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City Attorney

February 6, 2003

## OPINION NO. 2003-02

SUBJECT: Updated Checklist of Notice/Agenda/Minutes Requirements

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This checklist is a supplement to our annual publication, "An Overview of the Laws Governing the Conduct of Public Officials." This checklist is designed to help policy bodies comply with state and City sunshine laws. This memorandum has been updated to reflect changes to the Brown Act, effective on January 1, 2003, and changes to the Administrative Code, effective on January 31, 2003. For more information on the sunshine requirements, please consult the Overview or the Deputy City Attorney assigned to your policy body.

**I. NOTICE OF MEETINGS.** These requirements apply to all policy bodies, including all boards and commissions, whether Charter-created or not, committees, task forces, and committees of commissions/boards.

**A. Regular Meetings.**

- Each policy body must establish a time and place for regular meetings by ordinance, resolution, motion, or bylaws; and
- Each policy body must post the regular meeting time and place on the department website.
- No other *notice* of regular meetings is required. Policy bodies must, however, mail and post agendas of the meetings. (See Section II., below.)

**B. Special Meetings Held at the Regular Meeting Location.**

The policy body must provide the notice of the meeting and agenda (which may be one document) at least **72 hours** in advance of meeting:

- To commissioners;
- To members of the media who have requested notice in writing;

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- By mail, to members of the public who have requested, in writing, to receive copies of agendas and agenda packets; and
- Post the Notice/Agenda at the San Francisco Main Library Government Information Center, website, meeting site, and department office.

**C. Special Meetings at Alternative Locations.**

The policy body must provide the notice of the meeting 15 days before the meeting<sup>1</sup>:

- To commissioners;
- To members of the media who have requested notice in writing;
- By mail, to members of the public who have requested in writing, to receive copies of agendas and agenda packets; and
- Post the Notice at the San Francisco Main Library Government Information Center, website, meeting site, and department office.

The agenda for the special meeting must be posted and mailed 72 hours in advance. (See Section II., below.)

The alternative meeting site must be accessible to persons with disabilities.

**D. Canceling/Continuing/Rescheduling Meetings.**

Notice of the change must be provided to the public as soon as reasonably possible.

The policy body must:

- Post the cancellation at the San Francisco Main Library Government Information Center, at the meeting site and on the policy body's website.
- If sufficient time permits, mail notice of the meeting change to those members of the public who have requested, in writing, to receive meeting agendas.

**II. AGENDAS.** These requirements apply to all policy bodies, including all boards and commissions, whether Charter-created or not, committees, task forces, and committees of commissions/boards.

**A. Posting and Mailing Agendas.**

The policy body must:

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<sup>1</sup> Where the meeting is held in a different room number in the same building, the 15-day notice provision does not apply.

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- Provide two copies of the agenda to the San Francisco Main Library Government Information Center at least 72 hours before the meeting.
- Post the agenda at the website, meeting location and department office at least 72 hours before a meeting.
- At least 72 hours before the meeting, mail copies of agendas and agenda packets to Commissioners.
- Mail copies of agendas and agenda packets at same time as to Commissioners to any member of the public who has requested to receive the information in writing.

**B. Content of Agendas.****1. Specific Agenda Items.**

- Must include a meaningful description of each item of business to be transacted or discussed. Must be sufficiently clear and specific to alert a person of average intelligence and education whose interests are affected that he or she may have reason to attend the meeting or seek more information on the item.
- Must include whether the entity will take action – and a description of the proposed action – or a statement that the item is for discussion only. If the item is posted as a discussion item, the policy body may not take action on the item at that meeting.
- Must refer to explanatory documents, such as correspondence or reports, that have been provided to the policy body in connection with an agenda item.

Referenced documents of one page: must be posted adjacent to the agenda.

Referenced documents of more than one page: note on agenda that documents are available for public inspection and copying at a location indicated on the agenda during normal office hours.

**2. Form Language Required on Every Agenda.**

- Time, day and location of meeting.
- That public comment will be taken on each item.

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- Name of contact person and location where public may inspect documents referred to on agenda.
- Information regarding how, to whom, and when a request for a disability-related modification or accommodation, including auxiliary aids or services may be made by a person with a disability who requires a modification or accommodation in order to participate in the public meeting.<sup>2</sup>

We suggest you use the following format:

To obtain a disability-related modification or accommodation, including auxiliary aids or services, to participate in the meeting, please contact \_\_\_\_\_ at least two business days before the meeting.

- The address, area code and phone number, fax number, e-mail address, and a contact person's name for the Sunshine Ordinance Task Force. In addition, each agenda must include information on how to obtain a free copy of the Sunshine Ordinance.

**Currently**, that information is:

Donna Hall  
Sunshine Ordinance Task Force  
City Hall, Room 244  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689  
Phone: (415) 554-7724, Fax: (415) 554-7854  
E-mail: Donna.Hall@sfgov.org

Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library and on the City's website at [www.ci.sf.ca.us](http://www.ci.sf.ca.us).

- The following quote:

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE  
(Chapter 67 of the San Francisco Administrative Code)

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<sup>2</sup> This requirement is part of the new legislation, effective January 1, 2003, that specifically incorporates the requirements of the Americans with Disability Act into the Brown Act provisions.

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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 and County 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 SUNSHINE ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT THE SUNSHINE ORDINANCE TASK FORCE.

- The following quote:

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illnesses, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City accommodate these individuals.

- The following quote:

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

**3. Suggested Language on Each Agenda.**

The Ethics Commission has requested that each policy body place the following language on each agenda:

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (San Francisco Campaign and Governmental Conduct Code sections 2.100 – 2.160) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102, telephone (415) 581-2300, fax (415) 581-2317 and web site: [www.ci.sf.ca.us/ethics](http://www.ci.sf.ca.us/ethics).

**C. Closed Sessions.**

The sunshine laws permit policy bodies to meet in closed sessions in very limited circumstances. There are specific requirements for the agendas of closed-session

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meetings. Please contact the Deputy City Attorney advising the policy body for assistance.

**III. AUDIO OR VIDEO RECORDINGS OF MEETINGS.****A. Charter Boards and Commissions.**

- Every board or commission listed in the Charter must record every meeting, whether closed or open, regular or special.

**B. Policy Bodies other than Charter Boards and Commissions.****1. Closed Sessions.**

Every policy body (including all boards and commissions, whether Charter-created or not, and committees of commissions/boards) must record all closed sessions. Recordings may be audio or video recordings.

**2. Open Sessions.**

Non-charter policy bodies, (including boards, commissions, committees and task forces created by ordinance or resolution, and committees of Charter boards and commissions) are not required to record open sessions.

**C. Disclosing Closed Session Tapes.**

- Contact the Deputy City Attorney advising the policy body before disclosing any closed session tape.

**IV. MINUTES.****A. Charter Boards and Commissions.**

Every board or commission listed in the Charter must keep minutes of each regular or special meeting, consisting of the following:

**1. Content**

- The time the meeting was called to order;
- The time the meeting was adjourned;
- The names of the members attending the meeting;

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- 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 members and the names and titles, where applicable, of any other person attending any closed session. **When the policy body is meeting in closed session to consider applicants for employment or employee discipline, the minutes must not contain the names of the applicants or employee;** and
- 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; and a brief summary of each person's statement during the public comment.
  - Any person speaking during a public comment period may supply a brief written summary of their comments which must, if limited to no more than 150 words, be included in, or appended to, the minutes.

**2. Timing.**

The policy body must:

- Make draft minutes available for inspection and copying no later than ten working days after the meeting.
- Make officially adopted minutes available for inspection and copying no later than ten working days after the meeting at which the minutes are adopted.
- If requested to do so, produce the minutes in any alternative format, including Braille or enlarged type.
- Send two copies of its minutes to the San Francisco Main Library Government Information Center.
- Post the minutes on the department's website within 48 hours after approval.

**B. Non-Charter Boards and Commissions.**

The Charter requires each board or commission to keep a record of the proceedings of each regular or special meeting indicating how each member voted on each question. Non-charter boards and commissions must keep that record, but are not required to comply with the format listed directly above.

**OPINION NO. 2003-02****C. Committees.**

Committees are not required to keep minutes of their meetings. We advise that committees keep brief minutes consisting of a record of attendance, actions taken and votes on those actions.

**V. DISABLED ACCESS.** These requirements apply to all policy bodies, including all boards and commissions, whether Charter-created or not, committees, task forces, and committees of commissions/boards.

Each policy body must:

- Make any such disability-related modification or accommodation necessary, including providing auxiliary aids or services, to permit a person with a disability to participate in a public meeting. Such accommodations include, but are not limited to:
  - Making an agenda available in an appropriate alternative format, upon request;
  - Providing sign language interpreters or note-takers, upon request;
  - Ensuring accessible seating for persons with disabilities, including those using wheelchairs, is made available at all meetings;
  - Ensuring that writings distributed at public meetings are available in appropriate alternative formats, upon request; and
  - Providing minutes in any appropriate alternative format, including Braille or enlarge type, upon request.
- A policy body may not impose a fee or surcharge to accommodate a person with disabilities.

**VI. REPORTS.<sup>3</sup>**

Each board or commission that oversees a City department must:

- Produce an annual report describing its activities as part of the Annual Statement of Purpose required by Charter section 4.102(2). The report must contain a general

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<sup>3</sup> This summary reflects changes to the requirements regarding annual reports enacted by the Board of Supervisors on January 21, 2003.



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summary of the department's services and programs presented in terms and format accessible to the average citizen.

- Post the report on the City's official website and transmit the Uniform Resource Locator (URL) for each report to the San Francisco Main Library Government Information Center within ten days of the final approval of the report.<sup>4</sup>
- Provide a copy of the report printed from the webpage to a member of the public, upon request.

**No board, commission or department head may authorize the expenditure of City funds for the purpose of procuring the printing of an annual report without prior approval of the Board of Supervisors.**

**VII. MAINTAINING WEB SITE.**

Each City department must maintain a website. Each department's website must include the following information for all of its policy bodies (including all boards and commissions, whether Charter-created or not, and committees of commissions/boards):

- All meeting notices, agendas and minutes of all previous meetings of all of its policy bodies for the last three years.
- All notices and agendas, no later than the time the department otherwise distributes this information to the public.
- Minutes of meetings, within 48 hours after they have been approved.

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<sup>4</sup> The legislation refers to a "Documents Department" of the Library. We are informed there is no such department. Accordingly, staff should send the information to the Library's Government Information Center.

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Very truly yours,

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APPROVED:

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