

**REVISED**

# *Memorandum*

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**TO:** SUNSHINE REFORM TASK FORCE  
MEMBERS

**FROM:** Dan McFadden

**SUBJECT: PUBLIC MEETING REFORM  
PROPOSALS**

**DATE:** September 12, 2006

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At its July 20, 2006 meeting, the Sunshine Reform Task Force took action to: 1) accept all new proposals by the City Council, Task Force members, and third parties until August 31, 2006, with further direction to staff to post the information on the City's web-site, and 2) accept all previously submitted proposals for the Task Force's review and consideration. As a result, the Task Force accepted three previously submitted proposals for further consideration put forward by Councilmembers Chuck Reed and Dave Cortese, and resident, Mr. David Parker. In addition, the Task Force received 10 additional submittals recommending over 50 new reform proposals by the August 31<sup>st</sup> deadline. Attached you will find a list of the reform proposals received that relate solely to public meetings. I look forward to a thoughtful and productive discussion on the proposals that the Task Force would like to further consider for our work plan. The proposals can be viewed by clicking on the links below or the complete list of submittals can be viewed on the City's Sunshine web-site at <http://www.sanjoseca.gov/clerk/TaskForce/SRTF/Proposals.asp>.

For more information contact Dan McFadden, Deputy City manager, Office of the City Manager, 408.535-8120.

**Previously Submitted Proposals Accepted by the Task Force for Further Consideration**

1. **Councilmember Chuck Reed, March 13, 2006, Sunshine/Open Government Reforms**
  - 1.1. Incorporate all provisions of the draft ordinance presented by the San Jose Mercury News March 12, 2006 and posted online at [www.mercurynews.com](http://www.mercurynews.com).
  - 1.2. Prohibit late staff memos so that the public can have a better opportunity to respond to proposals and fully participate in the debate.
  - 1.3. Require the Mayor and Councilmembers to disclose material facts before the Council takes action.
  - 1.4. Require the Mayor and Councilmembers to disclose any political favors or other consideration they are to get in exchange for their votes.
  - 1.5. Disclose all offers made to city unions for pay or benefit increases when the offers are made.
  - 1.6. Prohibit closed door meetings for city task forces, commissions and committees.
  - 1.7. Post notices for meetings of committees, boards, commissions and advisory bodies online in one place.
2. **Councilmember Dave Cortese, June 13, 2006, Proposed Input for Sunshine Reform Task Force**
  - 2.1. Prohibit the city council from voting on any issue if staff reports are not released at least six days before a council meeting to provide citizens a greater opportunity to respond before a final vote is cast.
3. **David Parker, June 14, 2006**
  - 3.1. A 72 hour notice for all meetings, including agenda topics. Disallow any new documents or related matters from being introduced less than 72 hours from the meeting. All materials to be used in the consideration at a meeting will be on file with the Clerk's office or on-line.
  - 3.2. Seriatim meetings prohibited, including: telephone; electronic communications; 3<sup>rd</sup> parties; etc.
  - 3.3. Allow public comment after each agenda item. And, general public comment for items not on the agenda. Increase public comment to 3 minutes.
  - 3.4. Allow for the request of interpreters, of any language, for meetings provided 48 hours notice is given to the Clerk's office.

**Proposals Submitted in Response to the Request for Any Additional Reform Proposals by August 31, 2006**

4. **Patricia Gardner, Silicon Valley Council of Nonprofits, August 3, 2006**
  - 4.1. We formally request that any city staff generated reports analysis or educational materials that provide information in order for a committee to vote, implement a policy change, funding recommendation etc to be emailed to all interested parties at least 7 days prior to a meeting and posted on the City website for full public access.
5. **David Fadness, August 31, 2006, Sunshine Ordinance Comments #1**

Click link above for an edited copy of the San Jose Mercury News proposal. See Definitions and Access to Meetings Sections.



6. **Bob Mack, August 30, 2006, Proposal**

- 6.1. The best ways to increase public input and participation is to require more advanced notice for all meetings, hearings, and other similar procedures. The current rules do not give the public adequate time to review materials and attend meetings. Public hearing agendas should be announced at least seven days prior to the meeting (longer for complex issues and those with EIRs, Air Quality studies, or other complex materials are involved. These types of documents can take weeks to read and understand, even for a trained expert. The general public needs even more time.
- 6.2. Public comment periods for permits and other administrative procedures should be extended. Notice of permit requests (building, new business, etc.) should be sent to the entire neighborhood, not just people who live 500 or 1000 feet from a project. Most projects have an impact on much larger areas than this usually the entire zip code (if near the zip code border maybe two zip codes).
- 6.3. This should apply to the Council, all departments, agencies, commissions, and committees. At the time the agenda is published all background materials (reports, prior meeting or hearing minutes, staff and consultant recommendations, etc.) should be made available. These background items should be made available as soon as they are typed, or completed.
- 6.4. If the City truly wants public input and participation, more time needs to be given for the public to ask questions of the experts (consultants, staff, or others) who prepare reports about items the Council, all departments, agencies, commissions, and committees will be deciding or voting on. This requires more public time at meetings, longer advance notice of meetings and meetings scheduled at times when most people are not at work (i.e. evenings and weekends).
- 6.5. It also requires that meeting agendas are not so over loading that meetings run until late at night, when most people have to leave to go home. It may mean that two meetings are required rather than one to cover all items. It also may mean that city staff work schedules be altered so staff can attend meetings without overtime.

7. **David Parker, August 31, 2006**

- 7.1. At least 72 hours before a regular meeting, a policy body shall post an agenda containing a meaningful description of each item of business to be transacted or discussed at the meeting. Agendas shall specify for each item of business the proposed action or a statement the item is for discussion only. In addition, a policy body shall post a current agenda on its Internet site at least 72 hours before a regular meeting.
- 7.2. A description is meaningful if it is sufficiently clear and specific to alert a person of average intelligence and education whose interests are affected by the item that he or she may have reason to attend the meeting or seek more information on the item. The description should be brief, concise and written in plain, easily understood English. It shall refer to any explanatory documents that have been provided to the policy body in

connection with an agenda item, such as correspondence or reports, and such documents shall be posted adjacent to the agenda or, if such documents are of more than one page in length, made available for public inspection and copying at a location indicated on the agenda during normal office hours.

- 7.3. The agenda shall specify the time and location of the regular meeting and shall be posted *at the main public library, in the branch libraries and* in a location that is freely accessible to members of the public. The requirement that a policy body post copies of its agendas at the branch libraries is satisfied if the branch library has a computer accessible to the public upon which members of the public may access the City's website to search for agendas of meetings of City policy bodies.
- 7.4. No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a policy body may respond to statements made or questions posed by persons exercising their public testimony rights, to the extent of asking a question for clarification, providing a reference to staff or other resources for factual information, or requesting staff to report back to the body at a subsequent meeting concerning the matter raised by such testimony.
  - 7.4.1. Notwithstanding subdivision , the policy body may take action on items of business not appearing on the posted agenda under any of the following conditions:
    - 7.4.2. Upon a determination by a majority vote of the body that an accident, natural disaster or work force disruption poses a threat to public health and safety.
    - 7.4.3. Upon a good faith, reasonable determination by a two-thirds vote of the body, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that (A) the need to take immediate action on the item is so imperative as to threaten serious injury to the public interest if action were deferred to a subsequent special or regular meeting, or relates to a purely commendatory action, and (B) that the need for such action came to the attention of the body subsequent to the agenda being posted.
    - 7.4.4. The item was on an agenda posted for a prior meeting of the body occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.
- 7.5. Agendas of meetings, meeting packets, or documents created by a department, and any other documents on file with the clerk or secretary of the policy body, in connection with a matter anticipated for discussion or consideration at a public meeting shall be made available to the public for inspection and copying at the office of the policy body at least 48 hours before the hearing and be available to the public in sufficient quantities at the hearing commensurate with the anticipated number of people attending the hearing. If any document being acted upon by the policy body at a meeting is not available at least 48 hours before the meeting and a member of the policy body requests that the matter be continued, the policy body must continue the item to a time not less than 48 hours after the document was made available. Nothing in this subsection shall prohibit the policy body from amending a document at a meeting. The materials that are distributed at the

hearing shall be of such a quality that a person with 20/20 vision would have no difficulty reading them. To the extent possible, such documents shall also be made available through the policy body's Internet site. However, this disclosure need not include any material exempt from public disclosure under this ordinance.

- 7.6. All policy bodies shall seek to provide translators at each of its regular meetings and all meetings of its committees for each language requested, where the translation is necessary to enable San Jose hearing impaired residents, or those with limited English proficiency to participate in the proceedings provided that a request for such translation services is communicated to the policy body at least 48 hours before the meeting. For meetings on a Monday or a Tuesday, the request must be made by noon of the last business day of the preceding week. The policy body shall first solicit volunteers from the ranks of City employees and/or from the community to serve as translators. If volunteers are not available the policy body may next solicit translators from non-profit agencies, which may be compensated. If these options do not provide the necessary translation services, the policy body may employ professional translators. The unavailability of a translator shall not affect the ability of the policy body or its committees to deliberate or vote upon any matter presented to them. In any calendar year, if the cost to the City for providing translator services under this subsection exceeds \$20,000, the City Council shall, as soon as possible thereafter, review the provisions of this subsection.
- 7.7. All policy bodies shall audio record each regular and special meeting. Video recordings are ideal but not required. Each such audio recording, and any audio or video recording of a meeting of any other policy body made at the direction of the policy body shall be a public record subject to inspection pursuant to the California Public Records Act (Government Code Section 6250 et seq.), and shall not be erased or destroyed and shall be retained for at least ten years, or permanently where technologically and economically feasible. The City shall retain these recordings digitally and make them available via the internet on the City's website. Inspection of any such recording shall be provided without charge on an appropriate play back device made available by the City. Requests shall be made through the department, board, commission, task force, or committee whose meeting is recorded. The City Administrator shall assist policy bodies in carrying out their duties under this subsection.
8. **[Councilmember Cortese, August 31, 2006, Reform Proposals for Consideration](#)**
  - 8.1. Prohibit multiple members of the City Council from signing on to memorandums that are distributed before the day of the Council meeting in question.
9. **[Pete Campbell, August 17, 2006](#)**
  - 9.1. A cost-benefit analysis must be provided for all projects, activities, and events that seek a public subsidy. The analysis must be provided for public review (online) two weeks in advance of the city council vote. An after-action audit must be performed on all projects, activities, and events that receive a public subsidy in excess of \$25,000.

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10. **James Charles, July 6, 2006**

- 10.1. Is it possible for all city commissions and Standing Council Committees to post minutes of their meetings within a reasonable time say 48hrs after the meetings. Some committees and commissions are very good about posting minutes and some are not. The suggestions would be a blanket statement from the taskforce to cover meeting minutes and when they should be posted after a public meeting.