

POLICIES AND PROCEDURES

CONDUCT OF CVAG MEETINGS

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I. PURPOSE

The within rules establish the procedures for the conduct of all meetings of the governing body of CVAG, as well as all commissions, committees, boards, or other bodies thereof that have a continuing subject matter jurisdiction or a fixed meeting schedule. Each such body is generically referred to below as a “legislative body” or “body”. By adopting such rules, it is CVAG’s intent to establish procedures that will be convenient for the public, contribute to the orderly conduct of business, and conform to the Ralph M. Brown Act (California Government Code § 54950.5 et al.).

II. TYPES OF MEETINGS

All meetings shall be subject to the within procedures. A “meeting” includes any congregation of a majority of the members of any CVAG legislative body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the body.

A. REGULAR MEETINGS

All regular meetings shall be conducted at the time and place established by minute action of the legislative body.

B. SPECIAL MEETINGS

A Special Meeting of a CVAG legislative body may be called at any time by the presiding officer of the body or by a majority of the members of the body by delivering written notice to each member of the legislative body and to each local newspaper of general circulation and radio or television body requesting notice in writing. Said notice must be received at least 24 hours before the time of the meeting as specified in the notice. The call and notice shall specify the time and place of the Special Meeting and the business to be transacted or discussed and shall be posted at least 24 hours prior to the time set for the meeting in the same manner as an agenda for a regular meeting. No other business shall be considered at these meetings by the legislative body. Written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the secretary of the legislative body a written waiver of notice. The written notice may also be dispensed with as to any member who is actually present at the time it convenes.

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C. EMERGENCY MEETINGS

In the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities, a legislative body may hold an Emergency Meeting without compliance with the 24-hour posting and notice requirements otherwise required for a special meeting. An “emergency situation” means a crippling disaster, work stoppage, or other activity that severely impairs the public health, safety, or both, as determined by a majority of the members of the legislative body. The legislative body shall not meet in closed session during an Emergency Meeting. All agenda and special meeting requirements are applicable except that telephonic notice and posting at the earliest time possible given the circumstances shall be sufficient.

D. ADJOURNED MEETINGS

Any meeting may be adjourned to a time, place, and date specified in the order of adjournment. Less than a quorum may so adjourn. If all members are absent, the secretary of the legislative body may declare the meeting adjourned to a stated time and place and shall cause a written notice of the adjournment to be given in the same manner as required for a special meeting, unless such notice is waived as provided for special meetings. A copy of the order of adjournment shall be conspicuously posted on or near the door of the place where the meeting was held within 24 hours after the time of the adjournment.

III. COMMITTEE MEMBERSHIP

With respect to any CVAG committee composed of elected officials from member agencies, voting privileges shall be limited to elected officials. Each voting member shall also have an alternate, who must also be an elected official of the member agency, with the exception of the alternates to the members representing the County of Riverside which may be any person appointed by the Supervisor. An alternate member shall assume all rights and duties of the absent member.

Voting members of the Executive Committee shall be the five members of the Riverside County Board of Supervisors, or the member’s designated alternate, the Mayor of each of the member cities, or his/her designated alternate who shall be an elected Councilmember, and the Tribal Chair of each member tribal council. Non-voting members of the Executive Committee shall include the following: The immediate past chair of CVAG shall be entitled to serve on the Executive Committee without vote for a one-year term provided he/she remains an elected official of one of CVAG’s member agencies. The CVAG representatives to the Southern California Association of Governments’ Regional

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Council shall be entitled to serve on CVAG's Executive Committee without vote during the time he/she fills that position.

IV. ATTENDANCE BY PUBLIC

Except where a closed session is authorized by law, all meetings of a CVAG legislative body shall be open and public and all persons shall be permitted to attend. In the case of a teleconferenced meeting, each teleconference location shall be accessible to the public and an opportunity for members of the public to address the legislative body directly shall be provided at each teleconference location. A member of the public shall not be required, as a condition to attendance, to register his or her name, to provide other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to his or her attendance. Any document circulated for the purpose of obtaining any information from those present shall state clearly that disclosure is voluntary and that all persons may attend whether or not they provide such information. Any person in attendance may tape or record open and public meetings absent a reasonable finding by the legislative body that the conduct would constitute a persistent disruption of the proceedings.

V. CLOSED SESSION

A. SUBJECT MATTER

Closed sessions shall be held only for those reasons specifically authorized by state law and only upon the approval of a majority of the members present and voting in open session after the purpose and statutory authority has been publicly identified. All members of the legislative body, the Executive Director, and General Counsel shall ordinarily participate in any closed session, as well as any necessary and invited staff members. However, no member of the legislative body disqualified based on a conflict of interest shall attend the closed meeting.

B. AGENDA DESCRIPTION

Descriptions of closed session items on the agenda shall utilize the safe harbor language set out in Government Code § 54954.5.

C. ANNOUNCEMENT OF ACTION TAKEN

After any closed session, the legislative body shall reconvene into open session prior to adjournment and shall make any required disclosures regarding the action taken in closed session.

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D. AB2782 PROVISION

All information received by the legislative body of a local agency member in a closed session related to information presented to the joint powers agency in closed session shall be confidential. However, each local agency member is authorized on advice of its legal counsel to conduct a closed session to consider and take action concerning any matter discussed in closed session by the joint powers authority that has a direct financial or liability implication for the local agency member, pursuant to California Government Code Section 54956.96. For this purpose, a member of the legislative body of a local agency member may disclose information obtained in a closed session of the joint powers authority that has direct financial or liability implications for the local agency member, to (1) legal counsel of the applicable local agency member for purposes of obtaining advice on whether the matter has direct financial or liability implications for that member local agency, and (2) other members of the legislative body of the local agency present in a closed session of that member local agency.

Legal counsel representing the joint powers agency is authorized to provide information to legal counsel representing the applicable local agency member about the discussion conducted by the joint powers agency in the applicable closed session.

Any designated alternate member of the legislative body of the joint powers agency who is also a member of the legislative body of a local agency member and who is attending a properly noticed meeting of the joint powers agency in lieu of the local agency member's regularly appointed member may attend closed sessions of the joint powers agency.

VI. TELECONFERENCING OF CVAG MEETINGS

In the event that any member of the legislative body elects to use teleconferencing as a means of participating in any meeting of the legislative body, he/she may do so provided CVAG is informed in time for proper Brown Act compliance. The teleconferenced meeting or proceeding shall comply with all provisions of law, including the following requirements:

- A. All votes taken during a teleconferenced meeting shall be by roll call.
- B. The agenda for a teleconferenced meeting shall be posted at every teleconference location to be utilized, subject to the same time and content regulations applicable to non-teleconferenced meetings.

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- C. A teleconferenced meeting shall be conducted in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body.
- D. Every teleconference location to be utilized shall be identified in the notice and agenda of the meeting or proceeding.
- E. Every teleconference location to be utilized shall be accessible to the public and the public shall be provided an opportunity to address the legislative body directly.
- F. Any member of the Legislative body wishing to use teleconferencing shall be required to notify CVAG within sufficient time to allow CVAG to meet the requirements of posting the agenda 72 hours prior to the time set for the meeting and shall be responsible for making sure all other requirements for use of teleconferencing as well as all other applicable provision of law are adhered to at the teleconferenced site.
- G. CVAG will pay for any local line charges. However, if bridging or long distance calls are required, those charges will be paid by the jurisdiction requesting teleconferencing.
- H. The per diem policy shall apply to those in attendance at a teleconferenced location.

VII. AGENDA REQUIREMENTS

A. PREREQUISITE TO TAKING ACTION

No action shall be taken on any item not appearing on the posted agenda, subject only to the exceptions listed below. "Action Taken," as used herein, shall mean a collective decision made by a majority of the members of a CVAG legislative body, including but not limited to a collective commitment or promise to make a positive or a negative decision, or an actual vote when sitting as a body, upon a motion, proposal, resolution, order or ordinance. Prior to any discussion, the agenda item shall be identified.

1. Non-Agenda Items

No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members or staff may briefly respond to

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statement made or questions posed by members of the public. In addition, on their own initiative or in response to questions posed by the public, a member or staff may ask a question for clarification, make a brief announcement, or make a brief report on his or her own activities. Members may also provide a reference to staff or other resources for factual information, request staff to report back to the body at a subsequent meeting concerning any matter, or take action to direct staff to place a matter of business on a future agenda.

2. Exceptions

After publicly identifying the item, the legislative body may take action on items of business not appearing on the posted agenda under any of the conditions stated below:

- i. Emergency Situation. Upon a determination by a majority vote of the legislative body that a crippling disaster, work stoppage, or other activity that severely impairs public health, safety, or both exists such that prompt action is necessary.
- ii. Need to Take Action Arose After Agenda Posted. Upon a determination by a two-thirds vote of the members of the legislative body present at the meeting, or, if less than two-thirds of the members are present, a unanimous vote of those members present that there is a need to take immediate action and that the need for action came to the attention of the local agency subsequent to the agenda being posted. For the purposes of this subsection, the term "need to take action" shall refer to those circumstances which created a situation materially different from that which existed at the time the agenda was posted, which was unknown to any member or staff person until after the time for the posting of the agenda has expired, and which requires the immediate attention of the legislative body such that consideration may not be postponed until the matter can be placed on an agenda in the normal course of business.
- iii. Continued Item. The item was posted for a prior meeting of the legislative body occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.

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B. POSTING

1. In General

At least 72 hours prior to the time set for a Regular Meeting, the secretary or designee of the legislative body shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. The agenda shall specify the time and location of the meeting and shall be posted in a location that is freely accessible to members of the public. In the case of a teleconferenced meeting, the agenda shall identify each teleconference location.

2. Special and Emergency Meetings

An agenda for a Special Meeting shall be posted at least 24 hours before the meeting. An agenda for an Emergency Meeting shall be posted at the earliest possible time given the emergency circumstances.

3. Posting Locations

The agenda shall be posted at the main entrance to 73-710 Fred Waring Drive, Palm Desert, California, and at or near the entrance to any facility where the meeting is to be held. In the case of a teleconferenced meeting, a copy of the agenda shall be posted at each teleconference location.

4. Mailed Notice

Upon receipt of written request by any person, a copy of the agenda, or a copy of all the documents constituting the agenda packet, or any meeting of a legislative body shall be mailed to that person. A single written request for continuing copies of agenda materials for all future meetings must be renewed after January 1 of each year. A reasonable fee shall not exceed the cost of providing the service.

C. PLACING ITEMS ON AGENDA

Upon request of any members, an item shall be placed on the agenda at the next regularly scheduled meeting, provided it is submitted before the agenda deadline.

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VIII. CONDUCT OF BUSINESS

A. CALL TO ORDER

The Presiding Officer shall call the meeting to order.

B. ROLL CALL

Roll call shall be taken and the names of those members present entered in the minutes before proceeding with the business of the legislative body.

C. APPROVAL OF MINUTES

Approval of the minutes of the previous meeting shall be requested.

D. PUBLIC COMMENTS

Every agenda for a Regular Meeting shall provide an opportunity for members of the public to directly address the body on any item of interest to the public that is within the subject matter jurisdiction of the legislative body, provided that no action shall be taken on any item not appearing on the agenda except as specifically permitted herein. Public comments at a Special Meeting may be limited to items specifically described in the notice for the Special Meeting.

1. Procedure

Any member of the public wishing to address the legislative body shall wait to be recognized by the Presiding Officer. Upon being recognized, the speaker shall state his/her name, city of residence, and identify the subject(s) upon which he/she intends to speak. All remarks and questions shall be made from the podium and addressed to the Presiding Officer. No other individual shall enter into any discussion without first being recognized by the Presiding Officer.

2. Response

At the close of the speaker's comments, the Presiding Officer may deem that no response is necessary or ask staff to respond, investigate, and/or place on the agenda at a later date. No action shall be taken on any non-agenda matter unless the requirements for action on non-agenda items set out below are met.

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3. Time Limitations

Public comment on a particular issue should be limited to no more than thirty minutes, to be apportioned among all speakers who request time. To adequately apportion time among all items of business on the agenda, the Presiding Officer may set a time limit for each individual speaker.

E. CONSENT AGENDA

Items of a routine nature may be approved by one blanket motion upon unanimous consent. Prior to such vote, any member may request that an item be removed from the consent agenda to be considered separately.

F. MEMBERS' COMMENTS

There shall be a specific item on the agenda for receiving general comments, announcements, and/or suggestions from members of the legislative body. Such comments shall be informational only and no action shall be taken on such matters unless the requirements for action on non-agenda items set out below are met.

G. ITEMS OF BUSINESS

1. Public Comments

In addition to receiving comment from the public during the public comment period, the Presiding Officer may recognize persons from the audience who wish to address a particular agenda item at the time that the time is

considered by the legislative body. After a motion has been made, however, no further public comment shall be permitted except by majority vote of the members.

2. Making a Motion

Actions shall generally be taken by motion. Any member, including the Presiding Officer, may formally propose action be taken with respect to any agenda item by making a motion. Any other member may then second the motion. If a motion is stated as two or more divisible propositions, the Presiding Officer may, and upon request of a member shall, divide the same. Once a motion has been seconded, it may be opened for discussion and debate. A motion may not be withdrawn without the consent of both the member making the motion and the member seconding it.

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- i. Call the Question. After a full opportunity for debate, any member may call for a vote.
- ii. Question to be Stated. The Presiding Officer shall restate each question immediately prior to calling for the vote. Except in the case of a teleconferenced meeting, the Presiding Officer's statement of a consensus without objection shall become the order. Otherwise, all votes shall be by voice vote. After every vote, the Presiding Officer shall declare the result and, except where the vote was by adoption of a consensus, note for the record the number of votes for or against the question. In the case of a teleconferenced meeting, every vote shall be by roll call.
- iii. Related Motions. Once a main motion is properly brought before the legislative body and seconded, only related subsidiary motions or motions of privilege, order, or convenience may be made and considered. Such related motions then take precedence over the main motion and must be resolved before the main motion can be acted upon. Appropriate subsidiary motions include a motion to adjourn, fix hour of adjournment, table, limit or continue or terminate discussion, or amend the main motion.

H. VOTING

1. No ordinance, resolution or motion of a legislative body shall be passed or become effective without the affirmative votes of a majority of a quorum.
2. The quorum requirements for the General Assembly and Executive Committee shall be as stated in the governing documents.
3. As to any legislative body or committee of CVAG, other than the General Assembly and Executive Committee, a quorum shall consist of a majority of the occupied positions so that the quorum requirement shall be reduced by the number of vacant positions.
4. If a member jurisdiction fails to appoint a representative to an open position, that position shall be deemed "vacant".
5. A position shall also be deemed vacant upon written notice from the appointing jurisdiction declaring the position to be vacant. A vacancy may also be declared by majority vote of the committee after more

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than three consecutive absences of one of its committee members or less than a minimum attendance of 50% of committee meetings.

6. A position that has been declared vacant may be filled at any time by written notice from the appointing jurisdiction designating a representative to fill the position. Provided the proposed representative meets all other applicable criteria for appointment, a previous declaration of a vacancy due to three consecutive absences or less than 50% attendance of committee meetings shall not constitute a disqualification for re-appointment to the same committee.

IX. CONFLICT OF INTEREST

In conformance with the Government Code Sections 87300, 87309, and 87311, the Coachella Valley Association of Governments has adopted a Conflict of Interest Code. All applicable conflict of interest laws apply.

X. PUBLIC HEARINGS

Matters which are required to be heard in a noticed public hearing shall be conducted in the following manner:

A. DUE PROCESS

The Presiding Officer shall conduct the hearing in such a manner as to afford due process to all affected persons.

B. TIME FOR CONSIDERATION

Matters noticed to be heard shall commence at the time specified in the notice of hearing, or as soon thereafter as is reasonably possible, and shall continue until completed or until other disposition of the matter has been made.

C. CONTINUANCE

Any hearing being ordered, held, or noticed, may, by order or notice of continuance, be continued or re-continued to any subsequent meeting in the manner provided for adjourned meetings. Any person appealing an action of another CVAG legislative body to a higher CVAG legislative body has a right to

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one postponement of the initial hearing scheduled on the appeal. After exhaustion of this right, the appeal shall be considered withdrawn. This shall not limit the ability of the legislative body on its own motion to continue a hearing to a subsequent meeting to receive additional public testimony or information.

D. STAFF REPORT

When a matter for public hearing comes before the legislative body, the Presiding Officer shall open the hearing to the public and request that staff present the staff report or any other relevant evidence. However, the presentation of the staff report prior to the formal opening of the hearing to the public shall not prevent its consideration as evidence. Any such evidence shall be made a part of the record of the hearing.

E. PUBLIC COMMENTS

The Presiding Officer shall recognize any persons present who desire to address the legislative body on the matter.

F. PUBLIC TESTIMONY

All persons interested in the matter being heard shall be entitled to submit written evidence or remarks, as well as other graphic evidence. All such evidence presented shall be retained as part of the record of the hearing.

G. TIME LIMIT

Prior to declaring the hearing open, the Presiding Officer may establish a time limit for the entire hearing or establish time limits for the presentation of each individual speaker.

H. QUESTIONS BY MEMBERS

Members may ask questions on the speakers during the public hearing. Members should be mindful that the purpose of the public hearing is to obtain testimony, and not to debate the merits of the item under consideration. Members should avoid debate and expressions of personal opinion until after the close of the public hearing.

I. CLOSING THE HEARING

Upon closing the hearing to public testimony, no additional public testimony or

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comment shall be permitted.

XI. RECONSIDERATION OF PAST ACTION

Any member of the legislative body not voting in the minority on any action may, at the same meeting or at any subsequent meeting, move to reconsider such action. If such a motion is desired at a subsequent meeting, the motion to be reconsidered must be made part of the agenda for that meeting.

A. MOTION

A reconsideration motion, made by a member voting in the minority on a past action, shall not be allowed except when made more than one year after the date of the original action.

B. WRITTEN REQUESTS

Written requests for reconsideration of an earlier action shall be provided to each member on an informational basis. Requests for reconsideration shall be placed on the agenda as a “member/staff request” item. When the item is introduced at the meeting, the body shall determine by majority vote whether the subject action shall be reconsidered. If the action is to be reconsidered, the motion procedure specified herein shall be followed.

XII. THE PRESIDING OFFICER

The meeting shall be presided over and chaired by the Chairperson or, in the Chairperson’s absence, the Vice-Chairperson. In the absence of both the Chairperson and the Vice-Chairperson, the body shall elect one of its voting members as temporary

Presiding Officer to serve until the arrival of the Chairperson, Vice-Chairperson, or adjournment.

A. AUTHORITY OF PRESIDING OFFICER

The Presiding Officer shall have the authority to rule any speaker out of order, including speakers during the public comments period and is responsible for the maintenance of order and decorum at all times. The Presiding Officer shall determine all points or order subject to a motion to appeal the ruling by any other member of the legislative body.

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B. MOTION TO APPEAL THE RULING

Any determination made by the Presiding Officer may be appealed by the making of a motion to appeal the ruling by any other member of the legislative body. The Presiding Officer's determination will stand unless a majority of the members present vote in favor of the motion to appeal the ruling, in which case the ruling of the Presiding Officer shall be overridden. The motion to appeal the ruling is debatable, and the Presiding Officer may participate in the debate and the voting on the motion. A vote upon a motion to appeal the ruling is purely a procedural matter and shall not constitute "action taken" on any substantive question.

XIII. DECORUM AND ORDER

- A. Any individual wishing to speak must first obtain the floor by being recognized by the Presiding Officer. The Presiding Officer must recognize any individual who seeks the floor when appropriately entitled to address the legislative body.
- B. Upon taking the floor, the speaker shall confine his/her comments to the matter then under debate.
- C. All comments shall be addressed to the Chair, who may then direct the inquiry to another for response.
- D. A person, once recognized, shall not be interrupted while speaking unless called to order by the Presiding Officer, except that there may be a point of order raised or the speaker may choose to yield to another.
- E. Any individual called to order while speaking shall cease speaking immediately until the question of order is determined.
- F. The rights of any member to address the body on a question of personal privilege shall be limited to cases in which his/her integrity, character, or motives are questioned.
- G. Each member shall be courteous in their relationships with each other, staff, and members of the public.

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XIV. BROWN ACT CHALLENGES

A. WRITTEN DEMAND

Prior to any person commencing a judicial action by mandamus or injunction for the purpose of obtaining a judicial determination that an action taken by a legislative body was in violation of the Brown Act, such person must first make demand on the legislative body to cure or correct the action alleged to have been taken in violation of the Brown Act. The demand shall be in writing and clearly describe the challenged action and nature of the alleged violation. Said demand shall be made within 90 days from the date the action was taken unless the action was taken in an open session, in which case the demand shall be made within 30 days.

B. PLACING ON AGENDA

Consideration of a demand for correction action shall be placed on the agenda for the next meeting of the legislative body. If the demand is received less than seventy-two hours prior to the time set for the next meeting, it may be considered as an item requiring action which arose after the agenda was posted pursuant to the exceptions allowing action on a non-agenda item set out above.

C. RESPONSE

The legislative body shall determine, by motion, whether correction action shall be taken. Written notice of its determination shall be given to the demanding party within 30 days of receipt of the demand. In any event, if the legislative body does not cure or correct the challenged action within 30 days of receipt of the demand its inaction shall be deemed a decision not to cure or correct the challenged action.

D. CORRECTIVE ACTION NOT AVAILABLE

The issuance of notes, bonds or other evidences of indebtedness, or agreements related thereto, or actions taken in connection with the collection of taxes, or giving rise to contractual obligation and upon which another party has, in good faith, detrimentally relied, may not be rescinded.

XV. INTERPRETATION

This policy shall be liberally construed to effectuate its purpose and no actions of the legislative body shall be invalidated or the legality thereof otherwise affected by any failure

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or omission.

In any case of ambiguity or uncertainty in the interpretation or application of any procedure herein, the Presiding Officer shall request a ruling from the legislative body's Chief Legal Officer, who shall act as parliamentarian.

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