

OAKLAND CITY COUNCIL

RESOLUTION NO. 79006 C.M.S.

INTRODUCED BY COUNCILMEMBER _____



Resolution Amending Rule 7 of the Council's Rules of Procedure Resolution No. 78307 C.M.S. to Require a Motion and a Second to (1) Remove an Item from the City Council's Consent Item Calendar and Place the Item on the Non-Consent Calendar of the Next Council Meeting or (2) Place on the Agenda of the Next Council Meeting Any Action Item that Was Considered by a Subject Matter Committee, But Was Not Forwarded to Council and Setting Forth the Council's Rules of Procedure, As Amended, In their Entirety

WHEREAS, the Council of the City of Oakland hereby declares that the business of the City is to be conducted in an orderly and efficient manner to facilitate sound City Council and public deliberation and decision making; and

WHEREAS, the City Council hereby declares that the proper operation of democratic government requires that public officials are bound to observe, in their official acts, the highest standards of performance and to discharge faithfully the duties of their office, regardless of personal considerations. Recognizing that the public's interest must be their primary concern, their conduct in both their official and private affairs should be above reproach; and

WHEREAS, the following Rules of Procedure seek to provide for: (1) reasonable time for public input and comment on agenda items at the Committee and City Council meetings; (2) in-depth study of policy proposals, for problem-solving opportunities among staff, Council members and the public and development of policy alternatives at the committee level; (3) more focused (and fewer) City Council agenda items by limiting items to those a Committee has had the opportunity to discuss and as to which a Committee has developed recommendations; and (4) an agenda that is managed more efficiently and effectively and for predictable discussion times for debate regarding agenda items in order to avoid long waits by the public as the Council considers procedural, ceremonial and consent items (as defined herein); and

WHEREAS, in recognition of these goals, the City Council desires to establish Rules of Procedure for the Conduct of City Council Meetings and a Code of Ethics; and

WHEREAS, City Charter section 210 mandates that the Council provide by resolution for the order of business and the rules of procedure for the conduct of Council meetings; now, therefore, be it

RESOLVED: That in accordance with Section 208 of the Charter of the City of Oakland, the time and place of Council meetings is hereby determined to be the following: The

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Oakland, California. Meetings shall conclude no later than 10:30 p.m., unless extended by majority vote of the members of the Council in attendance at the Council meeting.

FURTHER RESOLVED: That in accordance with Section 210 of the Charter, the following is established as the order of business for Council meetings:

1. Pledge of Allegiance
2. Roll Call
3. Open Forum
4. Approval of Council minutes
5. Modifications to the Agenda, including but not limited to
 - a. Requests from Councilmembers to pull item from consent items rescheduling as non-consent items on the next City Council meeting agenda.
6. Motion for Members' Requests for Reconsideration of Action the Council took at Immediately Preceding Meeting (In order to make motion Member must have voted on "prevailing side".)
7. Members' Request for Scheduling of Items considered by Committee but not forwarded to Council to be scheduled at the next City Council meeting.
8. Action on Special Orders/Presentations of the Day (with accompanying agenda materials as required by Sunshine Ordinance)
 - i. Ceremonial presentations, including proclamations, individual recognitions, etc.
 - ii. Approval of Mayoral or Council appointments to Boards, Commissions, and other bodies
 - iii. Tie-breaking for legislative actions (Motions, Resolutions & Ordinances) pursuant to Charter section 200; and
 - iv. Reports from the Mayor
 - v. Council Acknowledgements/ Announcements
9. Presentation of Informational Items
10. Adoption of Consent Items Calendar
11. Commencing at 7:00 p.m., or as soon as reasonably practicable thereafter, report and disclosure pursuant to the Sunshine Ordinance of Closed Session Action
12. Reconsideration of Ordinances pursuant to Charter section 216

13. Consideration of items with statutory Public Hearing Requirements
14. Action on Non-Consent Items
15. Public Hearings
16. Continuation of Open Forum
17. Adjournment

FURTHER RESOLVED: That in accordance with Section 210 of the Charter, the following are established as the Rules of Procedure for the conduct of Council meetings:

Rule 1. **Roberts Rules of Order Applies Except as Modified by these Rules -**
 The business of the Council and its standing committees shall be conducted, so far as it is practicable, in accordance with parliamentary rules as contained in Roberts Rules of Order Revised, except as modified by these rules and in accordance with state open meeting laws and local sunshine ordinance. The City Attorney, or such other person as may be designated by the presiding officer upon approval of the Council, shall serve as the official parliamentarian for meetings of the Council.

Rule 2. **Seating of Councilmembers, Voting Order -** When in session, the Councilmembers shall occupy assigned seats in the Council Chambers in alphabetical order according to their surnames, commencing to the left of the President of the Council, and shall vote in said alphabetical order, with the President of the Council or other presiding officer voting last, except when utilizing the automated simultaneous voting system.

Rule 3. **Definition of Terms:**

- i. ***Action Item*** shall mean any resolution, ordinance, public hearing, motion or recommendation requiring official vote and approval of the City Council to be effective.
- ii. ***Consent Item*** shall mean, for the purposes of the City Council agenda, any action item that a subject matter Committee has forwarded to the full Council with unanimous recommendation for approval, except any item having a high level of public interest or controversy as determined by the Rules Committee.
- iii. ***Non-Consent Item*** shall mean, for the purposes of the City Council agenda, any action that a subject-matter Committee has forwarded to the full Council without unanimous recommendation for approval or having a high level of public interest or controversy as determined by the Rules Committee.
- iv. ***Informational Item*** shall mean an item of the agenda consisting only of informational report that does not require or permit Council action.

- v. ***Regularly-Scheduled Meeting*** shall mean a meeting occurring on a recurring basis and at a regular, established time for which all required public notice requirements for a regular meeting have been met.
- vi. ***Subject Matter Standing Committees*** shall mean the Community and Economic Development Committee, the Finance and Administration Committee, the Public Safety Committee, the Life Enrichment Committee, the Public Works Committee, the Rules Committee and such other subject matter committees as the Council may establish.

Rule 4. Standing Committees - Subject matter standing committees of the Council shall consist of the following and are entitled as follows:

- Community and Economic Development
- Public Works
- Life Enrichment
- Finance and Management
- Public Safety
- Rules and Legislation

The President of the Council shall appoint all committees subject to confirmation by a majority of the Council and provided that a majority of the Council may direct the appointment of a committee by the President of the Council. Committee chairs shall be appointed by the President of the Council and confirmed by the Council for a two-year term beginning in January with each new City Council term. The Council may establish such other ad hoc or standing committees as it deems appropriate (e.g., City/Port Liaison Committee and the Education Partnership Committee).

With the exception of the Rules Committee, subject matter standing Council Committees shall meet on the second and fourth Tuesdays of each month. Rules shall meet weekly on Thursdays. They shall meet at the times set forth, or such other time as recommended by the Rules Committee and approved by the Council. With the exception of special meetings, all subject matter Committees (except Rules Committee) and Council meetings on non-consent items shall take place in the afternoons and evenings to maximize citizen participation. Meetings of committees may be noticed as Special Meetings of the Council if a majority of the members of the Council plan to attend and participate as a part of the committee.

The standing committees of the Council, are authorized and directed to ascertain, study and analyze all facts relating to any subjects or matters within their jurisdiction, or as may be assigned by the Rules Committee, and shall report to and submit recommendations to the City Council for action.

Rule 5. Action by Subject Matter Committees -

The assigned subject matter committee shall have initial jurisdiction over any item assigned to it by the Rules Committee and may take any of the following actions with respect to the assigned item:

1. The Committee Chair shall develop with staff the schedule to hear items to be confirmed by a majority of the Committee.
2. The Committee may, by a vote of the majority of the members present, decide to postpone, continue or table an item on the agenda.
3. On any item on an agenda, the Committee Chair may allow for an informational presentation by City staff relating to the item.
4. With respect to an action item, and after discussion and consideration of the item, committee may take one of the following actions:
 - a. Vote by majority of those present to approve the recommendation of staff or the originator of the proposed action item and forward the recommendation onto the full Council. The Committee may, as a condition of approval, request additional information to be presented for consideration when the full Council hears the item.
 - b. Fail to approve any recommended action, in which case the item shall **not** be forwarded to the full City Council. Any such action will be recorded in the minutes and may be subject to consideration if pulled by a Councilmember at the appropriate Council meeting.
 - c. Propose by a majority vote one or more alternative recommendation(s) be forwarded to the full City Council for consideration and final action. The Committee may request additional information to be presented for consideration when the full Council hears the item.
 - d. Reject by a majority vote jurisdiction over the action item and refer the action item back to the Rules Committee with a recommendation for reassignment to another appropriate subject-matter committee.
 - e. Request, by majority vote, additional, specified information from staff or the originator of the proposed action item. The action item may be continued or rescheduled for further consideration at the soonest feasible date available, allowing time for appropriate notice pursuant to the Sunshine Ordinance and Brown Act.
5. With respect to an informational item, following discussion and consideration, committee shall take one of the following actions:
 - a. Receive the informational report without forwarding the report to the full City Council;

- b. Receive the informational report and forward the report onto the full City Council;
 - c. Request by motion and second more specific information from staff or the originator of the proposed informational item. The item may be continued or rescheduled for further consideration at the soonest feasible date available, allowing time for appropriate notice pursuant to the Sunshine Ordinance.
6. Each Committee shall review the minutes of its previous meeting, make corrections to mistakes, if any, and approve by majority vote the minutes.

Rule 6. Election of Council President; President's Powers/Duties - At the first Council meeting in January the Council shall elect the President of the Council for a two-year term. The President of the Council shall serve as the presiding officer of the City Council and shall perform the following duties:

- Chair regular and special meetings of the City Council;
- Manage the Office of the City Council and present the budget of the Office of the City Council for adoption;
- Appoint Council committees and chairpersons of committees, subject to confirmation by the Council;
- Except for those appointments reserved for the Mayor pursuant to the City Charter or other enabling legislation, the President of the Council shall recommend appointments to regional and local boards and agencies, as appropriate, subject to confirmation by the Council.

The President of the Council, subject to confirmation of the Council, shall designate a Councilmember(s) to serve as "President Protempore" in the absence or unavailability of the President of the Council the President Protempore shall perform the duties of the President of the Council.

Rule 7. Action and Procedures at Council Meetings

1. The regularly scheduled meetings of the City Council shall take place on the first, third and fifth Tuesdays of each month, and shall begin at 6:00 p.m. All non-consent items shall be heard and discussed no earlier than 7:00 p.m.
2. The City Council may consider and act upon those items assigned by Rules Committee directly to City Council, or approved and forwarded by a subject matter committee, or, as provided in Item 8 of this Rule,

pulled at the immediately preceding Council meeting by a Councilmember for discussion.

3. For each action item and informational item, the agenda shall list the following:
 - a. A summary description of the item pursuant to the Brown Act and the Sunshine Ordinance;
 - b. The recommendation, alternatives and/or direction recommended by the subject matter Committee, including the voting record of Committee members on the item; and
 - c. For each action item referred directly by the Rules Committee, a brief statement of the Rules Committee's reason for referring item to Council directly without subject-matter committee consideration.
4. For each action item and informational item on the agenda, the agenda package shall include the following information:
 - a. Staff or informational reports submitted to Committee, including but not limited to
 - i. any additional information requested to be included by the subject matter committee
 - ii. a listing of all funding sources to fund the action or recommendation being taken, an indication that no funding sources are identified, or an indication that no funding is necessary
 - iii. a list of the organization/stakeholders contacted regarding the item, if any
 - iv. information and comment on the Sustainable Economic, Environmental and Social Equity Opportunities afforded by the recommended action.
5. During "Approval of Council Minutes", the City Council shall approve the minutes of the preceding Council meeting (but not of the Committee meetings), after corrections to any errors that may have occurred during recordation of the proceedings of the meeting. The City Council shall not discuss, consider, or debate the substance of any matter recorded in the minutes, unless such items are specifically included as an Action or Information Item on the posted agenda.
6. During "Modifications to the Agenda" any Council member may request a change in the order of the agenda, which shall be changed with the consent of the presiding officer. Any Councilmember by motion that is seconded by another Councilmember, may pull a consent item from the Consent Item Calendar and place the item on the next City Council meeting agenda as a non-consent item; provided

however that the Consent Items Calendar may not be moved to a time later than 7:00 p.m. and no item agendized for consideration after 7:00 p.m. may be moved to a time earlier than 7:00 p.m. A Councilmember is entitled to pull a consent item from the Consent Item Calendar if another Councilmember seconds his/her motion; it is not necessary that the Council vote on or pass the motion.

7. During "Members' Request for Reconsideration," any Council Member who voted on the prevailing side of a motion or other action taken at the immediately preceding Council meeting may move that item for reconsideration. If the motion is seconded and at least five Council members vote in favor of the motion, the item shall be placed on the agenda for the next-succeeding City Council meeting as a "non-consent" item. This section is not intended and shall not be construed to preclude a Council member, who voted on the prevailing side of a motion or other action taken at a Council meeting, from moving for reconsideration of the item at the same meeting; nor shall this section be interpreted to preclude the Council from reconsidering the item at the same meeting if the motion to reconsider passes.
8. During "Members' Request for Scheduling of Items Considered by Committee but not forwarded to Council", any Council member by motion that is seconded by another Councilmember, may place on the agenda of the next City Council meeting (subject to compliance with Sunshine Ordinance and Brown Act) any action item that has been considered in a subject matter Committee, but not forwarded by the Committee to the City Council; it is not necessary that the Council vote on or pass the motion.
9. On any action item, the City Council may, by the requisite number of votes:
 - a. Approve the Committee's recommendation, select one of the Committee's suggested alternatives or approve an alternative recommendation proposed at the full Council in compliance with the Brown Act and Sunshine Ordinance;
 - b. By a majority of the Council members present, continue the item to the next regular Council meeting if permitted by Sunshine Ordinance and Brown Act;
 - c. By a majority of the Council members present, refer the item to any subject-matter Committee for reconsideration; or
 - d. With respect to an item that the Rules Committee referred directly to Council, the Council may take any action subject to the Brown Action and the Sunshine Ordinance.

10. On any agenda item report, the City council may receive the report either by oral presentation by staff or as written.

Rule 8. Protocol at Council Meetings - Every member of the Council, before speaking, shall address the presiding officer, and no member shall speak except while seated at or standing in the immediate vicinity of, his or her desk. Members of the Council are not subject to the floor privilege or time restrictions of Rule 11. When items on the agenda relate to a specific Council District, the presiding officer shall recognize the Council representative of the District first, and the Councilmember-at-Large secondly, prior to recognizing other Councilmembers.

Rule 9. Announcements by Councilmembers - Each member of the Council shall have the right to make brief announcements via the City operated station, KTOP, or at the appropriate time on the agenda, without a previous motion, upon matters which are Council sponsored or relate to the welfare and condition of the City. He or she shall, at the commencement of his/her announcements, state the subject matter on which he or she desires to speak. Individual announcements shall not exceed two minutes unless additional time is authorized.

Rule 10. Motions - If any member of the Council makes a motion, such motion shall not be debated, or further discussed or considered, or voted upon, until after a second to such motion is made by a member of the Council.

Rule 11. Speaking Time Limits for Councilmembers - No member of the Council shall speak for more than ten (10) minutes on any matter without the consent of the presiding officer or a majority of the Council.

Rule 12. Speakers' Cards - The City Clerk shall facilitate the process for public speakers and shall provide the public with information on how to appropriately address the Council. Members of the public wishing to speak must submit their name and the item on the agenda they wish to discuss, if any, to the City Clerk before being recognized by the presiding officer.

Persons wishing to speak must complete a speaker card for each agenda item he/she wishes to speak on. Multiple agenda items cannot be listed on one speaker card.

Speakers' cards must be received by the City Clerk (1) prior to Council action on Modifications to the Agenda for items agenda from 6:00 to 7:00 p.m., and (2) by 8:00 p.m. for items agenda for 7:00 p.m. or thereafter, unless consent to speak is given by the presiding officer or a majority of the Council.

Multiple speakers representing an organization or position on an item are encouraged to organize their presentations before the Council. Designated spokesperson(s) representing the position of multiple speakers on an item will be allotted an appropriate allocation of time to address the Council on behalf of all of the speakers.

Rule 13. Open Forum - Open Forum prior to Modifications to the Agenda shall be limited to a total of 15 minutes. If all public speakers who submitted speaker cards for open forum pursuant to Rule 12 are not heard within the 15 minute time frame, open forum will be continued at the end of the agenda prior to adjournment.

Public Speakers submitting their names to speak under open forum shall be allotted a minimum of one (1) minute each to speak and a maximum of three (3) minutes. A speaker may speak only once under open forum during any one meeting. Speakers during open forum may address the City Council regarding any items of public interest that are not on the meeting agenda. Open Forum speaker cards are to be numbered by the City Clerk in the order received.

The City Clerk shall advise the public that the Council cannot take any action under Open Forum unless it is deemed an emergency or urgency matter by a vote of the Council, as defined in the Sunshine Ordinance and Brown Act.

Rule 14. Time Limits for Public Speakers on Committee and Council Agenda Items –

1. Any member of the public who has submitted a speaker card pursuant to Rule 12 on an agenda item, other than open forum shall be allotted a minimum of two (2) minutes to speak prior to any vote or action by the Council. The President, presiding officer or Committee chair may reduce each speaker's allotted time to one (1) minute if he or she publicly states all reasons justifying any reduction in speaker time, which reasons shall be based at least on consideration of the time allocated or anticipated for the meeting, the number and complexity of agenda items and the number of persons wishing to address the local body, and whether there will be sufficient time available during the meeting to consider all agenda items if all speakers are allowed two minutes to speak .
2. All speakers on any one item shall be allotted the same amount of speaking time on that item, unless given pre-approved ceded or organized time pursuant to these Rules, or unless more time must be given to comply with due process or other legal requirements or in circumstances where the Council is acting in a quasi-adjudicatory capacity. At the discretion of the President presiding officer or

Committee chair, a speaker submitting his or her name to speak on three or more items may be instructed to address all items concurrently and shall be allotted a total of not less than three (3) minutes

3. In case the allotted time for each speaker is less than two (2) minutes on an agenda item, a speaker may extend his or her speaking time if other speakers who have submitted their names to speak agree to cede their time to the recipient speaker. The recipient speaker will receive one (1) minute speaking time from each ceding speaker, up to a maximum of five (5) minutes. At the President's or presiding officer's discretion, a speaker may be allotted more than five (5) minutes based on ceded time. The recipient speaker must submit the ceding speakers' speaking cards, and the ceding speakers must be present at the time the recipient speaker speaks.

Rule 15. **Presiding Officer's Role re Public Speakers** - The presiding officer shall maintain order in the chamber, have authority to refuse the floor to any person. The presiding officer may rule a public speaker out of order if:

- (a) the speaker is speaking beyond the allocated time limit;
- (b) if the speaker's remarks are not relevant to the agenda item or are repetitious; or
- (c) if the manner, tone and content of the speaker's remarks are disruptive (disturb the peace and good order of the meeting), maliciously attack the character of individuals or are abusive (e.g. vulgar or obscene language).

The public has the right to criticize policies, procedures, programs or services of the City or of the actions or omissions of the legislative body or staff.

Rule 16. **Public Speaker Procedures** - Persons addressing the Council shall state their name. They shall confine their remarks to the agenda item under discussion, unless they are speaking during the Open Forum portion of the Agenda.

Rule 17 **Attendance of Staff at Council Meetings** - The City Manager shall designate appropriate staff to attend the Council meetings to answer questions and provide assistance to the public on issues. Prior to the commencement of the Council meeting, the City Clerk shall advise the public that a representative of the City is available to meet with members of the public to assist them with their concern(s).

Rule 18. **Ballot Measures** - A vote of a majority of the Council is required for endorsing or opposing any proposition submitted to the electorate on any

national, state, county, or local ballot, and for propositions placed upon the ballot on the Council's own motion

- Rule 19.** **Appointments to Boards, Commissions and Other Bodies** - The Mayor shall submit to the members of the Council, at least one week in advance of the date action thereon is to be taken, the names of those persons to be appointed by the Mayor to any commission or board. The President of the Council shall submit to the members of the Council, at least one week in advance of the date action thereon is to be taken, the names of those persons recommended to be appointed by the President of the Council to those bodies and committees that are within the President's appointment authority. An affirmative vote of five (5) members of the Council is required for confirmation of such appointments.
- Rule 20.** **Council's Annual Recess** - The City Council shall recess for the period of August 1 through 31 of each year, or until the first meeting in September as set by the Rules Committee, which shall be known as the "annual recess." During the annual recess the City Council may be convened for special Council meetings as provided for by the City Charter.
- Rule 21.** **Actions During Council Recess** - The Mayor is authorized to take such actions as would normally be taken by the City Council during the period of the annual recess except for those matters specifically set forth herein. The Mayor is further authorized to convene emergency meeting(s) of the Council to take such emergency actions as may be necessary, for the immediate preservation of the public peace, health or safety. All matters approved by the Mayor during the Council recess must clearly set forth the reason(s) why approval cannot be deferred for Council approval following the recess. The Mayor's contract approvals must conform with and be limited to the requirements of the City's purchasing requirements as set forth in Chapter 2 of the Oakland Municipal Code. The Mayor is not authorized to take any actions for which the adoption of an ordinance is required. Further, the Mayor's approvals shall be limited to authorizations within previous adopted budgeted amounts. The Mayor is not authorized to appropriate funds without prior Council authorization and approval. The Mayor is further directed to make a full and complete report to the City Council, at its first regularly scheduled meeting in October, of actions taken by the Mayor pursuant to this Resolution, at which time the City Council may make such findings and confirm said actions of the Mayor, as may be required.

Action(s) taken by the Mayor during the annual recess shall be implemented in a manner to provide public notice and an opportunity for public comment and input on matters to be approved. In keeping with the intent of the Sunshine Ordinance (OMC §§ 2.20.010 et seq.) the

Mayor will cause a two-week agenda to be posted at regular posting locations. The Mayor, through the City Clerk, shall facilitate the receipt of written comments by the public on any matter presented to the Mayor for consideration. The Mayor shall review and consider all written comments in making his/her decision on the matter. A record of the final action of the Mayor shall be filed with the City Clerk along with any supporting legislation, reports and comments received on that matter. A summary of final action taken shall be posted at the regular agenda posting locations.

Rule 22. **Proclamations** - Individual Councilmembers may issue proclamation(s) for the purpose of commendation, recognition or congratulation of any person, group, organization or event, or for the purpose of expressing sympathy, regret or sorrow on the death of any person. Such a proclamation shall be known as a "Member Proclamation" and shall be in a form, which clearly identifies the Councilmember who has sponsored the proclamation. City Council approval is not required for the issuance of a Member proclamation.

Rule 23. **Rules and Legislation Committee's Jurisdiction** - The Committee on Rules and Legislation shall serve as the procedural committee of the Council and shall have responsibilities including, but not limited to, the following:

Make recommendations to the Council regarding endorsing or opposing propositions submitted to the electorate on any national, state, county, or local ballot, and for propositions placed upon the ballot on the Council's own motion.

Monitor pertinent state, federal and local legislative activities, and recommend action related thereto to the full Council. The Committee shall also submit to the Council, an annual legislative agenda.

To provide general oversight for the offices of the City Manager, City Attorney, City Clerk and shall have policy jurisdiction on Public Information, Constituent Services, Community Governance, Strategic Planning, Public Ethics Commission and the State and Federal legislative agenda, intergovernmental relations and operational oversight of the Office of the City Council. It shall, in addition, monitor and assign issues pertaining to the Port Department, the Oakland-Alameda County Coliseum Authority, and other governmental agencies, as appropriate, and make referrals to appropriate standing committees as required.

To recommend the setting of special meetings of the Council, standing committees, and such other ad hoc committees as may be established by the Council.

To assign proposed Council resolutions and ordinances to the Council or committee agendas.

To define the jurisdiction and responsibilities of Council standing committees, subject to Council approval.

To make studies and recommendations designed to promote, improve and expedite the business and procedures of the Council and of the committees thereof, and to propose to the City Council any amendments to the Rules deemed necessary to accomplish such purposes.

Rule 24. Rules and Legislation Committee's Powers re Agenda Items - Except as provided in item 8 of Rule 7, the Rules Committee shall have jurisdiction to assign all proposed agenda items to committees and/or full Council for consideration and action as follows:

1. One or more members of the City Council, a committee of the City Council, the Mayor, the City Manager, City Attorney, City Auditor and any member of the public may propose an agenda item for Council consideration to the Rules and Legislation Committee for assignment and scheduling through procedures established by the Rules and Legislation Committee.
2. Rules and Legislation Committee shall have the following options to assign and schedule any and all proposed resolutions and ordinances of the City Council:
 - a. to a subject-matter committee, or
 - b. to staff for review and report back to the requestor, or
 - c. directly to City Council pursuant to "3" below.
3. Rules and Legislation Committee shall not refer any action item directly to the full City Council unless the Committee determines by a majority vote of those present that the item should proceed directly to the City Council for a specified reason.
4. Rules and Legislation Committee shall assign and schedule any informational item for consideration and acceptance either by a committee or directly by the full Council.
5. The Rules and Legislation Committee shall have sole authority in establishing specific agenda items to be placed on the agenda. Rules and Legislation Committee shall establish the consent and non-consent agenda items of the City Council agenda.

Rule 25. Voting by Delegates and Alternates to Boards, Commissions and Other Bodies - City Councilmembers, the Mayor or City officials who represent the City as a delegate or alternate before any board, agency,

authority, joint powers authority, commission, etc. shall receive City Council authorization from a majority of the Council prior to casting vote(s) on behalf of the City on any matter which could have a significant economic or policy impact on the City, or on any matter of particular controversy. Should time be of the essence, resulting in the representative's inability to obtain prior City Council authorization, the representative shall obtain approval from the appropriate City Council committee (e.g., the committee which has subject matter jurisdiction over the issue in question). Thereafter, the representative shall report back to the full Council, at the next regularly scheduled meeting of the Council, the action taken.

In the event that a representative determines that casting a vote as directed by the Council would not be in the best interest of the City because of changed circumstances or new information that was not available at the time authorization was granted, the representative may change his/her vote(s). The representative shall, however, attempt to carry forth the general intent of the Council when casting a changed vote. Thereafter, the representative shall report back to the full Council, the action taken and the basis upon which the vote was changed.

Representatives shall provide the City Council and/or the appropriate Council committee with regular informational reports regarding the issues, activities and agenda of the body on which the representative serves.

Rule 26.

Procedure for Councilmember to Place Items on Agenda - Councilmembers should thoroughly investigate policy issues prior to submitting proposals to a committee or the Council for action. On matters pending before a committee or Council, Councilmembers should, when feasible and in compliance with City Charter and open meeting requirements, study and obtain information relative to an issue prior to the meeting where action is to be taken. Requests for formal informational and status reports must be approved by the Rules Committee and should be minimized. Committees may direct that items appropriately pending before the committee be scheduled for future committee agendas. New items and issues brought before a committee shall be referred to the Rules Committee for scheduling. The Rules Committee shall provide general oversight of the implementation of this Rule to insure compliance.

Rule 27.

Quorum for Standing Committees - A quorum for the conduct of meetings of standing committees, which have a membership of four, shall be three (3) members. If the Council seat of a member of a standing committee becomes vacant, the quorum for that committee shall not be reduced. A quorum for all other established committees shall be a majority of the duly appointed members. In the event that a quorum is not established within fifteen (15) minutes of the noticed start time of the meeting, the meeting may be declared canceled. However, discussion of

the items noticed on the agenda may continue but no formal action can be taken. The City Clerk will prepare a record of the discussion, but the record will reflect that the meeting was canceled due to a lack of a quorum and that no final action was taken on the items discussed. In determining whether a meeting should be canceled, the Committee Chairperson should consider factors such as whether the delay is caused by conflicting meeting schedules; if prior notice from the member was given that he or she would be late; or if there is a need to take official action on important item(s) of business once a quorum has been established.

The City Clerk shall keep a record of Committee members' attendance. The attendance record shall reflect absences and tardiness (arrival after the fifteen (15) minute scheduled start time) and shall indicate whether the absence or tardy was excused or unexcused. If during the calendar year a Committee member accumulates three (3) unexcused absences ad/or late arrivals the City Clerk shall so advise the President of the Council and the President of the Council may, in his or her discretion, remove the member from the Committee. If removed, the member can be considered for reappointment by the President of the Council, as appropriate.

Rule 28.

Procedure to Add, Remove Agenda Items -

A. For Council items, anyone wishing to add or remove a Council agenda item after the Rules Committee has met, but before the agenda is printed, must get authorization from the Chair of the Rules Committee, the Mayor and/ or City Manager and the President of the Council. If any one of these persons objects, or if addition or removal of such item is contrary to the Sunshine Ordinance or the Brown Act, the subject agenda as approved by the Rules Committee will not be changed. If authorization is obtained, the City Manager is responsible for notifying the City Clerk prior to the affected Council meeting, to amend the agenda to reflect the approved change. Once the agenda is printed, an item may only be removed at the next Rules and Legislation Committee meeting if there is an intervening Rules Committee meeting prior to the City Council meeting for which the item is agendaized or upon a duly adopted motion of the City Council at the meeting for which the item is agendaized, if there is no intervening Rules and Legislation Committee meeting.

B. For Committee items, anyone wishing to add or remove a Committee agenda item after the Rules and Legislation Committee has met, but before the agenda is printed, must get authorization from the Chair of the Rules and Legislation Committee, the President of the Council, the Mayor and/or City Manager and the respective Committee Chair. If any one of these persons objects, or if addition or deletion of such item is contrary to the Sunshine Ordinance or Brown Act, the subject agenda as approved by the Rules Committee will not be changed. If authorization is obtained, the City Manager is responsible for notifying the City Clerk of the authorized

change prior to the affected Committee meeting to amend the agenda to reflect the approved change. Once the agenda is printed, an item may only be removed at the next Rules and Legislation Committee meeting if there is an intervening Rules and Legislation Committee meeting prior to the Committee meeting for which the item is agendaized or upon a duly adopted motion of the Committee at the meeting for which the item is agendaized, if there is no intervening Rules and Legislation Committee meeting.

Rule 29.

Tie-Breaking Votes by Mayor - In the event that the members of the Council are evenly divided in their vote on an item (by motion, resolution or ordinance) the item will automatically be continued to its next regularly scheduled meeting solely for the purpose of allowing the Mayor to cast a vote; provided that if the Mayor so chooses, he/she may cast a vote at the meeting at which the tie vote occurs if he/she has been present at the meeting and has heard public testimony and Council discussion. The City Clerk shall provide the Mayor with all supporting documentation, reports and legislation relating to the item and a copy of the videotape of the discussion, if available. Council and public discussion is permitted on the item to be voted on by the Mayor; however, Council members cannot change their vote unless the item has been properly noticed for reconsideration. The Mayor must appear at the Council meeting to cast his vote.

Rule 30.

Resolution or Ordinances Required to Approve Contracts - Notwithstanding City Charter section 210 which permits the City Council to take action by ordinance or resolution or motion, the Council shall approve and authorize contracts by resolution unless an ordinance is required.

FURTHER RESOLVED: That the City Council hereby adopts the following Code of Conduct for each member of the City Council:

CODE OF CONDUCT

Each member of the City Council has a duty to:

1. Respect and adhere to the American ideals of government, the rule of law, the principles of public administration and high ethical conduct in the performance of public duties.
2. Represent and work for the common good of the City and not for any private interest.
3. Refrain from accepting gifts or favors or promises of future benefits which might compromise or tend to impair independence of judgment or action.

4. Provide fair and equal treatment for all persons and matters coming before the Council.
5. Learn and study the background and purposes of important items of business before voting.
6. Faithfully perform all duties of office.
7. Refrain from disclosing any information received confidentially concerning the business of the City, or received during any closed session of the Council held pursuant to state law.
8. Decline any employment incompatible with public duty.
9. Refrain from abusive conduct, personal charges or verbal attacks upon the character, motives, ethics or morals of other members of the Council, staff or public, or other personal comments not germane to the issues before the Council.
10. Listen courteously and attentively to all public discussions at Council meetings and avoid interrupting other speakers, including other Council members, except as may be permitted by established Rules of Order.
11. Faithfully attend all sessions of the Council unless unable to do so because of disability or some other compelling reason.
12. Maintain the highest standard of public conduct by refusing to condone breaches of public trust or improper attempts to influence legislation, and by being willing to censure any member who willfully violates the rules of conduct contained in this Code of Ethics.

IN COUNCIL, OAKLAND, CALIFORNIA, _____ JAN - 4 2005

PASSED BY THE FOLLOWING VOTE:

AYES- ~~BROOKS~~ BRUNNER, ~~WANG~~ NADEL, QUAN, REID, , WAN
AND PRESIDENT DE LA FUENTE -6

NOES- BROOKS -1

ABSENT- Chang-1

ABSTENTION- ~~1~~

ATTEST: Latonda Simmons
Interim City Clerk And Clerk Of The Council
Of The City Of Oakland, California

6.1
RULES & LEGISLATION
CMTE
MAR 17 2005

FILED
OFFICE OF THE CITY CLERK
INTRODUCED BY COUNCILMEMBER OAKLAND

APPROVED AS TO FORM AND LEGALITY

2003 APR -3 PM 12:44
ORDINANCE NO. 12483 C.M.S.

REVISED

**AN ORDINANCE AMENDING OAKLAND MUNICIPAL CODE CHAPTER
2.20, REGULATING PUBLIC MEETINGS AND PUBLIC RECORDS
KNOWN AS THE CITY OF OAKLAND SUNSHINE ORDINANCE,
ORIGINALLY ADOPTED JANUARY 14, 1997**

- ARTICLE I: IN GENERAL
ARTICLE II: PUBLIC ACCESS TO MEETINGS
ARTICLE III: PUBLIC INFORMATION
ARTICLE IV: POLICY IMPLEMENTATION

ARTICLE I: IN GENERAL

SECTION 2.20.010 Findings and Purpose.

The Oakland City Council finds and declares:

(A) A government's duty is to serve the public and in reaching its decisions to accommodate those who wish to obtain information about or participate in the process.

(B) Commissions, boards, councils, advisory bodies and other agencies of the City exist to conduct the people's business. This Ordinance is intended to assure that their deliberations and that the City's operations are open to the public.

(C) This Ordinance is intended in part to clarify and supplement the Ralph M. Brown Act and the California Public Records Act to assure that the people of the City of Oakland can be fully informed and thereby retain control over the instruments of local government in their city.

SECTION 2.20.020 Citation.

This Ordinance may be cited as the Oakland Sunshine Ordinance.

6.1

**RULES & LEGISLATION
CMTE**

MAR 17 2005

ARTICLE II: PUBLIC ACCESS TO MEETINGS

SECTION 2.20.030 Definitions.

Words or phrases in this ordinance shall be defined pursuant to the Ralph M. Brown Act, Government Code section 54950 et. seq. and the Public Records Act, Government section 6250 et. seq., unless otherwise specified as follows:

(A) "Agenda" shall mean the agenda of a local body which has scheduled the meeting. The agenda shall meet the requirements of Government Code Section 54954.2, except that the timing requirements of this ordinance shall control. For closed sessions, the agenda shall meet the requirements set forth in Government Code Section 54954.5. The agenda shall contain a brief, general description of each item of business to be transacted or discussed during the meeting and shall avoid the use of abbreviations or acronyms not in common usage and terms whose meaning is not known to the general public. The agenda may refer to explanatory documents, including but not limited to, correspondence or reports, in the agenda related material. A description of an item on the agenda is adequate 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.

(B) "Agenda Related Materials" shall mean the agenda, all reports, correspondence and any other document prepared and forwarded by staff to any local body, and other documents forwarded to the local body, which provide background information or recommendations concerning the subject matter of any agenda item.

(C) "Agenda Subscriber" shall mean any person or organization who requests in writing, on an annual basis, the receipt of an agenda or agenda related materials as specified in Section 2.20.090 of this ordinance.

(D) "City" shall mean the City of Oakland.

(E) "Local Body" shall mean:

(1) the Oakland City Council, the Oakland Redevelopment Agency, and the Board of Port Commissioners;

(2) any board, commission, task force or committee which is established by City Charter, ordinance, or by motion or resolution of the City Council, the Oakland Redevelopment Agency or the Board of Port Commissioners;

(3) any advisory board, commission or task force created and appointed by the Mayor and which exists for longer than a 12-month period; and,

(4) any standing committee of any body specified in subsections (E)(1)(2) or (3).

"Local body" shall not mean any congregation or gathering which consists solely of employees of the City of Oakland, the Oakland Redevelopment Agency, or the Port of Oakland.

(F) "Meeting" shall mean any of the following:

(1) a congregation of a majority of the members of any local body in which any item within its subject matter jurisdiction is heard, discussed or deliberated;

(2) any use of direct communication, personal intermediaries or communications media to cause a majority of the members of a local body to become aware of an item of business and of the views or positions of other members with respect thereto, and to negotiate consensus thereon; and,

(3) any meal or social gathering of a majority of the members of a local body immediately before, during, or after a meeting of a local body.

(4) "Meeting" shall not include any of the following:

(a) individual contacts or conversations between a member of a local body and any other person;

(b) the attendance of any number of the members of a local body at a conference, or at any meeting or gathering organized to address a topic of local community concern and which is open to the public, provided that a majority of the members of a local body refrains from

collectively discussing the topic of the meeting or gathering or any other business within the subject matter jurisdiction of that local body;

(c) the attendance of any number of the members of any local body at a purely social, recreational, educational or ceremonial occasion provided that a majority of the members of any local body refrains from discussing any business within the subject matter jurisdiction of the local body; and

(d) the attendance of a majority of the members of a local body at a standing committee, provided that the members of the local body who are not members of the standing committee do not participate personally or through representatives.

(G) "Notice" shall mean the posting of an agenda in a location that is freely accessible to the public 24 hours a day and as additionally specified in Section 2.20.070 and 2.20.080.

(H) "On-Line" shall mean accessible by computer without charge to the user.

(I) "Software or Hardware Failure" means solely technological failures of software or hardware that are unforeseeable. This term includes failures such as those caused by natural disasters or acts of God, and technical failures against which the City has taken customary precautions.

(J) "Standing Committee" shall mean any number of members of a local body which totals less than a quorum and which has a continuing subject matter jurisdiction or a meeting schedule fixed by charter, ordinance, resolution or formal action of the local body.

SECTION 2.20.040 Conduct of Meetings for Additional Bodies Covered by the Ordinance.

(A) To the extent not inconsistent with state or federal law, a local body shall require, as a condition of any express delegation of power to any public agency, including joint powers authorities, or other person(s), whether such delegation of power is achieved by legislative act, contract, lease or other agreement, that any meeting by such a public agency or other person(s) at which an item concerning or subject to the delegated power is discussed or considered, shall be conducted pursuant to the Ralph M. Brown Act (Government Code Section 54950 et seq.).

(B) To the extent not inconsistent with state or federal law, a private entity that owns, operates or manages any property in which the City, Redevelopment Agency, or the Port Department has or will have an ownership interest, including a mortgage, and on which property the private entity performs a governmental function or service, shall conduct any meeting of its governing board at which an item relating to the administration of the property or the public function or service is discussed or considered subject to the following conditions:

(1) Such meetings need not be formally noticed, although the time, place and nature of the gathering shall be disclosed upon inquiry by a member of the public, and any agenda actually prepared for the meeting be made available upon request;

(2) Such meetings need not be conducted in any particular location to accommodate spectators, although spectators shall be permitted to observe on a space available basis consistent with legal and practical restrictions on occupancy;

(3) Such business meetings need not provide opportunities for comment by spectators, although the governing board may, in its discretion, entertain questions or comments from spectators as may be relevant to the item considered; and,

(4) The private entity or persons may restrict the attendance of spectators only to the specific item(s) directly relating to the administration of the property or of the public function or service and, as to such specific item(s), may prohibit the attendance of spectators during the discussion or consideration of any item that would be the permitted subject of a closed session hearing under the Ralph M. Brown Act.

SECTION 2.20.050 Meetings To Be Open And Public: Application Of Brown Act.

All meetings of local bodies specified in Sections 2.20.030(E) and Section 2.20.040(A) shall be open and public, to the same extent as if that body were governed by the provisions of the Ralph M. Brown Act (Government Code Sections 54950 et seq.) unless greater public access is required by this ordinance, in which case this ordinance shall be applicable.

SECTION 2.20.060 Conduct of Business: Time And Place For Meetings.

(A) Every local body specified in Section 2.20.030(E) shall establish by formal action the time and place for holding regular meetings and shall conduct such regular meetings in accordance with such resolution or formal action. Whenever reasonably possible local bodies specified in Section 2.20.030(E)(1) and (2) shall conduct their regular meetings on weekday evenings.

(B) Regular and special meetings of legislative bodies specified in Section 2.20.030(E) shall be held within the City of Oakland except to do any of the following:

- (1) Comply with state or federal law or court order, or attend a judicial or administrative proceeding to which the local body is a party;
- (2) Inspect real or personal property which cannot be conveniently brought to Oakland, provided that the topic of the meeting is limited to items directly related to the real or personal property;
- (3) Participate in meetings or discussions of multi-agency significance that are outside Oakland. However, any meeting or discussion held pursuant to this subsection shall take place within the jurisdiction of one of the participating agencies and be noticed by the respective local body specified in this ordinance; or
- (4) Meet outside the City of Oakland with elected or appointed officials of the United States or the State of California when a local meeting would be impractical, solely to discuss a legislative or regulatory issue affecting the City of Oakland, the Oakland Redevelopment Agency or the Port of Oakland, and over which issue the other federal or state agency has jurisdiction.

(C) If a regular meeting for any local body falls on a holiday, the meeting shall be held on the next scheduled regular meeting day unless otherwise noticed as a special meeting for which notice is given at least five (5) days in advance.

(D) If, because of fire, flood, earthquake or other emergency, it would be unsafe to meet in the customary location, the meetings may be held for the duration of the emergency at some other

place specified by the presiding officer of the local body or his or her designee. The change of meeting site shall be announced, by the most rapid means of communication available at the time, in a notice to media organizations who have requested written notice of meetings.

(E) No local body shall take any action at a meeting which occurs when a quorum of the local body becomes present at a meeting of a standing or ad hoc committee of the local body, although the committee may take action consistent with its jurisdiction and authority.

SECTION 2.20.070 Notice And Agenda Requirements: Special Meetings.

(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;

(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,

(3) 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) Local bodies specified in Section 2.20.030(E)(1) 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, as defined in Section 2.20.030, 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.

SECTION 2.20.080 Notice and Agenda Requirements: Regular Meetings.

(A) Ten Day Advance Notice Requirement For Regular Meetings Of The City Council, Redevelopment Agency, Board of Port Commissioners, Public Ethics Commission, And Their Standing Committees. The City Council, Redevelopment Agency, Board of Port Commissioners, Public Ethics Commission, and any of their standing committees shall provide notice before any regular meeting by:

- (1) posting a copy of the agenda in a location freely accessible to the public 24 hours a day no later than ten (10) days before the date of the meeting;
- (2) filing a copy of the agenda and all agenda-related material with the Office of the City Clerk and the Oakland main library no later than ten (10) days before the date of the meeting; and,

(3) posting a copy of the agenda on-line at the local body's website no later than ten (10) days before the date of the meeting. Notwithstanding Section 2.20.080(D), the failure to timely post a copy of the agenda online because of software or hardware failure, as defined in Section 2.20.030, shall not constitute a defect in the notice for a regular meeting, if the local body complies with all other posting and noticing requirements.

(B) Supplemental Agenda And Related Materials Requirements For Regular Meetings Of The City Council, Redevelopment Agency, Board of Port Commissioners, Public Ethics Commission, And Their Standing Committees. Notwithstanding the notice provisions of 2.20.080(A), the City Council, Redevelopment Agency, Board of Port Commissioners, Public Ethics Commission, and any of their standing committees, may amend or supplement a posted agenda or agenda-related materials no later than 72 hours before a regular meeting and only for the following reasons or under the following conditions:

(1) to add an item due to an emergency or urgency, provided the local body makes the same findings as required by Section 2.20.080(E) before taking action;

(2) to delete or withdraw any item from a posted agenda;

(3) to provide additional information to supplement the agenda-related material previously filed with the Office of the City Clerk provided that the additional information was not known to staff or considered to be relevant at the time the agenda-related materials were filed.

Examples of supplemental material permitted by this section are reports responding to questions or requests raised by members of a local body after posting and filing of the ten-day agenda and materials, and analyses or opinions of the item by the Office of the City Attorney or Auditor;

(4) to correct technical, non-substantive errors or omissions, or to change a stated financial amount that decreases the local body's obligation under a proposed agreement, or to clarify the agenda title in a manner that does not substantively change the nature of the action to be taken on the agenda item;

(5) to consider the recommendations, referrals, minutes or actions taken on any item heard by a standing committee of the City Council, Redevelopment Agency, Board of Port Commissioners, and Public Ethics Commission provided that the item has not been materially changed by the committee or materially changed after the committee considered the item;

(6) to place an ordinance on the agenda pursuant to Oakland City Charter Section 216 because the Mayor has caused its reconsideration by the City Council under the Mayor's power to suspend an ordinance receiving five votes; or,

(7) to place an item on the agenda to allow the Mayor to cast a vote pursuant to Oakland City Charter Section 200; or

(8) to continue an agenda item to the next regular meeting of the local body so long as members of the public are given an opportunity to address the local body on the item at the meeting from which the item is continued.

(C) Seventy-two Hour Advance Notice Requirement For Regular Meetings Of All Local Bodies Other Than The City Council, Redevelopment Agency, Board of Port Commissioners, Public Ethics Commission, And Their Standing Committees. Any local body specified in Section 2.20.030(E)(2),(3), and (4), with the exception of standing committees of the City Council, Redevelopment Agency, Board of Port Commissioners, and Public Ethics Commission, shall provide notice for any regular meeting in compliance with the Ralph M. Brown Act and shall also file a copy of the agenda and all agenda-related material with the Office of the City Clerk at least 72 hours before the time of any regular meeting.

(D) Excuse Of Sunshine Notice Requirements. If an item appears on an agenda but the local body fails to meet any of the additional notice requirements under this section, the local body may take action only if:

(1) The minimum notice requirements of the Brown Act have been met; and,

(2) The local body, by a two-thirds vote of those members present, adopts a motion determining that, upon consideration of the facts and circumstances, it was not reasonably possible to meet the additional notice requirements under this section and any one of the following exists:

(a) the need to take immediate action on the item is required to avoid a substantial adverse impact that would occur if the action were deferred to a subsequent special or regular meeting;

(b) there is a need to take immediate action which relates to federal or state legislation or the local body's eligibility for any grant or gift; or,

(c) the item relates to a purely ceremonial or commendatory action.

(E) Action On Items Not Appearing On The Agenda. Notwithstanding subsection (D) of this section, a local body may take action on items not appearing on a posted agenda only if:

(1) The Matter Is An Emergency. Upon a determination by a majority vote of the local body that a work stoppage, crippling disaster or other activity exists which severely impairs public health, safety or both; or,

(2) The Matter Is Urgent. Upon a determination by a two-thirds vote by the members of the local body present at the meeting, or, if less than two-thirds of the members are present, a unanimous vote of those present, that there is a need to take immediate action which came to the attention of the local body after the agenda was posted, and that the need to take immediate action:

(a) is required to avoid a substantial adverse impact that would occur if the action were deferred to a subsequent special or regular meeting;

(b) relates to federal or state legislation; or,

(c) relates to a purely ceremonial or commendatory action.

(F) Nothing in this section shall prohibit a local body from taking action to schedule items for a future meeting to which regular or special meeting notice requirements will apply, or to distribute agenda-related materials relating to items added pursuant to 2.20.080(E) before or during a meeting.

(G) Nothing in this section shall prohibit the Office of the City Attorney from conforming a document to comply with technical requirements as to form and legality.

SECTION 2.20.090 Agenda Related Materials As Public Records: Agenda Subscribers.

In addition to providing access to all records which are public records pursuant to the California Public Records Act (Government Code 6250 et seq.) and this ordinance, every local body specified in Section 2.20.030(E) shall make available for immediate public inspection and copying all agendas and agenda related materials.

(A) Every local body may charge a fee to agenda subscribers and media organizations to cover reasonable mailing costs of the agenda and agenda related materials. Neither this section nor the California Public Records Act shall be construed to limit or delay the public's right to inspect any record required to be disclosed by that act or this ordinance.

(B) Every local body shall make available for immediate public inspection and copying all documents that have been distributed to a majority of its members. The right to immediate public inspection and copying provided in this section shall not include any material exempt from public disclosure under this ordinance or under state or federal law.

(C) All requests by agenda subscribers to receive agendas or agenda-related materials by mail shall be made in writing and delivered to the Office of the City Clerk or, in the case of the Board of Port Commissioners, to the Secretary of the Board. The City Clerk shall maintain a list of all local bodies and shall immediately forward a copy of the written request to the appropriate local body to ensure compliance with the request. Any written request shall be valid for the calendar year in which it is filed, and must be renewed after January 1 of each year.

(D) Notwithstanding any other provision of this ordinance, the failure of an agenda subscriber to timely receive the agenda or agenda related material pursuant to this section shall not constitute grounds for invalidation of the actions of the local body taken at the meeting for which the agenda or the agenda related material was not timely received.

SECTION 2.20.100 Agenda And Oral Disclosures: Closed Sessions.

(A) In addition to the brief general description of agenda items to be discussed or acted upon in open session, the permissive provisions of Government Code Section 54954.5 are mandatory under this ordinance with respect to any closed session item.

(B) Any action taken without proper agenda disclosure pursuant to this section is subject to invalidation pursuant to the provisions of Government Code Section 54960.1.

SECTION 2.20.110 Statement of Reasons For Closed Sessions.

(A) Prior to any closed session, a local body shall announce in open session the general reason or reasons for the closed session, and must cite and explain the statutory or case authority under which the session is being closed.

(B) In the case of an item added to the agenda pursuant to Government Code Section 54954.2(b) or Section 2.20.080(E) herein, the statement shall be made in open session concurrent with the findings required pursuant to that section.

(C) A local body shall re-state the reasons for closed session before convening a closed session at any meeting and as to any item that has been adjourned or continued from a prior meeting.

(D) The public shall have the right to comment on any item of closed session before the closed session convenes.

(E) Nothing in this section shall require or authorize a disclosure of information that is confidential under law.

SECTION 2.20.120 Conduct Of Closed Session

(A) A local body shall consider in closed session only those matters specified in the statement required in Section 2.20.110.

(B) After any initial closed session to consider the sale, lease, gift, purchase, or exchange of any property to which the City, Redevelopment Agency, or Port of Oakland has or will have an ownership or possessory interest, such local bodies shall notice for open session a discussion of the

advisability of taking such an action before a final action is taken in the matter. This requirement shall not apply if the local body adopts a finding that holding an open session discussion would prejudice the local body in the proposed proceeding or transaction.

(C) With respect to any closed session discussion pertaining to employee salaries and benefits, a local body shall not discuss compensation or other contractual matters with one or more employees having a direct interest in the outcome of the negotiations.

(D) The following provisions of the Brown Act apply to the conduct of closed session by local bodies and are hereby incorporated by reference as though fully set forth herein: Government Code Sections 54956.8; 54956.9; 54957; and 54957.6.

(E) The Offices of the City Attorney, the City Clerk, and the Public Ethics Commission shall provide any person with a copy of the Brown Act or Public Records Act without charge.

SECTION 2.20.130 Disclosure of Closed Session Discussions and Actions.

(A) After every closed session, in addition to the required disclosures pursuant to Government Code Section 54957.1, a local body shall reconvene into open session prior to adjournment and shall disclose publicly all portions of its discussion which are not confidential. The local body may, by motion and vote in open session, elect to disclose any other information which a majority deems to be in the public interest. Any disclosure pursuant to this section shall be made through the presiding officer or such other person, present in the closed session, designated to convey the information.

(B) Immediately following the closed session a local body shall publicly report any action taken in closed session and the vote or abstention of every member present thereon, as follows:

(1) **Real Property Negotiations:** Approval of an agreement concerning real estate negotiations pursuant to Government Code Section 54956.8 shall be reported as soon as the agreement is final. If its own approval renders the agreement final, the local body shall report that approval, the substance of the agreement and the vote thereon in open session immediately. If final approval

requires action from another party to the negotiations, the local body shall disclose the fact of its approval, the substance of the agreement and the body's vote or votes thereon upon inquiry by any person, and, in any event, at the next meeting of said local body after the other party or its agent has informed the local body of its action. If notwithstanding the final approval there are conditions precedent to the final consummation of the transaction, or if there are multiple contiguous or closely located properties that are being considered for transfer, the report specified in this section need not be made until the condition has been satisfied or an agreement has been reached with respect to all the properties, or both.

(2) **Litigation:** Direction or approval given to the local body's legal counsel to prosecute, defend, seek or refrain from seeking appellate review or relief, or to otherwise enter as a party, intervenor or amicus curiae in any form of litigation as the result of a consultation under Government Code Section 54956.9 shall be reported in open session as soon as given, or at the first meeting after an adverse party has been served in the matter if immediate disclosure of the local body's intentions would not be contrary to the public interest. The report shall identify the names and capacities of all parties to the litigation, the court of jurisdiction and case number, the type of case, any existing claim or order to be defended against, or any factual circumstances or contractual dispute giving rise to the litigation.

(3) **Settlement:** If a local body accepts a settlement offer signed by an opposing party, the local body shall report its vote of approval and identify the substance of the agreement. If final approval rests with another part or with the court, the local body shall disclose its vote of approval and the substance of the agreement to any person upon inquiry as soon as the settlement becomes final, but in no case later than the next meeting following final approval of settlement. A local body shall neither solicit nor agree to any term in a settlement agreement which would preclude the release, upon request, of the text of the settlement agreement itself and any related documentation communicated to or received from the adverse party or parties. Where the disclosure of documents in

settled litigation could affect litigation on a closely related case, the report, settlement agreement and any documents described in this section need not be disclosed until the closely related case is settled or otherwise finally concluded.

(C) Reports required to be made pursuant to this section may be made orally or in writing. Copies of any contracts, settlement agreements, or other documents related to the items or transactions that were finally approved or adopted in closed session and which contain the information required to be disclosed under this section shall be made available for inspection and copying, upon request, at the time the report is made or after any substantive amendments have been retyped into the document.

(D) A written summary of the information required to be reported immediately pursuant to this section, or documents containing that information, shall be made available for inspection and copying by the close of business on the next business day following the meeting. Written notice that such a written summary or supporting documentation is available as to every reported document shall be posted the next business day following the meeting in the place where the meeting agendas of the local body are usually posted.

(E) Action taken in closed session which is not immediately disclosable under this section shall be disclosed and noticed under the procedures set forth in Section 2.20.130(D) at such time as disclosure is required.

SECTION 2.20.140 Barriers to Attendance Prohibited.

(A) No local body specified in this ordinance shall conduct any meeting, conference or other function in any facility which is inaccessible to persons with physical disabilities, or where members of the public may not be present without making a payment or purchase. Whenever a local body anticipates that the number of persons attending the meeting may exceed the legal capacity of the room, a public address system shall be used to permit the overflow audience to listen to the proceedings, unless the speakers would disrupt the operation of a local agency office.

(B) Any person attending an open meeting of a local body shall have the right to record, photograph or broadcast the proceedings unless such activities constitute a persistent disruption of the proceedings.

SECTION 2.20.150 Public Testimony At Regular And Special Meetings.

(A) Every agenda for every regular or special meeting shall provide an opportunity for members of the public to directly address a local body on items of interest to the public that are within the local body's subject matter jurisdiction, provided that no action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by Government Code Section 54954.2(b). The agenda of local bodies need not provide an opportunity for members of the public to address the local body on any item that has already been considered by a committee, composed exclusively of members of the local body, at a meeting in which members of the public were afforded the opportunity to address the committee before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the local body.

(B) Every agenda for regular or special 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 before taking action. The presiding officer of any local body may request speakers representing similar views to designate a spokesperson in the interest of time. Nothing shall prohibit a local body from adopting rules for allocating additional time to a speaker who desires to speak on multiple agenda items so that the speaker shall address all items at one time before the local body's consideration of those items.

(C) Every local body shall adopt a rule providing that each person wishing to speak on an item shall be permitted to speak once based upon previously adopted time constraints which are reasonable and uniformly applied. It shall be the policy of the City that all speakers be entitled to a minimum of two (2) minutes of speaking time per agenda item, subject to the discretion of the

presiding officer of the local body. The presiding officer shall announce publicly all reasons justifying any reduction in speaker time. The stated reasons shall be based at least on a consideration of the time allocated or anticipated for the meeting, the number and complexity of agenda items, and the number of persons wishing to address the local body.

(D) No local body shall abridge or prohibit public criticism of the policies, procedures, programs or services of the local body or agency, or of any other aspect of its proposals or activities, or of the acts or omissions of the local body, even if the criticism implicates the performance of one or more public employees. Nothing in this subsection shall confer any privilege or protection beyond that which is otherwise provided by law.

SECTION 2.20.160 Minutes and Recordings.

(A) All local bodies specified in Section 2.20.030 (E)(1) and (2) and their standing committees shall record the minutes for each regular and special meeting convened under the provisions of this ordinance. At a minimum, the minutes shall state the time the meeting was called to order, the names of the members attending the meeting, a one-sentence summary of, and the roll call vote on, each matter considered at the meeting, the time the local body began and ended any closed session, those members of the public who spoke on each matter if the speakers identified themselves, and the time the meeting was adjourned. The draft minutes of each meeting shall be available for inspection and copying upon request no later than ten business days after the meeting. The officially adopted minutes shall be available for inspection and copying upon request no later than five business days after the meeting at which the minutes are adopted.

(B) Every local body specified in Section 2.20.030(E)(1) shall make a visual and audio recording of every open meeting. Local bodies specified in Section 2.20.030(E)(2) and (4) shall audio tape each regular and special open meeting and may make a visual recording of any meeting. Any recording of any open meeting shall be a public record subject to inspection and copying and shall not be erased, deleted or destroyed for at least four years, provided that if during that four-year period a

written request for inspection or copying of any recording is made, the recording shall not be erased, deleted or destroyed until the requested inspection or copying has been accomplished. Inspection of any such recording shall be provided without charge on a player or computer made available by the local body. Notwithstanding any other provision of law, every local body specified in Section 2.20.030(E)(1) shall permanently maintain all recordings of all meetings.

SECTION 2.20.170 Public Comment By Members Of Local Bodies.

Every member of a local body retains the rights of any citizen to comment publicly on the wisdom or propriety of government actions, including those of the local body of which he or she is a member. Local bodies shall not sanction, reprove or deprive members of their rights as elected or appointed officials to express their judgments or opinions, including those judgments or opinions pertaining to the disclosure or non-disclosure of discussions or actions taken in closed session. The release of specific factual information made confidential by state or federal law, including, but not limited to, privileged attorney-client communications, other than by the procedures set forth under state law or this ordinance, may constitute grounds for censure or for an action for injunctive or declaratory relief by the local body. Nothing in this section shall confer any privilege or protection for expression beyond that which is otherwise provided by law.

ARTICLE III. PUBLIC INFORMATION

SECTION 2.20.180 Definitions.

Whenever in this Article the following words or phrases are used, they shall mean:

(A) "Agency" shall mean an agency of the City of Oakland.

(B) "Department" shall mean a department of the City of Oakland or a department of the Port Department of the City of Oakland.

(C) "Public information" shall mean the content of "public records" as defined in the California Public Records Act (Government Code Section 6250 et seq) whether contained in public records or in oral communications.

SECTION 2.20.190 Release of Documentary Public Information.

Release of public records by a local body or by any agency or department, whether for inspection of the original or by providing a copy, shall be governed by the California Public Records Act (Government Code Section 6250 et seq.) in any particulars not addressed by this Article. The provisions of Government Code Section 6253.9 are incorporated herein by reference.

SECTION 2.20.200 Release of Oral Public Information.

Release of oral public information shall be accomplished as follows:

(A) Every Agency director for the City and Redevelopment Agency, and department head for the Port shall designate a person or persons knowledgeable about the affairs of the respective agency or department, to facilitate the inspection and copying of public records and to provide oral public information about agency or department operations, plans, policies, and positions. The name of every person so designated under this section shall be filed with the City Clerk and posted online.

(B) It shall be the duty of every designated person or persons to provide information on a timely and responsive basis to those members of the public who are not requesting information from a specific person. It shall also be the duty of the person or persons so designated to assist members of the public in identifying those public records they wish to obtain pursuant to Government Code Section 6253.1. This section shall not be interpreted to curtail existing informal contacts between employees and members of the public when these contacts are occasional, acceptable to the employee and the department, not disruptive of his or her operational duties and confined to accurate information not confidential by law.

(C) Public employees shall not be discouraged from or disciplined for the expression of their personal opinions on any matter of public concern while not on duty, so long as the opinion is not represented as that of the agency or department and does not materially misrepresent the agency or department position. Nothing in this section shall be construed to provide rights to public employees

beyond those recognized by law or agreement, or to create any new private cause of action or defense to disciplinary action.

SECTION 2.20.210 Public Review File--Policy Body Communications.

Every local body specified in Section 2.20.030(E)(1) shall maintain a communications file, organized chronologically and accessible to any person during normal business hours, containing a copy of any letter, memorandum or other writing which the clerk or secretary of such local body has distributed to, or sent on behalf of, a quorum of the local body concerning a matter that has been placed on the local body's agenda within the previous thirty days or is scheduled or requested to be placed on the agenda within the next thirty days. Excepted from the communications file shall be commercial solicitations, agenda and agenda-related material, periodical publications or communications exempt from disclosure under the California Public Records Act or this ordinance. Multiple-page reports, studies or analyses which are accompanied by a letter or memorandum of transmittal need not be included in the communications file provided that the letter or memorandum of transmittal is included in the communications file.

SECTION 2.20.220 Non-Exempt Public Information.

Notwithstanding any right or duty to withhold certain information under the California Public Records Act or other law, the following shall govern specific types of requests for documents and information:

(A) Drafts and Memoranda. No completed preliminary drafts or memoranda shall be exempt from disclosure under Government Code Section 6254(a) if said completed preliminary draft or memorandum has been retained in the ordinary course of business or pursuant to law or agency or department policy. Completed preliminary drafts and memoranda concerning contracts, memoranda of understanding or other matters subject to negotiation and pending a local body's approval need not be subject to disclosure until final action has been taken.

(B) **Litigation Material.** Unless otherwise privileged or made confidential by law, records of all communications between a local body's representatives and the adverse party shall be subject to public inspection and copying, including the text and terms of any settlement agreement, once the pending litigation has been settled or finally adjudicated.

(C) **Personnel Information.** None of the following shall be exempt from disclosure under Government Code Section 6254(c):

(1) job pool information, to the extent such information is compiled for reporting purposes and does not permit the identification of any particular individual. Such job pool information may include the following:

- (a) Sex, age and ethnic group;
- (b) Years of graduate and undergraduate study, degree(s) and major or discipline;
- (c) Years of employment in the private and/or public sector;
- (d) Whether currently employed in the same position for another public agency;
- (e) Other non-identifying particulars as to experience, credentials, aptitudes, training or education entered in or attached to a standard employment application form used for the position in question.

(2) The professional biography or curriculum vitae of every employee who has provided such information to the City, Redevelopment Agency or the Board of Port Commissioners, excluding the home address, home telephone number, social security number, date of birth, and marital status of the employee.

(3) The job description of every employment classification.

(4) The exact gross salary and paid benefits available to every public employee.

(5) Any adopted memorandum of understanding between the City or Board of Port Commissioners and a recognized employee organization.

(D) Law Enforcement Information. The Oakland Police Services Agency shall cooperate with all members of the public making requests for law enforcement records and documents under the California Public Records Act or other applicable law. Records and documents exempt from disclosure under the California Records Act pertaining to any investigation, arrest or other law enforcement activity shall be disclosed to the public to the full extent permitted by law after the District Attorney or court determines that a prosecution will not be sought against the subject involved or the statute of limitations for filing charges has expired, whichever occurs first. Information may be redacted from such records and documents and withheld if, based upon the particular facts, the public interest in nondisclosure clearly outweighs the public interest in disclosure. Such redacted information may include:

- (a) the names of juvenile witnesses or suspects;
- (b) personal or otherwise private information related or unrelated to the investigation if disclosure would constitute an unwarranted invasion of privacy;
- (c) the identity of a confidential source;
- (d) secret investigative techniques or procedures;
- (e) information whose disclosure would endanger law enforcement personnel, a witness, or party to the investigation; or
- (f) information whose disclosure would endanger the successful completion of an investigation where the prospect of enforcement proceedings is likely.

(2) The Oakland Police Services Agency shall maintain a record, which shall be a public record and which shall be separate from the personnel records of the agency, which reports the number of citizen complaints against law enforcement agencies or officers, the number and types of cases in which discipline is imposed and the nature of the discipline imposed. This record shall be

maintained in a format which assures that the names and other identifying information of individual officers involved is not disclosed directly or indirectly.

(E) Contracts, Bids and Proposals. Contracts, contract bids, responses to requests for proposals and all other records of communications between the City, Redevelopment Agency and Board of Port Commissioners and individuals or business entities seeking contracts shall be open to inspection and copying following the contract award or acceptance of a contract offer. Nothing in this provision requires the disclosure of a person's net worth or other proprietary financial information submitted for qualification for a contract until and unless that person is awarded the contract. All bidders and contractors shall be advised that information covered by this subdivision will be made available to the public upon request.

(F) Budgets and Other Financial Information. The following shall not be exempt from disclosure:

(1) Any proposed or adopted budget for the City, Redevelopment Agency and the Port Department, including any of their respective agencies, departments, programs, projects or other categories, which have been submitted to a majority of the members of the City Council, Redevelopment Agency or Board of Port Commissioners or their standing committees.

(2) All bills, claims, invoices, vouchers or other records of payment obligations, as well as records of actual disbursements showing the amount paid, the payee and the purpose for which payment is made, other than payments for social or other services whose records are confidential by law.

SECTION 2.20.230 Immediate Disclosure Request

(A) Notwithstanding any other provision of law and subject to the requirements of this section, a written request to inspect or obtain copies of public records that is submitted to any department or agency or to any local body shall be satisfied no later than three business days unless the requestor is advised within three business days that additional time is needed to determine whether:

- (1) the request seeks disclosable public records or information;
- (2) the requested records are in the possession of the agency, department or local body;
- (3) the requested records are stored in a location outside of the agency, department or local body processing the request;
- (4) the requested records likely comprise a voluminous amount of separate and distinct writings;
- (5) reasonably involves another agency, department or other local or state agency that has a substantial subject matter interest in the requested records and which must be consulted in connection with the request; or,
- (6) there is a need to compile data, to write programming language or a computer program or to construct a computer report to extract data.

(B) All determinations made pursuant to Section 2.20.230(A)(1)-(6) shall be communicated in writing to the requestor within seven (7) days of the date of the request. In no event shall any disclosable records be provided for inspection or copying any later than fourteen (14) days after the written determination pursuant to 2.20.230(A)(1)-(6) is communicated to the requestor. Additional time shall not be permitted to delay a routine or readily answerable request. All written requests to inspect or copy documents within three business days must state the words "Immediate Disclosure Request" across the top of the first page of the request and on any envelope in which the request is transmitted. The written request shall also contain a telephone number, email or facsimile number whereby the requestor may be contacted. The provisions of Government Code Section 6253 shall apply to any written request that fails to state "Immediate Disclosure Request" and a number by which the requestor may be contacted.

(C) An Immediate Disclosure Request is applicable only to those public records which have been previously distributed to the public, such as past meeting agendas and agenda-related materials.

All Immediate Disclosure Requests shall describe the records sought in focused and specific language so they can be readily identified.

(D) The person seeking the information need not state a reason for making the request or the use to which the information will be put.

SECTION 2.20.240 Minimum Withholding.

No record shall be withheld from disclosure in its entirety unless all information contained in it is exempt from disclosure by law. Any redacted, deleted or segregated information shall be keyed by footnote or other clear reference to the appropriate justification for withholding. Such redaction, deletion or segregation shall be done personally by the attorney or other staff member conducting the exemption review.

SECTION 2.20.250 Justification For Withholding.

Any withholding of information shall be justified, in writing, as follows:

(A) A withholding under a permissive exemption in the California Public Records Act or this ordinance shall cite the legal authority and, where the exemption is based on the public interest in favor of not disclosing, explain in practical terms how the public interest would be harmed by disclosure.

(B) A withholding on the basis that disclosure is prohibited by law shall cite the applicable legal authority.

(C) A withholding on the basis that disclosure would incur civil or criminal liability shall cite any statutory or case law supporting that position.

SECTION 2.20.260 Fees For Duplication.

(A) No fee shall be charged for making public records available for inspection.

(B) No fee shall be charged for a single copy of a current meeting agenda.

(C) A fee may be charged for: 1) single or multiple copies of past meeting agenda or any agenda-related materials; 2) multiple copies of a current meeting agenda; and, 3) any other public record copied in response to a specific request.

(D) The agency, department or the City may, rather than making the copies itself, contract at market rate to have a commercial copier produce the duplicates and charge the cost directly to the requester.

(E) No charge shall be made for a single copy of a Draft or Final Environmental Impact Report and Environmental Impact Statement.

(F) All fees permitted under this section shall be determined and specified in the City of Oakland Master Fee Schedule, as amended.

(G) Nothing in this section shall be interpreted as intending to preempt any fee set by or in compliance with State law.

ARTICLE IV: POLICY IMPLEMENTATION

SECTION 2.20.270 City of Oakland Public Ethics Commission.

(A) **Duties:** In the implementation of this ordinance, the Public Ethics Commission shall:

(1) Advise the City Council and the Board of Port Commissioners and provide information to other City departments and local bodies on appropriate ways in which to implement this ordinance with a priority on simple, standard procedures.

(2) Assist in citywide training for implementing the ordinance.

(3) Develop and maintain an administrative process for review and enforcement of this ordinance, among which may include the use of mediation to resolve disputes arising under this ordinance. No such administrative review process shall preclude, delay or in any way limit a person's remedies under the Brown Act or Public Records Act.

(4) Propose amendments to the City Council of this ordinance as needed.

(5) Report to the City Council on any practical or policy problems encountered in the administration of this ordinance.

(B) Enforcement.

(1) Upon the conclusion of the administrative review process, as implemented pursuant to subsection (A)(3) herein, any person may institute proceedings for injunctive relief, declaratory relief, or writ of mandate in any court of competent jurisdiction to enforce his or her rights under this ordinance.

(2) A court may award costs and reasonable attorneys' fees to the plaintiff in an action brought pursuant to this section where it is found that a local body has violated this ordinance. The costs and fees shall be paid by the local body and shall not become a personal liability of any public officer or employee of the local body.

(3) If the litigation is judged to be frivolous by the court, the defendant local body may assert its right to be paid reasonable court costs and attorneys' fees.

(C) Mediation.

(1) Notwithstanding any other provision of law, any person whose request to inspect or copy public records has been denied by any local body, agency or department, may demand immediate mediation of his or her request with the Executive Director of the Public Ethics Commission, or some mutually agreed person who agrees to volunteer his or her time, serving as mediator.

(2) Mediation shall commence no later than 10 days after the request for mediation is made, unless the mediator determines the deadline to be impracticable. The local body, agency or department shall designate a representative to participate in the mediation. Nothing shall prevent the parties from mediating any dispute by telephone.

(3) The mediator shall attempt to resolve the dispute to the mutual satisfaction of the parties. The mediator's recommendations shall not be binding on any party. All statements made

during mediation shall not be used or considered for any purpose in any subsequent or related proceeding.

(D) Cure and Correction.

(1) Nothing in this ordinance shall prevent a local body from curing or correcting an action challenged on grounds that a local body violated any material provision of this Ordinance. A local body shall cure and correct an action by placing the challenged action on a subsequent meeting agenda for separate determinations of whether to cure and correct the challenged action and, if so, whether to affirm or supersede the challenged action after first taking any new public testimony.

(2) In the event the Public Ethics Commission, upon the conclusion of a formal hearing conducted pursuant to its General Complaint Procedures, determines that a local body violated any material provision of this ordinance, the local body shall agendize for immediate determination whether to correct and cure the violation. Any violation shall have no effect on those actions described in Government Code Section 54960.1(d)(1) - (4), inclusive.

(E) Reports Or Recommendations From Meetings Alleged To Have Been Held In Violation Of This Ordinance.

If the sole purpose or nature of an action that is challenged for violation of this ordinance is to make or convey an advisory report or recommendation to another local body, such local body shall not be precluded from hearing or taking action on the item if it is within the authority or jurisdiction for said local body to hear or take action on the item in the absence of such report or recommendation.

(F) Limitation Of Actions

No person may file a complaint with the Public Ethics Commission alleging violation of the notice provisions of Section 2.20.080 if he or she attended the meeting or had actual notice of the item of business at least 72 hours prior to the meeting at which the action was taken. No person may file a complaint with the Public Ethics Commission alleging violation of the notice provisions of Section 2.20.070 if he or she attended the meeting or had actual notice of the item at least 48 hours prior to the

meeting at which the action was taken. No person may file a complaint with the Public Ethics Commission alleging the failure to permit the timely inspection or copying of a public record unless he or she has requested and participated in mediation as specified in Section 2.20.270(C).

SECTION 2.20.280 Responsibility for Administration.

(A) The City Manager shall administer and coordinate the implementation of the provisions of this Chapter for all local bodies, agencies and departments under his or her authority, responsibility or control.

(B) The City Manager shall provide the Public Ethics Commission with staff to permit the Public Ethics Commission to fulfill the functions and duties set forth herein. The City Attorney shall provide the Public Ethics Commission with legal assistance, to the extent such assistance does not constitute a conflict.

(C) The Office of the City Clerk shall be responsible for timely posting all agendas and shall make available for immediate public inspection and copying all agendas and agenda-related material filed with it. The Office of the City Clerk shall retain copies of agenda related materials filed with it by local bodies specified in Section 2.20.030(E)(2)(3) and (4) for a period of at least sixty (60) days following the meeting for which said agenda related materials were submitted.

SECTION 2.20.290 Severability.

The provisions of this Chapter are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this Chapter, or the invalidity of the application thereof to any person or circumstances, shall not affect the validity of the remainder of this Chapter, or the validity of its application to other persons or circumstances.

SECTION 2.20.300 Effective Date.

The amendments herein shall become effective on May 1, 2003.

Introduction Date: APR 01 2003

IN COUNCIL, OAKLAND, CALIFORNIA, (DATE), 2003

PASSED BY THE FOLLOWING VOTE:

APR 15 2003

**AYES- ~~BRUNNER~~, BRUNNER, ~~CHANG~~, NADEL, QUAN, REID, SPEES, WAN, AND
PRESIDENT DE LA FUENTE - 6**

**NOES-
~~Excused~~
~~ABSENT~~**

Chang, Brooks - 2

ABSTENTION-

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*Cala Floyd
City Clerk
City of Oakland
California*

6.1

**RULES & LEGISLATION
CMTE**