

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL
FROM: SUE GALLAGHER, CITY ATTORNEY
STEPHANIE WILLIAMS, CITY CLERK
MAGALI TELLES, DEPUTY DIRECTOR – COMMUNITY
ENGAGEMENT
SUBJECT: AMENDMENTS TO THE OPEN GOVERNMENT ORDINANCE

AGENDA ACTION: ORDINANCE INTRODUCTION

RECOMMENDATION

It is recommended by the Mayor and the City Clerk that Council introduce an ordinance amending Chapter 1-10.030 (A) and (C) of Ordinance No. ORD-2020-018 to revise the publication dates of the Preliminary and Regular meeting agendas, and to revise Chapter 1-10.170 Section 4, to establish a new Ordinance effective date of January 1, 2022.

EXECUTIVE SUMMARY

On December 8, 2020, Council adopted Ordinance No. ORD-2020-018 adding Chapter 1-10, "Open Government" to Title 1 of the Santa Rosa City Code. The Ordinance established guidelines for public access to meetings, disclosure of public records, website information, agenda publication requirements for regular meetings, and meeting minutes. The effective date of the Ordinance was set for July 1, 2021, to allow time for development of required procedures and protocols.

Council directed staff to start implementation of the directives in the ordinance in advance of the effective date to assess and analyze impacts and issues. More time for this analysis is needed.

In addition, several significant issues have emerged in connection with the early publication dates of the Preliminary and Regular meeting agendas. Adjustments to those publication dates may be appropriate.

BACKGROUND

On December 1, 2020, after lengthy discussion and deliberation, the Council introduced, and the following week adopted, the Open Government Ordinance,

AMENDMENTS TO THE OPEN GOVERNMENT ORDINANCE
PAGE 2 OF 4

instituting many new procedures and standards to enhance openness and transparency.

Among the key elements of the new Ordinance are:

- New requirements for translation of agendas
- New requirements for translation of Council meetings
- Early posting of agendas, including
 - Posting of Preliminary Agenda twelve business days prior to the Council meeting
 - Posting of Final Agenda four business days prior to the Council meeting
 - Posting of agenda materials with Preliminary Agenda when possible
- Expanded content required for agendas
- Required management of meetings for public convenience
- Ready Access to Public Records and Data
- Education
- Enforcement

The Council set an effective date for the Ordinance of July 1, 2021. The Council, however, directed staff to begin implementation in the interim to the extent feasible and to report back to Council on the Ordinance's operational and financial impacts.

As early implementation of the Ordinance has moved forward, staff have found difficulties inherent in the early agenda requirements, particularly with respect to the early posting of the preliminary agenda.

As a reminder, the Ordinance requires that:

- The preliminary agenda be posted 12 business days prior to Council meeting
- The preliminary agenda be posted in both English and Spanish; three additional business days are required for translation

The preliminary agenda language must thus be finalized 15 business days (three full weeks) prior to Council meeting. (Note that supporting materials need not be translated.)

The Ordinance also requires earlier posting of the final agenda:

- The final agenda must be posted four business days prior to the Council meeting

AMENDMENTS TO THE OPEN GOVERNMENT ORDINANCE
PAGE 3 OF 4

- The final agenda must be posted in both English and Spanish; three additional business days are required for translation

The final agenda language must thus be finalized 7 business days prior to the meeting. (Again, supporting materials need not be translated.)

PRIOR CITY COUNCIL REVIEW

On December 1, 2020, the City Council introduced Ordinance No. ORD-2020-018, adding Chapter 1-10, "Open Government" to the Santa Rosa City Code.

On December 8, 2020, the Open Government Ordinance was adopted.

On March 23, 2021, the Council held a study session at which it received an update on the initial implementation of the Ordinance.

ANALYSIS

At the direction of the Council, staff began implementing the mandates of the Open Government Ordinance soon after its passage. This was intended not only to provide staff time to adjust to the new standards, but also to give Council an opportunity to make adjustments, if needed.

In this early implementation phase, staff have found several challenges. Perhaps of most significance, staff continue to face challenges with the implementation of the early agenda requirements. The earlier publication dates have made it difficult to respond to emerging issues, have necessitated frequent republication of the agenda packets, and have substantially increased the number of times the "good cause" exception has been used to add items to the final agenda.

First, in light of the requirement that preliminary agenda language be completed three full weeks prior to the Council meeting, it is difficult for the Council to act quickly to address emerging issues or to take advantage of short-term opportunities. Examples include inability to quickly address current events and urgent issues of community concern, difficulty in ensuring completed materials for timely Council approval of short-window grant applications, and the inability to be nimble in evolving projects and contractual negotiations, including negotiations in key City projects and programs.

The early agenda postings have triggered an increase in the number of times the agenda packets need to be republished to release revised or additional supporting documents. Since implementation began in February, the City Clerk's Office has, for each Council meeting, republished agenda packets anywhere from 4-13 times after the initial publication. A GovDelivery notice is sent to all subscribers with each republication and each republication takes significant staff time. The republications have caused a burden on City Clerk's Office and a potential burden on the public and Council in reviewing revised and newly added documents.

AMENDMENTS TO THE OPEN GOVERNMENT ORDINANCE
PAGE 4 OF 4

The early preliminary agenda posting has also caused an increase in the number of times staff have found it necessary to request that the Council make a finding of “good cause” to accommodate agenda items that arose after the publication of the initial preliminary agenda. This is something the Council rarely had to use prior to the implementation of the early publication dates; however, since January, Council has had to invoke those findings on at least seven agenda items before taking action.

In light of the above, staff recommends that Council consider revising the publication date of the preliminary agenda from 12 business days to 12 calendar days and to revise the publication date of the final agenda from 4 business days to 5 calendar days. Staff also recommends that Council continue the effective date of the Open Government Ordinance to January 1, 2022, to allow additional time for implementation and to further resolve logistical issues.

FISCAL IMPACT

The proposed Ordinance amendments will have no significant fiscal impact.

ENVIRONMENTAL IMPACT

This is exempt from the provisions of the California Environmental Quality Act (CEQA) under CEQA Guidelines Sections 15061(b)(3) and 15378 in that there is no possibility that the implementation of this action may have significant effects on the environment, and that no further environmental review is required..

BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

The City Council's Open Government Subcommittee

NOTIFICATION

Not applicable.

ATTACHMENTS

- Attachment 1 – Redlined Ordinance
- Ordinance

CONTACT

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