be subject to the Texas Public Information Act. Technology allows words written or said without much forethought to be distributed wide and far. Written notes, voicemail messages and e-mails should be treated as potentially "public" communication.
- Be mindful that private conversations can have a public presence. Officials are always on display - their actions, mannerisms, and language are monitored by people around them that they may not know. Lunch table conversations could be eavesdropped upon,

parking lot debates could be watched, and casual comments between individuals before and after public meetings may be noted.

ELECTED OFFICIALS CONDUCT WITH CITY STAFF

Governance of a City relies on the cooperative efforts of officials who set or advise on policy and staff who implement and administer the Council's policies. Therefore, every effort should be made to be cooperative and to show mutual respect for the contributions made by each individual for the good of the community.

- Recognize and respect the City's organizational structure. All questions and/or requests for information should be directed to the City Manager and go through the Council Request process.
- Treat all staff as professionals. Clear, honest communication that respects the abilities, experience, and dignity of each individual is expected. Disrespectful behavior towards staff is not acceptable.
- Do not disrupt City staff from their jobs. Officials should not disrupt City staff while they are in meetings, on the phone, or engaged in performing their job functions in order to have their individual needs met.
- Never publicly criticize an individual employee. Officials should never express concerns about the performance of a City employee in public, to the employee directly, or to the employee's manager. Comments and concerns about staff performance should only be made to the City Manager through private correspondence or conversation.
- Do not get involved in administrative functions. Be mindful that the City Charter states the members of the Council shall deal with City employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the Council nor any of its members shall give orders to any employee, either publicly or privately. Officials must not attempt to influence City staff on the making of appointments, hiring/firing staff, awarding of contracts, selecting of consultants, processing of development applications, or granting of City licenses and permits.

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Requests for additional staff support - even in high priority or emergency situations -- should be made to the City Manager who is responsible for allocating City resources and personnel in order to maintain a professional, well-run City government.

ELECTED OFFICIALS CONDUCT WITH THE PUBLIC

In Public Meetings

Making the public feel welcome is an important part of the democratic process. No signs of partiality, prejudice or disrespect should be evident on the part of individual officials toward those participating in a public forum. Every effort should be made to be fair and impartial in listening to public testimony.

- *Be welcoming to speakers.* Speaking in front of Officials can be a difficult experience for some people. Some of the issues the Officials undertakes may affect people's daily lives and homes. Some decisions are emotional. The way that Officials treat people during public hearings can do a lot to make them relax or to push their emotions to a higher level of intensity.
- *Be fair and equitable in allocating public hearing time to individual speakers.* Generally, each speaker will be allocated three minutes. If many speakers are anticipated, the Mayor may shorten the time limit and/or ask speakers to limit themselves to new information and points of view not already covered by previous speakers. No speaker will be turned away unless he or she exhibits inappropriate behavior as determined by Mayor, with input from the City Attorney as appropriate.
- *Be an active listener.* It is disconcerting to speakers to have Officials not look at them when they are speaking. It is fine to look down at documents or to make notes, but reading for a long period or gazing around the room gives the appearance of disinterest. Be aware of facial expressions, especially those that could be interpreted as "smirking," disbelief, anger or boredom.
- *Ask for clarification, but avoid debate and argument with the public.* Only the Mayor can interrupt a speaker during a presentation. However, an Official can ask the Mayor for a point of order if the speaker is off the topic or exhibiting behavior or language the Official finds disturbing.

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- *No personal attacks of any kind, under any circumstance.* It is never appropriate to belligerently challenge or belittle the speaker. Officials should be aware that their body language and tone of voice, as well as the words they use, could come across intimidating or aggressive.
- *Follow parliamentary procedure in conducting public meetings.* The City Attorney serves as advisory parliamentarian for the City and is available to answer questions or interpret situations according to parliamentary procedures. Final rulings on parliamentary procedure are made by the Mayor. The City follows Roberts Rule of Order for meeting management, to the extent they are not in conflict with other City procedural rules and/or orders.

In Unofficial Settings

- *Make no promises on behalf of the City.* Officials will frequently be asked to explain a Council action or to give their opinion about an issue as they meet and talk with constituents in the community. It is appropriate to give a brief overview of City policy and to refer to City staff for further information.
- *Make no personal comments about other elected officials.* It is acceptable to publicly disagree about an issue, but it is unacceptable to make derogatory comments about other Officials, or their opinions and actions.

ELECTED OFFICIALS CONDUCT WITH OTHER PUBLIC AGENCIES

- *Be clear about representing the City or personal interests.* If an Official appears before another governmental agency or organization to give a statement on an issue, the Official must clearly state whether his or her statement reflects personal opinion or is the stance of the City. Even if the Official is representing his or her own personal opinions, keep in mind that the opinion may still reflect upon the City or be interpreted as an opinion of the City as an organization. If the Official is representing the City, the Official must support and advocate the official City position on an issue, not a personal viewpoint.

ELECTED OFFICIALS CONDUCT WITH BOARDS AND COMMITTEES

The City has established several Boards and Committees as a means of gathering more community input. Citizens who serve on Boards and Committees become more involved in government and serve as advisors to the City Council. They are a valuable resource to the City's leadership and should be treated with appreciation and respect.

- *Attending a Board or Committee meeting.* Although not prohibited, Officials attendance at a City Board or Committee meeting is discouraged, based on the affect that their presence may have on the proceedings. Officials should not be appearing on behalf of an individual, business or developer. Any public comment made by an Official at a Board or Committee meeting should be clearly made as an individual opinion.
- *Limit contact with Board and Committee members.* It is inappropriate for Officials to contact Board or Committee Officials to lobby on behalf of an individual, business, or developer. Officials should contact staff in order to clarify a position taken by the Board or Committee.
- *Remember that Boards and Committees serve the community, not individual Council members.* Board and Committee members report to City Council, not to individual Council members. Council members should never feel they have the power or right to threaten Board and Committee members with removal if they disagree about an issue. Appointment to a Board or Committee should be based on criteria such as expertise, ability to work with staff and the public, and commitment to fulfilling official duties. A Board or Committee appointment should not be used as a political "reward."
- *Be respectful of diverse opinions.* A primary role of Boards and Committees is to represent many points of view in the community and to provide the Council with advice based on a full spectrum of concerns and perspectives. Council members must be fair and respectful to all citizens serving on Boards and Committees.

ELECTED OFFICIALS CONDUCT WITH THE MEDIA

Officials may be contacted by the media for background and quotes.

- *The best advice for dealing with the media is to never go "off the record".* Comments can be taken out of context and can cause problems. Be especially cautious about humor, sarcasm, or word play. It is never appropriate to use personal slurs or swear words when talking with the media. One bad experience can be catastrophic. Words that are not said cannot be quoted.
- The Mayor is the designated representative of the Council to present and speak on the official City position. If an individual Council member is contacted by the media, the Council member should be clear about whether their comments represent the official City position or a personal viewpoint.

ACKNOWLEDGEMENT

➤ *Acknowledgement of Code of Conduct*

Council members will be required to sign an acknowledgement that they have read and understand the Code of Conduct in order to be eligible for intergovernmental assignments.

ADDRESSING ISSUES

Council to Council

- Visit with fellow council member and discuss the issue
- If the behavior continues; Council member will need to inform the Mayor
- If it is the Mayor's behavior in question then inform Mayor Pro tem
- Mayor/Mayor Pro tem will work with the Council member to address the issue
- If further discussion is necessary; item needs to be posted on Council agenda for action

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Council to Staff

- Staff will notify supervisor immediately, who will notify the appropriate Deputy City Manager (DCM);
- DCM will notify City Manager
- Staff members of the City Attorney's Office will notify the City Attorney;
- City Manager and City Attorney shall consult with one another regarding the issue prior to notifying to the Mayor;
- Mayor will handle using the above steps in Council to Council issues

Behavior and Conduct

- Council members who intentionally and repeatedly do not follow proper conduct may be reprimanded or formally censured by the Council, lose committee assignments or other privileges afforded by the Council.
- Any form of discipline imposed by Council shall be determined by a majority vote of at least a quorum of the Council.

Code of Conduct Declaration

I _____, have read, understand and agree to abide by the Code of Conduct for the City of El Paso.

Elected Official