



## **NOTICE AND AGENDA**

### **CITY OF UNION CITY LEGISLATION AND POLICY COMMITTEE MEETING**

**Monday, April 28, 2025**

**3:00 PM**

**City Hall - City Council Conference Room  
34009 Alvarado-Niles Road  
Union City, CA 94587**

- 1. Call to Order**
- 2. Roll Call**
- 3. Approval of the Minutes**
- 4. ORAL COMMUNICATIONS - Comments limited to items on the Special Meeting Agenda**
- 5. Business Matters**
  - 5.a. Review Policy Governing Expenses of the City Council**
  - 5.b. Commission Norms and Compliance Standards – Review of Commissioner Attendance, Training Compliance, and Roles of Alternate Commissioners**
- 6. ADJOURNMENT**

**Posted: 04/24/2025**

**/s/ Thai Nam Pham  
Thai Nam Pham, MMC, CPMC  
City Clerk**

Any writings or documents provided to a majority of the Committee regarding an item on this agenda will be made available for public inspection at the City Clerk's Counter at City Hall located at 34009 Alvarado-Niles Road, Union City, California, during normal business hours. Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Interested parties must request accommodations at least 72 hours in advance of the meeting by calling (510) 675-5448.



## Agenda Item

**DATE:** 4/28/2025

**TO:** HONORABLE MAYOR AND CITY COUNCIL

**FROM:** Joan Malloy, City Manager

**SUBJECT:** Review Policy Governing Expenses of the City Council

At its February 25 and March 25, 2025, regular meetings, the City Council discussed the City's existing *Policy Governing Expenses of the City Council* and directed staff to refer the matter to the Legislation and Policy Committee for further review. The Council's primary concern was the \$2,000 cap on the redistribution of relinquished travel funds. Additional policy amendments were raised, including the use of per diem reimbursements, the relevance of the cash advance provision, and the flexibility Councilmembers have in selecting IT equipment.

The current policy, last updated on November 28, 2023, sets an annual travel and training budget of \$30,000 across all Councilmembers and limits redistributed unused funds to \$2,000 per member. During the March 25 meeting, Council consensus was reached to forward a comprehensive review of this policy to the Committee to ensure it reflects evolving needs, technological practices, and fairness in fund allocation.

This staff report outlines the scope of the proposed review, requests Committee direction on the identified issues, and seeks to ensure that any changes to the policy can be adopted before the close of the current fiscal year to take effect for FY 2024–2025 reconciliation.

### **BACKGROUND**

At the February 25, 2025, City Council meeting, Councilmember Patiño requested that a future agenda include a discussion on adjusting the \$2,000 rollover limit for City Council travel funds. The Council reached consensus to agendize this matter.

At the March 25, 2025, City Council meeting, the Council formally considered amendments to the Policy Governing Expenses of the City Council. During the discussion, Councilmembers expressed interest in reviewing broader elements of the policy, including:

- Removing the \$2,000 cap on the redistribution of relinquished travel funds.
- Streamlining the reimbursement process through per diem rates rather than receipt-based submissions.
- Clarifying policies related to cash advances, which have not been used in recent years.
- Reviewing technology procurement guidelines for Council-issued devices to allow more flexibility while maintaining IT standards.

The Council unanimously voted to refer the proposed amendments and broader policy considerations to the Legislation and Policy Committee for further review and discussion.

### **DISCUSSION**

The current policy, adopted November 28, 2023, outlines the annual allocation for City Council travel and training expenses (\$10,000 for the Mayor, \$5,000 for each Councilmember) and establishes a redistribution mechanism for relinquished funds, capped at \$2,000 per Councilmember.

As part of this review, staff seeks Committee direction on the following:

1. **Redistribution Cap:** Should the \$2,000 cap be removed or increased to allow greater flexibility for reallocation of unused funds?
2. **Reimbursement Procedures:** Should the City adopt a per diem system based on federal GSA rates for meals and incidentals instead of

requiring itemized receipts?

3. **Cash Advances:** Given that cash advances are rarely used, should this section be eliminated?
4. **Technology and Equipment:** Should Councilmembers be allowed to select their own technology devices with IT approval, and should there be an option to purchase the equipment after their term, once properly surplus?
5. **Timeline and Implementation:** Amendments must be approved prior to the close of the current fiscal year (June 30, 2025) in order to be effective for this cycle's budget reconciliation process.

As part of the March 25, 2025 City Council discussion, Councilmembers Patiño and Nishihira submitted desk items outlining proposed changes to the existing policy. Councilmember Patiño presented a slide indicating \$7,300 in unused funds across the Council travel budget, proposing reallocation flexibility. Councilmember Nishihira recommended a range of operational improvements, including updating per diem rates to reflect GSA standards, removing the requirement for receipts for meals, digitizing the expense form, and reviewing technology procurement standards for Council-issued equipment.

## **FISCAL IMPACT**

There is no fiscal impact anticipated from referring this item to the Legislation and Policy Committee for further discussion. Any proposed amendments to the Policy Governing Expenses of the City Council—such as lifting the \$2,000 redistribution cap—are expected to remain **budget neutral**, as the amendments would not increase the overall \$30,000 annual appropriation for City Council travel and training expenses.

However, should the Committee recommend increasing the total Council expense allocation or implementing structural changes that require additional administrative support (e.g., changes to reimbursement systems or IT procurement), there may be a future budget impact. Any such changes would require formal Council approval and be addressed during the annual or biennial budget process.

## **RECOMMENDATION**

Staff recommends that the Legislation and Policy Committee review the existing Policy Governing Expenses of the City Council and provide recommendations for possible amendments related to (1) the \$2,000 redistribution cap on unused funds; (2) reimbursement procedures; (3) the use of per diem rates; and (4) IT equipment selection and technology refresh.

### **Prepared by:**

Thai Nam Pham, City Clerk

### **Submitted by:**

Thai Nam Pham, City Clerk

## **ATTACHMENTS:**

	Description	Type
	City Council Policy Governing Expenses for the City Council	Attachment
	Councilmember Patino's Desk Item	Attachment
	Councilmember Nishihira's Desk Item	Attachment

**RESOLUTION NO. 6234-23**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UNION CITY  
AMENDING THE POLICY GOVERNING EXPENSES FOR THE CITY COUNCIL**

**WHEREAS**, the City of Union City takes its stewardship over the use of its limited public resources seriously; and

**WHEREAS**, public resources should only be used when there is a substantial benefit to the City; and

**WHEREAS**, such benefits include participation in regional, state and national organizations whose activities affect the City, as well as attendance at conferences and events related to the City and its residents; and

**WHEREAS**, Councilmembers sometimes participate, in their official capacity, as a representative of the City at events benefitting civic, cultural, charitable and educational organizations that serve or benefit City residents; and

**WHEREAS**, Councilmembers' attendance at these types of events provides a substantial benefit to the City; and

**WHEREAS**, the City Council previously adopted a policy to provide standards on the use and expenditure of City resources in accordance with the requirements of Government Code sections 53232.2 and 53233.3; and

**WHEREAS**, on September 12, 2023, the City Council directed staff to agendize a discussion regarding a potential budget amendment for Councilmember travel and expense budget to reflect an increased allocation for those who serve in a leadership capacity for either the National League of Cities and/or the League of California Cities; and

**WHEREAS**, on October 24, 2023, the City Council referred consideration of the City Council travel and expense budget to the Legislation & Policy Committee; and

**WHEREAS**, the Legislation & Policy Committee considered the City Council travel and expense budget and now recommends an amendment to the Policy Governing Expenses of the City Council.

**NOW, THEREFORE BE IT RESOLVED THAT** the City Council of the City of Union City hereby approves an amendment to the Policy Governing Expenses of the City Council attached hereto as Exhibit A, with revisions reflected in redline for reference, in accordance with Government Code sections 53232.2 and 53233.3.

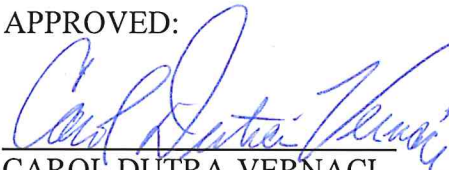
**BE IT FURTHER RESOLVED THAT** the policy contained in Exhibit A shall supersede and control over any previously adopted policy regarding the same matters.




**PASSED, APPROVED, AND ADOPTED** by the City Council of the City of Union City  
at a regular meeting held on the 28<sup>th</sup> day of November 2023, by the following vote:

AYES: Councilmembers Patiño, Sakakihara, Wang, Vice Mayor Singh, Mayor  
Dutra-Vernaci  
NOES: None  
ABSENT: None  
ABSTAIN: None


APPROVED:

  
CAROL DUTRA-VERNACI  
Mayor

ATTESTED:

  
JENNIFER PHAN  
Acting City Clerk

APPROVED AS TO FORM:

  
KRISTOPHER J. KOKOTAYLO  
City Attorney

## **CITY COUNCIL POLICY**

### **Subject: Policy Governing Expenses of the City Council**

**Adopted: November 28, 2023**

#### **I. PURPOSE**

- a. City Councilmembers must incur miscellaneous expenses in fulfilling the responsibilities of an elected official. This policy establishes the guidelines and standards regarding miscellaneous expenditures incurred by members of the City Council for all travel, education, training, communications, and all out-of-pocket expenses.
- b. Out-of-pocket expenses incurred by a Councilmember in the performance of their official duties as a representative of the City are eligible for reimbursement as provided in this policy. The guidelines established in this policy are to ensure that travel expenses serve a public purpose and benefit to the City.

#### **II. AUTHORIZED EXPENSES.**

- a. City funds, equipment, supplies including letterhead, titles, and staff time must only be used for authorized City business. Expenses incurred in connection with the following types of activities generally constitute authorized expenses, as long as the other requirements of this policy are met:
  1. Communicating with representatives of regional, state and national government on City adopted policy positions;
  2. Attending educational seminars designed to improve officials' skill and information levels;
  3. Participating in regional, state and national organizations whose activities affect the City's interests; and
  4. Attending City events.

All other expenditures require prior approval by the City Council. In addition, expenses for international travel requires prior City Council approval.

- b. State law prohibits personal use of public resources. Examples of personal expenses that the City will not reimburse include, but are not limited to:
  1. The personal portion of any trip;
  2. Political or charitable contributions or events;
  3. Family expenses, including partner's expenses when accompanying official on agency-related business, as well as children- or pet-related expenses;
  4. Entertainment expenses, including theater, movies (either in-room or at the theater), sporting events (including gym, massage and/or golf related expenses), or other cultural events;

5. Non-mileage personal automobile expenses, including repairs, traffic citations, insurance or gasoline; and
6. Personal losses incurred while on City business.

Expenses for which City Councilmembers receive reimbursement from another agency are not reimbursable under this Policy. Any questions regarding the propriety of a particular type of expense should be resolved by the City Manager before the expense is incurred.

### **III. BUDGET.**

- a. Councilmembers shall not incur more expenses per year than budgeted. These amounts will be established in a set amount per Councilmember during the biennial budget process. Annually, at the first regular City Council meeting in May, any Councilmember that does not intend to expend their budgeted travel funds during the remainder of the fiscal year may voluntarily elect to relinquish those funds. The decision to relinquish funds is final and irrevocable. Relinquished funds will be evenly distributed to Councilmembers that have elected to not relinquish their funds for the remainder of the fiscal year. In no event will the redistributed amount be greater than an additional amount of \$2,000 per Councilmember. City Councilmembers are not eligible to receive additional budget except through the process outlined in this subsection.
- b. Councilmembers who incur expenses greater than the maximum permitted by this policy shall be responsible for the excess expenses.

### **IV. COST CONTROL.**

To conserve City resources and keep expenses within community standards for public officials, expenditures should adhere to the following guidelines. In the event that expenses are incurred which exceed these guidelines, the cost borne or reimbursed by the City will be limited to the costs that fall within the guidelines.

- a. Transportation. The most economical mode and class of transportation reasonably consistent with scheduling needs and cargo space requirements must be used, using the most direct and time-efficient route. Government and group rates must be used when available.
  1. Airfare. Airfares that are equal or less than those available through the Enhanced Local Government Airfare Program offered through the League of California Cities ([www.cacities.org/travel](http://www.cacities.org/travel)) and the State of California are presumed to be the most economical and reasonable for purposes of reimbursement under this policy. Receipts are required for payment or reimbursement of airfare.
  2. Automobile. Automobile mileage is reimbursed at the Internal Revenue Service rate in effect at the time of travel. The reimbursement rate is designed to compensate the driver for gasoline, insurance, maintenance, and other expenses associated with operating the vehicle. This amount does not include bridge and road tolls, which are also reimbursable.

3. Car Rental. Car rental rates that are equal or less than those available through the State of California's website (<http://www.catravelmart.com/default.htm>) shall be considered the most economical and reasonable for purposes of reimbursement under this policy. Receipts are required for payment or reimbursement of car rental expenses.
  4. Taxis/Shuttles. Taxis, shuttles, or rideshare trips (such as Lyft/Uber) fares may be reimbursed, including a 15 percent gratuity per fare, when the cost of such fares is equal or less than the cost of car rentals, gasoline and parking combined, or when such transportation is necessary for time-efficiency.
- b. Lodging. Lodging expenses will be reimbursed or paid for when travel on official City business reasonably requires an overnight stay. Receipts are required for payment or reimbursement of lodging expenses.
1. Conferences/Meetings. If such lodging is in connection with a conference, lodging expenses must not exceed the group rate published by the conference sponsor for the meeting in question if such rates are available at the time of booking. If the group rate is not available, see next section.
  2. Other Lodging. Travelers must request government rates, when available. A listing of hotels offering government rates in different areas is available at <http://www.catravelmart.com/lodguideframes.htm>. Lodging rates that are equal or less than government rates are presumed to be reasonable and hence reimbursable for purposes of this policy.
- If lodging rates exceed the government rate for the area, actual lodging costs may be reimbursed conditioned upon performance of a good faith effort evidenced by documentation (e.g., internet search or phone calls) that demonstrate an attempt to find median-priced lodging.
- c. Meals. Meal expenses and associated gratuities will be reimbursed up to the regular federal M&IE per diem rate established for Oakland, California, in effect at the time the meal expenses are incurred. The regular federal M&IE per diem rate for Oakland at the time of the adoption of this policy allocated by meal is as follows:
1. Breakfast: \$16
  2. Lunch: \$17
  3. Dinner: \$28
  4. Incidental Expenses: \$5
  5. Total: 66
- The City will not pay for alcohol/personal bar expenses or for meal expenses for third parties.
- d. Airport Parking. Long-term parking must be used for travel exceeding 24 hours. Receipts are required for payment or reimbursement of parking expenses.

## **V. CASH ADVANCES.**

- a. From time to time, it may be necessary for an official to request a cash advance to cover anticipated expenses while traveling or doing business on the City's behalf. Such request for an advance should be submitted to the City Manager ten (10) days prior to the need for the advance with the following information:
  1. The purpose of the expenditure(s);
  2. The benefits of such expenditure to the residents of the City;
  3. The anticipated amount of the expenditure(s) (for example, hotel rates, meal costs, and transportation expenses); and
  5. The dates of the expenditure(s).
- b. Any unused advance must be returned to the City within seven (7) days of the official's return, along with a City expense report and receipts documenting how the advance was used in compliance with this expense policy.
- c. In the event the City Manager is uncertain as to whether a request complies with this policy, such individual must seek resolution from the City Council.

## **VI. EXPENSE REPORT CONTENT AND SUBMISSION DEADLINE.**

All cash advance expenditures expense reimbursement requests must be submitted on an expense report form provided by the City. Councilmembers must submit their expense reports within 30 days of an expense being incurred, accompanied by receipts documenting each expense. Inability to provide such documentation in a timely fashion will result in the expense being borne by the official. Expenses for which no receipt is provided shall not be eligible for reimbursement. At the request of the City Manager, a Councilmember shall submit additional information explaining how the incurred expense complied with this policy.

## **VII. ELECTRONIC EQUIPMENT**

- a. Computers. Councilmembers are required to have certain types of office equipment to discharge their functions and communicate with staff. Accordingly, Councilmembers will be provided with a laptop, tablet, or similar device to assist with carrying out their duties. Councilmembers will also be provided with reasonable IT support to ensure the security and functionality of the device.
- b. Cell Phone. As a representative of the City, the Mayor communicates frequently with constituents, community groups and other regional leaders. To facilitate this communication on behalf of the City, the Mayor shall be provided a cellular telephone.
- c. Requirements. The City's IT Manager will be responsible for selecting the equipment to be provided to Councilmembers pursuant to this section. Any electronic equipment provided to a Councilmember shall be used exclusively for City business reasonable necessary to discharge the duties of office and shall be immediately returned to the City upon the Councilmembers leaving office

### **VIII. AUDITS OF EXPENSE REPORTS.**

All expenses are subject to verification that they comply with this policy.

### **IX. REPORTS TO CITY COUNCIL.**

At the following City Council meeting, each official shall briefly report orally or in writing on meetings attended at Council expense. If multiple officials attended, a joint report may be made.

### **X. COMPLIANCE WITH LAWS.**

City Councilmembers should keep in mind that some expenditures may be subject to reporting under the Political Reform Act and other laws. All agency expenditures are public records subject to disclosure under the Public Records Act.

### **XI. VIOLATION OF THIS POLICY.**

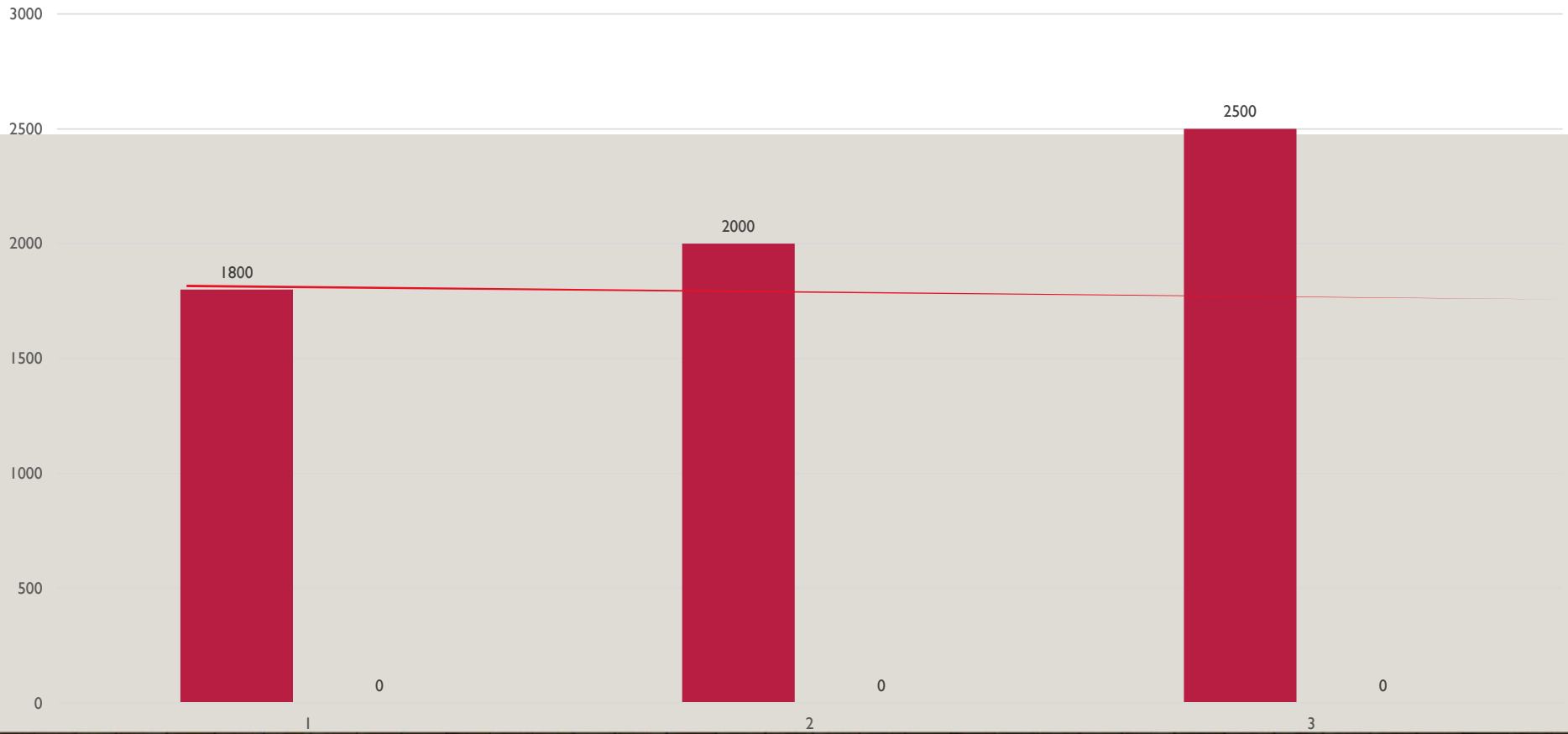
Use of public resources or falsifying expense reports in violation of this policy may result in any or all of the following: (a) loss of reimbursement privileges; (b) a demand for restitution to the City; (c) the City's reporting the expenses as income to the elected official to state and federal tax authorities; (d) civil penalties of up to \$1,000 per day and three times the value of the resources used; and (e) prosecution for misuse of public resources.

# AMOUNT OVER \$5,000 TRAVEL BUDGET

EXCESS FUNDS IN TRAVEL  
BUDGET AT END OF FISCAL  
YEAR: \$7,300

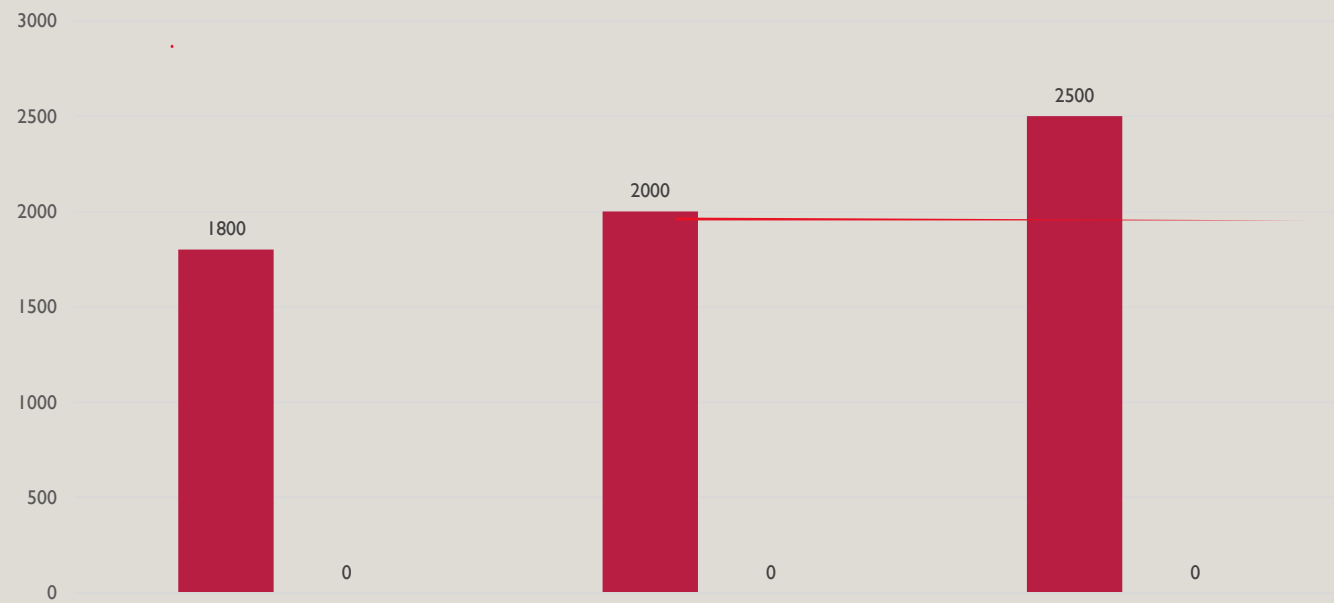


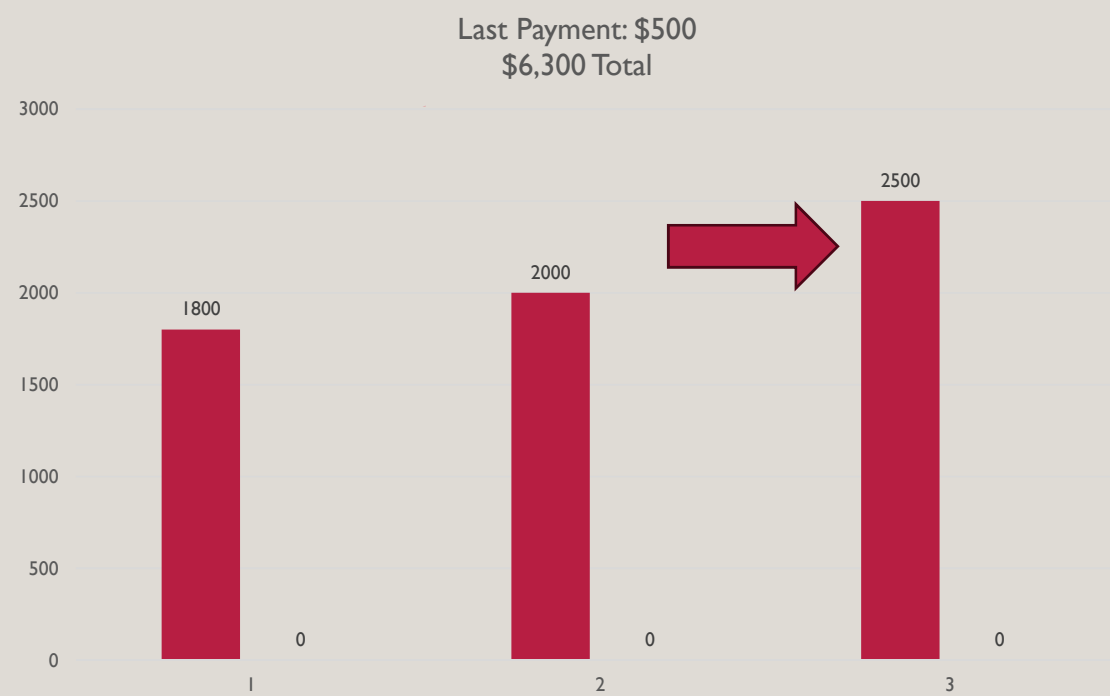
## First Round of Payments: \$1,800 each = \$5,400





Second Round of Payments: \$200 each - \$400  
\$5,800 Total Paid





## 7.1 PROVIDE POLICY DIRECTION REGARDING REQUEST TO AMEND THE POLICY GOVERNING EXPENSES FOR THE CITY COUNCIL

- IV
  - (c)
    - M&EI rates are not accurate according to [GSA guidelines](#).
      - Breakfast is 17
      - Lunch is 18
      - Dinner is 34
      - Total is 74
    - To make the policy more maintainable, we should consider rewording the policy to refer to the most current rates as published by the GSA for Oakland, rather than hard-coding those amounts in policy.
    - We should also do away with the receipt requirement and just pay out the per diem amount as specified by GSA. In our expense report, we should just have a field to indicate which meals on which days require reimbursement.
- V
  - Do we need a cash advance section?
    - Do we realistically need to deal with cash?
    - Cash is a big risk and as a public agency, we should avoid dealing with it as much as possible.
- VI
  - What is the practical advantage of having a solid 30 day deadline? Could we consider using budget reporting milestones instead of elapsed time?
  - The expense form that is provided by the city is very inefficient (requiring it to be printed out and scanned back in), limited to only 6-line items, and requires the filler to do their own math. This could lead to errors and is unnecessarily onerous.
  - “Documenting each expense” Can we remove meals and just use the GSA standard amounts?
  - We should explicitly state that digital receipts are acceptable.
- VII
  - (c)
    - The IT manager should not be responsible for selecting equipment. Public officials should have the freedom to select technology that works for them. The IT Director should have veto power to ensure that the technology conforms to professional and security standards.
    - Should we specify a refresh period here for technology?
    - Could officials opt to purchase their devices after properly and publicly surplus at FMV?



## Agenda Item

**DATE:** 4/28/2025

**TO:** HONORABLE MAYOR AND CITY COUNCIL

**FROM:** Joan Malloy, City Manager

**SUBJECT:** Commission Norms and Compliance Standards – Review of Commissioner Attendance, Training Compliance, and Roles of Alternate Members

This report presents a comprehensive review of Union City's Boards and Commissions policies for the Legislation and Policy Committee's consideration, with a focus on improving clarity, consistency, and accountability in service expectations. The review follows Council direction to reassess commissioner norms and guidelines and includes the following key focus areas:

- **Punctuality and Absence Policy:** While absence thresholds are defined in UCMC § 2.20.040, tardiness is not. Staff recommends establishing a clear standard (e.g., arriving more than 5 minutes late without notice) to ensure participation integrity and quorum maintenance.
- **Annual Attendance Requirement:** The current 75% minimum attendance rate may be too lenient. The Committee is asked to consider whether a higher standard (e.g., 85%) would better reflect the City's expectations for civic engagement.
- **AB 1234 Ethics Training Compliance:** Although training deadlines are established by state law, there is no specific deadline for submitting certificates. Staff recommends certificates be submitted to the City Clerk within the required expiration date.
- **Formal Inclusion of AB 1661 Requirements:** While harassment prevention training is administered, it is not yet codified in local ordinance. Staff seeks direction on formally adopting Government Code § 53237.1 into UCMC § 2.20 to mirror the enforcement mechanism used for AB 1234.
- **Swearing-In Requirements:** There is no formal documentation process to verify that new commissioners have taken the Oath of Office. Staff recommends that the Commission Guidelines and/or municipal code be amended to require a record—maintained by the City Clerk—verifying that each appointee has been sworn in either by the City Clerk or a duly deputized official.
- **Role of Alternate Commissioners:** While alternate commissioners are permitted to participate in meetings in the absence of regular members, there is limited policy clarity on their onboarding, training obligations, or reappointment processes. Staff recommends further refinement of their scope of participation, rights, and transition procedures into full-term appointments.
- **Clarification of Calendar-Year Attendance Calculations:** Staff recommends formalizing that the attendance requirement (e.g., 75%) is measured on a calendar-year basis to ensure uniformity across all commissions.

There is no anticipated fiscal impact from this policy review. Based on Committee direction, staff will return with a draft ordinance and revised Commission Norms and Guidelines for City Council consideration ahead of future commission appointments.

### **BACKGROUND**

Union City's boards and commissions play a vital role in advising the City Council on community needs and policy issues. The City's norms and policies governing commissioners are outlined in Union City Municipal Code Chapter 2.20 and the *Commission Norms and Guidelines* (adopted May 2021). These documents establish standards for attendance, term limits, ethics training, and conduct.

In recent months, the City Council and staff have identified several areas where clarification or policy refinement is warranted. This includes defining tardiness, formalizing ethics and harassment training procedures, clarifying annual attendance tracking, and assessing whether the existing 75% attendance standard should be updated. Additionally, the role and rights of alternate commissioners have surfaced as areas requiring better definition, and there is currently no formal process in place to verify that commissioners have been properly sworn in upon appointment.

Following Council consensus, these matters have been referred to the Legislation and Policy Committee for review, with the goal of updating the Commission Norms and related ordinances in advance of the next commissioner recruitment cycle.

**DISCUSSION**

The following items are presented for Committee discussion and direction:

**1. Tardiness and Absence Definition**

While UCMC § 2.20.040 addresses unexcused absences and minimum attendance thresholds, it does not address what constitutes a tardy arrival. Staff recommends adding language that defines excessive tardiness (e.g., arrival 5 minutes or more after the meeting starts) as grounds for being marked absent, particularly if quorum or agenda participation is impacted.

**2. Attendance Calculation**

The Municipal Code currently mandates 75% minimum attendance across a 12-month rolling period. Staff recommends codifying this as a calendar-year basis for ease of tracking and to align with term appointments. The Committee is also asked whether 75% remains an appropriate standard or if a higher threshold (e.g., 85%) would better reflect the City’s expectations for civic commitment.

**3. AB 1234 Ethics Training – Submission Deadline**

While the City enforces AB 1234 training compliance under UCMC § 2.20.100, there is no specific deadline by which proof of completion must be submitted to the City Clerk. Staff recommends requiring submission of the certificate within the expired date of course completion to streamline enforcement and documentation.

**4. AB 1661 Harassment Prevention Training**

Currently, AB 1661 (Government Code § 53237.1) training is required, but is not referenced in UCMC Chapter 2.20. Staff is seeking guidance from the committee of whether to amend the code to include AB 1661 compliance as a formal requirement for commissioners, with similar enforcement mechanisms as AB 1234 (i.e., automatic removal for non-compliance).

**5. Swearing-In Verification**

Though all commissioners must take an Oath of Office before participating in meetings, there is no policy mandating a formal record of this process. Staff recommends requiring a written verification—maintained by the City Clerk—that the oath was administered by the City Clerk or a person deputized to do so. This ensures procedural consistency and protects against disputes over seating eligibility.

**6. Alternate Commissioners – Role and Expectations**

While UCMC § 2.20.020 outlines the general expectations for alternate commissioners—namely, that they fill in when a regular commissioner is absent—the ordinance does not clearly address several operational and policy questions that have arisen in practice. Staff seeks Committee direction on the following:

- **Minimum Attendance Requirement:** Alternates are currently not held to a specific attendance standard unless formally seated during a meeting. Should a minimum expectation be established (e.g., 50% of all scheduled meetings) to ensure engagement and readiness? This may also reinforce accountability, especially when alternates are under consideration for future appointments.
- **Presence on the Dais:** Can alternates be permitted to sit on the dais and participate in discussions even when all regular members are present, provided they do not vote? This may help with training, engagement, and succession planning—but could also raise Brown Act or procedural concerns.
- **Absences When Called to Serve:** If an alternate is asked to attend due to a regular member’s absence but is unavailable (e.g., late notice, scheduling conflict), should this count as an unexcused absence? Currently, the Code is silent on this, and guidance is needed to determine whether non-attendance in such cases affects their standing.

**FISCAL IMPACT**

There is no direct fiscal impact associated with this review. Should the Committee recommend changes that require administrative system updates (e.g., attendance tracking or training portals), minor staff time and resource costs may be incurred and would be absorbed within existing department budgets.

**RECOMMENDATION**

Staff recommends that the Legislation and Policy Committee review the current policies and norms governing City Commissioners and Alternates and provide direction on the following:

- 1. **Punctuality and Absence Policy:** Define what constitutes a tardy arrival (e.g., 5 minutes late without notice) and whether tardiness should be treated as an absence.
- 2. **Annual Attendance Tracking:** Clarify that the 75% minimum attendance requirement is calculated on a calendar-year basis, and consider whether this standard should be raised.
- 3. **AB 1234 Ethics Training Compliance:** Establish a mandatory deadline (e.g., within 30 days of training completion or by April 1) for submitting certificates to the City Clerk.
- 4. **AB 1661 Harassment Prevention Training:** Consider amending UCMC § 2.20 to include compliance with Government Code § 53237.1 (AB 1661) as a formal requirement for commissioners, with the same enforcement consequences as AB 1234.
- 5. **Swearing-In Documentation:** Require that all commissioners and alternates be sworn in at the time of appointment, and that a formal record of the Oath of Office be maintained by the City Clerk.
- 6. **Alternate Commissioner Policy Clarification:** Provide policy guidance on the following:
  - Whether alternates are permitted to attend and sit on the dais during meetings when all regular members are present;
  - Whether alternates should be required to meet a minimum attendance standard, even when not called to serve;
  - Whether failure to attend a meeting after being asked to fill in should count as an unexcused absence;
  - Ensuring that alternates receive the same training, onboarding, and oath administration as regular members.

Based on Committee feedback, staff will draft proposed revisions to the Municipal Code and Commission Norms and Guidelines for Council consideration at a future meeting.

**Prepared by:**

Thai Nam Pham, City Clerk

**Submitted by:**

Thai Nam Pham, City Clerk

**ATTACHMENTS:**

Description		Type
<input type="checkbox"/>	UCMC Chapter 2.20 -Boards, Commissions, Committees, and Organizations	Attachment
<input type="checkbox"/>	Commission Norms and Guidelines	Attachment

CHAPTER 2.20  
**BOARDS, COMMISSIONS, COMMITTEES, AND ORGANIZATIONS**

**Note: Prior ordinance history: 53-64, 273-86, 281-87, 428-94, 506-97, 511-98, 563-01, 623-04, 639-04, 678-06, 680-06, 684-07.**

**§ 2.20.010. Commissioner defined.**

"Commissioner" shall be defined as a voting member of any board, commission, committee, or organization established by the City Council, notwithstanding the manner in which such voting member is appointed.

(Ord. 820-16 § 4, 2016)

**§ 2.20.020. Alternate Commissioner members—Duties and responsibilities.**

- A. The alternate shall attend the regular and special meetings of the board, commission, committee, or organization in the absence of a regular member. The alternate shall review staff reports and documents and otherwise prepare for such meetings. At such meetings, the alternate shall be identified for the record.
- B. The alternate shall be offered the same opportunities for attending training sessions, site visits or other educational events as regular members.
- C. The alternate shall publicly announce any items on the agenda that he or she is disqualified from participating in because of a conflict of interest.
- D. If, as a result of an absence of a regular member at a regular or special meeting, the alternate shall move to the seat of a regular member, then the alternate shall participate as a regular member, and shall receive such compensation, where applicable, as may be established by the City Council for such participation.
- E. The qualifications, appointment, removal and other requirements applicable to the alternate shall be the same as those for regular members.

(Ord. 820-16 § 4, 2016)

**§ 2.20.030. Appointments—Qualifications of members.**

Each Commissioner and alternate of each board, commission, committee, or organization shall reside within the City, unless otherwise provided, and shall be appointed by the Mayor with the approval of the City Council.

(Ord. 820-16 § 4, 2016)

**§ 2.20.040. Commissioner attendance standards.**

- A. Commissioners and alternates shall attend the regular and special meetings of the board, commission, committee, or organization as scheduled.
- B. Should any Commissioner fail to attend three consecutive meetings without a valid excuse, or fail to attend at least seventy-five percent of all scheduled meetings in any twelve

consecutive month period without a valid excuse, his/her seat shall be considered vacated and an alternate shall be appointed by the Mayor to the vacated seat with the approval of the City Council.

- C. Should any alternate fail to respond to three consecutive calls to attend a Commission meeting without a valid excuse, his/her seat shall be considered vacated and an alternate shall be appointed by the Mayor to the vacated seat with the approval of the City Council.
- D. Should an alternate not be available to fill a vacancy, the Mayor shall appoint a replacement Commissioner in accordance with the board, commission, committee or organization's provisions for filling vacancies.
- E. Commissioners and alternates who are unable to attend a meeting for one of the reasons listed in subsection F shall be required to notify the Recording Secretary for the board, commission, committee, or organization pursuant to the procedure adopted by the board, commission, committee, or organization and reflected in the by-laws, which shall be amended to provide for such procedure.
- F. The following reasons shall be considered valid excuses for failing to attend a meeting:
  - 1. Serious illness and/or injury of the Commissioner and/or their immediate family;
  - 2. Death in the family;
  - 3. Employment conditions requiring travel outside the Bay Area, evening meetings, etc.;
  - 4. Lack of transportation to the meeting;
  - 5. Previously scheduled vacation or travel.

(Ord. 820-16 § 4, 2016)

**§ 2.20.050. Limiting the number of terms Commissioners may serve consecutively.**

Commissioners and alternates shall serve not more than two full terms, separately as a Commissioner and an alternate, on a board, commission, committee, or organization notwithstanding interruption of service due to the following:

- A. Absence from the board, commission, committee, or organization due to vacation of the term pursuant to Section 2.20.040;
- B. Absence from the board, commission, committee, or organization due to vacation of the term pursuant to the provisions of the City's Conflict of Interest Code, for failure to file the required Statement of Economic Interests, and subsequent reappointment.

Vacation of a term pursuant to this section shall be two full terms from the date of the initial appointment. Commissioners or alternates cannot be reappointed to their respective boards or commissions until a two-year break in service has occurred.

(Ord. 820-16 § 4, 2016)



**§ 2.20.060. Removal from office.**

Any appointed Commissioner or alternate may be removed either by the Mayor, subject to the approval of the City Council, or by a majority vote of the City Council.

(Ord. 820-16 § 4, 2016)

**§ 2.20.070. Ex officio members.**

The City Council may, by resolution, appoint such members of the Council, City officials, or employees as it deems advisable to assist each board, commission, committee, or organization, and such employees shall have no vote on the board, commission, committee, or organization.

(Ord. 820-16 § 4, 2016)

**§ 2.20.080. Compensation.**

Each board, commission, committee, or organization, except the Youth Commission, shall be paid in an amount as specified by resolution of the City Council.

(Ord. 820-16 § 4, 2016; Ord. 905-22 § 3, 2022)

**§ 2.20.090. Reimbursement.**

Members of each board, commission, committee, or organization shall be entitled to reimbursement for expenses as the Council may approve by resolution.

(Ord. 820-16 § 4, 2016)

**§ 2.20.100. Ethics/AB 1234 Training Requirements.**

A. Pursuant to the requirements of Assembly Bill 1234, as codified in Government Code Section 53234 et seq., Commissioners and alternates are required to complete the following training in general ethics principles and ethics laws:

1. Each Commissioner and alternate must complete at least two hours of training in general ethics principles and ethics laws relevant to his or her public service no later than one year from the first day of service as a Commissioner or alternate pursuant to subdivision (b) of Section 53235.1 of the Government Code.
2. Each Commissioner and alternate must complete at least two hours of training in general ethics principles and ethics laws relevant to his or her public service every two years pursuant to subdivision (b) of Section 53235 of the Government Code.

B. Upon failure of a Commissioner or alternate to complete the training requirements of this section, his/her seat shall be automatically vacated and an alternate member nominated by the Mayor shall be appointed to the vacated seat with the approval of the City Council.

C. Should an alternate member not be available to fill a vacancy created pursuant to this section, the Mayor shall appoint a replacement Commissioner in accordance with the board, commission, or committee's provisions for filling vacancies.

D. Commissioners or alternates that have vacated their position pursuant to this section shall not be eligible for reappointment to the same board, commission, or committee during the

unexpired portion of the vacated term and for one full term.

- E. The City Clerk shall provide notice to all Commissioners and alternates no later than three months of the deadline for Commissioners and alternates to receive training pursuant to this section.

(Ord. 820-16 § 4, 2016)





# City of Union City Norms and Guidelines for Boards, Commissions & Committees

Established in May 2021

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## **INTRODUCTION**

Commission Guidelines serve as a guiding document for commissioners to carry out the best practices in local governance. While attempting not to be overly restrictive, procedures are established so that expectations and practices can be clearly articulated to guide commissioners in their actions. Commission Guidelines may also serve as a resource to educate commissioners on the composition of city government.

City commissioners play a vital role in advising the City Council on policy and informing them about matters arising among the community. For these reasons, these guidelines help to ensure that commissioners can effectively carry out their role with optimal results and impact.

The City Council is tasked with adopting these norms and guidelines into City policy and also reviews and approves any updates or modifications. These Commission Guidelines apply to all City Commissions, Boards and Committees, as well as any other bodies specified by the City Council, except where otherwise noted.

## **CHAPTER 1 – GROUP NORMS**

Group Norms are an adopted set of behaviors and procedures that all commissioners are expected to demonstrate for the benefit of the organization and while serving in the role as Commissioner.

1. We conduct ourselves in a professional manner, treat everyone with respect, and act with high integrity, always putting the interests of the City of Union City ahead of self-interests in accordance with the City's code of ethics.
2. As appointees of the City Council, we understand the importance of keeping the City Council informed about our work and endeavors as Commissioners/Committee members and that it is appropriate to take general direction from the City Council where appropriate.
3. We strive to avoid real or perceived conflicts of interest whenever possible and to disclose them to affected parties when they do exist.
4. We respect each other's opinions and ensure that all voices are heard. We do not criticize others for having a different point of view, and we agree to disagree respectfully.
5. We understand that we act as a body, all members are equal, and policy direction is only given by a majority vote of the Commission/Committee. Once a decision is made, all members must respect the Commission's/Committee's direction.
6. We are prepared for Commission/Committee meetings and ask our questions of staff in advance so we can avoid surprising staff at our meetings.

7. We attend on time, are focused and devote our undivided attention during Commission/Committee meetings in order to ensure that we can conduct business efficiently and effectively.
8. We do not criticize staff to them or others.

The City Council may terminate membership on a commission for failure to meet the expectations laid out in the above Group Norms.

## **CITY OF UNION CITY GUIDELINES FOR COMMISSIONS / COMMITTEES**

### **CHAPTER 2 – SERVING ON A COMMISSION / COMMITTEE**

#### **Section 1. Membership**

##### **A. Residency Requirements and Affidavit of Residency.**

(1) As required by Union City Municipal Code (“UCMC”) Section 2.20.030, commissioners, board members or committee members (“commissioners”) must be Union City residents with the exception of the Arts & Culture Commission, the Youth Commission, the Economic Development Advisory Team and the Bicycle Pedestrian and Advisory Committee (“BPAC”). Arts & Culture Commission Members must either be a resident at large, or an artist. Youth Commission Members must either be residents of Union City and/or enrolled in any school, public or private, located within Union City or operated by the New Haven Unified School District. The number of non-resident youth serving on the Youth Commission shall not exceed five. The BPAC member serving as the bicycle community representative may be either a resident or non-resident. Proof of residency is required when requested.

Commissioners that are required to be residents must inform the City Clerk if they are no longer residing in the City of Union City. The term of the commissioner shall expire on the date that the commissioner ceased being a resident in Union City. Commissioners that temporarily leave Union City as a result of transitory circumstances, but with the full intent to reestablish residency in Union City within one month, shall still be considered a resident of Union City. If the commissioner has not reestablished residency, the commissioner shall notify the City Clerk and automatic termination of membership will occur upon receipt of notification by the City Clerk. Commissioners are required to notify the City Clerk and the secretary of the commission of any change to contact information.

##### **B. Appointments.**

Commissioners are appointed by the Mayor with City Council Approval. Appointments to most commissions are governed by UCMC Section 2.20.030.

After a new commissioner is appointed, the City Clerk will advise the commissioner of all training and filing requirements for the position.

Commission staff will ensure an orientation is completed to inform new commissioners of these guidelines.

**C. Oath of Office.**

Before commissioners can participate as members of their commissions, they must take the Oath of Office as required by law.

**D. Terms of Office.**

Commissioners and alternates can serve up to 2 full consecutive terms under UCMC Section 2.20.050. Commissioners may be appointed to a partial term to complete a term of a vacancy and such partial terms shall not count as a full term. Commissioners or alternates that have served 2 full consecutive terms cannot be reappointed to their respective boards or commissions until a two-year break in service has occurred.

**E. Attendance Requirements (UCMC Section 2.20.040).**

Failure to comply with attendance rules and other requirements can result in automatic termination. It is important to note that all commissions, regardless of the frequency of meetings, are subject to these attendance regulations.

Commissioners must attend all meetings in order to avoid being marked absent. A commissioner is determined to be “absent” unless they have been granted an excused absence.

Commissioners should inform the secretary as far in advance as possible if they cannot attend a meeting. Secretaries should advise these commissioners to request an excused absence for the meeting.

Excused Absences: The following reasons shall be considered valid excuses for failing to attend a meeting.

1. Serious illness and/or injury of the Commissioner and/or their immediate family;
2. Death in the family;
3. Employment conditions requiring travel outside the Bay Area, evening meetings, etc.;
4. Lack of transportation to the meeting;
5. Previously scheduled vacation or travel.

(UCMC Section 2.20.040).

Absence from Three Consecutive Meetings. If a commissioner is absent from three consecutive meetings without a valid excuse, their appointment to the commission will be automatically terminated. (UCMC Section 2.20.040(B).)

Failure to Attend At Least 75% of All Scheduled Meetings. If a commissioner fails to attend at least 75% all scheduled meetings in any twelve consecutive month period without a valid excuse, their appointment to the commission will be terminated. (UCMC Section 2.20.040(B).)

## **F. Automatic Terminations.**

The importance of complying with the requirements of being a commissioner cannot be sufficiently emphasized. Failure to recognize these requirements will result in automatic termination. The following are reasons why commissioners are automatically terminated as well as the period of time for which a commissioner is ineligible for reappointment (if applicable).

- Unexcused absence from three consecutive meetings. (UCMC Section 2.20.040(B).) Ineligible for reappointment to that commission or board until two full terms from the date of the initial appointment under UCMC Section 2.20.050.
- Failure to attend at least 75% all scheduled meetings in any twelve consecutive month period without a valid excuse. (UCMC Section 2.20.040(B).) Ineligible for reappointment to that commission or board until two full terms from the date of the initial appointment under UCMC Section 2.20.050.
- Non-residency.
- Failure to meet any eligibility requirements of the ordinance, resolution, or other law establishing the commission or regulating its membership.
- Failure to complete AB1234 Ethics Training. (UCMC Section 2.20.100.) Ineligible for reappointment to that commission or board during the unexpired portion of the vacated term and for one full term under UCMC Section 2.20.100(D).)

## **G. Resignation Procedure.**

A commissioner wishing to resign shall submit a written resignation directly to the City Clerk and to the Mayor. Either an electronic or a hard copy resignation will be accepted.

Once submitted, a letter of resignation cannot be withdrawn. The effective date of the resignation is the date it is received by the City Clerk unless a future date is indicated.

## **Section 2. Alternate Commissioners**

Alternate commissioners attend the regular and special meetings of the commission in the absence of a regular member. The alternate shall review staff reports and documents and otherwise prepare for such meetings. If, as a result of an absence of a regular member at a regular or special meeting, the alternate shall move to the seat of a regular member, then the alternate shall participate as a regular member, and shall receive such compensation, where applicable. (UCMC 2.20.020.)

Alternate commissioners are subject to the qualifications, appointment, removal and other requirements applicable to the regular members. However, alternate commissioners will not be automatically appointed where there is a vacancy created for a regular commissioner position. The Mayor, with approval of the City Council, shall appoint commissioners to vacant position pursuant



to UCMC Section 2.20.030. The Mayor may consider current alternate commissioners for appointment to a vacant regular commission position and may consult with the Councilmember liaison to the relevant commission when considering alternate commissioners.

### **Section 3. Accommodations for Commissioners with Disabilities**

Members of boards, commissions, and the public who have a disability have a right to reasonable accommodations necessary for them to participate in City meetings and programs. The Americans with Disabilities Act (ADA) and other laws mandate that the City provide programmatic access and effective communication in order for people with disabilities to be able to participate in the City's programs, services, and activities including public meetings.

Individuals with disabilities who need accommodations to participate at a City of Union City meeting should make their requests to the commission secretary.

### **Section 4. Stipend Information**

Pursuant to UCMC Section 2.20.080, commissioners may be entitled to payment in an amount specified by City Council Resolution.

## **CHAPTER 3 – CONFLICT OF INTEREST PROHIBITED**

### **A. Influencing the Making of Contracts and Affecting Other Financial Interests.**

The Political Reform Act and Government Code 1090 prohibit commissioners from participating in a matter in which the commissioner has an economic or contractual interest. This extends to any decisions or attempts to influence a decision involving the interest.

Under some instances, an exception to the rule may exist. Please contact the secretary of the commission should you believe you have a conflict of interest.

### **B. Disclosure Statements Required (Form 700).**

The Government Code of the State of California requires that designated commissioners file a Form 700 Statement of Economic Interests in which they disclose specified financial interests. The Union City Conflict of Interest Code specifies each commission that is subject to this requirement and the interests that must be disclosed.

**Failure to file any required Form 700 by the deadline (Assuming, Annual, Leaving) may result in the assessment of fines and/or referral to the FPPC for enforcement. Additionally, commissioners that have not timely filed a Form 700 are prohibited from attending commission meetings until the Form 700 has been filed and all outstanding fines have been paid.**

An Assuming Office Form 700 must be filed with the City Clerk Department within 30 days of appointment. Annual Form 700s must be filed by April 1 of each year. Finally, a Leaving Office Form 700 is required within 30 days of leaving office.

Commissioners, Board and Committee members are required to file pursuant to the City's Conflict of Interest Code, which is updated every two years. The City Clerk will routinely advise all commissioners affected of these requirements and deadlines. Not all commissioners are required to report the same interests. The Conflict of Interest Code is designed to require only that degree of disclosure needed to protect the public interest while balancing that need with an individual's right to privacy.

#### **C. Incompatible Public Offices.**

The common law doctrine of incompatible public offices prohibits a public official from occupying two public offices that are incompatible in terms of their duties and/or the likelihood of divided loyalties. However, in Union City, serving on two or more City boards or commissions, including quasi-judicial bodies, is permitted. A commissioner who already occupies an elected or appointed office other than a City board or commission and wants to apply for appointment to a City commission should seek the City Attorney's advice as to whether the two offices may be deemed incompatible.

#### **D. Elected Officials.**

Should a commissioner be elected to one of the following positions, the commissioner shall resign from the commission position within 30 days of the election date:

Alameda County Water District Board of Directors, BART Board of Directors, Alameda County Board of Supervisors, Alameda County Board of Education, East Bay Regional Park District Board of Directors, New Haven Unified School District Board of Education, Chabot College Board of Trustees, Ohlone College Board of Trustees, AC Transit Board of Directors, Union Sanitary District Board of Directors.

Failure to resign within 30 days shall result in the commissioner's position being placed before the City Council for removal.

### **CHAPTER 4 – COORDINATION WITH COUNCIL, STAFF, MEDIA AND COMMUNITY**

#### **A. Coordination with City Council.**

##### **(1) Relationship to City Council.**

The role of a commission is to advise the City Council. The exception is for quasi-judicial commissions that can act under their authorized ordinances or advise the City Council as appropriate. The City Council is responsible for accepting, rejecting, or modifying commission recommendations. The Council relies on the various commissions to increase the variety of viewpoints and talents brought to bear on City problems. By concentrating on specific areas, commissioners use their expertise and conduct detailed analyses that the Council itself may not have the time to pursue. It is expected that commissions will adopt positions of advocacy within their specific purview. However, the City Council's role is to take into consideration the many varied and sometimes conflicting public needs and render its judgment of what will best serve the

public good. The Council must weigh the effect of any given recommendation, not only on the particular area of interest but on all other City goals and programs.

Just as the commissions advise the City Council concerning policy but do not create policy, the commissions advise the City Council concerning various programs run by the City but do not themselves operate programs. It is the responsibility of the City Manager and the City staff to operate programs authorized by the City Council.

## (2) Councilmember Liaison

In order to provide regular and consistent guidance to commissions, the City Council will designate one Councilmember to serve as a liaison to the Human Relations Commission, Senior Commission, Parks and Recreation Commission, Arts and Culture Commission and Youth Commission. Each commission is encouraged to keep the Councilmember liaison apprised of relevant developments and seek guidance from the Councilmember liaison. The Councilmember liaison will keep the City Council apprised as appropriate. The Councilmember Liaison may include the following activities:

(a) Attend Commission meetings as needed to communicate and provide guidance to Commissioners.

(b) Attend Commission retreats and planning meetings as needed to ensure guidance can be rendered to Commissioners as priorities are being shaped.

(c) Work one on one with Commission Chairs and staff to determine approaches to Commission work as needed.

(d) Keep the Mayor and City Council apprised as needed of Commission work at City Council meetings during the City Commission/Committee Reports section of the agenda.

(e) Provide the Mayor feedback regarding the Commission as needed.

(f) The Planning Commission will not have a Councilmember Liaison due to the State's legal requirement for Planning Commissions to act independently from the City Council on policy matters.

## (3) Referrals from the City Council.

The Council may transmit referrals for information or action through formal action on an agenda item. These actions are recorded in the minutes of the Council meeting. The secretary notifies the commission of any such referrals from the Council. When appropriate, the Council may indicate a desired date for response and specify which commissions will be consulted.

Each referral response presented to the City Council on the Council agenda, shall indicate to whom the item was referred, the date of referral, and any other responses. Each commission may elect to respond by means of a separate report or communication.

**B. Council Meeting Procedures and Commission Participation.**

Regular City Council meetings are generally held twice monthly on Tuesdays. The schedule is established annually, taking into consideration holidays and election dates.

The chair, or an authorized representative of the commission, has the right to address the City Council on relevant items within the jurisdiction of the commission. Commissioners not delegated to speak as the official representative may utilize the Public Comment period to present information to Councilmembers.

**C. Coordination with Staff.**

The City Manager has a direct interest in the work of all commissions as they often advise the City Council on issues that will affect the use of staff time and City resources. Commission secretaries are responsible to the City Manager as well as the commission, and they keep the City Manager informed of significant issues that come before their commissions.

**D. External Relationships.**

(1) Communication with the public, press and other media.

There are instances where it is appropriate for commissioners to provide public statements about city events and policy matters to the public and the press in an official capacity; however, commissioners must coordinate with City staff and seek approval first from the Mayor and Councilmember liaison prior to giving such statements. Upon approval from the Mayor and Councilmember liaison, City staff will coordinate and organize public communication and inquiries from the media related to official statements to include the chair of the commission, or a representative designated by the commission, who may clarify actions taken by the commission, fairly and accurately recap commission conversations, or outline next steps. The Chair or designee must not editorialize, offer personal opinions, or speculate on future actions when speaking in an official capacity. A commissioner may recite commission positions, activities and actions taken and state factual accounts of those actions.

(2) Community relations and engagement/Social media.

Commissioners may not, in an official capacity, represent their commission or the City to the general public without City Council approval. Commissioners may not use city logos, branding, name tag, business cards, or other collateral to represent their private, personal or political interests.

Any time that a commissioner uses their commission title, is wearing their commissioner name badge or references their membership on a city commission when speaking publicly or on social media, they must state that they are speaking in an individual capacity and not as a representative of the City of Union City.

(3) Election-related activity or personal activity.

Commissioners are prohibited from using their position as a commissioner for political or personal gain. For example, while potential ballot measures are under consideration or while candidate campaigns are being carried out, commissioners can elect to individually participate in campaign activity but cannot use City resources to support that activity. Thus, commissioners may engage in election-related activity as community members, and may use their commission title(s), current or former, for identification purposes, so long as they affirmatively declare that they do not represent the City or any legislative body of the City. As a point of reference, attached is a memorandum from the City Attorney related to campaign activities during the 2020 election.

## **CHAPTER 5 – COMMISSIONER TRAINING**

### **A. Training Required by City.**

(1) Onboard training / orientation for new commissioners.

Certain commissions may have a training/orientation workshop conducted by the City Clerk's Office or the commission secretary. Commissioners will be contacted by the commission secretary of any necessary training/orientation.

### **B. State-Mandated Training.**

(1) Commissioners are required to complete biennial ethics training (AB 1234) under State law and UCMC Section 2.20.100. Failure to complete ethics training will result in automatic removal from the commission. The City Clerk shall provide notice to all commissioners no later than three months of the deadline for commissioners to receive training. (UCMC Section 2.20.100(E).)

(2) Commissioners designated by the Human Resources Department are required to complete harassment prevention training (AB 1825). The Human Resources Department will notify commissioners of their obligation to complete training and when required.

## MEMORANDUM

### Via Electronic Mail

**DATE:** August 12, 2020  
**TO:** All City Employees  
All Candidates  
All City Commissioners  
**FROM:** Kristopher J. Kokotaylo, City Attorney  
**COPY:** Honorable Mayor and City Council  
Joan Malloy, City Manager  
Anna Brown, City Clerk  
**RE:** **Campaign Activities During Elections**



As the November general election approaches, we provide this informational memorandum to remind you of State and local law restrictions on public employee and public official participation in political activities. This memorandum addresses only the broad outlines of a very complex area of the law and there are many gray areas where hard and fast rules are simply impossible to state. This memorandum is solely intended to provide current guidelines pertaining to political activities.

We recognize that city officials and employees are free to engage in political activities while off duty. But, as a general rule, we want you to keep in mind that the City of Union City, as an entity, cannot participate in political activities. Accordingly, as City officials and City employees, you must refrain from using your official capacity as representatives of the City to convey the impression that the City endorses a political campaign.

The City Mayoral seat, one City Council seat (District 1) and one local measure, Measure WW, and one regional measure, Measure W, are on the November 2020 ballot.

### **1. Providing Information vs. Campaigning with Regard to a City Ballot Measure or Candidates**

The City has one measure, Measure WW, on the ballot this November. Government Code Section 54964 prohibits any officer, employee or consultant of the City from expending or

To: All City Employees, All Candidates, All City Commissioners  
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Re: Campaign Activities During Elections  
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authorizing the expenditure of City funds “to support or oppose the approval or rejection of a ballot measure, or the election or defeat of a candidate by the voters.” The California Supreme Court held that in the absence of clear legislative authorization, “a public agency may not expend public funds to promote a partisan position in an election campaign.”<sup>1</sup>

However, expenditures for *informational* purposes, rather than promotional purposes, regarding a ballot measure are allowed.<sup>2</sup> Whether any particular communication is informational or promotional will depend on factors including the “style, tenor and timing” of the communication on a case by case basis. In general, the City can:

- Educate voters on the measures through facts, provided that the City does not “mount a campaign” to advocate for or against the measure;
- Explain the impacts on the City of passage or defeat of the measure;
- Post informational material on the City’s website;<sup>3</sup>
- Include the information in a separate document that is not campaign literature, and distribute the document for public information through, for example, the City Clerk’s office or at public libraries;
- Mail information as part of a regular newsletter that was not created specifically for the campaign.<sup>4</sup>

The City may be involved with a ballot measure in other ways:

- The City may hire a consultant to assist in the preparation of informational material. However, the City should make it explicit that the consultant is hired for his or her expertise in preparing fair and impartial informational material. The consultant should not be identified with any particular political interests. If the City Council is interested in disseminating information on a measure, it should plan for a coordinated program that could include the preparation and distribution of materials to voters, and holding public meetings at which informational presentations are made.

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<sup>1</sup> *Stanson v. Mott* (1976) 17 Cal.3d 206, 209-210.

<sup>2</sup> *See Id.* at 206.

<sup>3</sup> The City is not required to give ballot measure opponents access to post its own information on the City website, provided that the City website is not a public forum.

<sup>4</sup> *See Vargas v. City of Salinas* (2009) 46 Cal.4th 1.

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- City employees may make presentations on the ballot measure during City work time, so long as the presentation is a fair and impartial presentations of the facts.<sup>5</sup>

## **2. Government Code Sections 3201, *et seq.* and Government Code Section 8314**

California Government Code Sections 3201, *et seq.* and California Government Code Section 8314 apply to City officials and employees. Under State law, City officials and employees are prohibited from conducting political activities<sup>6</sup> in the following circumstances:

- Unlawful use of office, influence, or authority;
  - Neither City officials nor employees may directly or indirectly solicit campaign contributions from other City officials or employees.<sup>7</sup> Solicitation from other City officials or employees is only permitted if it is part of a general effort that incidentally includes City officials and employees.<sup>8</sup> For example, a City employee on personal time, participating in a general door-to-door solicitation effort organized by a committee can solicit a contribution from another City employee. This would be considered part of a general effort which incidentally includes the City employee. Similarly, if a City official sends a mailer paid for by a campaign committee to high propensity voters, and officers and employees of the City are intended recipients of that mailer, that would be acceptable.
  - Neither the City Council nor employees may use their office or the influence inherent to their office to help obtain, or obstruct someone from obtaining, a position, promotion or raise within the City upon the consideration or condition that the person helped, or obstructed, will vote a certain way, or will provide political influence for a candidate, officer or party.<sup>9</sup> Even the “urging or discouraging” of another’s action is prohibited under this statute.
  - Finally, a Councilmember or a candidate for City Council cannot offer or arrange an increase in compensation or salary in exchange for an employee’s

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<sup>5</sup> The drafting of, and use of talking points when making presentations and answering questions about a ballot measure and responding to questions on the ballot measure on City time are permitted.

<sup>6</sup> “Political activities” include, but are not limited to: advocacy for or against a candidate or ballot measure, solicitation of political funds or campaign contributions, signing petitions, endorsements or nomination papers.

<sup>7</sup> Gov. Code § 3205.

<sup>8</sup> Gov. Code § 3205(c).

<sup>9</sup> Gov. Code § 3204.



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contribution or promise to contribute to any committee directly or indirectly controlled by the Councilmember.<sup>10</sup>

- Use of City resources to support or oppose a candidate for any elective office;
- Use of City resources to support or oppose a recall effort against any elected official;
- Use of City resources to support or oppose any initiative, referendum or ballot measure;
- Participation in political activities during work hours on City premises, as governed by local rules and regulations; or
- Participation in political activities while in City uniform.<sup>11</sup> “City uniforms” include anything worn by an individual with a City logo, identifying patch, embroidered badge, or any other identifying clothing which is routinely worn at work and has been provided by the City.

“Use of City resources” includes, but is not limited to:

- Using a City-issued landline and/or cell phone to call voters and urge them to “vote yes” on a ballot measure, or for or against a candidate;
- Using a City-issued email address to send an email to voters urging a vote in favor of or against a ballot measure, or candidate;
- Using a City-owned and/or issued computer to prepare materials for or correspond with voters to support or defeat a ballot measure, or candidate;
- Using City-purchased paper, pens, or other office supplies to engage in efforts to support or oppose a ballot measure, or to support or oppose the election or defeat of a candidate;
- Using a City owned/issued printer and/or photocopier to print materials supporting or opposing a ballot measure, or candidate;
- Using “City time” during the workday to participate in campaign activities; and

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<sup>10</sup> Cal. Gov. Code § 3205.5. A violation is punishable by imprisonment and/or a fine of up to \$5,000.

<sup>11</sup> See Gov. Code §§ 3201-3209, 8314.

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- Using a City owned/issued car, bicycle, or other form of transportation to travel to an activity to support or oppose a ballot measure or candidate.<sup>12</sup>

### **3. Individual Participation in Campaigning**

The City Council and all City employees have a First Amendment right to express their opinion on City matters, including support of ballot measures or candidates. However, as noted above, public resources may not be used to effectuate or communicate their viewpoints. The City Council and City employees should be careful to separate their official City work from their political and campaign work. Below are examples of permissible activities:

- Less than a quorum of the City Council may participate in the formation and operation of a campaign committee to raise funds and actively participate in campaign activities related to a measure in which the City is precluded from participating.<sup>13</sup> Such a campaign could hire consultants to craft persuasive messages to the voters and take donations to fund the effort. Such a campaign committee must operate independently of the City.
- Members of the City Council may individually participate in campaign activities related to a measure. Such participation may include making appearances at events held by local organizations, writing editorials, working on fundraising efforts, and meeting with local “opinion-makers.” City Councilmembers may introduce or announce that they are a member of the City Council, and use their title, but must also make clear that they are speaking on behalf of themselves individually, unless the City Council has taken an official position -- then he or she may speak upon the City Council’s official position.
  - A public official should not attend a civic function (such as a meal) paid for or sponsored by the City and stand up and make a speech about why voters should support a ballot measure. However, if a City official is asked a question by an attendee on whether he or she, as an individual, will support the ballot measures, the official has a right to express his or her viewpoint.

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<sup>12</sup> See Gov. Code § 8314.

<sup>13</sup> Less than a quorum may participate in the formation and operation of a campaign committee as the participation of more than quorum would violate the Brown Act open meeting law.

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- Employees may also individually participate in campaign activities, including forming a campaign committee. Employees may not participate in such activities on City time and should not participate in campaign activities on City property. In addition, if employees attend any campaign activities, they should not wear a City-issued uniform, and should not travel to and from campaign activities or events in a City owned vehicle.

#### **4. Union City Municipal Code Chapter 1.08 Prohibits the Use of the City Seal or Logos, except for Official City Business**

Under the Union City Municipal Code, neither employees nor the general public can use the City name, seal, or logo, such as police department or public works logos, for any private purpose.<sup>14</sup>

“Private purpose” includes, the support or opposition to: any candidate for a public office, any ballot measure, initiative, referendum, or any other matter voted upon at an election.<sup>15</sup> For example, “private purpose” includes support or opposition for Measure WW, the proposed Union City utility users tax.

A copy of Union City Municipal Code Chapter 1.08 is available online at <http://qcode.us/codes/unioncity/>.

#### **5. Civil and Criminal Penalties for Using City Resources to Support or Oppose a Candidate or Ballot Measure**

State law prohibits using public funds, including public moneys, City facilities, staff, or any other City equipment to support or oppose a candidate or ballot measure.<sup>16</sup> City officials and employees may be civilly liable for unlawfully using public resources, and may be criminally liable for misappropriating public funds.<sup>17</sup>

These laws exist to protect employees and ensure that no job is dependent upon an employee’s political viewpoint or beliefs. These laws also help ensure that no political agenda becomes confused with the public policy of any City agency, and help ensure that public officials do not use their public positions for political gain.

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<sup>14</sup> Union City Municipal Code (“UCMC”) § 1.08.050; 1.08.060.

<sup>15</sup> UCMC § 1.08.040.

<sup>16</sup> Gov. Code § 8314; see *Stanson v. Mott* (1976) 17 Cal.3d 206; *League of Women Voters v. Countywide Crim. Justice Coordinating Com.* (1988) 203 Cal.App.3d 529.

<sup>17</sup> Gov. Code § 8314; Pen. Code § 424; see *People v. Groat* (1993) 19 Cal.App.4th 1228.

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However, all employees, as stated above, remain free to participate in political activities on their personal time with personal resources.

## **6. Local Measures on the November 2020 Ballot**

Among candidates for election and other measures, there is one regional measure and one local measure on the November 2020 ballot:

- a. Measure WW is a local measure that would establish a utility users tax in Union City. On August 6, 2020, the City Council adopted a resolution placing Measure WW on the November 2020 ballot for voter approval.
- b. Measure W is a countywide measure to establish an additional ½¢ transactions and use tax (sales tax) throughout Alameda County. The Alameda County Board of Supervisors placed Measure W on the November 2020 ballot.

While employees can utilize personal time and personal resources to support or oppose Measure WW and Measure W, it is unlawful to use City resources to support or oppose the measures.

If you have any questions, please do not hesitate to contact City Manager Joan Malloy or me at 510.808.2000 or [kkokotaylo@meyersnave.com](mailto:kkokotaylo@meyersnave.com).

KJK: