PURPOSE

The purpose of this policy is to provide guidance to staff and the Mayor and City Council in their interaction related to development projects. It is intended to interpret the provisions of Charter Sections 411 (The Council; Interference with Administrative Matters), 600 (Council Action: Method), and 607 (Code of Ethics). The policy aims to ensure that staff recommendations reflect their independent professional judgment while also ensuring that members of the City Council (this term includes the Mayor) have timely access to information about development projects and are free to express their viewpoints about them. Issues of potential conflicts of interest are addressed specifically in the City’s Code of Ethics (City Policy 2.01).

SCOPE OF APPLICATION

This policy applies to the Mayor, City Councilmembers, the staff of the Mayor and Councilmembers, and all City employees.

POLICY

It is the policy of the City Council, subject to applicable restrictions of the Brown Act and the Fair Political Practices Act, that:

1. Individual City Council Members shall be kept advised by City staff of the status of potential and actual proposals for development (including land use, economic development, and housing proposals) of significant impact in that Council Member's district. The Mayor and the City Council shall be kept advised of the status of potential and actual proposals for development that have a significant City-wide impact.

2. As part of the review process for development proposals, meetings between the Council Member from the affected district and his or her staff, the landowner, the developer, community representatives, professional consultants retained by the City or by other parties to the proposal, and City staff are encouraged.

3. City staff is encouraged to communicate and coordinate with the City Council Member, including that Council Member's staff, to learn his or her particular concerns and viewpoints related to any development proposal. City council members and their staff members are encouraged to initiate similar communication with city staff to learn about potential city staff concerns.

4. During the course of the coordination described in #3, the Council Member and members of his or her staff are free to fully express his or her viewpoint, concerns, and questions. However, in accordance with Section 411 of the City Charter, the Council Member may not give any directive to any member of City staff. Nor shall the Council Member or the City Council as a whole attempt to require or coerce City staff to make any particular recommendation or to adopt any particular position as the staff position on any matter.
5. During the course of the coordination described in #3, City staff shall, without constraint, advise Council members of any concerns, decisions, and assessments with regard to any development proposal. In formulating recommendations for Council actions, staff may consider the viewpoints expressed by the Council Member as a factor alongside other factors such as existing City development policy as adopted by Council through the General Plan, the City charter and ordinances, relevant federal, state, or local laws, or other relevant City policies, goals, and objectives. The recommendations shall reflect staff's professional judgment, based on an analysis of the proposal, and of the other factors described above that are relevant to it.

6. No individual Council Member, nor any member of his or her staff shall present his or her views regarding a development proposal as being the views of the City or the City Council unless that view represents an official City position approved by the Council, or the member has been specifically authorized by the Council to speak on behalf of the City.

7. No member of the City Council, nor any member of his or her staff shall disclose any lawful closed session discussion or any attorney-client communication except to the extent required by law or after a waiver of confidentiality by the City Council as a whole has been obtained.

8. No individual Council Member, nor any member of his or her staff shall negotiate with any property owner or developer for the grant, loan, payment or forgiveness of any sum of money by the City unless either officially authorized to do so by the Council, or done as part of a coordinated negotiating effort with City staff, as long as an express disclaimer is provided that any agreement between the parties is subject to approval by the full Council.

9. Administrative actions (also called “quasi-judicial actions”) of the City Council include: most permitting decisions such as actions on a conditional use permits, appeals of these permits, and certifications of environmental impact reports. Whenever the Mayor or Councilmembers have had communications with any of the parties, their representatives or agents regarding the subject matter, facts or the issues of an administrative action such as the actions listed above, the communication shall be noted on the record of the administrative action or proceeding. This can be accomplished either by a memorandum in advance of the Council hearing or by disclosure at the hearing itself. In order to assist the Council to ensure that disclosures are made when required, administrative actions or proceedings will be noted as such on the Council Agenda.