CITY OF MORGAN HILL
CITY COUNCIL POLICIES AND PROCEDURES

CP 03-02

SUBJECT: Ex Parte Contacts

EFFECTIVE DATE: November 5, 2003, REVIEWED JULY 18, 2007

ORIGINATING DEPARTMENTS: City Attorney

INTRODUCTION:

In addition to its legislative functions, the City Council, or its subordinate boards and commissions, may be called upon to act in a quasi-judicial capacity. "Quasi-judicial" means proceedings in which a property interest is at stake, and the body is charged with applying legal standards to a specific factual situation. Common quasi-judicial proceedings in the City include issuance of discretionary land use permits, rent control hearings, and appeals of all kinds.

In quasi-judicial proceedings, due process principles apply. Due process requires that participants be afforded a meaningful opportunity to prepare and be heard before an impartial decision maker, and that the decision be made on the record before the decision maker. Receipt of information outside the quasi-adjudicative hearing may deprive participants of due process, as the decision-maker may be basing his or her decision on evidence outside of the administrative record, and/or not be impartial. In order to ensure due process, the Council hereby adopts the following rules.

POLICY:

Council members, or members of any appropriate subordinate body, may discuss with any member of the public or listen to discussion of the facts of any quasi-judicial matter while such matter is pending before the City or such subordinate body, if the following guidelines are followed. (Matters involving permits are pending before a city agency, board or commission when an application for a permit has been filed with the appropriate City department; otherwise a matter is pending when the appropriate notice of appeal has been filed.)

1. The fact of such discussions, and any content of such discussion which is germane to the pending matter, should be disclosed on the record at the beginning of the public hearing prior to the taking of any statements from the public or permit applicants.

2. Council members may attend noticed public hearings before subordinate boards and commissions but should not comment or engage in any discussion at such hearings. Information and evidence gained by Council members via their attendance at noticed public hearings before subordinate boards and commissions need not be disclosed at later Council consideration of the same or related matter.

3. Council members and appropriate members of subordinate bodies may visit sites and properties that are subject of pending proceedings, as long as the fact of such visits and any observations which are germane to the subject matter of the proceeding are disclosed on the record at the beginning of the public hearing prior to the taking of any statements from the public or permit applicants.

This policy is meant to augment, not supplant, any other legal obligations Council members or members of subordinate boards and commissions have regarding such contacts, including but not limited to disclosure of conflicts of interest under the Political Reform Act, Government Code section 81000 *et seq.*, and/or adherence to open meeting laws such as the Ralph M. Brown Act, Government Code section 54950 *et seq.*.

APPROVED:

DENNIS KENNEDY, Mayor