

**City of Long Beach***Working Together to Serve***Memorandum****Office of the City Attorney**

**DATE:** August 4, 2020

**To:** Honorable Members of the Ethics Commission

**FROM:** Amy R. Webber, Deputy City Attorney

**SUBJECT:** Adoption of Resolution Establishing Bylaws for the Ethics Commission

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Pursuant to your request of July 15, 2020, attached please find draft bylaws for possible adoption by the Commission. These bylaws are not intended to cover every conceivable situation that may arise, but hopefully, will provide guidance on processes to be followed in many common circumstances.

Please note that the subject of "task force" type meetings utilizing the expertise of community members is not addressed in this document, as it is intended to govern the internal workings of the Commission. These types of meetings should be scheduled in coordination with the City Manager's and City Clerk's office.

The bylaws are intended to be adopted by resolution, which is also been prepared and is attached.

If you have questions regarding this item, please let me know.

ARW:bg

A20-04521  
01174170.DOCX

cc: Rebecca Guzman Garner, Administrative Deputy City Manager  
Jonathan Nagayama, City Clerk Analyst

RESOLUTION NO.

A RESOLUTION OF THE ETHICS COMMISSION OF  
THE CITY OF LONG BEACH STATING THE RULES AND  
PROCEDURES FOR THE ETHICS COMMISSION

WHEREAS, the Ethics Commission was established by Long Beach voters  
with the passage of Measure CCC, November 6, 2018; and

WHEREAS, the Ethics Commission now intends to adopt Rules and  
Regulations for the Ethics Commission by Resolution regarding time of meetings,  
cancelation or rescheduling of meetings, and related procedural matters; and

NOW THEREFORE, the Ethics Commission of the City of Long Beach  
resolves as follows:

Section 1. The Ethics Commission of the City of Long Beach hereby  
adopts the following Rules and Procedures:

RULES AND PROCEDURES FOR THE ETHICS COMMISSION

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RULES AND PROCEDURES FOR THE ETHICS COMMISSION

ARTICLE 1

PURPOSE

1.1. The Ethics Commission of the City of Long Beach ("Ethics Commission" or "Commission") is established by the Long Beach City Charter.

1.2. It is the responsibility of the Ethics Commission to advise the City Council on all matters relating to ethics in the City and to perform such other related functions as may be authorized by the City Council. All actions of the Ethics Commission shall be advisory only, except for those matters where final authority has been assigned to the Ethics Commission by Charter or action of the City Council.

1.3. In order to effectively and efficiently perform its duties as assigned by the City Charter and the City Council, the Ethics Commission desires to specify procedural rules to govern the conduct of its meetings and hearings.

1.4. The following procedural rules shall, consistent with the State Constitution, applicable statutes, including the Brown Act, the City Charter and City ordinances and resolutions, govern the conduct of all business before the Ethics Commission.

ARTICLE 2

MEMBERS

2.1 The Ethics Commission consists of seven (7) regular members.

2.2 Terms. The term of office for members of the Commission shall be four (4) years. No member shall serve for more than two (2) consecutive terms. The two (2) members first appointed by the Mayor and the two (2) members first appointed by the City Auditor shall serve for an initial two (2) year term. Members serving an initial two (2) year term shall be eligible for re-appointment to one (1) additional four (4) year term.

2.3 Restrictions. No member of the Commission, during his or her term, shall:

(a) Currently hold elective office in the City of Long Beach, including the

1 Long Beach Unified School District Board or the Long Beach Community College Board of  
2 Trustees;

3 (b) Serve as an officer in any election campaign for or against a candidate  
4 for any current elected office in the City of Long Beach, Long Beach Unified School District  
5 or the Long Beach Community College District, or any City or District measure;

6 (c) Be an employee of the City;

7 (d) Employ or be employed as a person required to register as a lobbyist  
8 with the City of Long Beach.

9 2.3 Vacancies. Appointments to fill vacancies on the Commission shall be made  
10 within sixty (60) days of the position becoming vacant. A vacancy on the Commission shall  
11 be filled by the same person (Mayor or Auditor) or the Commission who made the initial  
12 appointment, using the same method and procedure utilized for the initial Commission  
13 member appointment in Charter section 2401. Appointments to fill vacancies shall be for  
14 the unexpired term of the member whom the appointee succeeds. A vacancy or vacancies  
15 shall not impair the right of the remaining members to exercise the powers of the  
16 Commission.

17 2.4 Quorum. A majority of members of the Commission shall constitute a  
18 quorum, and the affirmative vote of at least a majority of members shall be required to take  
19 any action.

20 In the event of the lack of a quorum at a meeting, the Chair or Vice Chair, or Chair  
21 pro tem, in that order, shall adjourn the meeting to another time, place, and date. Such  
22 order of adjournment shall serve as sufficient notice thereof to all members not present, it  
23 shall be the duty of the Designee to employ such reasonable means as may be necessary  
24 to notify the absent members. The Designee may adjourn a meeting where no  
25 Commissioners are present, provided that if the meeting is adjourned to a time other than  
26 the next regular meeting, notice of the meeting shall be given as if the meeting were a  
27 special meeting.

28 2.5 The Chair shall preside at all meetings and hearings of the Ethics

Commission and shall have the duties normally conferred on such an officer. Consistent with these rules and procedures, the Chair shall have the privilege of discussing all matters before the Ethics Commission and to vote thereon.

2.6 The Vice Chair shall act for the Chair in his or her absence.

2.7. In the absence of both the Chair and Vice Chair, the members present at such meeting may elect a Chair pro tem who shall serve only for the duration of the meeting in which he or she is appointed and shall have all powers of the Chair for that particular meeting.

2.8 The Designated Staff Person ("Designee") shall be responsible for keeping minutes of the Ethics Commission proceedings and transactions, preparing the agenda of the regular and special meetings, arranging proper and legal notice of the hearings, attending to correspondence, and performing such other duties for the Ethics Commission as are normally carried by a secretary to a legislative body. Where this resolution refers to duties of the Designee, the Designee may delegate such duties as he or she deems appropriate.

### ARTICLE 3

#### COMMISSION ACCESS TO STAFF

3.1. Commission or Commissioner requests for assistance or research by staff, other than simple requests for information or clarification, shall require the consent and approval of the Designee.

### ARTICLE 4

#### ELECTION OF OFFICERS

4.1 The Chair and Vice Chair shall be elected by and from the members of the Ethics Commission. Election of the Chair and Vice Chair shall be held at the meeting of July each year. The newly elected officers shall assume their offices in the first regular meeting of August.

4.2 The terms of office for Chair and Vice Chair shall be for one (1) year, and thereafter until their respective successors are elected and qualified.

4.3 Vacancies in offices shall be filled immediately by regular election procedure, but for the unexpired term only.

## ARTICLE 5

### MEETINGS

5.1 Regular Meetings. Regular meetings of the Ethics Commission shall be held on the second Wednesday of the month. If the regular meeting dates falls on a City holiday, then the meeting may be rescheduled by the Ethics Commission.

5.1.1 All regular meetings of the Ethics Commission will be called to order at 3:00 p.m., unless properly noticed otherwise, canceled, or rescheduled. No Ethics Commission meeting shall be canceled or rescheduled unless the Designee first confers with the Chair regarding the rationale for canceling or rescheduling.

5.1.2 The Commission shall endeavor to adjourn its meetings not later than 5 p.m. If necessary, business not completed by 5 p.m. will be continued to the next regular or special meeting as determined by the Ethics Commission.

5.2 Meeting Breaks. The Chair shall, with the concurrence of the Commission, recess the meetings as necessary to grant relief to the Commissioners, staff and audience.

5.3 Emergency or Special Meetings. An Emergency or Special Meeting may be called at any time by the Chair of the Ethics Commission, or by a majority of its membership, on its own motion or at the direction of the City Council. The call, notice and conduct of such emergency or special meeting shall comply with the Ralph M. Brown Act, Government Code section 54950, *et seq.*

5.4 Study Sessions. The Ethics Commission may hold study sessions as part of a regular, adjourned or special meeting. No action may be taken by the Commission at such a study session. When a matter is set for a study session, public testimony may be

1 barred or limited to particular persons at the discretion of the Chair, with the concurrence of  
2 a simple majority of the Commission.

3       5.5   Standing Committees or Sub-Committees. Standing committees or sub-  
4 committees may be used in open and public meetings to study Commission business in  
5 greater depth than what is possible in the time allotted for Commission meetings.

6               (a)   Quorum. A majority of the committee membership shall constitute a  
7 quorum of the committee or sub-committee.

8               (b)   Referrals. Only the Commission shall make referrals to the standing  
9 committees. Referrals will generally be directed to only one standing committees. Items  
10 may be withdrawn from the committee and taken up for consideration by the Commission  
11 with the consent of a majority of the Commission, and subject to any applicable noticing or  
12 agenda posting requirements.

13              (c)   Function of committees. The purpose and intent of committee  
14 meetings is to provide for more thorough and detailed discussion and study of prospective  
15 or current Commission agenda items, to the end that Commission action will be expedited.  
16 Actions of the committee shall be advisory recommendations only.

17              (d)   Standing Committees are subject to the Brown Act.

18       5.6.   Ad Hoc Committees. Ad Hoc Committees may be used on a limited basis  
19 where necessary to study Commission business in greater depth than what is possible in  
20 the time allotted for Commission and Standing Committee meetings. An Ad Hoc  
21 Committee is an advisory committee composed solely of less than a quorum of members  
22 of the Commission. The work of an Ad Hoc Committee is limited to a single finite purpose.  
23 By contrast, a Standing Committee has continuing subject matter jurisdiction extending for  
24 a lengthy time period and/or a meeting schedule fixed by formal action of the Commission.

25              (a)   Brown Act. Ad Hoc Committees do not constitute legislative bodies  
26 and are not subject to the requirements of the Brown Act.

27              (b)   Appointment. The Commission may appoint three (3) or fewer  
28 members of the Commission to serve on an Ad Hoc Committee. The Chair will publicly

1 announce any Ad Hoc Committee created by him or her, its membership and stated  
2 purpose and post it on the City website.

3 (c) Duration. Ad Hoc Committees are created for a finite period of time. If  
4 an Ad Hoc Committee does not complete its task by the end of the calendar year, it shall  
5 not continue unless reappointed.

6 (d) Members. Ad Hoc Committees shall consist of less than a quorum of  
7 Commission members only, and shall not include any other persons such as members of  
8 other legislative bodies.

9 (e) Termination of Ad Hoc Committee by Majority of Commission. A  
10 majority of the Commission may vote to terminate any Ad Hoc Committee following  
11 placement of the issue on an agenda.

12 5.7 Open and Closed Sessions. All meetings of the Ethics Commission shall be  
13 open and public. All persons are welcome to attend. The Ethics Commission may, upon  
14 the advice of the City Attorney and pursuant to the Ralph M. Brown Act, Government Code  
15 Section 54950, *et seq.*, hold a closed session during a regular or special meeting.

## 17 ARTICLE 6

### 18 PARLIAMENTARY PROCEDURE

19 6.1 Robert's Rules of Order shall govern in the conduct of Commission meetings  
20 in all cases to which they are applicable and in which they are not inconsistent with these  
21 Rules and Procedures or any other applicable statutes, ordinances, resolutions or  
22 regulations of the City.

23 6.2 If properly agendized, the Rules and Procedures may be amended at any  
24 regular or special meeting of the Commission by an affirmative simple majority vote of a  
25 Commission quorum.

26 6.3 The Ethics Commission may suspend any of these Rules and Procedures for  
27 the duration of the meeting or for a particular item only by an affirmative simple majority  
28 vote of a Commission quorum.

ARTICLE 7

AGENDA

7.1 A written agenda shall be prepared for each meeting of the Ethics Commission.

7.2 The agenda must contain a brief general description of each item of business to be discussed at the meeting.

7.3 The agenda shall be posted as required by law and made available through the office of the City Clerk.

7.4 The Ethics Commission may not take action on an item not appearing on the posted agenda unless an exception is made as permitted under applicable law.

7.5 The Chair, in his/her discretion, and with the consent of the Ethics Commission, or upon the request of any Commissioner, may rearrange the order of the presentation of any items appearing on the agenda. No person should rely upon the order in which public hearing items appear on the posted agenda.

7.6 Any public hearing on any agenda item may commence upon the opening of the meeting.

7.7 No written documentation submitted to the Ethics Commission after 12:00 p.m. on the scheduled meeting date shall be considered. The reason for this rule is to allow complete consideration of the documentation and to avoid unnecessary distractions once the meeting is called to order.

7.8 Staff Reports. Staff reports shall be prepared with recommendations and the basis for those recommendations. To the extent possible, alternate positions and their justifications should be included as well. Staff reports are included in the hearing record.

7.9 Agenda Packets. Staff shall endeavor to provide the entire agenda packet to each member of the Ethics Commission no later than five (5) days prior to the regularly scheduled meeting.

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ARTICLE 8

ORDER OF BUSINESS

8.1 Agenda Items. Agendas for regular meetings shall be organized in substantially the following order:

- a. Call to Order
- b. Roll Call
- c. Review and approval of Minutes
- d. Chair Addresses Audience (Outlines Meeting Procedure)
- e. Consent Calendar
- f. Carryover Items
- g. Regular calendar
- h. Matters from the Audience
- i. Matters from the Designee
- j. Matters from the Ethics Commission
- k. Adjourn.

ARTICLE 9

MOTIONS

9.1 Appearance of a Commissioner before the Ethics Commission. After a Commissioner has disqualified him or herself as a result of a potential conflict of interest, he or she may appear before the Commission during hearing on the matter and present testimony regarding the matter, provided it is done with the advice of the City Attorney's office.

9.2 Motions.

9.2.1 Motion-Second. Action upon an order, resolution, ordinance or any other action of the Ethics Commission may be proposed by any member of a motion. The Chair may make a motion only after all other members of the Ethics Commission present have had an opportunity to make a motion on the question. Before a motion can be

1 considered or debated it must be seconded at which time it shall be on the floor and must  
2 be considered. If not seconded, the motion is lost for lack of a second and shall be so  
3 declared by the Chair. The Chair may second a motion.

4 9.2.2 Amendment of Motion or Substitute Motion. A motion on the floor may  
5 be amended or a substitute motion offered at any time before adoption or rejection of the  
6 main motion. When a motion to amend or substitute motion is made and seconded, the  
7 Ethics Commission will debate and take action on the amendment or substitute before  
8 acting on the main motion. If the amendment or substitute is not adopted, the main motion  
9 will be considered. If the amendment is adopted, the main motion, as amended, will then  
10 be considered. If the substitute is adopted, no further action is necessary.

11 9.2.3 Withdrawal of Motion or Second. A motion may be withdrawn by the  
12 maker at any time before adoption or rejection. A second to a motion may be withdrawn by  
13 the seconding member at any time before adoption or rejection of the motion. The motion  
14 will then be lost for lack of a second and so declared by the Chair unless seconded by  
15 another person.

16 9.2.4 Tabling a Motion. Tabling a motion is not a procedure utilized by the  
17 Ethics Commission. Motions should be voted upon or continued to a date certain.

18 9.2.5 Discussion, Closure, and Question. After a motion has been  
19 seconded, any member, including the Chair, may discuss or comment on the subject  
20 motion. The Chair shall recognize any and all members of the Ethics Commission who  
21 desire to speak, beginning with the motion's maker, and will protect each speaker from  
22 disturbance or interference. When no member wishes to discuss or comment further, the  
23 Chair will call for a vote on the motion. Any member of the Ethics Commission may at any  
24 time move to close the debate.

25 9.2.6 Motions for Reconsideration. Motions for reconsideration of a matter  
26 may be made by any member who voted with the prevailing majority on the matter to be  
27 considered. Any member of the Ethics Commission may second a motion to reconsider.  
28 Motions to reconsider shall be made at the same meeting as the original motion. If the

1 matter to be reconsidered required a public hearing, the public hearing will be reopened  
2 pursuant to these Rules and Procedures before additional evidence is received.

3 9.3 Decision-making.

4 9.3.1 Voting. Approval of any motion before the Ethics Commission shall  
5 require the affirmative vote of a majority of the members present, unless otherwise  
6 specified by law.

7 9.3.2 Tie Votes. Any tie vote shall constitute a denial of the motion and may  
8 be reconsidered by a motion offered by any member who voted on the matter. If there is  
9 no subsequent affirmative vote, the result is denial.

10 9.3.3 Abstentions. Except when a conflict exists and abstention is required,  
11 every member of the Commission who is present, when a roll call is called, shall vote for or  
12 against the question, unless excused by a majority of the Commission members present  
13 prior to the calling of the roll on such question.

14 9.3.4 Roll Call. Voting upon a motion may, at the discretion of the Chair,  
15 and shall, upon the request of any member, be by roll call. When voting is not by roll call,  
16 the Chair may, in the absence of objection by any member of the Ethics Commission,  
17 declare an item to be unanimously approved.

18 9.3.5 Motions Include Staff Recommendations. A motion to adopt or  
19 approve staff recommendations or simply to approve the action under consideration shall,  
20 unless otherwise particularly specified, be deemed to include adoption of all proposed  
21 findings and execution of all additions recommended in both the written staff report on file  
22 on the matter and any oral staff report presented during the hearing.

23 9.3.6 Absentees. An Ethics Commission member who is absent from any  
24 portion of a meeting conducted by the Ethics Commission may vote on the matter at the  
25 time it is acted upon provided that he or she has either reviewed the approved minutes of  
26 the meeting or listened to the tape recording of the entire portion of the hearing from which  
27 he or she was absent, provided that a tape recording exists, and if he or she has examined  
28 the Staff Report and evidence presented during the portion of the hearing from which he or

1 she was absent. In such a case, the Commissioner shall state for the record that he or she  
2 is familiar with the record and with the evidence presented at the meeting.

3 9.3.7 Recommendation. In those matters involving a recommendation to the  
4 City Council, the recommendation shall be transmitted in a timely manner to the City  
5 Council for its consideration. In the event that staff has a recommendation that is different  
6 from that of the Ethics Commission, the staff recommendation may also be presented to  
7 the City Council for its consideration. However, the staff report presented to the City  
8 Council shall make clear the precise nature of the Ethics Commission recommendation  
9 and shall further articulate staff's rationale for providing a different recommendation.  
10 Before providing a recommendation to the City Council that is different from that of the  
11 Ethics Commission, the Designee shall first inform the Ethics Commission Chair of the  
12 intended course of action. The Chair shall have the right to appear at any scheduled  
13 meeting of the City Council for the purpose of presenting the Ethics Commission's position  
14 relative to its recommendation to the City Council.

15 9.4 Consent Items. Items that require little or no discussion by the Ethics  
16 Commission may be considered as consent items. The Ethics Commission will act on  
17 these items in one motion at the beginning of the meeting. Approval by the Ethics  
18 Commission of consent items means that the staff recommendation was approved along  
19 with the findings and conditions set forth in the staff report. Any member of the Ethics  
20 Commission may request that consent items be considered in their regular order on the  
21 agenda. Removal of an item from the consent calendar is subject to approval by a majority  
22 the Commission members present.

23 9.5. Continuances. Upon a showing of good cause and by request of a member  
24 of the Ethics Commission, the Chair, at the time set for a hearing on a particular item may  
25 order the hearing to be continued to a specified date and time. Upon the request of any  
26 member of the Ethics Commission, continuance decisions shall be made by a motion and  
27 roll call vote of all members present.

28 9.6 Construction. These procedural rules shall be construed and applied so as to

1 ensure a full and fair hearing of relevant evidence which is offered on a land use matter  
2 and to facilitate an orderly analysis of evidence and issues by the Ethics Commission.

3  
4 ARTICLE 10

5 COMMISSION AUTHORITY

6 10.1 Failure of the Commission to follow the procedures established by this  
7 Resolution shall not invalidate or otherwise affect any action of the Commission.

8 10.2 These rules and procedures in no way modify, amend or suspend the  
9 Commission's or individual Commissioner's obligations pursuant to the Political Reform  
10 Act, Open Meeting Law or other applicable statute of statewide concern. These rules and  
11 procedures shall be construed to remain consistent with such statutes, as they may be  
12 amended from time to time.

13 Section 2. The Designee shall transmit a copy of this resolution to the City  
14 Clerk and to each member of the Ethics Commission.

15 Section 3. This resolution shall take effect immediately upon its adoption  
16 by the Ethics Commission, and the Ethics Commission Secretary shall certify to the vote  
17 adopting this resolution.

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I hereby certify that the foregoing resolution was adopted by the Ethics  
Commission of the City of Long Beach at its meeting of \_\_\_\_\_, 2020, by the  
following vote:

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|-------------|----------------|-------|
| Ayes:       | Commissioners: | _____ |
|             |                | _____ |
|             |                | _____ |
|             |                | _____ |
| Noes:       | Commissioners: | _____ |
|             |                | _____ |
| Absent:     | Commissioners: | _____ |
|             |                | _____ |
| Recusal(s): | Commissioners: | _____ |
|             |                | _____ |

\_\_\_\_\_  
Secretary