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April 14, 2005

**Honorable Rules and Legislation Committee
Oakland, California**

Subject: AN ORDINANCE AMENDING CHAPTER 2.20 OF THE OAKLAND MUNICIPAL CODE (aka "THE SUNSHINE ORDINANCE") TO REQUIRE THAT CITY EXECUTIVE OFFICERS PROVIDE AGENDA RELATED MATERIALS TO THE CITY CLERK (City Attorney's Compromise Amendments)

Chairperson, President De La Fuente and Members of the Rules Committee:

I. Summary

The attached are additional amendments to the Sunshine Ordinance intended to address concerns raised by the Rules and Legislation Committee on this item.

The amendments would allow a legislative body to consider late breaking information if the body approves with a 2/3 vote of those members present. The amendments delete the City Auditor from the earlier proposal.

II. Fiscal Impact

The City Council's ability to make more informed decisions could result in cost savings.

III. Background

The City Attorney's Office and the Public Ethics Commission have previously presented amendments to the Sunshine Ordinance to extend the obligations beyond just the City Council and other legislative bodies to various City officers. These additional changes are meant to address some of the Rules and Legislation Committee's expressed concerns.

IV. Key Issues and Impacts

At the Rules and Legislative Committee Meeting City Council President De La Fuente expressed concern that the amendments as presented did not provide

**RULES & LEGISLATION
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7.1
APR 14 2005

breaking necessary information. The City Attorney's Office now presents a further amendment to address this concern.

Two-Thirds Requirement

The City Attorney's amendment would allow City officers to provide essential information to the City Council, with two-thirds approval by the Council. This new language is similar to the standard for urgent matters already in the Sunshine Ordinance. The new language also makes clear that the legislative body will not violate the Sunshine Ordinance by accepting the new information.

The City Auditor

The City Auditor, as an independent watchdog office, is in the unusual position of being reactive to agenda items. Like members of the public, he will often only be privy to agenda items when the agenda and agenda-related materials are published. In order to fulfill his responsibilities, the City Auditor should be able to submit last-minute reports, analyses and writings to the City Council so that the City Council can make fully informed decisions. The new language also makes clear that the legislative body does not violate the Sunshine Ordinance by accepting the new information.

V. Sustainable Opportunities

Not applicable.

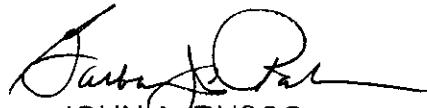
VI. Disability and Senior Citizens Access

The Sunshine Ordinance requires disabled and senior citizen access to public meetings.

VII. Action Requested by City Council

The City Attorney requests that the City Council approve this and the accompanying proposed amendments to the Sunshine Ordinance.

Respectfully submitted,



JOHN A. RUSSO
City Attorney

Attorney Assigned:
Mark Morodomi

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FILED
OFFICE OF THE CITY CLERK
OAKLAND

INTRODUCED BY COUNCILMEMBER 05 MAR 31 PM 3:10

Approved as to form and legality

CITY ATTORNEY

ORDINANCE NO. _____ C.M.S.

AN ORDINANCE AMENDING CHAPTER 2.20 OF THE OAKLAND MUNICIPAL CODE (aka "THE SUNSHINE ORDINANCE") TO REQUIRE THAT CITY EXECUTIVE OFFICERS PROVIDE AGENDA RELATED MATERIALS TO THE CITY CLERK (City Attorney's Compromise Amendments)

[The new City Attorney's proposal is in italics and bold. The underscored language is the original proposed amendment coming from the Public Ethics Commission.]

(H) The Mayor, City Administrator, and City Attorney and City Auditor in their capacities with the City and Redevelopment Agency **shall must** submit public agenda related materials to the City Clerk in sufficient time to meet the deadlines of this section and 2.20.070. **However, the referenced officers may submit additional documents to the legislative body and the legislative body may accept the documents if the legislative body makes a finding by two-thirds vote of the members present that the additional information in the documents was not known to the officers or considered to be relevant by the officers at the time of the filing deadlines. Copies of such documents shall be made available to the public at the related meeting. This subsection shall not apply to the City Auditor, and the City Council may consider reports from the City Auditor that are presented to the Council after the deadlines specified in this Ordinance. Nothing in this section or in any other provision of this Ordinance shall be interpreted to require that the Mayor, City Administrator or City Attorney submit to the City Clerk any documents that are not public records.**

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2005

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID, AND PRESIDENT DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

Attest: _____

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LATONDA SIMMONS, INTERIM CITY CLERK and Clerk of the Council of the City of Oakland, California
RULES & LEGISLATION
APR 14 2005