AGENDA

City of Modesto

100 DAYS COMMITTEE / COUNCIL WORKSHOP

Second Floor, Room 2001
Tenth Street Place, 1010 10th Street
Modesto, California

Friday, April 1, 2016, at 12:00 p.m.

Roll Call: Chair Charles L. Bryant, Mayor Ted Brandvold, City Councilmember Kristi Ah You, City Councilmember Mani Grewal, Patricia Gillum, Ralph A. Juarez, Michelle Funk, David Benn, Rick Dahlseid, Ron Jackson, Warren Kirk, Dave Thomas, Eric Tobias, and Michael P. Zagaris

Alternates: Jenny Kenoyer, Tony Madrigal, Doug Ridenour, Bill Zoslocki

Council has not delegated directive or final approval authority to the Committees. Committee actions are recommendations to the full City Council, not final decisions on an issue. This meeting is also noticed as a City Council workshop.

PUBLIC COMMENTS

Three minute time limit per speaker

Only interested persons in the audience may present these matters. Under State law, Councilmembers may respond to matters being presented under this item only as follows:

a. Briefly respond to statements made or questions raised.
b. Ask a question for clarification.
c. Provide a reference to staff or other resources for factual information.
d. Request staff to report back at a subsequent meeting.
e. Finally, a Councilmember or the Council itself may take action to direct staff to place a matter of business on a future agenda.

CONSENT ITEMS – ROLL CALL VOTE REQUIRED: There are no consent Items
Any and all of the following agenda items are subject to action by the 100 Days Committee.

CONSENT

An item may be removed from consent and discussed at the request of an audience member or Committee member.

COMMITTEE COMMENTS & REPORTS

UNFINISHED BUSINESS

NEW BUSINESS

1. Report from the City Attorney regarding key laws applicable to work of the 100 Days Committee.

2. Presentation and overview of current City finances and budget by City of Modesto staff, and possible direction by 100 Days Committee for additional information or explanation.

3. Consider dates and locations for future meetings for the 100 Days Committee.

4. Discussion and possible decisions regarding work plan for 100 Days Committee, including schedule of major milestones and possible creation of subcommittees or working groups.

*Link to 100 Days Committee website:
http://www.modestogov.com/council/hdcommittee/default.asp

MATTERS TOO LATE FOR THE AGENDA

These may be presented by members of the City Council and staff upon determination by a majority vote that an emergency exists, as defined by State law, or by a 2/3 vote that (1) there is a need to take immediate action, and (2) that the need for action came to the City’s attention after the agenda was posted.

ADJOURNMENT

Posted pursuant to Government Code Section 54954.2 on the bulletin board at Tenth Street Place on

__________________________ at ____________ by ____________________________

__________________________ time ____________________________ signature

- 2 -

Friday, April 1, 2016
OFFICE OF THE CITY CLERK
100 DAYS COMMITTEE / COUNCIL WORKSHOP
NOTICE OF SPECIAL MEETING

Please take notice that a special workshop of the Council of the City of Modesto has been called pursuant to City of Modesto Charter Section 601 to be convened on

FRIDAY, APRIL 1, 2016, 12:00 PM

at 1010 10th Street, Second Floor Conference Room 2001, Modesto, California.

The business to be considered at said special City Council workshop shall consist of the following: See attached Agenda.

BY ORDER OF THE CHAIR

[Signature]

STEPHANIE LOPEZ, City Clerk

March 29, 2016

Posted pursuant to Government Code Section 54954.2 on the bulletin board at Tenth Street Place on

__________________________ at ____________________ by ____________________________

date time signature
DATE: March 25, 2016
TO: Honorable Mayor Brandvold and Members of the Modesto City Council’s 100 Days Committee
FROM: Adam U. Lindgren, City Attorney
COPY: City Manager
Finance Director
City Clerk
RE: Overview of Laws Applicable to 100 Days Committee Appointment

Congratulations on your appointment to the City of Modesto’s 100 Days Committee.

The purpose of this memorandum is to give you a basic overview of California laws which apply to the Committee and its members. These laws promote government transparency and aim to prevent personal and financial conflicts of interest.

Please do not hesitate to contact me if you have any legal questions or would like additional resources on these subjects. I will email each of you my cell phone number.

The Brown Act

The Brown Act is California’s open meeting law. Its express purpose is to ensure that government agencies conduct the people’s business in an open and public manner. It is contained in Government Code sections 54950 through 54963.
To: Honorable Mayor Brandvold and Members of the City Council's 100 Days Committee
From: Adam U. Lindgren
Re: Overview of Laws Applicable to 100 Days Committee Appointment
Date: March 25, 2016
Page: 2

The 100 Days Committee is subject to the Brown Act, as it was created by formal action of the City Council and its membership contains City Council members as well as members of the public.

Under the Brown Act, any time a majority of Committee members discuss, deliberate, or take action on Committee business, this qualifies as a “meeting” that must be noticed and open to the public. The objective is to conduct all Committee business in public, and give members of the public a meaningful opportunity to participate. Any time the Committee is having a meeting, the City must publish an agenda in advance. Regular meetings require 72-hour notice, and special meetings require 24-hour notice.

With this in mind, we advise Committee members to follow these guidelines:

→ **Do not meet with seven or more other Committee members in the same location, unless it is a noticed and public meeting.** If eight Committee members are together and discuss Committee business, this qualifies as a meeting subject to the Brown Act’s noticing requirements. You may attend community events or other meetings at the same time as seven other Committee members, so long as you do not discuss Committee business. It will be possible for the Committee to divide into smaller groups of seven or less to do specific research without noticing the meeting. The City Attorney will work with the Committee Chair to ensure that these meetings comply with the Brown Act.

→ **Do not discuss Committee business via email, text message, or telephones with seven or more other Committee members.** The easiest way to follow this rule is to avoid group emails with other committee members. If you do receive such an email, do not “reply all.”

→ **Do not use a series of communications, directly or through intermediaries, to discuss Committee business with a majority of Committee members.** The Brown Act prohibits “serial meetings” among a majority of the Committee. A serial meeting occurs in the following ways:

* “Hub and Spoke” Meeting: One person acts as the hub, communicating with other Committee members one-by-one or two-by-two, and passing along the input of others, until a majority of the Committee has effectively had a discussion on the topic. The hub can be a Committee member, a City staff member, or any other individual acting as the intermediary. This can happen in-person, through electronic communications, or any other method of communication.

* “Daisy Chain” Meeting: Committee member A communicates with Committee member B, Committee member B then contacts Committee member C and so on, until a
majority of the Committee members are included in the chain of conversation. This can occur in-person or through any means of communication.

→ Please be cautious about discussing Committee business with even four or five Committee members, because you do not always know if they have already discussed the same issue with other Committee members. For example, if Committee members 1, 2, and 3 discuss their views on a revenue issue with Committee member 4, but unknown to them, Committee member 4 has already discussed the issue in detail with Committee members 5, 6, 7, and 8, this would violate the Brown Act.

The California Public Records Act

Under the California Public Records Act, all “public records” must be made available for viewing or duplication upon request. A “public record” is defined as:

“...any writing containing information relating to the conduct of the public’s business prepared, owned, used, or retained by any state or local agency.”

The definition includes traditional documents created or retained by the City, but it also includes electronic records such as emails, text messages, and voicemails contained on City devices or City servers.

There are numerous exceptions within the law that allow for the City to withhold records related to personnel matters, individual privacy issues, litigation, and attorney-client privilege, among others.

This means that, unless an exception applies, all records created, used, and retained by the Committee will be “public records” and therefore will be subject to disclosure to the public upon request. This includes emails and text messages contained on a City device or City server related to Committee business, all records received and viewed by the Committee, as well as all records created by the Committee.

Conflicts of Interest

The Political Reform Act, Government Code section 1090, court decisions and various other statutes and regulations prohibit public officials from using their position for personal or financial gain. Financial interests implicated by these laws include one’s income, business interests, real property interests, and the financial interests of one’s spouse.
As members of a temporary committee that is advisory only, the technical requirements of many conflict-of-interest laws do not apply to Committee members.\(^1\) This means that Committee members are not required to file a Form 700, declaring their financial interests in a public document. It also means that there is no requirement for Committee members to step down from a discussion on a matter that may, ultimately, affect their personal financial interests.

**The one exception to this is contracts.** If the Committee is discussing a recommendation to the City Council that involves a current or potential City contract, Government Code section 1090 requires that Committee members recuse themselves from the discussion if the contract would affect their financial interest in a way that is different from its effect on the general public.\(^2\) If you are unsure if this rule may apply to you, please immediately seek my advice.

However, in the abundance of caution, I advise that Committee members disclose to the public any personal financial interests that could foreseeably be affected by a recommendation the Committee makes to the City Council. If it is a matter that does not involve a contract, it will be up to you whether you recuse yourself from the discussion.

AUL

2627570.1

\(^1\) This is only the case for the members of the public on the committee, and not the Mayor and City Council members serving on the Committee.