

EYE ON SACRAMENTO
Open Government Subgroup

Table of Proposed Sunshine Ordinance Reforms

Legal Structure

Adopt California Public Records Act (“CPRA”) and Ralph M. Brown Act (state public meeting law) as foundational laws via city ordinance, making such laws enforceable by the city ethics commission.

Open government reforms will be adopted as supplements to the foundational laws created by adopting the CPRA and Brown Act via city ordinance.

Legislatively “repeal” appellate court holdings that undermine CPRA, such as the “deliberative process privilege” and the subjective “weighing” of benefits vs. detriments of public disclosure.

The attorney/client privilege will not be asserted to block disclosure of communications on conflicts of interest, analyses of proposed laws, or compliance with Brown Act, the CPRA or ethics code.

Administration of Transparency Reforms

City officials will have a duty to assist citizens in fashioning their public records requests and will use due diligence to deliver requested records.

City clerk will have a duty to report improper hindering of any response to a records request. Intentional hindering of a records request will be a misdemeanor.

Private cause of action will exist for violation of Sunshine Ordinance, entailing remedies that include writ, injunctive and declaratory relief, as well as damages, attorney’s fees and costs.

The public may file an “Immediate Disclosure Request” for simple requests for public records. The city will acknowledge such requests within one business day and will comply with such requests within two.

The city clerk will compile and post on the city website a list of the type of records that are available with two business days.

The city clerk will track and log every records request, and release an annual report to the ethics commission and the city council on such matters.

The Ethics Commission will submit annual reports to the city council that includes recommendations for ways to improve city transparency and openness.

Disputes arising under the Sunshine Ordinance will be subject to fast mediation, with appeals of disputes to city ethics commission.

City officials will receive annual Sunshine Ordinance compliance training.

“Know Your Rights” Notices will be posted at entrance of council chambers and in city clerk’s office.

The city will impose no cost for making copies of records and will employ electronic storage devices to reduce the cost of copying records.

City E-mails

Require all city business e-mails to be transmitted by and to city-issued and managed e-mail accounts.

Prohibit use of private e-mail accounts for city business.

All e-mails transmitted to and from city-issued e-mail accounts will be deemed public records, no matter their content.

City E-mails will be retained for at least ten years.

Rules applicable to e-mails will be extended to apply to text messages and other forms of electronic communication that may now exist or come into existence in the future (“E-Communications Policy”).

The ethics commission will be authorized to adopt regulations extending the E-Communications Policy to different forms of electronic communication.

Specific Disclosure Matters

The city clerk will maintain all official correspondence of the city council in a chronological file which will be posted and maintained on the city’s website.

The city clerk will maintain on-line all council-adopted policies and procedures, indexed and searchable.

City officials will post on departmental web pages all departmental policies, procedures, commonly used forms, reports, media releases and policy memoranda.

Once a claim or litigation is finally adjudicated or settled, all memoranda, counsel opinions, drafts, discovery and evidence, etc., will be available to the public.

The city will not enter into any settlements that require the terms of all, or any appreciable part, of the settlement not be publicly disclosed.

City personnel information, including employee names, job descriptions, titles, items of compensation, applications, resumes and disciplinary records, will be accessible to the fullest extent allowed by law.

The city shall maintain on the city website the most current version of its comprehensive directory of management and supervisory personnel, including name, job title, phone number and e-mail address.

A listing of staff members working for each councilmember, along with their duties, qualifications and compensation, will be maintained on each councilmember’s city web page.

The city shall post on its website links to the websites of all joint powers authorities (JPAs) of which the city is a member.

City officials, including council members, who serve on the governing bodies of JPAs shall encourage and support the JPA's adoption of open government policies in accord with the Sunshine Ordinance.

The city shall promptly post and maintain on its website all performance standards it has established for each element of city government, as well as all internal and external reports, studies and findings evaluating the city's actual performance against such standards.

All public polling by the city must be approved by the city council. The city will post on its website the complete results of all polling it commissions.

Financial Portal

The city will launch a financial portal to increase transparency of the city's finances, providing access to all budgets, CAFR's, interim financial reports, revenues, contracts, and procurement.

City financial reports available via the financial portal will include both city-wide reports and department level reports.

The financial portal will include the city's check registers in a form that can be downloaded and digitally analyzed.

The city's checks, warrants, contracts, bids, promissory notes and other financing documents will be posted on the city's financial portal.

Charter Officers

Prior to hiring a city charter officer, the city will hold a public meeting at which the background and experience of the candidate will be reviewed and an opportunity to ask the candidate questions provided.

Periodic reviews of charter officers will be conducted at public meetings, including discussions of goals, performance standards, compensation and benefits.

The city manager's review, contracts, compensation and benefits will be posted on the city website.

Communications between or among the city manager, other charter officers and department directors will be promptly posted on the city's website, unless exempt from disclosure.

Police Matters

The city will post on the city's website data sets that include crimes and arrests by category, policy staffing, hot spot crime statistics and staffing levels, searchable by council district and precinct.

The city will post on the city website all crime data reported to other governmental entities.

Opening Up City Contract Negotiations

The city council will adopt open negotiation policies for the negotiation of city contracts, including contracts for services, labor, development, investments, supplies, financing, etc.

Open negotiation policies shall apply to all contracts with a value in excess of \$50,000.

Open negotiation policies will require the posting of all proposals on the city's website upon receipt and an expansion of the range of contracts subject to competitive bidding.

The city council may waive competitive bidding only with a 3/4ths majority vote of the council and a particularized finding that a waiver of competitive bidding would clearly be in the public's interest.

The city will retain an independent negotiator and an independent financial analyst in connection with the negotiation of labor contracts.

The independent financial analyst will compute the costs of expiring labor contracts and each offer/counteroffer made during labor contract negotiations and will timely disclose such costs to the public.

Once a city contract is executed or abandoned, all drafts, memoranda and other materials related to such contract shall be public records accessible to the public.

Enhancing Public Participation in City Government

Public meetings shall be held at times when it is most likely that members of the public can attend, not during the work day as frequently occurs now.

City will create a process to digitally receive, record, post and preserve public comments before, during and after meetings.

New ordinances and significant changes to ordinances will be available on-line for public review 30 days before they are taken up by a council committee (or taken up directly by city council).

City staff and developers will be required to confer with impacted residents/neighborhoods/businesses starting at the very beginning of the land use approval process and continuing as necessary.

All charitable contributions made at the behest of any councilmember will be disclosed on the webpage of the soliciting councilmember.

The city council will adopt an Open Data Policy to advance the management of government information as an asset and to facilitate the disclosure and easy use of such information by the public.

The public will have on-line access to background materials developed by staff for the council and boards, with such access concurrent with distribution of such items to council/board members.

The city will video record the open sessions of each meeting of the city council, council committee and major commissions, and make such video available as streaming video on the city's website.

The city shall maintain all such video on the city's website for at least ten years, and the city clerk will permanently maintain all such video.

The city will post on the city's website the calendars and appointment books of the mayor, councilmembers, charter officers and department directors, with narrow exceptions.

Information about all pending land use projects subject to review by any city department will be posed on-line and easily searchable by address or parcel number.

Boards, Commissions, Committees and Task Forces

Information concerning city boards, commissions, committees and task forces ("boards") will be available via a single on-line portal.

Information on boards will include member names, contact information, source of appointment, term of office, statements of economic interests and council contributions over \$100.

Selection of board members will be transparent, with public disclosure of all applications, qualifications and interviews.

Agendas/staff reports/minutes of boards will be posted on-line and will be retained indefinitely, and meeting minutes will be detailed, comprehensive, and identify individual votes on each motion.

All board, commissions, task forces and committees, including *ad hoc* committees, that address matters of public policy will be subject to state and local open meeting laws and will be open to the public.

The city will regularly disclose the annual public cost of each of its board, including staffing costs, whenever they exceed \$50,000 in a single year.

Accountability Measures

All city staff will annually sign declarations promising to tell the council the truth, the full truth and nothing but the truth in testimony and presentations before the council, with likely career consequences for breaking their promise (the "Hatfield Rule").

To assure independence, the city auditor shall not be removed except for cause and with a 2/3rds vote of the city council.