



Memorandum

TO: SUNHINE REFORM TASK FORCE
MEMBERS

FROM: Dan McFadden

SUBJECT: PUBLIC MEETING DRAFT #2

DATE: September 15, 2006

Staff has prepared the second draft of "Public Meetings" section (see attached). Sections 1.2 thru 2.4 are edited to reflect intent and specific direction by the Task Force. Sections 2.5(2.7) thru 2.13(2.15) have not been reviewed by the Task Force and edits are limited to text movements.

You will find three documents attached:

- 1) clean draft of the public meeting section,
- 2) red line draft of the public meeting section, and
- 3) list of the "Public Reform" proposals cross referenced to their related provisions.

Staff hopes those revisions are helpful. We look forward to finishing the Public Meeting (Section 2) on Thursday, September 21, 2006. Please bring this document and the copy of referrals that pertain to Public Meetings.

Thank you,

Dan McFadden.

For more information contact Sheila Tucker, Office of the City Manager, 408.535-8115.

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Draft “Master” Sunshine Ordinance

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Public Meetings

2.1. Definitions

The following definitions used in this chapter have the meanings set forth below.

2.1.010 City.

“City” means the City of San Jose, California.

2.1.020 City staff.

“City staff” means all employees of Charter appointees.

2.1.030 Council staff.

“Council staff” means all employees of the City Council and the Mayor.

2.1.040 Policy body.

“Policy body” means:

- A. The City Council, Board of the City Redevelopment Agency and commissions, committees, boards or other bodies of the City Council or City Redevelopment Agency, whether permanent or temporary, decision making or advisory, created by charter, ordinance, resolution or other formal action of the City Council or Board of the City Redevelopment Agency.¹
- B. Committees comprised of City council staff that constitute a quorum of the City Council.²

2.1.050 Ancillary body.

“Ancillary body” means:

- A. Committees or other bodies created by the Mayor, a City Councilmember, the Mayor’s Chief of Staff or the Mayor’s Budget and Policy Director that meets regularly to advise on fiscal, economic or policy issues.³
- B. Any group assigned by a policy body or the Mayor to meet with residents or community groups to obtain information that would result in a report or recommendation from the group back to the policy body or the Mayor for action by the policy body or the Mayor.⁴
- C. To the extent not inconsistent with state or federal law, any entity that owns, operates or manages any property in which the City or City Redevelopment Agency has or will have an ownership interest,

¹ This definition tracks the language of the Brown Act but modifies it to be specific to San Jose and what staff understands to be the intent of the Sunshine Reform Task Force (SRTF). (Government Code Section 54952(b).)

² Staff understands that the intent of the SRTF was to omit from the definition of policy body any group comprised solely of City employees.

³ The City Manager and department heads are omitted from this version and Council members added - there was no discussion of the SRTF’s intent about these persons.

⁴ Department heads are omitted from this version. Please also recall Bob Brownstein’s concern about this definition [need to review meeting to articulate his concerns].

including a mortgage, and on which property the entity performs a governmental function or service.⁵

- D. Ancillary body does not include any committee or body consisting solely of City staff.⁶

2.1.060 Meetings.

“Meeting” means:

- A. A congregation of a majority of the members of a policy body at the same time and place to discuss or deliberate any matter that is within the jurisdiction of the City. A meal gathering of a policy body before, during or after a meeting of the policy body is part of that meeting and shall be conducted only under circumstances that permit public access to hear and observe the discussion. Such meetings shall not be conducted in restaurants or other locations where public access is possible only by making a purchase or some other payment.⁷
- B. Any use of direct communication, personal intermediaries, or technological devices that is employed by a majority of the members of a policy body to develop a collective concurrence as to action to be taken on any item by the members of a policy body is prohibited.⁸
- C. Meeting does not include:^{9 10}
1. Individual contacts or conversations between a member of a policy body and another person that do not convey to the member of the policy body the views or positions of other members of the policy body upon the subject matter of the contact or conversation and in which the member of the policy body does not solicit or encourage the restatement of the views of the other members of the policy body.

⁵ Staff is not clear about the SRTF’s intent about what types of entities are intended to be captured with the following definition: “any entity that is the recipient of a majority of any city-collected tax or assessment.”

⁶ Section 2.3(A)(3) in the Dan Pulcrano draft about “social, recreational or ceremonial occasions” has been omitted because such occasions are better addressed in the definition of meetings (see below). Section 2.3(A)(4) in the Dan Pulcrano draft has been omitted because staff understands that the intent of the SRTF was to omit from the definition of ancillary body any group comprised solely of City employees.

⁷ The second sentence was moved from section 2.1(3)(c) in the Dan Pulcrano draft because it made sense to do so.

⁸ This new section combines former Sections 2.1(3)(a) and (b) of the Dan Pulcrano draft and tracks the language of the Brown Act which is more clear and concise and encompasses the intent of the SRTF.

⁹ This section is now part of Section 2.1.060(B).

¹⁰ This section is now part of Section 2.1.060(B).

2. The attendance of a majority of the members of a policy body at a regional, state or national conference, or at a meeting organized to address a topic of local community concern and open to the public, provided that a majority of the members of a policy body do not discuss any item within the subject matter jurisdiction of the policy body.
3. The attendance of a majority of the members of a policy body at a purely social, recreational or ceremonial occasion ¹¹, provided that a majority of the members do not discuss any item within the subject matter jurisdiction of the policy body.
4. The attendance of a majority of the members of a policy body at an open and noticed meeting of a standing committee of the policy body, provided that the members of the policy body who are not members of the standing committee attend only as observers or as members of the public. ¹²

2.2 Meetings to be Open and Public: Application of Brown Act ^{13 14 15 16 17 18 19 20 21 22 23 24}

All meetings of any policy body must be open and public and governed by the provisions of the Ralph M. Brown Act (Government Code Sections 54950 et. seq.) and of this chapter. In case of inconsistent requirements under the Brown Act and this chapter, the requirement, which would result in greater or more expedited public access, will apply.

2.3 Time and Place for Meetings²⁵

2.3.010 Policy Bodies

A. Each policy body, except for policy bodies that do not meet regularly,

¹¹ This clause is omitted because members of a policy body are already prohibited in Section B from communicating at a social, recreational or ceremonial occasion to develop a collective concurrence as to action to be taken on any item by the members of a policy body.

¹² This sentence was moved up to Section 2.1.060(A).

¹³ This section is now part of the Definitions section.

¹⁴ This section is now part of the Definitions section.

¹⁵ This section is now in Section 2.3.020(B).

¹⁶ This section is now in the Notice and Agenda Requirements section.

¹⁷ This section is now in Section 2.3.020(A).

¹⁸ This section is now in the Notice and Agenda Requirements section.

¹⁹ This section is now in Section 2.3.020(B).

²⁰ This section is now in the Public Testimony section.

²¹ This section is unnecessary since it is clear spectators may just observe.

²² This section is unnecessary since ancillary body is already defined.

²³ The first sentence of this section (with some modification) is in the Definitions section. The second sentence should be in the Public Records section.

²⁴ Milpitas, Section I-310-2.20

²⁵ San Francisco, Section 67.6, excludes special meeting provisions.

must establish, by whatever rule is required for the conduct of business by that body, the time and place for holding regular meetings.

- B. If a regular meeting would otherwise fall on a holiday, it will instead be held on the next business day, unless otherwise rescheduled in advance. If a meeting must be canceled, continued or rescheduled for any reason, notice of such change must be provided to the public as soon as is reasonably possible, including posting of a cancellation notice in the same manner as described in Section 2.____.
- C. All regular and special meetings of policy bodies must be held within the City of San José unless:
 - 1. Otherwise required by state or federal law or court order.
 - 2. It is necessary to inspect real property or personal property which cannot be brought conveniently within the territory of the City of San José.
 - 3. It is necessary to meet with residents residing on property outside of the jurisdiction of the City but owned by the City or to meet with residents of another jurisdiction to discuss actions of the policy body that affect those residents.
- D. If, because of fire, flood, earthquake or other emergency, it would be unsafe to meet at the regular meeting place, meetings may be held for the duration of the emergency at some other place specified by the policy body. The change of meeting site shall be announced, by the most rapid means of communication available at the time, in a notice to the local media who have requested written notice of special meetings pursuant to Section_____. Reasonable attempts must be made to contact others about the change in meeting location.

2.3.020 Ancillary Bodies

- A. If an ancillary body elects to hold regular meetings, it must establish, by whatever rule is used by that body for the conduct of its business, the time and place for holding such regular meetings.
- B. All meetings of ancillary bodies must be accessible to individuals upon inquiry and to the extent possible consistent with the facilities in which they occur. The meetings need not be conducted in any particular space for the accommodation of members of the public, although members of the public must be permitted to observe, consistent with legal and practical restrictions on occupancy.²⁶²⁷

²⁶ This section is now in the Notice and Agenda Requirements section.

²⁷ This section is now in the Notice and Agenda Requirements section.

2.4 Notice and Agenda Requirements ^{28 29 30 31}

2.4.010 Policy Bodies

A. Agenda Posting

1. Each policy body must designate posting locations for notices and agendas required by this chapter. At a minimum, each policy body must post notices and agendas at a place that is freely accessible to members of the public 24 hours per day and on the City's public access website.
2. At least 10 calendar days before a regular meeting, a policy body must post an agenda for the meeting. The agenda must identify the policy body conducting the meeting, specify the time and location of the meeting, contain a meaningful description of each item of business to be transacted or discussed at the meeting and specify the proposed action for each item or state that the item is for discussion only. 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 concise and written in plain, easily understood English and must identify all documents that will be provided to the policy body in connection with an agenda item.

B. Staff Reports and Council Memorandums

1. All staff reports and other supporting documents related to the items on the agenda for a regular meeting must be posted on the City's public access website or available in the Office of the City Clerk, and made available for inspection and copying 10 calendar days before a regular meeting.
2. For items of business to be transacted or discussed is for an expenditure of \$1 million or more, in which case the staff reports and other supporting documents must be posted on the City's public access website and made available for inspection and copying 14 calendar days before a regular meeting.
3. In the event that staff reports and other supporting documents related to items on the agenda for a regular meeting are not posted

²⁸ This section is already in the Time and Place for Meetings section.

²⁹ This section is now in the Notice and Agenda Requirements section.

³⁰ A form of this section is now in the Notice and Agenda Requirements section.

³¹ Milpitas, Section I-310-2.30

on the City's public access website and made available for inspection and copying 6 calendar days before the regular meeting, the item will be deferred.

4. Council memos, which may be signed by no more than two councilmembers, must be posted on the City's public access website and made available for inspection and copying 3 calendar days before a regular meeting.
5. Notwithstanding Subdivision B(3) and B(4), policy bodies may accept staff reports and council memos submitted after the deadline when the conditions described in Section 2.4.010(C)(2) are met.
6. Documents related to an item on an agenda that are distributed by a member of the public during discussion of the item at a public meeting must be made available for public inspection immediately, or as soon thereafter as is practicable. No documents from City staff or Council may be distributed any later than set forth in the preceding section.

C. Council Action

1. The policy body may only discuss or take action on an item appearing on the posted agenda, except that members of a policy body may respond to statements or questions from members of the public at a meeting by asking a question for clarification, providing a referral to staff or other resources for factual information, or making a request of staff to report back to the policy body at a subsequent meeting concerning the matter raised by such testimony.
2. Notwithstanding subdivision (1), the policy body may take action on items of business not appearing on the posted agenda under any of the following conditions:
 - a. Upon a determination by a majority vote of the policy body that an emergency situation exists. An emergency situation is either (a) a work stoppage, crippling activity or other activity that severely impairs public health, safety or both; or (b) a crippling disaster, mass destruction, terrorist act, or threatened terrorist activity that poses peril so immediate and significant that requiring a policy body to provide one-hour notice before holding an emergency meeting under this section could endanger the public health, safety or both.
 - b. 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 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 that the item is a purely commendatory action.

- c. The item was on an agenda posted pursuant to this chapter for a prior meeting of the body occurring not more than ten 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.

D. Special Meetings

1. A presiding officer of a policy body or a majority of members of a policy body may call a special meeting with three calendar days notice by delivering written notice to each member of the policy body and members of the media who have requested written notice of special meetings.
2. The notice of special meeting may be delivered personally or by mail, email or facsimile and must specify the time and place of the special meeting and the business to be transacted. No other business will be considered at the special meeting.
3. Written notice may be dispensed with as to any member who at or before the time the meeting convenes files with the presiding officer or secretary of the policy body a written waiver of notice. Written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes.
4. Each special meeting must be held at the regular meeting place of the policy body except that the policy body may designate an alternate meeting place, provided that the alternate location is specified in the notice of the special meeting and the notice of the special meeting of the policy body was given at least 10 calendar days before the special meeting. This provision will not apply where the alternative meeting location is located within the same building as the regular meeting place and a notice is posted at the announced meeting location specifying the new location.

E. Agenda Requirements

1. Each policy body shall ensure that notices and agendas for regular and special meetings shall include the following notice:

KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE

(Title __ of the San Jose Municipal Code)

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT THE OPEN GOVERNMENT COMMISSION.

2. Each agenda of a policy body covered by this Open Government Ordinance must include the address, area code and phone number, fax number, email address and contact person for the Open Government Commission and the Internet address of the City's public access Web site. Information on how to obtain a free copy of the Open Government Ordinance shall be included on each agenda.

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2.4.020 Ancillary bodies.

- A. At least 3 days before a meeting, an ancillary body must post notice of a meeting on the City's public access website and master calendar as soon as the meeting is scheduled. Notice of meetings of ancillary bodies must be provided by mail, email or facsimile to each person who has made a written request for notice of such meetings. In addition, the time, place and nature of the meeting must be disclosed upon inquiry by a member of the public.

³² Prevision provision "Agendas of meetings, meeting packets and any other documents on file with the clerk 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 or printing at the office of the policy body 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. To the extent possible, such documents shall also be made available through the policy body's Web site. However, this disclosure need not include any material exempt from public disclosure under this ordinance." This section is covered by 2.4.010(C).

³³ This section is covered by 2.4.010(C).

³⁴ This section is moved up to 2.4.010(D).

³⁵ A policy body may charge a duplication fee of one cent per page for a copy of a public record prepared for consideration at a public meeting, unless a special fee has been established. Neither this section nor the California Public Records Act (Government Code sections 6250 et seq.) shall be construed to limit or delay the public's right to inspect any record required to be disclosed by that act, whether or not distributed to a policy body. This section should be in the Public Records section.

- B. Any agenda prepared for the meeting of an ancillary body must be provided to any person who requests it, by mail, email or facsimile.

Sections 2.1-2.4 above reviewed by the Task Force and staff. Sections 2.5 – 2.13 below have not been review by the Task Force or staff.

2.5 Public Notice Requirements³⁶

- A. Any public notice that is mailed, posted or published by a City department, board, agency or commission to residents residing within a specific area to inform those residents of a matter that may impact their property or that neighborhood area, shall be brief, concise and written in plain, easily-understood English.
- B. The notice should inform the residents of the proposal or planned activity, the length of time planned for the activity, the effect of the proposal or activity the location of the Web page to which related documents have been posted and a telephone contact and email address for residents who have questions.
- C. If the notice informs the public of a public meeting or hearing, then the notice shall state that persons who are unable to attend the public meeting or hearing may submit to the City, by the time the proceeding begins, written comments regarding the subject of the meeting or hearing, that these comments will be made a part of the official public record and that the comments will be brought to the attention of the person or persons conducting the public meeting or hearing. The notice should also state the name and address of the person or persons to whom those written comments should be submitted.
- D. When notice is given, as provided in this ordinance, by public policy or advisory bodies, members of the public may submit statements and/or comments regarding any item on those bodies' meeting agendas; those statements or comments shall become public record, regardless of whether their authors are present when the item at issue is discussed. Statements or comments shall be subject to review and consideration by those bodies if submitted before or during the hearing on the item. Statements or comments received within ten business days after the hearing shall go on the public record with a notation as to when it was received.

2.6 Special Meetings³⁷

- A. Special meetings of any local body may be called at any time by the presiding officer thereof or by a majority of the members thereof. All local bodies calling a special meeting shall provide notice by:
 - 1. posting a copy of the agenda in a location freely accessible to the public at least 48 hours (excluding Saturdays, Sundays and holidays) before the time of the meeting set forth in the agenda;

³⁶ San Francisco, Section 67.7-1

³⁷ Oakland, Section 2.20.070.

2. filing a copy of the agenda and copies of all agenda-related material in the Office of the City Clerk at least 48 hours (excluding Saturdays, Sundays and holidays) before the time of the meeting set forth in the agenda; and, delivering a copy of the agenda to each member of the local body, to each local newspaper of general circulation, to each agenda subscriber and to each media organization which has previously requested notice in writing, so that a copy of the agenda is received at least 48 hours (excluding Saturdays, Sundays and holidays) before the time of the meeting set forth in the agenda. Receipt of the agenda shall be presumed upon reasonable proof that delivery was made.
- B. Policy bodies specified in Section 2.2 shall, in addition to the noticing requirements of this section, post a copy of the agenda for any special meeting on-line at the local body's website at least 48 hours (excluding Saturdays, Sundays and holidays) before the time of the meeting set forth in the agenda. Failure to timely post a copy of the agenda online because of software or hardware failure shall not constitute a defect in the notice for a special meeting if the local body complies with all other posting and noticing requirements.
 - C. No business other than that set forth in the agenda shall be considered at a special meeting. Each special meeting shall be held at the regular meeting place of the local body except that the local body may designate an alternative meeting location provided that such alternative location is specified in the agenda and that notice pursuant to this Section is given at least ten (10) days prior to the special meeting. This ten (10) day notice requirement shall not apply if the alternative location is within the same building at which regular meetings of the local body occur.
 - D. To the extent practicable, the presiding officer or the majority of members of any local body may cancel a special meeting by delivering notice of cancellation in the same manner and to the same persons as required for the notice of such meeting.
 - E. Special meetings may not be noticed on the same day as a previously scheduled regular meeting that was not noticed in compliance with this ordinance if the special meeting is called to consider any of the items that were included in the notice for such regular meeting.

2.7 Barriers to Attendance Prohibited³⁸

- A. No policy body shall conduct any meeting, conference or other function in any facility that excludes persons on the basis of actual or presumed class identity or characteristics, or which is inaccessible to persons with physical disabilities, or where members of the public may not be present without making a payment or

³⁸ Milpitas, Section I-310-2.120

purchase. Whenever the City Council, a board or commission, or any committee thereof anticipates that the number of persons attending the meeting will exceed the legal capacity of the meeting room, any public address system used to amplify sound in the meeting room shall be extended by supplementary speakers to permit the overflow audience to listen to the proceedings in an adjacent room or passageway, unless such supplementary speakers would disrupt the operation of a City office.

- B. Each policy body that meets in City Hall and televises its meetings, shall provide for participation by members of the public via telephone "bridge lines" or Internet connections for public comment on each item in the same manner as if the member of the public were in actual physical attendance at the meeting. Each policy body subject to this provision may develop reasonable procedures for its implementation.

2.8 Recording and Photography³⁹

- A. Any person attending an open and public meeting of a policy body shall have the right to record the proceedings with an audio or video recorder or a still or motion picture camera, or to broadcast the proceedings, in the absence of a reasonable finding of the policy body that the recording or broadcast cannot continue without such noise, illumination or obstruction of view as to constitute a persistent disruption of the proceedings.
- B. All policy bodies shall audio record each regular and special meeting. 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. The audio and/or video record shall be kept indefinitely or as current technology allows. Inspection of any such recording shall be provided without charge on an appropriate play back device made available by the City. Audio records of audio taped meetings shall be provided upon request and payment for the actual cost of the recording. Requests shall be made through the City Clerk.

2.9 Public Testimony and Written Statements⁴⁰

- A. Every agenda for regular meetings shall provide an opportunity for members of the public to directly address a policy body on any item, provided that no action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by Section I-310-2.30(e) of this chapter.
- B. Every agenda for meetings at which action is proposed to be taken on an item shall provide an opportunity for each member of the public to directly address the body concerning that item prior to action thereupon.

³⁹ Milpitas, Section I-310-2.130

⁴⁰ Milpitas, Section I-310-2.140

- C. Each policy body shall adopt a rule providing that each person wishing to speak on an item before the body at a regular or special meeting shall be permitted to be heard once for a maximum of three minutes. However, the Chair of the meeting has discretion to reduce the speaking time in situations where there are a large number of persons who wish to speak on a particular agenda item. Time limits shall be applied uniformly to members of the public wishing to testify. The Chair of the policy body shall accept public testimony in a fair and even-handed way, without manipulation in the order of speakers.
- D. A policy body shall not abridge or prohibit public criticism of the policy, procedures, programs or services of the City, or of any other aspect of its proposals or activities, or of the acts or omissions of the body, on the basis that the performance of one or more public employees is implicated, or on any basis other than reasonable time constraints adopted in regulations pursuant to subdivision (c) of this section.
- E. To facilitate public input, any agenda changes or continuances shall be announced by the presiding officer of a policy body at the beginning of a meeting, or as soon thereafter as the change or continuance becomes known to such presiding officer.
- F. When notice is given, as provided in this ordinance, by public policy or advisory bodies, members of the public may submit statements and/or comments regarding any item on those bodies' meeting agendas; those statements or comments shall become public record, regardless of whether their authors are present when the item at issue is discussed. Statements or comments shall be subject to review and consideration by those bodies if submitted before or during the hearing on the item. Statements or comments received within ten business days after the hearing shall go on the public record with a notation as to when it was received.
- G. Meetings of ancillary bodies need not provide opportunities for comment by members of the public, although the person presiding may, in his or her discretion, entertain such questions or comments from spectators as may be relevant to the business of the gathering.

2.10 Minutes⁴¹

- A. The clerk or secretary of each policy body shall record the minutes for each regular and special meeting of the policy body. The minutes shall state the time the meeting was called to order, the names of the members attending the meeting, the roll call vote on each matter considered at the meeting, the time the board or commission began and ended any closed session, the names of the members and the names and titles where applicable, of any other persons

⁴¹ San Francisco, Section 67.16

attending any closed session, a list of those members of the public who spoke on each matter if the speakers identified themselves, whether such speakers supported or opposed the matter, a brief summary of each person's statement during the public comment period for each agenda item and the time the meeting was adjourned. Any person speaking during a public comment period may supply a brief written summary of their comments which shall, if no more than 150 words, be included in the minutes.

The draft minutes of each meeting shall be available for inspection and copying upon request no later than ten working days after the meeting. The officially adopted minutes shall be available for inspection and copying upon request no later than ten working days after the meeting at which the minutes are adopted. Upon request, minutes required to be produced by this section shall be made available in Braille, increased type size or computer-readable file in a commonly used format.

2.11 Public Comment by Members of Policy Bodies⁴²

Every member of a policy body retains the full constitutional rights of a citizen to comment publicly on the wisdom or propriety of government actions, including those of the policy body of which he or she is a member. Policy bodies shall not sanction, reprove or deprive members of their rights as elected or appointed officials for expressing their judgments or opinions, including those which deal with the perceived inconsistency of non-public discussions, communications or actions with the requirements of state or federal law or of this ordinance. The release of specific factual information made confidential by state or federal law including, but not limited to, the privilege for confidential attorney-client communications, may be the basis for a request for injunctive or declaratory relief, of a complaint to the Mayor seeking an accusation of misconduct, or both.

2.12 Conflict Disclosures

At the beginning of each City Council meeting or upon the arrival of the Mayor or Councilmember, the City Attorney shall ask the Mayor and each member of the City Council to disclose any financial or personal conflict with any item on the City Council's agenda. Pursuant to Government Code section _____, if the Mayor or a Councilmember discloses that such a personal financial interest is present, he or she shall publicly identify the conflict or potential conflict in detail sufficient to be understood by the public and shall recuse him or herself from taking action on the item if required to do so by law and leave the meeting room.

2.13 Senior Staff Meetings Open to Public

One senior City staff meeting per month shall be publicly noticed, made open and accessible to the public. Such meeting shall occur during regular business hours.

⁴² San Francisco, Section 67.17

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2.1. Definitions

The following definitions used in this chapter have the meanings set forth below.

2.1.010 City.

"City" means the City of San Jose, California.

2.1.020 City staff.

"City staff" means all employees of Charter appointees.

2.1.030 Council staff.

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“Council staff” means all employees of the City Council and the Mayor.

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2.1.040 Policy body.

“Policy body” means:

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A. The City Council, Board of the City Redevelopment Agency and commissions, committees, boards or other bodies of the City Council or City Redevelopment Agency, whether permanent or temporary, decision making or advisory, created by charter, ordinance, resolution or other formal action of the City Council or Board of the City Redevelopment Agency.¹

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B. Committees comprised of City council staff that constitute a quorum of the City Council.²

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2.1.050 Ancillary body.

“Ancillary body” means:

A. Committees or other bodies created by the Mayor, a City Councilmember, the Mayor’s Chief of Staff or the Mayor’s Budget and Policy Director that meets regularly to advise on fiscal, economic or policy issues.³

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B. Any group assigned by a policy body or the Mayor to meet with residents or community groups to obtain information that would result in a report or recommendation from the group back to the policy body or the Mayor for action by the policy body or the Mayor.⁴

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C. To the extent not inconsistent with state or federal law, any entity that owns, operates or manages any property in which the City or City Redevelopment Agency has or will have an ownership interest.

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¹ This definition tracks the language of the Brown Act but modifies it to be specific to San Jose and what staff understands to be the intent of the Sunshine Reform Task Force (SRTF). (Government Code Section 54952(b).)

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² Staff understands that the intent of the SRTF was to omit from the definition of policy body any group comprised solely of City employees.

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³ The City Manager and department heads are omitted from this version and Council members added - there was no discussion of the SRTF’s intent about these persons.

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⁴ Department heads are omitted from this version. Please also recall Bob Brownstein’s concern about this definition [need to review meeting to articulate his concerns].

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including a mortgage, and on which property the entity performs a governmental function or service.⁵

D. Ancillary body does not include any committee or body consisting solely of City staff.⁶

2.1.060 Meetings.

"Meeting" means:

A. A congregation of a majority of the members of a policy body at the same time and place to discuss or deliberate any matter that is within the jurisdiction of the City. A meal gathering of a policy body before, during or after a meeting of the policy body is part of that meeting and shall be conducted only under circumstances that permit public access to hear and observe the discussion. Such meetings shall not be conducted in restaurants or other locations where public access is possible only by making a purchase or some other payment.⁸

B. Any use of direct communication, personal intermediaries, or technological devices that is employed by a majority of the members of a policy body to develop a collective concurrence as to action to be taken on any item by the members of a policy body is prohibited.⁹

C. Meeting does not include:^{12,13}

1. Individual contacts or conversations between a member of a policy body and another person that do not convey to the member of the policy body the views or positions of other members of the policy body upon the subject matter of the contact or conversation and in which the member of the policy

⁵ Staff is not clear about the SRTF's intent about what types of entities are intended to be captured with the following definition: "any entity that is the recipient of a majority of any city-collected tax or assessment."

⁶ Section 2.3(A)(3) in the Dan Pulcrano draft about "social, recreational or ceremonial occasions" has been omitted because such occasions are better addressed in the definition of meetings (see below). Section 2.3(A)(4) in the Dan Pulcrano draft has been omitted because staff understands that the intent of the SRTF was to omit from the definition of ancillary body any group comprised solely of City employees.

⁸ The second sentence was moved from section 2.1(3)(c) in the Dan Pulcrano draft because it made sense to do so.

⁹ This new section combines former Sections 2.1(3)(a) and (b) of the Dan Pulcrano draft and tracks the language of the Brown Act which is more clear and concise and encompasses the intent of the SRTF.

¹² This section is now part of Section 2.1.060(B).

¹³ This section is now part of Section 2.1.060(B).

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body does not solicit or encourage the restatement of the views of the other members of the policy body.

2. The attendance of a majority of the members of a policy body at a regional, state or national conference, or at a meeting organized to address a topic of local community concern and open to the public, provided that a majority of the members of a policy body do not discuss any item within the subject matter jurisdiction of the policy body.

3. The attendance of a majority of the members of a policy body at a purely social, recreational or ceremonial occasion ¹⁴, provided that a majority of the members do not discuss any item within the subject matter jurisdiction of the policy body.

4. The attendance of a majority of the members of a policy body at an open and noticed meeting of a standing committee of the policy body, provided that the members of the policy body who are not members of the standing committee attend only as observers ¹⁶ or as members of the public. ¹⁶

2.2. Meetings to be Open and Public: Application of Brown Act ^{18 20 2122 2324}

^{252627 282930}

All meetings of any policy body must be open and public, and governed by the provisions of the Ralph M. Brown Act (Government Code Sections 54950 et. seq.) and of this chapter. In case of inconsistent requirements under the Brown Act and this chapter, the requirement, which would result in greater or more expedited public access, will apply.

¹⁴ This clause is omitted because members of a policy body are already prohibited in Section B from communicating at a social, recreational or ceremonial occasion to develop a collective concurrence as to action to be taken on any item by the members of a policy body.

¹⁶ This sentence was moved up to Section 2.1.060(A).

¹⁸ This section is now part of the Definitions section.

²⁰ This section is now part of the Definitions section.

²¹ This section is now in Section 2.3.020(B).

²² This section is now in the Notice and Agenda Requirements section.

²³ This section is now in Section 2.3.020(A).

²⁴ This section is now in the Notice and Agenda Requirements section.

²⁵ This section is now in Section 2.3.020(B).

²⁶ This section is now in the Public Testimony section.

²⁷ This section is unnecessary since it is clear spectators may just observe.

²⁸ This section is unnecessary since ancillary body is already defined.

²⁹ The first sentence of this section (with some modification) is in the Definitions section. The second sentence should be in the Public Records section.

³⁰ Milpitas, Section I-310-2.20

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2.3 Time and Place for Meetings³¹

2.3.010 Policy Bodies

- A. Each policy body, except for policy bodies that do not meet regularly, must establish, by whatever rule is required for the conduct of business by that body, the time and place for holding regular meetings.
- B. If a regular meeting would otherwise fall on a holiday, it will instead be held on the next business day, unless otherwise rescheduled in advance. If a meeting must be canceled, continued or rescheduled for any reason, notice of such change must be provided to the public as soon as is reasonably possible, including posting of a cancellation notice in the same manner as described in Section 2.
- C. All regular and special meetings of policy bodies must be held within the City of San José unless:
1. Otherwise required by state or federal law or court order.
 2. It is necessary to inspect real property or personal property which cannot be brought conveniently within the territory of the City of San José.
 3. It is necessary to meet with residents residing on property outside of the jurisdiction of the City but owned by the City or to meet with residents of another jurisdiction to discuss actions of the policy body that affect those residents.
- D. If, because of fire, flood, earthquake or other emergency, it would be unsafe to meet at the regular meeting place, meetings may be held for the duration of the emergency at some other place specified by the policy body. The change of meeting site shall be announced, by the most rapid means of communication available at the time, in a notice to the local media who have requested written notice of special meetings pursuant to Section _____. Reasonable attempts must be made to contact others about the change in meeting location.

2.3.020 Ancillary Bodies

- A. If an ancillary body elects to hold regular meetings, it must establish, by whatever rule is used by that body for the conduct of its business, the time and place for holding such regular meetings.
- B. All meetings of ancillary bodies must be accessible to individuals upon inquiry and to the extent possible consistent with the facilities in which they occur. The meetings need not be conducted in any particular space for the accommodation of members of the public, although

³¹ San Francisco, Section 67.6, excludes special meeting provisions.

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members of the public must be permitted to observe, consistent with legal and practical restrictions on occupancy.^{32,33}

2.4 Notice and Agenda Requirements^{34,35,36,37}

2.4.010 Policy Bodies

A. Agenda Posting

1. Each policy body must designate posting locations for notices and agendas required by this chapter. At a minimum, each policy body must post notices and agendas at a place that is freely accessible to members of the public 24 hours per day and on the City's public access website.
2. At least 10 calendar days before a regular meeting, a policy body must post an agenda for the meeting. The agenda must identify the policy body conducting the meeting, specify the time and location of the meeting, contain a meaningful description of each item of business to be transacted or discussed at the meeting and specify the proposed action for each item or state that the item is for discussion only. 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 concise and written in plain, easily understood English and must identify all documents that will be provided to the policy body in connection with an agenda item.

B. Staff Reports and Council Memorandums

1. All staff reports and other supporting documents related to the items on the agenda for a regular meeting must be posted on the City's public access website or available in the Office of the City Clerk, and made available for inspection and copying 10 calendar days before a regular meeting.
2. For items of business to be transacted or discussed is for an expenditure of \$1 million or more, in which case the staff reports and other supporting documents must be posted on the City's public access website and made available for inspection and copying 14 calendar days before a regular meeting.

³² This section is now in the Notice and Agenda Requirements section.

³³ This section is now in the Notice and Agenda Requirements section.

³⁴ This section is already in the Time and Place for Meetings section.

³⁵ This section is now in the Notice and Agenda Requirements section.

³⁶ A form of this section is now in the Notice and Agenda Requirements section.

³⁷ Milpitas, Section I-310-2.30

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3. In the event that staff reports and other supporting documents related to items on the agenda for a regular meeting are not posted on the City's public access website and made available for inspection and copying 6 calendar days before the regular meeting, the item will be deferred.
4. Council memos, which may be signed by no more than two councilmembers, must be posted on the City's public access website and made available for inspection and copying 3 calendar days before a regular meeting.
5. Notwithstanding Section B.3 and B.4. above, policy bodies may accept staff reports and council memos submitted after the deadline when the conditions described in Section 2.4.010.C.2 are met.
6. Documents related to an item on an agenda that are distributed by a member of the public during discussion of the item at a public meeting must be made available for public inspection immediately, or as soon thereafter as is practicable. No documents from City staff or Council may be distributed any later than set forth in the preceding section.

C. Council Action

1. The policy body may only discuss or take action on an item appearing on the posted agenda, except that members of a policy body may respond to statements or questions from members of the public at a meeting, by asking a question for clarification, providing a referral to staff or other resources for factual information, or making a request of staff to report back to the policy body at a subsequent meeting concerning the matter raised by such testimony.
2. Notwithstanding subdivision (1), the policy body may take action on items of business not appearing on the posted agenda under any of the following conditions:
 - a. Upon a determination by a majority vote of the policy body that an emergency situation exists. An emergency situation is either (a) a work stoppage, crippling activity or other activity that severely impairs public health, safety or both; or (b) a crippling disaster, mass destruction, terrorist act, or threatened terrorist activity that poses peril so immediate and significant that requiring a policy body to provide one-hour notice before holding an emergency meeting under this section could endanger the public health, safety or both.
 - b. Upon a good faith, reasonable determination by a two-thirds

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vote of the body, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that, 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 that the item is a purely commendatory action.

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c. The item was on an agenda posted pursuant to this chapter for a prior meeting of the body occurring not more than ten 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.

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D. Special Meetings

1. A presiding officer of a policy body or a majority of members of a policy body may call a special meeting with three calendar days notice by delivering written notice to each member of the policy body and members of the media who have requested written notice of special meetings.

2. The notice of special meeting may be delivered personally or by mail, email or facsimile and must specify the time and place of the special meeting and the business to be transacted. No other business will be considered at the special meeting.

3. Written notice may be dispensed with as to any member who at or before the time the meeting convenes files with the presiding officer or secretary of the policy body a written waiver of notice. Written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes.

4. Each special meeting must be held at the regular meeting place of the policy body except that the policy body may designate an alternate meeting place, provided that the alternate location is specified in the notice of the special meeting and the notice of the special meeting of the policy body was given at least 10 calendar days before the special meeting. This provision will not apply where the alternative meeting location is located within the same building as the regular meeting place and a notice is posted at the announced meeting location specifying the new location.

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E. Agenda Requirements

1. Each policy body shall ensure that notices and agendas for regular and special meetings shall include the following notice:

KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE

9/14/06 st

9/15/06 dp

(Title of the San Jose Municipal Code)

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT THE OPEN GOVERNMENT COMMISSION.

2. Each agenda of a policy body covered by this Open Government Ordinance **must** include the address, area code and phone number, fax number, email address and contact person for the Open Government Commission and the Internet address of the City's public access Web site. Information on how to obtain a free copy of the Open Government Ordinance shall be included on each agenda.

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2.4.020 Ancillary bodies.

A. At least 3 days before a meeting, an ancillary body must post notice of a meeting on the City's public access website and master calendar as soon as the meeting is scheduled. Notice of meetings of ancillary bodies must be provided by mail, email or facsimile to each person who has made a written request for notice of such meetings. In addition, the time, place and nature of the meeting must be disclosed upon inquiry by a member of the public.

B. Any agenda prepared for the meeting of an ancillary body must be provided to any person who requests it, by mail, email or facsimile.

³⁸ Prevision provision "Agendas of meetings, meeting packets and any other documents on file with the clerk 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 or printing at the office of the policy body 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. To the extent possible, such documents shall also be made available through the policy body's Web site. However, this disclosure need not include any material exempt from public disclosure under this ordinance." This section is covered by 2.4.010(C).

³⁹ This section is covered by 2.4.010(C).

⁴⁰ This section is moved up to 2.4.010(D).

⁴¹ A policy body may charge a duplication fee of one cent per page for a copy of a public record prepared for consideration at a public meeting, unless a special fee has been established. Neither this section nor the California Public Records Act (Government Code sections 6250 et seq.) shall be construed to limit or delay the public's right to inspect any record required to be disclosed by that act, whether or not distributed to a policy body. This section should be in the Public Records section.

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Sections 2.1-2.4 above reviewed by the Task Force and staff. Sections 2.5 – 2.13 below have not been review by the Task Force or staff.

2.5 Public Notice Requirements⁴²

- A. Any public notice that is mailed, posted or published by a City department, board, agency or commission to residents residing within a specific area to inform those residents of a matter that may impact their property or that neighborhood area, shall be brief, concise and written in plain, easily-understood English.
- B. The notice should inform the residents of the proposal or planned activity, the length of time planned for the activity, the effect of the proposal or activity the location of the Web page to which related documents have been posted and a telephone contact and email address for residents who have questions.
- C. If the notice informs the public of a public meeting or hearing, then the notice shall state that persons who are unable to attend the public meeting or hearing may submit to the City, by the time the proceeding begins, written comments regarding the subject of the meeting or hearing, that these comments will be made a part of the official public record and that the comments will be brought to the attention of the person or persons conducting the public meeting or hearing. The notice should also state the name and address of the person or persons to whom those written comments should be submitted.
- D. When notice is given, as provided in this ordinance, by public policy or advisory bodies, members of the public may submit statements and/or comments regarding any item on those bodies' meeting agendas; those statements or comments shall become public record, regardless of whether their authors are present when the item at issue is discussed. Statements or comments shall be subject to review and consideration by those bodies if submitted before or during the hearing on the item. Statements or comments received within ten business days after the hearing shall go on the public record with a notation as to when it was received.

2.6 Special Meetings⁴³

- A. Special meetings of any local body may be called at any time by the presiding officer thereof or by a majority of the members thereof. All local bodies calling a special meeting shall provide notice by:
1. posting a copy of the agenda in a location freely accessible to the public at least 48 hours (excluding Saturdays, Sundays and holidays) before the time of the meeting set forth in the agenda;

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Comment [S2]: Combined 2.1-2.3 above.

Comment [S3]: This section may be renamed or moved to the Public Information and Outreach Section.

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⁴² San Francisco, Section 67.7-1

⁴³ Oakland, Section 2.20.070.

2. filing a copy of the agenda and copies of all agenda-related material in the Office of the City Clerk at least 48 hours (excluding Saturdays, Sundays and holidays) before the time of the meeting set forth in the agenda; and, delivering a copy of the agenda to each member of the local body, to each local newspaper of general circulation, to each agenda subscriber and to each media organization which has previously requested notice in writing, so that a copy of the agenda is received at least 48 hours (excluding Saturdays, Sundays and holidays) before the time of the meeting set forth in the agenda. Receipt of the agenda shall be presumed upon reasonable proof that delivery was made.

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B. Policy bodies specified in Section 2.2 shall, in addition to the noticing requirements of this section, post a copy of the agenda for any special meeting on-line at the local body's website at least 48 hours (excluding Saturdays, Sundays and holidays) before the time of the meeting set forth in the agenda. Failure to timely post a copy of the agenda online because of software or hardware failure shall not constitute a defect in the notice for a special meeting if the local body complies with all other posting and noticing requirements.

C. No business other than that set forth in the agenda shall be considered at a special meeting. Each special meeting shall be held at the regular meeting place of the local body except that the local body may designate an alternative meeting location provided that such alternative location is specified in the agenda and that notice pursuant to this Section is given at least ten (10) days prior to the special meeting. This ten (10) day notice requirement shall not apply if the alternative location is within the same building at which regular meetings of the local body occur.

D. To the extent practicable, the presiding officer or the majority of members of any local body may cancel a special meeting by delivering notice of cancellation in the same manner and to the same persons as required for the notice of such meeting.

E. Special meetings may not be noticed on the same day as a previously scheduled regular meeting that was not noticed in compliance with this ordinance if the special meeting is called to consider any of the items that were included in the notice for such regular meeting.

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2.7. Barriers to Attendance Prohibited⁴⁴

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A. No policy body shall conduct any meeting, conference or other function in any facility that excludes persons on the basis of actual or presumed class identity or characteristics, or which is inaccessible to persons with physical disabilities, or where members of the public may not be present without making a payment or

⁴⁴ Milpitas, Section I-310-2.120

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purchase. Whenever the City Council, a board or commission, or any committee thereof anticipates that the number of persons attending the meeting will exceed the legal capacity of the meeting room, any public address system used to amplify sound in the meeting room shall be extended by supplementary speakers to permit the overflow audience to listen to the proceedings in an adjacent room or passageway, unless such supplementary speakers would disrupt the operation of a City office.

- B. Each policy body that meets in City Hall and televises its meetings, shall provide for participation by members of the public via telephone "bridge lines" or Internet connections for public comment on each item in the same manner as if the member of the public were in actual physical attendance at the meeting. Each policy body subject to this provision may develop reasonable procedures for its implementation.

2.8 Recording and Photography⁴⁵

- A. Any person attending an open and public meeting of a policy body shall have the right to record the proceedings with an audio or video recorder or a still or motion picture camera, or to broadcast the proceedings, in the absence of a reasonable finding of the policy body that the recording or broadcast cannot continue without such noise, illumination or obstruction of view as to constitute a persistent disruption of the proceedings.
- B. All policy bodies shall audio record each regular and special meeting. 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. The audio and/or video record shall be kept indefinitely or as current technology allows. Inspection of any such recording shall be provided without charge on an appropriate play back device made available by the City. Audio records of audio taped meetings shall be provided upon request and payment for the actual cost of the recording. Requests shall be made through the City Clerk.

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2.9 Public Testimony and Written Statements⁴⁶

- A. Every agenda for regular meetings shall provide an opportunity for members of the public to directly address a policy body on any item, provided that no action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by Section I-310-2.30(e) of this chapter.
- B. Every agenda for meetings at which action is proposed to be taken on an item shall provide an opportunity for each member of the public to directly address the body concerning that item prior to action thereupon.

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⁴⁵ Milpitas, Section I-310-2.130

⁴⁶ Milpitas, Section I-310-2.140

C. Each policy body shall adopt a rule providing that each person wishing to speak on an item before the body at a regular or special meeting shall be permitted to be heard once for a maximum of three minutes. However, the Chair of the meeting has discretion to reduce the speaking time in situations where there are a large number of persons who wish to speak on a particular agenda item. Time limits shall be applied uniformly to members of the public wishing to testify. The Chair of the policy body shall accept public testimony in a fair and even-handed way, without manipulation in the order of speakers.

D. A policy body shall not abridge or prohibit public criticism of the policy, procedures, programs or services of the City, or of any other aspect of its proposals or activities, or of the acts or omissions of the body, on the basis that the performance of one or more public employees is implicated, or on any basis other than reasonable time constraints adopted in regulations pursuant to subdivision (c) of this section.

E. To facilitate public input, any agenda changes or continuances shall be announced by the presiding officer of a policy body at the beginning of a meeting, or as soon thereafter as the change or continuance becomes known to such presiding officer.

F. When notice is given, as provided in this ordinance, by public policy or advisory bodies, members of the public may submit statements and/or comments regarding any item on those bodies' meeting agendas; those statements or comments shall become public record, regardless of whether their authors are present when the item at issue is discussed. Statements or comments shall be subject to review and consideration by those bodies if submitted before or during the hearing on the item. Statements or comments received within ten business days after the hearing shall go on the public record with a notation as to when it was received.

G. Meetings of ancillary bodies need not provide opportunities for comment by members of the public, although the person presiding may, in his or her discretion, entertain such questions or comments from spectators as may be relevant to the business of the gathering.

2.10 Minutes⁴⁷

A. The clerk or secretary of each policy body shall record the minutes for each regular and special meeting of the policy body. The minutes shall state the time the meeting was called to order, the names of the members attending the meeting, the roll call vote on each matter considered at the meeting, the time the board or commission began and ended any closed session, the names of the members and the names and titles where applicable, of any other persons attending any closed session, a list of those members of the public who spoke on each matter if the speakers identified themselves, whether such speakers

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⁴⁷ San Francisco, Section 67.16

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supported or opposed the matter, a brief summary of each person's statement during the public comment period for each agenda item, and the time the meeting was adjourned. Any person speaking during a public comment period may supply a brief written summary of their comments which shall, if no more than 150 words, be included in the minutes.

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The draft minutes of each meeting shall be available for inspection and copying upon request no later than ten working days after the meeting. The officially adopted minutes shall be available for inspection and copying upon request no later than ten working days after the meeting at which the minutes are adopted. Upon request, minutes required to be produced by this section shall be made available in Braille, increased type size or computer-readable file in a commonly used format.

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2.11 Public Comment by Members of Policy Bodies⁴⁸

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Every member of a policy body retains the full constitutional rights of a citizen to comment publicly on the wisdom or propriety of government actions, including those of the policy body of which he or she is a member. Policy bodies shall not sanction, reprove or deprive members of their rights as elected or appointed officials for expressing their judgments or opinions, including those which deal with the perceived inconsistency of non-public discussions, communications or actions with the requirements of state or federal law or of this ordinance. The release of specific factual information made confidential by state or federal law including, but not limited to, the privilege for confidential attorney-client communications, may be the basis for a request for injunctive or declaratory relief, of a complaint to the Mayor seeking an accusation of misconduct, or both.

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2.12 Conflict Disclosures

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At the beginning of each City Council meeting or upon the arrival of the Mayor or Councilmember, the City Attorney shall ask the Mayor and each member of the City Council to disclose any financial or personal conflict with any item on the City Council's agenda. Pursuant to Government Code section _____, if the Mayor or a Councilmember discloses that such a personal financial interest is present, he or she shall publicly identify the conflict or potential conflict in detail sufficient to be understood by the public and shall recuse him or herself from taking action on the item if required to do so by law and leave the meeting room.

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2.13 Senior Staff Meetings Open to Public

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One senior City staff meeting per month shall be publicly noticed, made open and accessible to the public. Such meeting shall occur during regular business hours.

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⁴⁸ San Francisco, Section 67.17

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Public Meetings
Reform Proposals

Submitted by Councilmembers and Members of the Public

2.1 Definition

1. Seriatim meetings prohibited, including: telephone; electronic communications; 3rd parties; etc. (*Dave Parker, June 14, 2006*)

2.2 Meetings to be Open and Public: Application of Brown Act

1. Prohibit closed door meetings for city task forces, commissions and committees. (*Councilmember Reed, March 13, 2006*)

2.3 Time and Place for Meetings of Policy Bodies

1. No proposals received

2.4 Notice and Agenda Requirements

1. Prohibit late staff memos so that the public can have a better opportunity to respond to proposals and fully participate in the debate. (*Councilmember Reed, March 13, 2006*)
2. 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. (*Councilmember Cortese, June 13, 2006*)
3. 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. (*David Parker, June 14, 2006*)
4. 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. (*Bob Mack, August 30, 2006*)
5. 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. (Bob Mack, August 30, 2006)

6. 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. (Bob Mack, August 30, 2006)
7. 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. (David Parker, August 31, 2006)
8. 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. (David Parker, August 31, 2006)
9. 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. (David Parker, August 31, 2006)
10. 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.
 - a. Notwithstanding subdivision , the policy body may take action on items of business not appearing on the posted agenda under any of the following conditions:
 - b. 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.
 - c. 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. 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. (*David Parker, August 31, 2006*)

11. 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. (*David Parker, August 31, 2006*)
12. Prohibit multiple members of the City Council from signing on to memorandums that are distributed before the day of the Council meeting in question. (*Councilmember Cortese, August 31, 2006*)
13. 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. (*Pete Campbell, August 17, 2006*)

2.5 Notice Requirements

1. Post notices for meetings of committees, boards, commissions and advisory bodies online in one place. (*Councilmember Reed, March 13, 2006*)
2. 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. (*Patricia Gardner, Silicon Valley Council of Nonprofits, August, 3, 2006*)
3. 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). (*Bob Mack, August 30, 2006*)

2.6 Special Meetings

1. No proposals received

2.7 Barriers to Attendance Prohibited

1. Allow for the request of interpreters, of any language, for meetings provided 48 hours notice is given to the Clerk's office. *(Dave Parker, June 14, 2006)*
2. 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. *(David Parker, August 31, 2006)*

2.8 Recording and Photography

1. 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. *(David Parker, August 31, 2006)*

2.9 Public Testimony and Written Statements

1. Allow public comment after each agenda item. And, general public comment for items not on the agenda. Increase public comment to 3 minutes. *(Dave Parker, June 14, 2006)*
2. 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). (*Bob Mack, August 30, 2006*)

2.10 Minutes

1. No proposals received

2.11 Public Comment by Members of Policy Bodies

1. No proposals received

2.12 Conflict Disclosures

1. Require the Mayor and Councilmembers to disclose material facts before the Council takes action. (*Councilmember Reed, March 13, 2006, memo*)
2. Require the Mayor and Councilmembers to disclose any political favors or other consideration they are to get in exchange for their votes. (*Councilmember Reed, March 13, 2006, memo*)
3. Disclose all offers made to city unions for pay or benefit increases when the offers are made. (*Councilmember Reed, March 13, 2006, memo*)

2.13 Senior Staff Meetings Open to Public

1. No proposals received