

**DEFINED CONTRIBUTION PLANS  
COMMITTEE**

Jason Bader  
Stacy Hussey  
Aaron Donato  
Janice Conerly-Coleman  
Roxanne Dilley  
Mick Boyd  
Murray Levison

**COMMITTEE STAFF**

Samantha Wallace, Committee Secretary  
Jeffrey Massey, Senior Deputy City Attorney  
Luby Mitrovich, Staff

**Special  
Meeting Agenda  
Defined Contribution Plans  
Committee**

City Hall, Historic Hearing Room 915 I Street

Published by the  
Department of Human Resources  
(916) 808-5731

**Wednesday, January 9, 2019  
10:00 a.m.**

**NOTICE TO THE PUBLIC**

You are welcomed and encouraged to participate in this meeting. Public comment is taken on items listed on the agenda when they are called. Public Comment on items not listed on the agenda will be heard as noted on the agenda. Comments on controversial items may be limited and large groups are encouraged to select 3-5 speakers to represent the opinion of the group.

**Notice to Lobbyists:** When addressing the legislative bodies you must identify yourself as a lobbyist and announce the client/business/organization you are representing.  
(City Code 2.15.160).

**Speaker slips are available on the City's Website and from staff and should be completed and submitted to the Committee Clerk.**

*Government Code 54950 (The Brown Act)* requires that a brief description of each item to be transacted or discussed be posted at least 72 hours prior to a regular meeting. The City posts Agendas at City Hall as well as offsite meeting locations. The order and estimated time for Agenda items are listed for reference and may be taken in any order deemed appropriate by the legislative body. The Agenda provides a general description and staff Recommendation; however, the legislative bodies may take action other than what is recommended. Full staff reports are available for public review, including all attachments and exhibits on the City's website. "To Be Delivered" and "Supplemental" reports will be published as they are received. Hard copies are available at the Department of Human Resources and all written material received is available at the meeting for public review.

Meeting facilities are accessible to persons with disabilities. If you require special assistance to participate in the meeting, notify the Department of Human Resources at (916) 808-5731 at least 48 hours prior to the meeting.

### **General Conduct for the Public Attending Defined Contribution Plans Committee Meetings**

- Members of the public attending Defined Contribution Plans Committee Meetings shall observe the same rules and decorum applicable to the Members and staff as noted in Chapters 3 and 4 of Council Rules of Procedure.
- Stamping of feet, whistles, yells or shouting, physically threatening conduct, and/or similar demonstrations are unacceptable public behavior and will be prohibited by the Sergeant-at-Arms.
- Lobbyists must identify themselves and the client(s), business or organization they represent before speaking to the Committee.
- Members of the public wishing to provide documents to the Committee shall comply with Rule 7 D of the Council Rules of Procedure.

### **Members of the Public Addressing the Defined Contribution Plans Committee**

Purpose of Public Comment. The City provides opportunities for the public to address the Committee as a whole in order to listen to the public's opinions regarding non-agendized matters within the subject matter jurisdiction of the City during Regular meetings and regarding items on the Agenda at all other meetings.

- Public comments should not be addressed to individual Members nor to City officials, but rather to the Committee as a whole regarding City business.
- While the public may speak their opinions on City business, personal attacks on Members and City officials, use of swear words, and signs or displays of disrespect for individuals are discouraged as they impede good communication with the Committee.
- Consistent with the Brown Act, the public comment periods on the Agenda are not intended to be "Question and Answer" periods or conversations with the Committee and City officials. The limited circumstances under which Members may respond to public comments are set out in Rule 8 D 2 of the Council Rules of Procedure.
- Members of the public with questions concerning Consent Calendar items may contact the staff person on the report prior to the meeting to reduce the need for discussion of Consent Calendar items and to better respond to the public's questions.

### **Speaker Time Limits.**

In the interest of facilitating the Committee's conduct of the business of the City, the following time limits apply to members of the public (speakers) who wish to address the Committee during the meeting.

- **Matters not on the Agenda.** Two (2) minutes per speaker.
- **Consent Calendar Items.** The Consent Calendar is considered a single item, and speakers are therefore subject to the two (2) minute time limit for the entire Consent Calendar. Consent Calendar items can be pulled at a member's request. Such pulled Consent Calendar items will be considered individually and up to two (2) minutes of public comment per speaker on those items will be permitted.
- **Discussion Calendar Items.** Two (2) minutes per speaker.

Time Limits per Meeting: In addition to the above time limits per item, the total amount of time any one individual may address the Board at any meeting is eight (8) minutes.

- Each speaker shall limit his/her remarks to the specified time allotment.
- The Presiding Officer shall consistently utilize the timing system which provides speakers with notice of their remaining time to complete their comments. A countdown display of the allotted time will appear and will flash red at the end of the allotted time.
- In the further interest of time, speakers may be asked to limit their comments to new materials and not repeat what a prior speaker said. Organized groups may choose a single spokesperson who may speak for the group but with no increase in time.
- Speakers shall not concede any part of their allotted time to another speaker.
  - The Presiding Officer may further limit the time allotted for public comments per speaker or in total for the orderly conduct of the meeting and such limits shall be fairly applied

# AGENDA

**Wednesday, January 9, 2019**

**10:00 a.m.**

**915 I Street, City Hall, Historic Hearing Room**

## Open Session

### Roll Call

## Public Comments – Matters Not on the Agenda

### Consent Calendar      **Estimated time: 5 minutes**

All items listed under Consent Calendar are considered and acted upon by one Motion. Anyone may request an item be removed for separate consideration.

**There are no consent calendar items for this meeting.**

### Discussion Calendar      **Estimated time: 1 hour 30 minutes**

Discussion Calendar items include an oral presentation including those recommending “receive and file”.

#### **1. Nomination and Selection of the Defined Contribution Plans Committee 2019 Chair and Vice-Chair**

**Location:** Citywide

**Recommendation:** Pass a motion selecting a Chair and Vice-Chair for the Defined Contribution Plans Committee 2019 calendar year.

**Contact:** Samantha Wallace, Human Resources Manager, (916) 808-7657, Department of Human Resources

#### **2. Defined Contribution Plans Committee 2019 Meeting Calendar**

**Location:** Citywide

**Recommendation:** Pass a motion approving the Defined Contribution Plans Committee 2019 Meeting Calendar.

**Contact:** Samantha Wallace, Human Resources Manager, (916) 808-7657, Department of Human Resources

#### **3. Ralph M. Brown Act Training**

**Location:** Citywide

**Recommendation:** Receive and file.

**Contact:** Samantha Wallace, Human Resources Manager, (916) 808-7657, Department of Human Resources

**4. Defined Contribution Plans Administrative Fees**

**Location:** Citywide

**Recommendation:** Pass a motion recommending staff complete steps necessary to amend the City's 401(a) and 457(b) defined contribution plan documents to increase the administrative fee charged to all plan participants to establish an Administrative Allowance Account with Nationwide Retirement Solutions.

**Contact:** Samantha Wallace, Human Resources Manager, (916) 808-7657, Department of Human Resources

**5. Defined Contribution Plans Investment Advisory Consultant Services**

**Location:** Citywide

**Recommendation:** Pass a motion recommending 1) staff draft a Request for Proposals for the services of an investment advisory consultant for the City's defined contribution plans and 2) staff present the draft Request for Proposals to the Committee at their April 3, 2019, meeting.

**Contact:** Samantha Wallace, Human Resources Manager, (916) 808-7657, Department of Human Resources

**6. Requested Presentation Items for Nationwide Retirement Solutions**

**Location:** Citywide

**Recommendation:** Review and comment.

**Contact:** Samantha Wallace, Human Resources Manager, (916) 808-7657, Department of Human Resources

**Member Comments-Ideas, Questions and Meeting/Conference Reports**

**Adjournment**



**Meeting Date:** January 9, 2019

**Report Type:** Discussion

**Defined Contribution Plans Committee**

Historic City Hall, Hearing Room  
915 I Street

[www.CityofSacramento.org](http://www.CityofSacramento.org)

**Title: Nomination and Selection of Chair and Vice-Chair**

**Location:** Citywide

**Recommendation:** Pass a motion selecting a Chair and Vice-Chair for the Defined Contribution Plans Committee 2019 calendar year.

**Contact:** Samantha Wallace, Human Resources Manager, (916) 808-7657, Department of Human Resources

**Presenter:** Samantha Wallace, Human Resources Manager, (916) 808-7657, Department of Human Resources

**Department:** Human Resources

**Division:** Human Resources Administration

Dept ID: 08001011

**Attachments:**

**01 Description/Analysis**

## **Description/Analysis**

**Issue Detail:** Chair and Vice-Chair assignments are the term of one calendar year. The Defined Contribution Plans Committee Bylaws state the officers of the committee shall include a Chairperson and Vice-Chairperson elected from Primary members during the first scheduled meeting of the calendar year. In the event the Chair is absent from a meeting, the Vice-Chair shall assume the duties of the Chair.

**Policy Considerations:** None.

**Economic Impacts:** None.

**Environmental Considerations:** None.

**Sustainability:** None.

**Commission/Committee Action:** None.

**Rationale for Recommendation:** Selection of a Chair and Vice-Chair is required by the Committee's bylaws and ensures meetings are conducted properly and in a timely manner.

**Financial Considerations:** None.

**Local Business Enterprise (LBE):** None.



**Meeting Date:** January 9, 2019

**Report Type:** Discussion

**Defined Contribution Plans Committee**

Historic City Hall, Hearing Room

915 I Street

[www.CityofSacramento.org](http://www.CityofSacramento.org)

**Title:** Defined Contribution Plans Committee 2019 Meeting Calendar

**Location:** Citywide

**Recommendation:** Pass a motion approving the Defined Contribution Plans Committee 2019 Meeting Calendar.

**Contact:** Samantha Wallace, Human Resources Manager, (916) 808-7657, Department of Human Resources

**Presenter:** Samantha Wallace, Human Resources Manager, (916) 808-7657, Department of Human Resources

**Department:** Human Resources

**Division:** Human Resources Administration

Dept ID: 08001011

**Attachments:**

**01 Description/Analysis**

## **Description/Analysis**

**Issue Detail:** In coordination with the City Clerk's Office, adoption of the Meeting Calendar for 2019 will allow for reservation of the Historic City Hall Hearing Room for meetings of the Defined Contribution Plans Committee. The Committee's bylaws state the Committee should meet at least quarterly. The proposed meeting calendar represents availability of the Historic City Hall Hearing Room and Human Resources staff to support the 2019 meetings of the Committee.

All meetings will commence at 10:00 a.m. and be held in the Historic City Hall, Hearing Room, 915 I Street, Sacramento, California, 95814. The proposed schedule is:

April 3, 2019

July 17, 2019

October 16, 2019

**Policy Considerations:** None.

**Economic Impacts:** None.

**Environmental Considerations:** None.

**Sustainability:** None.

**Commission/Committee Action:** None.

**Rationale for Recommendation:** The public meeting requirements of the Ralph M. Brown Act and sound public policy support adoption of a regular meeting schedule of the Committee.

**Financial Considerations:** None.

**Local Business Enterprise (LBE):** None.





**Meeting Date:** January 9, 2019

**Report Type:** Discussion

**Defined Contribution Plans Committee**

Historic City Hall, Hearing Room

915 I Street

[www.CityofSacramento.org](http://www.CityofSacramento.org)

**Title:** Ralph M. Brown Act Training

**Location:** Citywide

**Recommendation:** Receive and file.

**Contact:** Samantha Wallace, Human Resources Manager, (916) 808-7657, Department of Human Resources

**Presenter:** Jeff Massey, Senior Deputy City Attorney, (916) 808-5346, Office of the City Attorney

**Department:** Human Resources

**Division:** Human Resources Administration

Dept ID: 08001011

**Attachments:**

**01 Ralph M. Brown Act Presentation**

# The Brown Act Basics:

Deferred Compensation Committee

Presented By:

Jeffrey Massey

Senior Deputy City Attorney

# A Brief History of the Brown Act

- In 1952, the *San Francisco Chronicle* exposed secret meetings conducted by local governments
- The League of California Cities drafted a new state open meeting law which Assembly Member Ralph M. Brown carried and Governor Earl Warren signed into law. The Ralph M. Brown Act, or the Brown Act for short, added Chapter 9 [§§ 54950-58] to the California Government Code

- The purpose of the Brown Act as established by the Legislature is to ensure that public commissions, boards and councils and other public agencies in California exist to aid in the conduct of the people's business
- Most importantly, ALL actions and deliberations by public agencies must be open



# General Principles

- All meetings shall be open and public
- Actions and deliberations must be taken openly
- All persons shall be permitted to attend and participate in the meetings
- Only matters on the agenda can be discussed

# Who is Subject to the Brown Act?

- Applies to “legislative bodies” including city councils and also advisory committees created by ordinance or resolution, and a commission or task force, other than an ad hoc committee or less than a quorum advisory committees

# What is a Meeting?

- Any congregation of a majority of the members at the same time and place to hear, discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the body
- “Deliberation” includes collective decision-making and also the collective acquisition and exchange of facts preliminary to the ultimate decision
- “Action taken” is a collective decision or actual vote by a majority of the members of a body



# What is Not a Meeting?

- Individual contacts between a committee member and another person; or
- A majority of the members at a:
  - Open meeting of another body, for example, a properly agendized commission meeting
  - Members attending a League of Cities Conference
  - Social or ceremonial event

**But members cannot discuss matters that are within their jurisdiction among themselves at these events!**



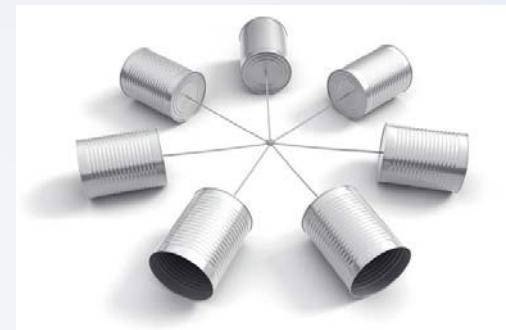


# Communication that Violates the Brown Act

A majority of members are prohibited from using a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on business within its subject matter jurisdiction outside of a noticed, agendized meeting



# Serial Meetings



- A series of private meetings or “serial meetings” allow a majority to commit to a decision or engage in deliberation of public business is a violation of the open meeting requirement
- Beware of “daisy chain” contacts: A to B and B to C can lead to a collective concurrence
- Beware of “hub & spoke” contacts: one person is the hub who then feeds and receives information to and from other members



# Serial Meetings in the Industrial Age

- In-Person: A series of individual meetings that lead to a collective concurrence violates the Brown Act. But, a minority can discuss a policy privately without violating the Brown Act
- Telephone: A series of individual telephone conversations that lead to a collective concurrence violates the Brown Act - physical presence of members is unnecessary to establish an informal meeting
- Letters: Similar to the telephone, a series of correspondence that lead to a collective concurrence violates the Brown Act



# More Technology, More Problems



- The Internet and social media provide abundant opportunities for officials to post their unfiltered opinions, thoughts and general comments about city issues
- When these entries or articles are especially timely or controversial, they practically invite comments by interested residents and local officials
- No court has specifically ruled on the Internet or social media posts in regards to Brown Act requirements. However, the same serial meeting rules that apply to e-mail may likely apply to other digital and social online conduct such as texting, tweeting, liking, swiping, and commenting on stories and third party blogs and posts

# Email

- A majority of members may not email each other to develop a collective concurrence as to action to be taken by the board. This applies to personal and work emails
- This is the case even if the e-mails are also sent to the secretary and chairperson of the agency, the e-mails are posted on the agency's Internet website, and a printed version of each e-mail is reported at the next public meeting of the board
- With the reply-all button so readily accessible, creating an “exchange of facts” is all too easy





# Text Messages

- A series of cell phone text messages that lead to a collective concurrence violates the Brown Act
- Text messages sent to committee members during an open meeting are secretive because members of the public are not privy to the content of the text message
- If a group text message or a series of text messages include a majority of the board or committee members and relate to the deliberations at hand, then the board or committee has violated the Brown Act



# Open Meeting Issues

- The potential to inadvertently hold a “meeting” is concerning
- Meetings must be open to the public, in a public location, with no restrictions on who may attend and where open discussion is allowed
- Fair notice must be given to the public of what will be discussed at a public meeting so the individual citizen can make an informed decision on whether or not he or she wants to attend that particular meeting
- With so much access to digital and social media, platforms that are significantly more open, transparent and accessible than city hall, it is ironic that such communication may be a violation



- Yet, the potential Brown Act pitfalls are real
- Local officials should be wary of commenting on any other official's social media content to avoid unintentionally creating a serial meeting
- Not all social media discussions are public and not everyone may be heard either. Posting their own comment may be safest, but liking, retweeting, and commentating on other official's sites and posts may be a violation of the Brown Act



# Questions?



**Meeting Date:** January 9, 2019

**Report Type:** Discussion

**Defined Contribution Plans Committee**

Historic City Hall, Hearing Room  
915 I Street

[www.CityofSacramento.org](http://www.CityofSacramento.org)

**Title:** Defined Contribution Plans Administrative Fees

**Location:** Citywide

**Recommendation:** Pass a motion recommending staff complete steps necessary to amend the City's 401(a) and 457(b) defined contribution plan documents to increase the administrative fee charged to all plan participants to establish an Administrative Allowance Account with Nationwide Retirement Solutions.

**Contact:** Samantha Wallace, Human Resources Manager, (916) 808-7657, Department of Human Resources

**Presenter:** Samantha Wallace, Human Resources Manager, (916) 808-7657, Department of Human Resources

**Department:** Human Resources

**Division:** Human Resources Administration

Dept ID: 08001011

**Attachments:**

**01 Description/Analysis**

## **Description/Analysis**

**Issue Detail:** The City's 401(a) and 457(b) plans charge an administrative fee by Nationwide Retirement Solutions (Nationwide) of 3.0 basis points. Basis points are paid by plan participants. The current basis points do not provide any funding to assist the City or the Committee with oversight of the plans.

During the 2017 and 2018 meetings of the deferred compensation working group, group members discussed the desire to increase the basis points to 4.5. Any increase in the basis points would be paid by plan participants and would generate revenue to provide for plan oversight such as an investment advisory consultant to the City's deferred compensation plans. Revenue generated would be held in an Administrative Allowance Account with Nationwide, and use of the account would be in accordance with the Defined Contribution Plans Fee and Expense Policy Statement.

An increase in basis points would affect all plan participants in the 401(a) and 457(b) plans. The City would first need to negotiate Letters of Understanding with all recognized employee organizations to proceed with increasing the basis points. If the City is able to execute Letters of Understanding with all recognized employee organizations, staff can then proceed with the necessary steps to amend the City's plan documents with Nationwide.

**Policy Considerations:** None.

**Economic Impacts:** None.

**Environmental Considerations:** None.

**Sustainability:** None.

**Commission/Committee Action:** None.

**Rationale for Recommendation:** There is no funding source available to pay for defined contribution plan oversight or plan consultant services.

**Financial Considerations:** Basis points are paid by plan participants and not the City.

**Local Business Enterprise (LBE):** None.



**Meeting Date:** January 9, 2019

**Report Type:** Discussion

**Defined Contribution Plans Committee**

Historic City Hall, Hearing Room

915 I Street

[www.CityofSacramento.org](http://www.CityofSacramento.org)

**Title:** Defined Contribution Plans Investment Advisory Consultant Services

**Location:** Citywide

**Recommendation:** Pass a motion recommending 1) staff draft a Request for Proposals for the services of an investment advisory consultant for the City's defined contribution plans and 2) staff present the draft Request for Proposals to the Committee at their April 3, 2019, meeting.

**Contact:** Samantha Wallace, Human Resources Manager, (916) 808-7657, Department of Human Resources

**Presenter:** Samantha Wallace, Human Resources Manager, (916) 808-7657, Department of Human Resources

**Department:** Human Resources

**Division:** Human Resources Administration

Dept ID: 08001011

**Attachments:**

**01 Description/Analysis**

## **Description/Analysis**

**Issue Detail:** The City currently contracts with Nationwide Retirement Solutions and ICMA-RC to administer the City's 401(a), 457(b), and Retiree Health Savings accounts. The City has a fiduciary responsibility to oversee the governance of the plans and analyze plan investment menus and fee structures. During the 2017 and 2018 meetings of the deferred compensation working group, members of the group expressed interest in obtaining the services of an investment advisory consultant for the City's deferred compensation plans. The cost of the consultant would be paid for by an increase in basis points charged to 401(a) and 457(b) plan participants.

While a funding source for an investment advisory consultant has not been achieved at this time, staff feels the process of drafting a Request for Proposals (RFP) for consultant services should start now due to the amount of time it takes to conduct an RFP and review proposals submitted. A draft of the RFP will be presented to the Committee at their meeting on April 3, 2019, for review and discussion.

**Policy Considerations:** None.

**Economic Impacts:** None.

**Environmental Considerations:** None.

**Sustainability:** None.

**Commission/Committee Action:** None.

**Rationale for Recommendation:** In accordance with City policy AP-4102, a Request for Proposals is required for the City to obtain the services of an investment advisory consultant.

**Financial Considerations:** The cost for a consultant will have to be funded by plan participants and not the City.

**Local Business Enterprise (LBE):** None.



**Meeting Date:** January 9, 2019

**Report Type:** Review and Comment

**Defined Contribution Plans Committee**

Historic City Hall, Hearing Room

915 I Street

[www.CityofSacramento.org](http://www.CityofSacramento.org)

**Title:** Requested Presentation Items for Nationwide Retirement Solutions

**Location:** Citywide

**Recommendation:** Review and comment.

**Contact:** Samantha Wallace, Human Resources Manager, (916) 808-7657, Department of Human Resources

**Presenter:** Samantha Wallace, Human Resources Manager, (916) 808-7657, Department of Human Resources

**Department:** Human Resources

**Division:** Human Resources Administration

Dept ID: 08001011

**Attachments:**

**01 Description/Analysis**

## **Description/Analysis**

**Issue Detail:** Nationwide Retirement Solutions (Nationwide) is the administrator and recordkeeper of the City's 401(a) and 457(b) defined contribution plans. Nationwide provides quarterly and annual reports to the City on plan performance. It is customary for a plan administrator and recordkeeper to present to a plan advisory committee upon request or at least once per calendar year.

On December 28, 2019, a Committee member sent a request to staff for representatives from Nationwide to present to the Committee at the January 9, 2019, meeting. Nationwide representatives are not available due to prior commitments. Staff requests Committee members provide a list of topics or items for Nationwide to present to the Committee at their meeting of April 3, 2019, to ensure adequate scheduling and noticing for items to be discussed.

Items currently requested include: a written report and oral presentation on the City's 401(a) and 457(b) plans, comments from Nationwide on the class action lawsuits of Schmitt v. Nationwide Life Insurance Company and Haddock v. Nationwide Life Insurance Company, and information on Roth IRAs and Roth 457 plans.

**Policy Considerations:** None.

**Economic Impacts:** None.

**Environmental Considerations:** None.

**Sustainability:** None.

**Commission/Committee Action:** None.

**Rationale for Recommendation:** As the plan provider and recordkeeper of the City's 401(a) and 457(b) plans, Nationwide should present information to the Committee upon request to keep the Committee informed and to enable members to perform their duties.

**Financial Considerations:** None.

**Local Business Enterprise (LBE):** None.