

SUNSHINE ORDINANCE

REVIEW

OGTF Subcommittee Meeting
October 29, 2020

For Today's Meeting . . .

- Agenda Timing Requirements
- Translation Requirements
- Meeting Management and Minutes
- Public Records and Information
- Appeal and Complaint Procedures
- Other

Agenda Timing Requirements

- Posting of Preliminary Agenda
- Posting of Supporting Documents
- Posting of Final Agenda
- Relief Valves

Timing of Preliminary Agenda

- Brown Act: No requirement for preliminary agenda
- Existing: Post 9 calendar days before Council meeting (Friday, a week and a half before meeting)
- OGTF Recommendation: Post 12 calendar days before Council meeting (Thursday, a week and a half before meeting)
- Current Proposal: Post 12 business days before Council meeting (Friday, two and a half weeks before meeting, assuming no holidays)

Timing of Supporting Documents

- Brown Act: Provide to public when provided to Council
- Existing: Post with Final Agenda
- OGTF Recommendation: Post 12 calendar days prior to Council meeting
- Proposal: Add supporting documents to Preliminary Agenda as they become available

Timing of Final Agenda

- Brown Act: Post 72 hours before Council meeting
- Existing: Post 72 hours before Council meeting
- OGTF Recommendation: Post 5 calendar days before Council meeting (Thursday before meeting)
- Proposal: Post 4 business days before Council meeting (Post Wednesday before meeting, assuming no holidays)

Summary of Logistics

- Agenda Logistics:
 - Assuming no holidays, post preliminary agenda two and a half weeks prior to Council meeting
 - Assuming no holidays, post final agenda on Wednesday prior to Council meeting
 - On-going posting of supporting documents

Relief Valves

- Why allow any variations?
 - Time-sensitive grant applications
 - Time-sensitive contracts
 - Time-sensitive emergent issues
 - Need for coordination with partner agencies

Relief Valves

- Item not appearing on Preliminary Agenda:
 - May be placed on final agenda, but no action shall be taken unless:
 - Affirmative vote of five Council Members (or unanimous vote if less than seven Council Members present); AND
 - Finding of good cause

Relief Valves

- Good cause: “As a result of exceptional circumstances beyond the control of the Council, compliance with the 12 day requirement would impose a substantial burden on the City’s ability to conduct its business or result in prejudice to a private person.”

Relief Valves

- Item not on Final Agenda may be considered if:
 - Majority vote of City Council that an emergency poses a severe threat to public health and safety; OR
 - Two-thirds vote of the Council that “there is a need to take immediate action and that the need for action came to the attention of the City subsequent to the posting of the final agenda”; OR
 - Continued from a prior meeting of the Council occurring within last five calendar days.

Additional Agenda Matters

- Agenda to include budget impacts?
- Agenda to include links to prior actions?
- Applicability:
 - City Council only?
 - All City boards, commissions and committees?

Translation Requirements: Agenda

□ Automatic:

- Agendas provided in English and Spanish
- Agendas provided in other languages if voting age speakers exceed 5% of City population

□ Upon request:

- Agendas provided in Braille or enlarged type at no cost
- Agendas provided in languages other than English or Spanish at no cost

Translation Requirements: Agenda

- Timing:
 - Ordinance does not specify deadline for request for translated agenda
 - Upon request, translations are to be provided at no cost:
 - Three days before meeting for Braille or enlarged type
 - Two days before meeting for languages other than English and Spanish

Translation Requirements: Meetings

- Translation services available upon request:
 - Telecommunication devices for speech and hearing impaired
 - Provision of Spanish translation is not specified in ordinance
 - Final closed caption shall be available in English and Spanish

Applicability of Translation Requirements

- City Council only?
- All City boards, commissions and committees?

Meeting Minutes

- Speaker cards: Opportunity for speakers to include one-sentence description of comments on speaker card
- Timing:
 - Draft minutes to be available no later than 15 business days after the meeting
 - Final approved minutes to be posted no later than 5 business days after approval

Meeting Management

- All meetings in Council Chambers will be broadcast
- Strive for time-certain scheduling of hearings
- Prioritize public hearings
- Transparency as to agenda changes and continuances
- Disclosures out of Closed Session
- Public education -- Citizens Guidebook

Applicability of Requirements for Meetings and Minutes

- City Council only?
- All City boards, commissions and committees?

Open by Default

- All data generated by the City available for public review
- Unless exempt from disclosure under the Public Records Act
- Consolidated into a single web portal for ease of access.

Public Records Act

- Designation of Public Records Coordinator, and Department Representatives
- Annual reporting
- Staff training and public education
- Shortened timeframe for production of “easily and identifiable and accessible” records.

Appeal Procedures - PRA

- Two step process
- Initial Complaint Form
 - Allegations of failure to produce disclosable records
 - Filed with City Clerk's Office
 - Determination to be made “as soon as possible,” but no later than 10 days after receipt of complaint

Appeal Procedures - PRA

- Petition to City Council
 - Petition to be heard at next available Council meeting
 - Inform Petitioner of decision within 2 days of meeting, and within 45 days of receipt of petition
- Annual report of appeals and dispositions
- Need for exhaustion of administrative remedies?

Enforcement of Ordinance

- Complaint must be filed within 30 business days of alleged violation
- Hearing before City Manager and City Attorney, within 30 days of receipt of complaint
- Decision to be issued within 14 business days of the hearing

Enforcement of Ordinance

- No complaint may be filed against Council Member within 45 days of election
- Three unfounded complaints within 12 months, complainant barred from complaints for one year
- Voluntary cure or correction permitted
- Annual Public Report of complaints

Additional Provisions

- Preparation of Citizens Guidebook
- Responsibility for administration of ordinance remains with Office of Community Engagement
- In the event of a conflict, priority given to provision providing greatest public access
- City Attorney's defense of employees

Formatting

- Definitions revised to move substantive requirements into body of ordinance
- Appeals provisions redrafted into neutral terms
- Revisions to ensure consistent terminology and numbering

Questions?