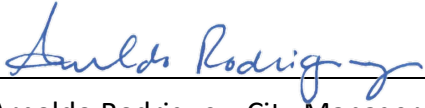




REPORT TO CITY COUNCIL

Approved by:


Arnaldo Rodriguez, City Manager

Council Meeting of: March 17, 2021

Agenda Number: D-4

SUBJECT:

Update to the Code of Conduct for the Madera City Council, Boards, Commissions and Committees

RECOMMENDATION:

Adopt a Resolution Amending and Restating the Code of Conduct for the City Council, and Members of City Boards, Commissions, and Committees Adopted September 18, 2019

SUMMARY:

The Madera County Grand Jury (MCGJ) issued a report titled “The City of Madera Veiled Transparency” on June 25, 2019. Recommendation 1 of the report noted the following:

By September 30, 2019, the MCGJ recommends that the City of Madera create and follow a code of ethics for all senior officials and elected members and display the code of ethics in a public place.

Since then, a draft of a proposed Code of Conduct was presented to Council on September 18, 2019. The proposed Code of Conduct was adopted, with the recommendation to bring this item back annually for review.

DISCUSSION:

The recommendation to bring this item back annually for review allows the City to evaluate the Code of Conduct on a regular basis and make changes as needed, that are in line with current practices for the Madera City Council, Boards, and Commission Members.

Key proposed updates to the Code of Conduct include:

- Update to Preamble language to be a more appropriate introduction to the document.
- Addition of language ensuring the Code of Conduct applies to not only Madera City Council, but Boards, Commission and Committee members.
- Conflict of Interest recusal guidance.
- Closed session matters confidentially responsibility.
- Policy Role of Members of the City Council revised language.
- Removal of Liaison Role section reference.
- Language regarding social media conduct.

FINANCIAL IMPACT:

Revisions and updates to the adopted Code of Conduct provide no direct financial impact to the City.

CONSISTENCY WITH THE VISION MADERA 2025 PLAN:

The information contained herein is not addressed by the Vision Madera 2025 plan, nor is the information in conflict with the plan.

ALTERNATIVES:

The Council has the following options to consider relating to the matter:

- Approve the recommended revisions and updates to the adopted Code of Conduct, as presented.
- Direct staff to add, remove, or revise language and bring back to Council at a later meeting date.
- As an alternative, Council may elect not to revise and update the Code of Conduct, leaving the adopted Code of Conduct as is, with no recommended changes at this time.

ATTACHMENTS:

1. Resolution amending and restating the Code of Conduct
2. Code of Conduct

Attachment 1:

Resolution amending and restating the Code of Conduct

RESOLUTION NO. _____

**RESOLUTION OF THE CITY OF MADERA AMENDING AND RESTATING
THE CITY OF MADERA CODE OF CONDUCT FOR THE CITY COUNCIL AND
MEMBERS OF CITY BOARDS, COMMISSIONS, AND COMMITTEES**

WHEREAS, the citizens of the City of Madera are entitled to have fair, ethical, and accountable local government; and

WHEREAS, the citizens of the City of Madera are entitled to have complete confidence in the integrity of local government; and

WHEREAS, on September 18, 2019, the Madera City Council adopted the Code of Conduct by way of Resolution No. 19-157 which includes certain rules and regulations regarding conduct and a commitment to uphold a standard of integrity beyond that required by law; and

WHEREAS, the City of Madera is interested in establishing a framework for day to day actions and decision-making by the City's elected officials, officers, boards and commissions; and

WHEREAS, integrity of officials of local government is key to effective and fair operation of government; and

WHEREAS, the amending and restating of the Code of Conduct will demonstrate the City's commitment to ethics and commitment to continuous evaluation.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Madera, as follows:

1. That the City of Madera hereby amends and restates the Madera City Code of Conduct, first adopted September 18, 2019.
2. Resolution No. 19-157 is repealed and replaced in its entirety by this Resolution.
3. The recitals set forth above are true and correct and are incorporated herein by reference.
4. The Council hereby adopts the "City of Madera Conduct of Conduct For the City Council and Members of City Boards, Commissions, and Committees" as set forth in Exhibit A and incorporated herein by reference.
5. This resolution is effective upon adoption.

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Attachment 2:

Code of Conduct

City of Madera Code of Conduct

For the City Council and Members of City Boards, Commissions, and Committees

I. Preamble

The residents and businesses of the City of Madera (City) are entitled to have fair, ethical, and accountable local government. Such a government requires the public officials:

- Comply with both the letter and the spirit of the laws and policies affecting operations of the government.
- Be independent, impartial, and fair in their judgment and actions.
- Use their public office for the public good, not for personal gain; and
- Conduct public deliberations and processes openly, unless legally confidential, in an atmosphere of respect and civility.

To this end, the City Council has adopted this Code of Conduct to encourage public confidence in the integrity of local government and its fair and effective operation.

II. Ethics

This Code of Conduct applies to members of the City Council and to members of City boards, commissions, and committees. The term “member” as used in this Code of Conduct shall mean any member of the City Council and any member of any Board, Commission, or Committee of the City. Additionally, Councilmembers are at times referred to as “elected officials” and members of boards, commissions, and committees are at times referred to as “appointed officials.”

1. Acts in the Public Interest

Members will work for the common good of the people of Madera and not for any private or personal interest, and they will assure fair and equal treatment of all persons, claims and transactions coming before the Council, boards, and commissions.

2. Compliance with the Law

Members shall comply with Federal, State, and the City laws in the performance of their public duties. These laws include but are not limited to: the United States and California constitutions; the Political Reform Act including regulations adopted by the Fair Political Practices Commission pertaining to conflicts of interest, election campaigns, financial disclosures; employer responsibilities; the Brown Act; and related City ordinances and policies.

3. Conduct of Members

The professional and personal conduct of members must be above reproach and avoid even the appearance of impropriety. Members shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other members of the Council, boards, and commissions, the public and staff.

4. Respect for Process

Members shall perform their duties in accordance with the processes and rules of order established by the Council and/or boards and commissions governing the deliberation of issues before them.

5. Conduct of Public Meetings

Members shall prepare themselves for public issues, listen courteously and attentively to all public discussions before the body and focus on the business at hand. They shall refrain from interrupting other speakers, making personal comments not germane to the business of the body or otherwise interfering with the orderly conduct of meetings.

6. Decisions Based on Merit

Members shall base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations.

7. Communication

Members shall publicly share substantive information that is relevant to a matter under consideration by the Council or boards and commissions, which they may have received from sources outside of the public decision-making process.

8. Conflict of Interest

In order to assure their independence and impartiality on behalf of the common good, members shall not use their official positions to influence government decisions in which they have a material financial interest. Members should consider voluntary recusal where they have an organizational responsibility or personal relationship to the issue under consideration which may give the appearance of a conflict of interest.

In accordance with the law, members shall disclose investments, interests in real property, sources of income, and gifts, and they shall recuse themselves from participating in deliberations and decision-making where conflicts may exist.

9. Gifts and Favors

Members shall refrain from accepting any gifts, favors or promises of future benefits which might compromise their independence of judgment or action or give the appearance of being compromised.

10. Confidential Information

Members shall respect the confidentiality of information concerning property, personnel, or affairs of the City. Members shall respect the confidentiality regarding closed session matters. They shall neither disclose confidential information without proper legal authorization, nor use such information to advance their personal, financial, or private interests.

11. Use of Public Resources

Members shall not use public resources unavailable to the public in general, such as City staff time, equipment, supplies or facilities, for private gain or personal purposes.

12. Representation of Public Interests

In keeping with their role as stewards of the public interest, members shall not appear on behalf of the private interests of third parties before the Council or any board, commission or proceeding of the City, nor shall members of boards and commissions appear before their own bodies or before the Council on behalf of the private interests of third parties on matters related to the areas of service of their bodies.

13. Advocacy

Members shall represent the official policies or positions of the Council, board, or commission to the best of their ability when designated as delegates for this purpose. When presenting their individual opinions and positions, members shall explicitly state they do not represent their body or the City, nor will they allow an inference that they do.

14. Policy Role of Members of the City Council

Councilmembers shall respect and adhere to the Council-Manager form of government. The Council appoints a City Manager to implement policy, enforce its laws, to direct the daily operations of city government, and to prepare and monitor the municipal budget. Council Members work through the City Manager in dealing with City staff. The City Manager is responsible to the City Council as a body rather than to individual Council Members.

Except as provided by the Municipal Code, members shall not interfere with the administrative functions of the City or the professional duties of City staff, nor shall they impair the ability of staff to implement Council policy decisions.

15. Independence of Boards and Commissions

Because of the value of the independent advice of boards, commissions, and committees to the public decision-making process, members of Council shall refrain from using their position to unduly influence the deliberations or outcomes of board, commission, and committee proceedings.

16. Positive Workplace Environment

Members shall support the maintenance of a positive and constructive workplace for the City employees and for the citizens and businesses dealing with the City. Members shall recognize their special role in dealings with City employees to in no way create the perception of inappropriate direction to staff.

III. Conduct Guidelines

1. Elected and Appointed Officials' Conduct with one another in Public Meetings

a. Honor the role of the presiding officer in maintaining order

It is the responsibility of the chair to keep the comments of members on track during public meetings. If there is disagreement about the agenda or the chair's actions, those objections should be voiced politely and with reason, following procedures outlined in parliamentary procedure.

- b. Practice civility and decorum in discussions and debate*
Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of debate by a free democracy in action. Free debate does not require nor justify public officials making belligerent, personal, impertinent, slanderous, threatening, abusive, or disparaging comments.
- c. Avoid personal comments that could offend other members*
If a member is personally offended by the remarks of another member, the offended member should make notes of the actual words used and call for a "point of personal privilege" that challenges the other member to justify or apologize for the language used. The presiding officer will maintain control of this discussion.
- d. Demonstrate effective problem-solving approaches*
Members have a public stage and have the responsibility to show how individuals with disparate points of view can find common ground and seek a compromise that benefits the community as a whole.

2. Elected and Appointed Officials' Conduct with the Public in Public Meetings

- a. Be welcoming to speakers and treat them with care and respect*
While questions of clarification may be asked, the official's primary role during public testimony is to listen.
- b. Be fair and equitable in allocating public hearing time to individual speakers*
The presiding officer will determine and announce limits on speakers at the start of the public hearing process.
- c. Practice active listening*
It is disconcerting to speakers to have members not look at them when they are speaking. Members shall try to be conscious of facial expressions.
- d. Maintain an open mind*
Members of the public deserve an opportunity to influence the thinking of elected and appointed officials.
- e. Ask for clarification, but avoid debate and argument with the public*
Only the presiding officer may interrupt a speaker during a presentation. However, a member can ask the presiding officer for a point of order if the speaker is off the topic or exhibiting behavior or language the member finds disturbing.

3. Elected and Appointed Officials' Conduct with City Staff

- a. Treat all staff as professionals*
Clear, honest communication that respects the abilities, experience, and dignity of everyone is expected. Professional courtesy should be extended towards staff.

- b. Do not disrupt City staff from their jobs*
Elected and appointed officials should not disrupt City staff while they are in meetings, on the phone, or engrossed in performing their job functions in order to have their individual needs met. Attendance to staff meetings should be by invitation only. The presence of elected or appointed officials may imply support, show partiality, may intimidate staff, and could hamper staff's ability to do their job objectively.
- c. Never publicly criticize an individual employee*
Elected and appointed officials should not express concerns about the performance of a City employee in public, to the employee directly, or to the employee's colleagues. Comments about staff performance should only be made to the City Manager through private correspondence or conversation.
- d. Do not get involved in administrative functions*
Elected and appointed officials acting in their individual capacity should not attempt to influence City staff on the making of appointments, awarding of contracts, selecting of consultants, processing of development applications, or granting of City licenses and permits.
- e. Do not solicit political support from staff*
Elected and appointed officials should not solicit any type of political support (financial contributions, display of posters or lawn signs, name on support list, etc.) from City staff. City staff may, as private citizens with constitutional rights, support political candidates but all such activities must be done away from the workplace.
- f. No Attorney-Client Relationship*
Members shall not seek to establish an attorney-client relationship with the City Attorney, including his or her staff and attorneys contracted to work on behalf of the City. The City Attorney represents the City and not individual members.

4. Councilmember Conduct with Boards, Commissions, and Committees

- a. If attending a Board or commission meeting, be careful to only express personal opinions*
Councilmembers may attend any Board or Commission meeting, which are always open to any member of the public. However, they should be sensitive to the way their participation - especially if it is on behalf of an individual, business developer - could be viewed as unfairly affecting the process. Public comments by a Councilmember at a Board or Commission meeting should be clearly made as individual opinion and not a representation of the feelings of the Council. Public comments by a Councilmember at a board, commission, or committee adjudicatory hearing should not be made and may prohibit the Councilmember from participating at City Council hearing on the same matter.
- b. Limit contact with Board and Commission members to questions of clarification*
It is inappropriate for a Councilmember to contact a Board or Commission member to lobby on behalf of an individual, business, or developer, and vice versa. It is acceptable for Councilmembers to contact Board, Commission, or Committee members in order to clarify a position taken by that body.

- c. *Respect that Boards and Commissions serve the community, not individual Councilmembers*
The Council appoints individuals to serve on Boards, Commissions, and Committees and it is those bodies' responsibility to follow policy established by the Council. Appointment and re-appointment to a Board or Commission should be based on such criteria as expertise, ability to work with staff and the public, and commitment to fulfilling official duties. A Board, Commission, or Committee appointment should not be used as a political "reward."
- d. *Be respectful of diverse opinions*
A primary role of Boards, Commissions, 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. Councilmembers may have a closer working relationship with some individuals serving on Boards, Commissions, and Committees but must be fair and respectful of all persons serving on Boards and Commissions.
- e. *Keep political support away from public forums*
Board, Commission, and Committee members may offer political support to a Councilmember, but not in a public forum while conducting official duties. Conversely, Councilmembers may support Board, Commission, or Committee members who are running for office, but not in an official forum in their capacity as a Councilmember.

5. Elected and Appointed Officials' Conduct on Social Media

Members shall honor the conduct guidelines in this Section III and the Ethical Considerations in Section II of this Code of Conduct when posting on Social Media. Council Members will be cognizant of the Brown Act which prohibits a member 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 City Council that is made, posted, or shared by any other member of the legislative body. Members of boards, commissions, and committees are also subject to this limitation on matters within the jurisdiction of their respective board, commission, and committee.

IV. IMPLEMENTATION

1. Enforcement

The Code of Conduct is intended to be self-enforcing and is an expression of the standards of conduct for members expected by the City. It, therefore, becomes most effective when members are thoroughly familiar with it and embrace its provisions. For this reason, ethical standards shall be included in orientations for newly elected and appointed officials. Members entering office shall sign a statement affirming they have read and understand the City of Madera Code of Conduct. Any member who becomes aware of any breach of this Code should report that violation to the City Manager or City Attorney for review.

2. Distribution and Posting

This Code of Conduct shall be provided to all elected and appointed officials; distributed to all executive team members; posted and made available to members of the public by the City Clerk Department; and be available for review by employees.

3. Sanctions

The Council may impose sanctions on members whose conduct does not comply with the City's Code of Conduct. For elected officials, this may include reprimand, formal censure, and/or loss of seniority or committee assignment. For appointed officials, sanctions may include but are not limited to reprimand, formal censure, or removal from the Commission, Board, or Committee. A violation of this Code of Conduct shall not be considered as a basis for challenging the validity of a Council, board, commission, or committee decision.

4. Review and Updates

The Code of Conduct shall be reviewed annually by the Council which may consider updates as necessary.