

Date: Feb. 10, 2009

Item No. 4  
File No. \_\_\_\_\_

**SUNSHINE ORDINANCE TASK FORCE**  
**Compliance and Amendments Committee**  
**AGENDA PACKET CONTENTS LIST\***

- Amendments and annotations to Articles I & II**
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Completed by: Chris Rustom

Date: Feb. 5, 2009

**\*This list reflects the explanatory documents provided**

~ Late Agenda Items (documents received too late for distribution to the Task Force Members)

\*\* The document this form replaces exceeds 25 pages and will therefore not be copied for the packet. The original document is in the file kept by the Administrator, and may be viewed in its entirety by the Task Force, or any member of the public upon request at City Hall, Room 244.



AMENDMENTS FOR 2008

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PROPOSED ORDINANCE AMENDMENTS

Note: Additions are single-underline;  
deletions are ~~striketrough~~.

**ARTICLE I  
IN GENERAL**

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Sec. 67.1. Findings and Purpose.

Sec. 67.2. Citation.

**SECTION 67.1 FINDINGS AND PURPOSE.**

The Board of Supervisors and the People of the City and County of San Francisco find and declare:

(a) Government's duty is to serve the public, reaching its decisions in full view of the public.

(b) Elected officials, commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. The people do not cede to these entities the right to decide what the people should know about the operations of local government.

(c) Although California has a long tradition of laws designed to protect the public's access to the workings of government, every generation of governmental leaders includes officials who feel more comfortable conducting public business away from the scrutiny of those who elect and employ them. New approaches to government constantly offer public officials additional ways to hide the making of public policy from the public. As government evolves, so must the laws designed to ensure that the process remains visible.

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1 (d) The right of the people to know what their government and those acting on  
2 behalf of their government are doing is fundamental to democracy, and with very few  
3 exceptions, that right supersedes any other policy interest government officials may use to  
4 prevent public access to information. Only in rare and unusual circumstances does the public  
5 benefit from allowing the business of government to be conducted in secret, and those  
6 circumstances should be carefully and narrowly defined to prevent public officials from  
7 abusing their authority.

8 (e) Public officials who attempt to conduct the public's business in secret should be  
9 held accountable for their actions. Only a strong Open Government and Sunshine Ordinance,  
10 enforced by a strong Sunshine Commission ~~Sunshine Ordinance Task Force~~,<sup>1</sup> can protect the  
11 public's interest in open government.

12 (f) The people of San Francisco enact these amendments to assure that the people  
13 of the City remain in control of the government they have created.

14 (g) Private entities and individuals and employees and officials of the City and County of  
15 San Francisco have rights to privacy that must be respected. However, when a person or  
16 entity is before a policy body or passive meeting body, that person, and the public, has the  
17 right to an open and public process. (Added by Ord. 265-93, App. 8/18/93; amended by  
18 Proposition G, 11/2/99)

19  
20 **SECTION 67.2. CITATION.**

21 This Chapter ~~chapter~~ may be cited as the San Francisco Sunshine Ordinance. (Added by Ord.  
22 265-93, App. 8/18/93; amended by Proposition G, 11/2/99)

23  
24 <sup>1</sup> The Task Force is changing its name from "Task Force" – which implies a body established for a temporary  
25 purpose – to "Commission" throughout the Ordinance. This is a non-substantive change, based on advice from  
Deputy City Attorney Ernest Llorente, in consultation with the City Attorney Office's government team, that the  
body's name change would not alter the body's appointment process or powers.

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**ARTICLE II**  
**PUBLIC ACCESS TO MEETINGS**

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- Sec. 67.3. Definitions.
- Sec. 67.4. ~~Passive Meetings~~Meeting Bodies: Conduct of Business.
- Sec. 67.5. Meetings To Be Open and Public; Application of Brown Act.
- Sec. 67.6. Policy Bodies Conduct of Business; Time and Place For Meetings.
- Sec. 67.7. ~~Agenda Requirements;~~Requirement for Regular Meetings of Policy Bodies.
- Sec. 67.7-1. Public Notice Requirements.
- Sec. 67.8. Agenda Disclosures: Closed Sessions.
- ~~Sec. 67.8-1. Additional Requirements for Closed Sessions~~
- Sec. 67.9. Agendas and Related Materials: Public Records.
- Sec. 67.10. Closed Sessions: Permitted Topics.
- Sec. 67.11. Statement of Reasons For Closed Sessions.
- Sec. 67.12. Disclosure of Closed Session Discussions and Actions.
- Sec. 67.13. Barriers to Attendance Prohibited.
- Sec. 67.14. ~~Tape~~-Recording, Filming and Still Photography.
- Sec. 67.15. Public Testimony.
- Sec. 67.16. Minutes.
- Sec. 67.17. Public Comment By Members of Policy Bodies.
- Sec. 67.18 Supervisor of Public Forums

**SECTION 67.3. DEFINITIONS.**

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1 Whenever in this ~~Article~~article the following words or phrases are used, they shall have  
2 the following meanings:

3 (a) "City" shall mean the City and County of San Francisco.

4 (b) "Meeting" shall mean any of the following:

5 (1) A congregation of a majority of the members of a policy body at the same time  
6 and place; to hear, discuss, or deliberate upon any item that is within the subject matter  
7 jurisdiction of the City.

8 (2) A series of gatherings, each of which involves less than a majority of a policy  
9 body, to hear, discuss or deliberate upon any item ~~that is within the subject matter jurisdiction~~  
10 of the City policy body, if the cumulative result is that a majority of the members of the policy  
11 body has become involved in such gatherings; or

12 (3) Any other use of personal intermediaries or communications media that could  
13 permit a majority of the members of a policy body to become aware of an item of business  
14 and of the views or positions of other members with respect thereto, and to negotiate  
15 consensus thereupon.

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

17 (A) Individual contacts or conversations between a member of a policy body and  
18 another person that do not convey to the member of the policy body the views or positions of  
19 other members of the policy body upon the subject matter of the contact or conversation and  
20 in which the member of the policy body does not solicit or encourage the restatement of the  
21 views of the other members of the policy body;

22 (B) The attendance of a majority of the members of a policy body at a local,  
23 regional, statewide, or national conference, or at a meeting organized to address a topic of  
24 local community concern and open to the public, provided that a majority of the members of a  
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1 policy body refrains from using the occasion to collectively discuss the topic of the gathering  
2 or any other business item within the subject matter jurisdiction of the City policy body; or

3 (C) The attendance of a majority of the members of a policy body at a purely social,  
4 recreational, or ceremonial occasion other than one sponsored or organized by or for the  
5 policy body itself, provided that a majority of the members of the policy body refrains from  
6 using the occasion to discuss any business item within the subject matter jurisdiction of this  
7 the policy body. A meal gathering of a policy body before, during, or after a business meeting  
8 of the policy body is part of that meeting and shall be conducted only under circumstances  
9 that permit public access to hear and observe the discussion of members. Such meetings  
10 shall not be conducted in restaurants or other accommodations locations where public access  
11 is possible only in consideration of making a purchase or some other payment of value.

12 ~~(D) The attendance of a majority of the members of a policy body at a meeting of a~~  
13 ~~standing committee of the policy body, provided that the members of the policy body who are~~  
14 ~~not members of the standing committee attend only as observers or as members of the~~  
15 ~~public.~~

16 (E) When a majority of members attend a meeting of another policy body to  
17 comment on a matter specifically noticed before that policy body.

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18 ~~(D) Proceedings of the Department of Social Services Child Welfare Placement and~~  
19 ~~Review Committee or similar committees which exist to consider confidential information and~~  
20 ~~make decisions regarding Department of Social Services clients.~~

21 (c) "Passive meeting body" shall mean.<sup>3</sup>

23 <sup>2</sup> As noted in the Good Government Guide, "the drafters of Proposition G (November 2, 1999)  
24 inadvertently omitted section 67.3(b)(4)(C-1), formerly Section 67.3(b)(4)(D), from the text of the ordinance  
submitted to the voters." This corrects that omission.

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25 <sup>3</sup> Revised 67.3(c) and (d) to: clarify ambiguity regarding "advisory" committees and bodies; make clear  
that where body is tasked with changing or implementing new policy – they are policy bodies; all bodies created  
by Mayor (except ones that include City employees to meet with residents) are now "Policy Bodies."

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1 (1) Advisory committees created by the initiative of a member of a policy body, the  
2 Mayor, or a department head other than the Mayor;

3 (2) Any group that ~~meets to discuss with or advise the Mayor or any Department~~  
4 ~~Head on fiscal, economic, or policy issues;~~ includes City employees assigned by a policy body,  
5 the Mayor, or department head to meet with residents or community groups to obtain  
6 information that would result in a report or recommendation from the group back to the policy  
7 body, the Mayor or department for action by the policy body, Mayor or department;

8 (3) Social, recreational or ceremonial occasions sponsored or organized by or for a  
9 policy body to which a majority of the body has been invited.

10 (4) "Passive meeting body" shall not include a committee that consists solely of City  
11 ~~employees of the City and County of San Francisco~~ created by the initiative of a member of a  
12 policy body, the Mayor, or a department head; to study internal departmental affairs which is  
13 not expected to modify or change City policy;

14 (5) ~~Notwithstanding the provisions of paragraph (4) above, "Passive meeting body"~~  
15 ~~shall include a committee that consists solely of employees of the City and County of San~~  
16 ~~Francisco when such committee is reviewing, developing, modifying, or creating city policies~~  
17 ~~or procedures relating to the public health, safety, or welfare or relating to services for the~~  
18 ~~homeless;~~

19 (d) "Policy Body" shall mean:<sup>4</sup>

20 (1) The Board of Supervisors;

21 (2) Any other board, or commission, or other body enumerated in the charter;

22 (3) Any board, commission, committee, or other body created by ordinance or  
23 resolution of the Board of Supervisors;

24  
25 \_\_\_\_\_  
| <sup>4</sup> See above.

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1       ~~(4)(5)~~ Any advisory board, commission, committee or other body, created by the  
2 initiative ~~Mayor or of~~ a policy body;

3       ~~(5)(4)~~ Any board, commission, committee or other body standing committee of a policy  
4 body composed of members of the Policy Body, irrespective of its composition;

5       ~~(6)~~ "Policy Body" shall not include a committee which consists solely of employees  
6 of the City and County of San Francisco, unless such committee was established by charter  
7 or by ordinance or resolution of the Board of Supervisors.

8       ~~(7)(6)~~ Any advisory board, commission, committee, or council created by a federal,  
9 state, or local grant whose members are appointed by ~~city~~ City officials, employees or agents.  
10 (Added by Ord. 265-93, App. 8/18/93; amended by Ord. 129-98, App. 4/17/98; Proposition G,  
11 11/2/99)

12  
13 **SECTION 67.4. PASSIVE MEETINGS BODIES: CONDUCT OF BUSINESS.**

14       (a) All gatherings of passive meeting bodies shall be accessible to individuals upon  
15 inquiry and to the extent ~~possible consistent with the~~ that the meeting locations have sufficient  
16 capacity, facilities, furniture and equipment, in which they occur.

17       ~~(1)(b)~~ Such gatherings must need not be formally noticed with a contact person's  
18 name and contact information, at least 72 hours prior to the scheduled meeting except on the  
19 City's website whenever possible, although and the time, place and nature of the gathering  
20 shall be posted at the main library and on the City's website and be disclosed by mail, e-mail,  
21 or fax upon inquiry by a member of the public, and any. If an agenda actually is prepared in  
22 advance for the gathering, it shall be accessible to such inquirers as a public record provided  
23 upon request, and as practicable posted with the notice.<sup>5</sup>

24  
25 <sup>5</sup> Revised 67.4(b), passive meeting bodies are now required to formally notice meetings at least 72 hours  
in advance; mandates enhanced notice and website posting requirements.

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1 ~~(2) Such gatherings need not be conducted in any particular space for the~~  
2 ~~accommodation of members of the public, although members of the public shall be permitted~~  
3 ~~to observe on a space available basis consistent with legal and practical restrictions on~~  
4 ~~occupancy.<sup>6</sup>~~

5 ~~(3)(c) Such gatherings of a business nature need not provide opportunities for~~  
6 ~~comment by members of the public, although the person presiding may, in at his or her~~  
7 ~~discretion, entertain such questions or comments from spectators members of the public as~~  
8 ~~may be relevant to the business of the gathering.~~

9 ~~(4)(d) Such gatherings of a social or ceremonial nature need not provide refreshments~~  
10 ~~to spectators members of the public.~~

11 ~~(5) Gatherings subject to this subsection include the following: advisory committees~~  
12 ~~or other multimember bodies created in writing or by the initiative of, or otherwise primarily~~  
13 ~~formed or existing to serve as a non-governmental advisor to, a member of a policy body, the~~  
14 ~~Mayor, the City Administrator, a department head, or any elective officer, and social,~~  
15 ~~recreational or ceremonial occasions sponsored or organized by or for a policy body to which~~  
16 ~~a majority of the body has been invited. This subsection shall not apply to a committee which~~  
17 ~~consists solely of employees of the City and County of San Francisco.<sup>7</sup>~~

18 ~~(6) Gatherings defined in section 67.3(c) subdivision (5) may hold closed sessions~~  
19 ~~under circumstances allowed by this Article.~~

20 ~~(b) To the extent not inconsistent with state or federal law, a policy body shall~~  
21 ~~include in any contract with an entity that owns, operates or manages any property in which~~  
22 ~~the City has or will have an ownership interest, including a mortgage, and on which the entity~~  
23 ~~performs a government function related to the furtherance of health, safety or welfare, a~~

24 \_\_\_\_\_  
25 <sup>6</sup> Provision consolidated with subsection 67.4(a) above.  
<sup>7</sup> Removed as unnecessary.

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1 ~~requirement that any meeting of the governing board of the entity to address any matter~~  
2 ~~relating to the property or its government related activities on the property, or performance~~  
3 ~~under the contract or grant, be conducted as provided in subdivision (a) of this section.~~  
4 Records made available to the governing board relating to such matters shall be likewise  
5 available to the public, at a cost not to exceed the actual cost up to 10 cents per page, or at a  
6 higher actual cost as demonstrated in writing to such governing board.<sup>8</sup> (Added by Ord. 265-  
7 93, App. 8/18/93; amended by Ord. 287-96, App. 7/12/96; Proposition G, 11/2/99)

8  
9 **SECTION 67.5. MEETINGS TO BE OPEN AND PUBLIC; APPLICATION OF BROWN ACT.**

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

14 (Added by Ord. 265-93, App. 8/18/93; amended by Proposition G, 11/2/99)

15  
16 **SECTION 67.6. POLICY BODY; CONDUCT OF BUSINESS; TIME AND PLACE FOR**  
17 **MEETINGS.**

18 (a) Each policy body, except for advisory bodies specified in Section 67.3(d)(5) and  
19 67.3(d)(6), shall establish by resolution or motion the time and place for holding regular  
20 meetings.

21 (b) ~~Unless otherwise required by state or federal law or necessary to inspect real~~  
22 ~~property or personal property which cannot be conveniently brought within the territory of the~~  
23 ~~City and County of San Francisco or to meet with residents residing on property owned by the~~

24  
25 <sup>8</sup> Task Force recommends moving this entire section to 67.24 [not yet moved]

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1 City, or to meet with residents of another jurisdiction to discuss actions of the policy body that  
2 affect those residents, all meetings of its policy bodies shall be held within the City and County  
3 of San Francisco.<sup>9</sup>

4 (e)(b) If a regular meeting would otherwise fall on a holiday, it shall instead be held on  
5 the next business day, unless otherwise rescheduled in advance. If a meeting must be  
6 canceled, continued or rescheduled for any reason, notice of such change shall be provided  
7 to the public as soon as is reasonably possible, including posting of a cancellation notice in  
8 the same manner as described in section 67.7(c), and mailed notice if sufficient time  
9 permits.<sup>10</sup>

10 (d)(c) If, because of fire, flood, earthquake or other emergency, it would be unsafe to  
11 meet at the regular meeting place, meetings may be held for the duration of the emergency at  
12 some other place specified by the policy body. The change of meeting site shall be  
13 announced, by the most rapid means of communication available at the time, in a notice to the  
14 local media who have requested written notice of special meetings pursuant to Government  
15 Code Section 54956. Reasonable attempts shall be made to contact others regarding the  
16 change in meeting location.

17 (e)(d) Meetings of ~~passive meeting bodies~~ as specified in Section 67.3(d)(5) and  
18 67.3(d)(6) ~~67.6(d)(4) of this article~~ shall be preceded by notice delivered personally or by mail,  
19 e-mail, or facsimile as reasonably requested at least 72 hours before the time of such meeting  
20 to each person who has requested, in writing, notice of such meeting. If the advisory body  
21 elects to hold regular meetings, it shall provide by bylaws, or whatever other rule is utilized by  
22 that advisory body for the conduct of its business, for the time and place for holding such  
23 regular meetings. ~~In such case, no notice of regular meetings, other than the posting of an~~

24 \_\_\_\_\_  
25 <sup>9</sup> Moved to new 67.6(f).

<sup>10</sup> Moved from old 67.6(g).

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1 agenda pursuant to Section 67.7 of this article in the place used by the policy body which it  
2 advises, is required.

3 ~~(f)~~(e) Special meetings of any policy body, including advisory bodies identified in  
4 subsection 67.3(d)(5) and 67.3(d)(6) that choose to establish regular meetings times, may be  
5 called at any time by the presiding officer thereof or by a majority of the members thereof, by  
6 delivering personally or by mail written notice to each member of such policy body and the  
7 local media who have requested written notice of special meetings in writing. Such notice of a  
8 special meeting shall be delivered personally or by mail, e-mail, or facsimile as requested so  
9 that it is delivered as described in (e) at least 72 hours before the time of such meeting as  
10 specified in the notice. The notice shall specify the time and place of the special meeting and  
11 the business to be transacted. No other business shall be considered at such meetings.  
12 Such written notice may be dispensed with as to any member who at or prior to the time the  
13 meeting convenes files with the presiding officer or secretary of the body or commission a  
14 written waiver of notice. ~~Such waiver may be given by telegram.~~ Such written notice may  
15 also be dispensed with as to any member who is actually present at the meeting at the time it  
16 convenes. Each special meeting shall be held at the regular meeting place of the policy body  
17 except that the policy body may designate an alternate meeting place provided that such  
18 alternate location is specified in the notice of the special meeting; further provided that the  
19 notice of the special meeting of the policy body shall be given at least ~~45~~10 calendar days  
20 prior to said special meeting being held at an alternate location. This provision shall not apply  
21 where the ~~alternative~~ alternate meeting location is located within the same building as the  
22 regular meeting place.<sup>11</sup>

24 \_\_\_\_\_  
25 <sup>11</sup> Revised to provide consistency for accepted methods of delivery of notice; to allow shorter advance time  
to provide special meeting notice to accommodate policy bodies because of increased use of  
electronic/instantaneous notice.

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(f) Unless otherwise required by state or federal law or necessary to inspect real property or personal property which cannot be conveniently brought within the territory of the City and County of San Francisco or to meet with residents of property owned by the City, or to meet with residents of another jurisdiction to discuss actions of the policy body that affect those residents, all meetings of its policy bodies shall be held within the City and County of San Francisco.<sup>12</sup>

(g) ~~If a meeting must be canceled, continued or rescheduled for any reason, notice of such change shall be provided to the public as soon as is reasonably possible, including posting of a cancellation notice in the same manner as described in section 67.7(e), and mailed notice if sufficient time permits.~~<sup>13</sup>

~~(h)(g)~~ Each policy body shall designate one or more posting locations for notices and agendas required by this ordinance. The Sunshine Commission for Open Government shall be so notified in writing and shall maintain a master list of such designated posting locations.<sup>14</sup>

(h) The initial meeting of a policy body shall be considered a regular meeting and notice of the time and location of the meeting shall be given at least 10 calendar days prior to said initial meeting being held, and delivered personally or by mail, e-mail, or facsimile as requested.<sup>15</sup> (Added by Ord. 265-93, App. 8/18/93; amended by Proposition G, 11/2/99)

**SECTION 67.7. AGENDA REQUIREMENTS; REGULAR FOR MEETINGS OF POLICY BODIES.**

(a) ~~At least 72 hours before a regular meeting, a policy body shall post an agenda containing a meaningful description of each item of business to be transacted or discussed at~~

<sup>12</sup> Moved and amended from old 67.6(b).

<sup>13</sup> Moved to new 67.6(b).

<sup>14</sup> Revised to provide more consistency for posting notice.

<sup>15</sup> Revised to correct omission in Ordinance, to provide for notice of initial meetings.

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1 the meeting. Agendas shall specify ~~for whether~~ each item of business ~~the proposed is subject~~  
2 to possible action or a statement the item is for discussion only. If a specific action is  
3 proposed or contemplated it shall be included in the agenda item. In addition, a policy body  
4 shall post a current agenda on its ~~Internet website~~ at least 72 hours before a regular meeting,  
5 and a link to the agenda on a "central master calendar" available on the City's website where  
6 the date, time and location of all City policy body meetings shall be listed.<sup>16</sup>

7 (b) A description is meaningful if it is sufficiently clear and specific to alert a person  
8 of average intelligence and education whose interests are affected by the item that he or she  
9 may have reason to attend the meeting or seek more information on the item. The description  
10 ~~should shall be~~ brief, concise and written in plain, easily understood English. It shall refer to  
11 any explanatory documents that have been provided to the policy body in connection with an  
12 agenda item, such as correspondence or reports, and such documents shall be posted  
13 adjacent to the agenda or, if such documents are of more than one page in length, made  
14 available for public inspection and copying at a location indicated on the agenda during  
15 normal office hours.

16 (c) The agenda shall specify the time and location of the regular meeting and shall  
17 be posted, at the main public library, and in the branch libraries in a locations that is are freely  
18 accessible to members of the public. The requirement that a policy body post copies of its  
19 agendas at the branch libraries is satisfied if the branch library has a computer upon which  
20 members of the public can access the City's website to search for agendas of meetings of  
21 City policy bodies. The agenda shall also be posted outside the meeting room as soon as  
22 practicable but no later than the start of the meeting.<sup>17</sup>

24 <sup>16</sup> Revised to clarify language and to provide for a central master calendar to provide accessible and  
25 consistent access to meeting information.

<sup>17</sup> Revised to require posting of agendas at branch libraries, achieved through access to computers and  
master calendar provision; provides for posting agendas outside of meeting room.

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1 (d) No action or discussion shall be undertaken on any item not appearing on the  
2 posted agenda, except that members of a policy body may respond to statements made or  
3 questions posed by persons exercising their public testimony rights, to the extent of asking a  
4 question for clarification, providing a reference to staff or other resources for factual  
5 information, or requesting staff to report back to the body at a subsequent meeting concerning  
6 the matter raised by such testimony.

7 (e) Notwithstanding subdivision (d), the policy body may take action on items of  
8 business not appearing on the posted agenda under any of the following conditions:

9 (1) Upon a determination by a majority vote of the body that an accident, natural  
10 disaster or work force disruption poses a threat to public health and safety.

11 (2) Upon a good faith, reasonable determination by a two-thirds vote of the body, or,  
12 if less than two-thirds of the members are present, a unanimous vote of those members  
13 present, that (A)(i) the need to take immediate action on the item is so imperative as to  
14 threaten serious injury to the public interest if action were deferred to a subsequent special or  
15 regular meeting, (ii) or relates to a purely commendatory action, and (B) that the need for such  
16 action came to the attention of the body subsequent to the agenda being posted as specified  
17 in subdivision (a).

18 (3) The item was on an agenda posted pursuant to subdivision (a) for a prior  
19 meeting of the body occurring not more than five calendar days prior to the date action is  
20 taken on the item, and at the prior meeting the item was continued to the meeting at which  
21 action is being taken. In addition, notice of the continuation shall be posted with the agenda of  
22 the prior meeting specifying that a particular agenda item was continued to that meeting.<sup>18</sup>

23  
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25  
<sup>18</sup> Revised to provide adequate information on the continued agenda item.

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1 (f) Each board and commission enumerated in the charter shall ensure that  
2 ~~agendas for regular and special meetings are made available to speech and hearing impaired~~  
3 ~~persons through telecommunications devices for the deaf, telecommunications relay services~~  
4 ~~or equivalent systems, and, upon request, to sight impaired persons through Braille or~~  
5 ~~enlarged type and other material related to meetings are accessible to persons with~~  
6 ~~disabilities. Upon request, materials shall be made available in alternative formats. Requests~~  
7 ~~should be made to the secretary or clerk of the board or commission at least 48 hours prior to~~  
8 ~~the meeting. Requests for material in alternative formats made less than 48 hours prior to the~~  
9 ~~meeting shall be met when possible. All policy bodies and passive meeting bodies shall~~  
10 ~~comply with the guidelines and recommendations of the Mayor's Office of Disabilities~~  
11 ~~Accessible Public Event Checklist.~~<sup>19</sup>

12 (g) Each policy body shall ensure that notices and agendas for regular and special  
13 meetings shall include the following notice:

14  
15 KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE  
16 (Chapter 67 of the San Francisco Administrative Code)

17  
18 ~~Government's~~Government's duty is to serve the public, reaching its decisions in full  
19 view of the public. Commissions, boards, councils and other agencies of the City and County  
20 exist to conduct the people's business. This ordinance assures that deliberations are  
21 conducted before the people and that City operations are open to the people's review.

22  
23  
24

25 <sup>19</sup> ~~Revised after consultation with Mayor's Office on Disability to provide that for all board and commissions~~  
~~in charter agendas and all materials related to meetings shall be made available in alternative formats for~~  
~~persons with disabilities, when requested, at least 48 hours in advance of meetings.~~

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1 FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE SUNSHINE  
2 ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT  
3 THE SUNSHINE COMMISSIONSUNSHINE ORDINANCE TASK FORCE.

4  
5 (h) Each agenda of a policy body covered by this ~~Sunshine Ordinance~~ shall include  
6 the address, area code and phone number, fax number, e-mail address, and a contact  
7 ~~person's name~~person for the Sunshine Commission ~~Sunshine Ordinance Task Force~~.  
8 Information on how to obtain a free copy of the Sunshine Ordinance shall be included on each  
9 agenda. (Added by Ord. 265-93, App. 8/18/93; amended by Ord. 292-95, App. 9/8/95; Ord.  
10 185-96, App. 5/8/96; Proposition G, 11/2/99)

11 (i) Each agenda of a policy body shall state that members of the public may submit  
12 statements and/or comments regarding any item on those bodies' meeting agendas; those  
13 statements or comments shall become a public record, regardless of whether their authors  
14 are present when the item at issue is discussed. The policy body may review and consider  
15 those statements or comments if received before or during the discussion of the item.  
16 Statements or comments received within ten business days after the meeting shall be  
17 included in the public record with a notation as to when they were received.<sup>20</sup> (Added by Ord.  
18 185-96, App. 5/8/96; amended by Proposition G, 11/2/99)

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19  
20 **Section 67.7-1. PUBLIC NOTICE REQUIREMENTS.**

21 (a)(1) Any public notice that is mailed, posted or published by a City department,  
22 board, agency or commission to residents residing within a specific area to inform those  
23  
24

25 <sup>20</sup> Added to provide members of the public with ability to weigh in on matters before the body, especially  
those who cannot attend meetings; consistent with the minutes requirements of old Section 67.16.

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1 residents of a matter that may impact their property or that neighborhood area, shall be brief,  
2 concise and written in plain, easily understood English.

3 (2)(b) The notice should inform the residents of the proposal or planned activity, the  
4 length of time planned for the activity, the effect of the proposal or activity, and a telephone  
5 contact for residents who have questions.

6 (3)(e) If the notice informs the public of a public meeting or hearing, then the notice  
7 shall state that persons who are unable to attend the public meeting or hearing may submit to  
8 the City, by the time the proceeding begins, written comments regarding the subject of the  
9 meeting or hearing, that these comments will be made a part of the official public record, and  
10 that the comments will be brought to the attention of the person or persons conducting the  
11 public meeting or hearing. The notice should also state the name, and address, fax and e-  
12 mail address of the person or persons to whom those written comments should be submitted.

13 (Added by Ord. 185-96, App. 5/8/96; amended by Proposition G, 11/2/99)

14  
15 **SECTION 67.8. AGENDA DISCLOSURES: CLOSED SESSIONS.<sup>21</sup>**

16 In addition to meeting requirements for closed session agendas provided in the Brown  
17 Act, Government Code Section 54954.5, any agenda shall specify and disclose the nature of  
18 any closed session by providing all of the following information:

19 (a) With respect to every item of business to be discussed in closed session pursuant  
20 to Government Code section 54956.9 (a), each agenda item for a policy body covered by this  
21 Ordinance that involves existing litigation shall identify the court, case number, and date the  
22 case was filed on the written agenda.<sup>22</sup>

23  
24 <sup>21</sup> Revised 67.8 to generally streamline and make Ordinance consistent with the current Brown Act and to  
25 focus on the provisions of the Sunshine Ordinance that exceed requirements under Brown Act. No substantive  
changes intended.

<sup>22</sup> Moved from old 67.8-1(b).

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1        ~~(a)(b) In addition to the brief general description of items to be discussed or acted upon~~  
2 ~~in open and public session, the agenda posted pursuant to Government Code Section~~  
3 ~~54954.2, any mailed notice given pursuant to Government Code Section 54954.1, and any~~  
4 ~~call and notice delivered to the local media and posted pursuant to Government Code Section~~  
5 ~~54956 shall specify and disclose the nature of any closed sessions by providing all of the~~  
6 ~~following information: With respect to every item of business to be discussed in closed session~~  
7 ~~pursuant to Government Code section 54957:~~

8  
9        ~~(1) With respect to a closed session held pursuant to Government Code Section~~  
10 ~~54956.7:~~

11 ~~LICENSE/PERMIT DETERMINATION:~~

12 ~~applicant(s)~~

13 ~~The space shall be used to specify the number of persons whose applications are to be~~  
14 ~~reviewed.~~

15        ~~(2) With respect to every item of business to be discussed in closed session pursuant~~  
16 ~~to Government Code Section 54956.8:~~

17  
18 ~~CONFERENCE WITH REAL PROPERTY NEGOTIATOR~~

19 ~~Property:~~

20 ~~Person(s) negotiating:~~

21 ~~Under negotiation:~~

22 ~~Price: Terms of payment: Both:~~

23  
24        ~~The space under "Property" shall be used to list an address, including cross streets~~  
25 ~~where applicable, or other description or name which permits a reasonably ready identification~~

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1 of each parcel or structure subject to negotiation. The space under "Person(s) negotiating"  
2 shall be used to identify the person or persons with whom negotiations concerning that  
3 property are in progress. The spaces under "Under negotiation" shall be checked off as  
4 applicable to indicate which issues are to be discussed.

5  
6 ~~(3) With respect to every item of business to be discussed in closed session pursuant~~  
7 ~~to Government Code Section 54956.9, either:~~

8  
9 ~~CONFERENCE WITH LEGAL COUNSEL~~

10 ~~Existing litigation:~~

11 ~~Unspecified to protect service of process~~

12 ~~Unspecified to protect settlement posture~~

13 ~~or:~~

14 ~~CONFERENCE WITH LEGAL COUNSEL~~

15 ~~Anticipated litigation:~~

16 ~~As defendant As plaintiff~~

17  
18 The space under "Existing litigation" shall be used to specifically identify a case under  
19 discussion pursuant to subdivision (a) of Government Code Section 54956.9, including the  
20 case name, court, and case number, unless the identification would jeopardize the City's  
21 ability to effectuate service of process upon one or more unserved parties, in which instance  
22 the space in the next succeeding line shall be checked, or unless the identification would  
23 jeopardize the City's ability to conclude existing settlement negotiations to its advantage, in  
24 which instance the space in the next succeeding line shall be checked. If the closed session is  
25 called pursuant to subdivision (b) or (c) of Section 54956.9, the appropriate space shall be

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1 checked under "Anticipated litigation" to indicate the City's anticipated position as defendant  
2 or plaintiff respectively. If more than one instance of anticipated litigation is to be reviewed,  
3 space may be saved by entering the number of separate instances in the "As defendant" or  
4 "As plaintiff" spaces or both as appropriate.

5  
6 (4) With respect to every item of business to be discussed in closed session pursuant  
7 to Government Code Section 54957, either:

8  
9 THREAT TO PUBLIC SERVICES OR FACILITIES

10 Name, title and agency of law enforcement officer(s) to be conferred with:

11 or:

12 PUBLIC EMPLOYEE APPOINTMENT/HIRING

13 Title/description of position(s) to be filled:

14 PUBLIC EMPLOYEE PERFORMANCE EVALUATION

15 Position and, in the case of a routine evaluation, name of employee(s) being evaluated:

16 or:

17 PUBLIC EMPLOYEE DISMISSAL/DISCIPLINE/RELEASE

18 Number of employees affected:

19 or:

20  
21 (5)(c) With respect to every item of business to be discussed in closed session  
22 pursuant to Government Code Section 54957.6, either:

23  
24 CONFERENCE WITH NEGOTIATOR--COLLECTIVE BARGAINING

25 Name and title of City's City's negotiator:

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- 1 Organization(s) representing:
- 2 Police officers, firefighters and airport police
- 3 Transit Workers
- 4 Nurses
- 5 Miscellaneous Employees
- 6 Anticipated issue(s) under negotiation:
- 7 Wages
- 8 Hours
- 9 Benefits
- 10 Working Conditions
- 11 Other (specify if known)
- 12 All

13

14 Where renegotiating a memorandum of understanding or negotiating a successor  
15 memorandum of ~~under-standing~~understanding, the name of the memorandum of ~~under-~~  
16 ~~standing~~understanding:

17 In case of multiple items of business under the same category, lines may be added and  
18 the location of information may be reformatted to eliminate unnecessary duplication and  
19 space, so long as the relationship of information concerning the same item is reasonably clear  
20 to the reader. As an alternative to the inclusion of lengthy lists of names or other information in  
21 the agenda, or as a means of adding items to an earlier completed agenda, the agenda may  
22 incorporate by reference separately prepared documents containing the required information,  
23 so long as copies of those documents are posted adjacent to the agenda within the time  
24 periods required by Government Code Sections 54954.2 and 54956 and provided with any

25



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1 mailed or delivered notices required by Sections 54954.1 or 54956. (Added by Ord. 265-93,  
2 App. 8/18/93; amended by Proposition G, 11/2/99)

3  
4 **SECTION 67.8-1. ADDITIONAL REQUIREMENTS FOR CLOSED SESSIONS.<sup>23</sup>**

5 (a) All closed sessions of any policy body covered by this Ordinance shall be either  
6 audio recorded or audio and video recorded in their entirety and all such recordings shall be  
7 retained for at least TEN years, or permanently where technologically and economically  
8 feasible. Closed session recordings shall be made available whenever all rationales for  
9 closing the session are no longer applicable. Recordings of closed sessions of a policy body  
10 covered by this Ordinance, wherein the justification for the closed session is due to  
11 "anticipated litigation" shall be released to the public in accordance with any of the following  
12 provisions: TWO years after the meeting if no litigation is filed; UPON EXPIRATION of the  
13 statute of limitations for the anticipated litigation if no litigation is filed; as soon as the  
14 controversy leading to anticipated litigation is settled or concluded.<sup>24</sup>

15 (b) Each agenda item for a policy body covered by this ordinance that involve existing  
16 litigation shall identify the court, case number, and date the case was filed on the written  
17 agenda.<sup>25</sup> For each agenda item for a group covered by this ordinance that involves  
18 anticipated litigation, the City Attorney's Office or the policy body shall disclose at any time  
19 requested and to any member of the public whether such anticipated litigation developed into  
20 litigation and shall identify the court, case number, and date the case was filed.<sup>26</sup> (Added by  
21 Proposition G, 11/2/99)

22  
23  
24 <sup>23</sup> The provisions in this section have been moved, in order to streamline and consolidate Ordinance.

25 <sup>24</sup> Revised and moved to new 67.14(b), (c).

<sup>25</sup> Moved to new 67.8(a).

<sup>26</sup> Moved to new 67.12(e).

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1 SECTION 67.9. AGENDAS AND RELATED MATERIALS: PUBLIC RECORDS.

2 (a) Agendas of meetings, meeting packets, or documents created by a department,  
3 and or any other documents on file with the clerk or secretary of the policy body, when  
4 intended for distribution to all, or a majority of all, of the members of a policy body in  
5 connection with a matter anticipated for discussion or consideration at a public meeting shall  
6 be made available to the public for inspection and copying at the office of the policy body at  
7 least 48 hours before the hearing. To the extent possible, such documents shall also be made  
8 available through the policy body's Internet site. However, this disclosure need not include an  
9 material exempt from public disclosure under this ordinance. Unless demonstrably unfeasible  
10 these materials shall be made available on the policy body's web site, at least 48 hours prior  
11 to the meeting. Public review copies of the agenda and all related documents that constitute  
12 the meeting packet shall be made available at the meeting to the public in sufficient quantities  
13 commensurate with the anticipated number of people attending the hearing. The materials  
14 that are distributed at the hearing shall be of such a quality that a person with 20/20 vision  
15 would have no difficulty reading them.<sup>27,28</sup>

16 (b) If any document subject to adoption, approval or award by a Policy Body is not  
17 available at least 48 hours before the meeting at which that document is scheduled to be  
18 adopted, approved or awarded and a member of the policy body requests that the matter be  
19 continued, the policy body must continue the item to a time not less than 48 hours after the  
20 document was made available. Nothing in this subsection shall prohibit the policy body from  
21 amending a document at a meeting.<sup>29</sup>

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23 <sup>27</sup> Move to § 67.13?

24 <sup>28</sup> Revised 67.9(a), requires that agenda packets be made available for public inspection 48 hours before a  
meeting and, where practicable, posted on website.

25 <sup>29</sup> New 67.9(b) requires that documents subject to adoption, approval or award by a Policy Body be  
available at least 48 hours in advance before the meeting at which action will be taken to ensure public's ability  
to review and prepare comment.

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1 ~~(b) Records which are subject to disclosure under subdivision (a) and which are~~  
2 ~~intended for distribution to a policy body prior to commencement of a public meeting shall be~~  
3 ~~made available for public inspection and copying upon request prior to commencement of~~  
4 ~~such meeting, whether or not actually distributed to or received by the body at the time of the~~  
5 ~~request.<sup>20</sup>~~

6 ~~(c) Records which are subject to disclosure under subdivision (a) and which are~~  
7 ~~distributed during a public meeting but prior to commencement of their discussion shall be~~  
8 ~~made available for public inspection prior to commencement of, and during, their discussion.<sup>31</sup>~~

9 ~~(d)(c) Records which are Documents which are distributed prior to or during subject to~~  
10 ~~disclosure under subdivision (a) and which are distributed during their discussion at a public~~  
11 ~~meeting to members of a policy body shall be made available for public inspection~~  
12 ~~immediately or as soon thereafter as is practicable.~~

13 ~~(e)(d) A policy body may charge a duplication fee of one cent per page for a copy of a~~  
14 ~~public record prepared for consideration at a public meeting, unless a special fee has been~~  
15 ~~established pursuant to the procedure set forth in Section 67.28(d). Neither this section nor~~  
16 ~~the California Public Records Act (Government Code sections 6250 et seq.) shall be~~  
17 ~~construed to limit or delay the public's right to inspect any record required to be disclosed by~~  
18 ~~that act, whether or not distributed to a policy body.<sup>32</sup> (Added by Ord. 265-93, App. 8/18/93;~~  
19 ~~amended by Proposition G, 11/2/99)~~

20  
21 **SECTION 67.10. CLOSED SESSIONS: PERMITTED TOPICS.**

22 A policy body may, but is not required to, hold closed sessions:  
23  
24

25 <sup>30</sup> Moved into subsection (a) above.

<sup>31</sup> Moved into subsection (a) above.

<sup>32</sup> Moved to new 67.29(f).

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1 (a) With the Attorney General, district attorney, agency counsel, security consultant,  
2 sheriff, or chief of police, or their respective deputies, on matters posing a threat to the  
3 security of public buildings or a threat to the ~~public's~~public's right of access to public services  
4 or public facilities.<sup>33</sup>

5 (b) To consider the appointment, employment, evaluation of performance, or dismissal  
6 of a City employee, if the policy body has the authority to appoint, employ, or dismiss the  
7 employee, or to hear complaints or charges brought against the employee by another person  
8 ~~or employee unless the employee complained of requests a public hearing. The body may~~  
9 ~~exclude from any such public meeting, and shall exclude from any such closed meeting,~~  
10 ~~during the comments of a complainant, any or all other complainants in the matter. If the~~  
11 employee, who is the subject of the discussion, requests a public hearing the hearing shall be  
12 public.<sup>34</sup> The term "employee" as used in this section shall not include any elected official,  
13 member of a policy body or applicant for such a position, or person providing services to the  
14 City as an independent contractor or the employee thereof, including but not limited to  
15 independent attorneys or law firms providing legal services to the City for a fee rather than a  
16 salary.

17 (c) Notwithstanding section (b), an Executive Compensation Committee established  
18 pursuant to a Memorandum of Understanding with the Municipal Executives Association may  
19 meet in closed session when evaluating the performance of an individual officer or employee  
20 subject to that Memorandum of Understanding or when establishing performance goals for  
21 such an officer or employee where the setting of such goals requires discussion of that  
22 ~~individual's~~individual's performance.

25 <sup>33</sup> Revised to be consistent with the Brown Act.

<sup>34</sup> Revision to clarify public employee's right to a public hearing.

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1 (d) Based on advice of its legal counsel, and on a motion and vote in open session to  
2 assert the attorney-client privilege, to confer with, or receive advice from, its legal counsel  
3 regarding pending litigation when discussion in open session concerning those matters would  
4 likely and unavoidably prejudice the position of the City in that litigation. Litigation shall be  
5 considered pending when any of the following circumstances exist:

6 (1) An adjudicatory proceeding before a court, administrative body exercising its  
7 adjudicatory authority, hearing officer, or arbitrator, to which the City is a party, has been  
8 initiated formally; or,

9 (2) A point has been reached where, in the opinion of the policy body on the advice of  
10 its legal counsel, based on existing facts and circumstances, there is a significant exposure to  
11 litigation against the City, or the body is meeting only to decide whether a closed session is  
12 authorized pursuant to that advice or, based on those facts and circumstances, the body has  
13 decided to initiate or is deciding whether to initiate litigation.

14 (3) A closed session may not be held under this section to consider the qualifications or  
15 engagement of an independent contract attorney or law firm, for litigation services or  
16 otherwise.

17 (e) With the City's City's designated representatives regarding matters within the scope  
18 of collective bargaining or meeting and conferring with public employee organizations when a  
19 policy body has authority over such matters.

20 (1) Such closed sessions shall be for the purpose of reviewing the City's City's position  
21 and instructing its designated representatives and may take place solely prior to and during  
22 active consultations and discussions between the City's City's designated representatives and  
23 the representatives of employee organizations or the unrepresented employees. A policy body  
24 shall not discuss compensation or other contractual matters in closed session with one or  
25 more employees directly interested in the outcome of the negotiations.

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1 (2) In addition to the closed sessions authorized by subsection 67.10(e)(1), a policy  
2 body subject to Government Code Section 3501 may hold closed sessions with its designated  
3 representatives on mandatory subjects within the scope of representation of its represented  
4 employees, as determined pursuant to Section 3504. (Added by Ord. 265-93, App. 8/18/93;  
5 amended by Ord. 37-98, App. 1/23/98; Proposition G, 11/2/99)  
6

7 **SECTION 67.11. STATEMENT OF REASONS FOR CLOSED SESSIONS.**

8 Prior to any closed session, a policy body shall state the general reason or reasons for  
9 the closed session, and shall cite the statutory authority, including the specific section and  
10 subdivision, or other legal authority under which the session is being held. In the closed  
11 session, the policy body may consider only those matters covered in its statement. In the case  
12 of regular and special meetings, the statement shall be made in the form of the agenda  
13 disclosures and specifications required by Section 67.8 of this article. In the case of adjourned  
14 and continued meetings, the statement shall be made with the same disclosures and  
15 specifications required by Section 67.8 of this article, as part of the notice provided for the  
16 meeting.

17 In the case of an item added to the agenda as a matter of urgent necessity, the  
18 statement shall be made prior to the determination of urgency and with the same disclosures  
19 and specifications as if the item had been included in the agenda pursuant to Section 67.8 of  
20 this article. Nothing in this section shall require or authorize a disclosure of information  
21 prohibited by state or federal law. (Added by Ord. 265-93, App. 8/18/93; amended by  
22 Proposition G, 11/2/99)  
23

24 **SECTION 67.12. DISCLOSURE OF CLOSED SESSION DISCUSSIONS AND ACTIONS.**  
25

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1 (a) After every closed session, a policy body may in its discretion and in the public  
2 interest, disclose to the public any portion of its discussion that is not confidential under  
3 federal or state law, the Charter, or non-waivable privilege. The body shall, by motion and  
4 vote in open session, elect either to disclose no information or to disclose the information that  
5 a majority deems to be in the public interest. The disclosure shall be made through the  
6 presiding officer of the body or such other person, present in the closed session, whom he or  
7 she designates to convey the information.

8 (b) A policy body shall publicly report any action taken in closed session and the vote  
9 or abstention of every member present thereon, as follows:

10 (1) Real Property Negotiations: Approval given to a policy ~~body~~body's negotiator  
11 concerning real estate negotiations pursuant to Government Code Section 54956.8 shall be  
12 reported as soon as the agreement is final. If its own approval renders the agreement final,  
13 the policy body shall report that approval, the substance of the agreement and the vote  
14 thereon in open session immediately. If final approval rests with another party to the  
15 negotiations, the body shall disclose the fact of that approval, the substance of the agreement  
16 and the ~~body~~body's vote or votes thereon upon inquiry by any person, as soon as the other  
17 party or its agent has informed the body of its approval. If notwithstanding the final approval  
18 there are conditions precedent to the final consummation of the transaction, or there are  
19 multiple contiguous or closely located properties that are being considered for acquisition, the  
20 document referred to in subdivision (b) of this section need not be disclosed until the condition  
21 has been satisfied or the agreement has been reached with respect to all the properties, or  
22 both.

23 (2) Litigation: Direction or approval given to the ~~body~~body's legal counsel to  
24 prosecute, defend or seek or refrain from seeking appellate review or relief, or to otherwise  
25 enter as a party, intervenor or amicus curiae in any form of litigation as the result of a

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1 consultation pursuant to Government Code Section 54956.9 shall be reported in open session  
2 as soon as given, or at the first meeting after an adverse party has been served in the matter  
3 if immediate disclosure of the ~~City's~~City's intentions would be contrary to the public interest.

4 The report shall identify the adverse party or parties, any co-parties with the City, any existing  
5 claim or order to be defended against or any factual circumstances or contractual dispute  
6 giving rise to the ~~City's~~City's complaint, petition or other litigation initiative.

7 (3) Settlement: A policy body shall neither solicit nor agree to any term in a settlement  
8 which would preclude the release of the text of the settlement itself and any related  
9 documentation communicated to or received from the adverse party or parties. Any written  
10 settlement agreement and any documents attached to or referenced in the settlement  
11 agreement shall be made publicly available at least 10 calendar days before the meeting of  
12 the policy body at which the settlement is to be approved to the extent that the settlement  
13 would commit the City or a department thereof to adopting, modifying, or discontinuing an  
14 existing policy, practice or program or ~~otherwise acting other than to pay an amount of money~~  
15 ~~less than \$50,000 or more.~~<sup>35</sup> The agenda for any meeting in which a settlement subject to this  
16 section is discussed shall identify the names of the parties, the case number, the court, and  
17 the material terms of the settlement. Where the disclosure of documents in a litigation matter  
18 that has been settled could be detrimental to the ~~city's~~city's interest in pending litigation  
19 arising from the same facts or incident and involving a party not a party to or otherwise aware  
20 of the settlement, the documents required to be disclosed by subdivision (b) of this section  
21 need not be disclosed until the other case is settled or otherwise finally concluded.

22 (4) Employee Actions: Action taken to appoint, employ, dismiss, transfer or accept the  
23 resignation of a public employee in closed session pursuant to Government Code Section  
24 54957 shall be reported immediately in a manner that names the employee, the action taken  
25

<sup>35</sup> Revised to clarify. No substantive change intended.

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1 and position affected and, in the case of dismissal for a violation of law or of the policy of the  
2 City, the reason for dismissal. "Dismissal" within the meaning of this ordinance includes any  
3 termination of employment at the will of the employer rather than of the employee, however  
4 characterized. The proposed terms of any separation agreement shall be immediately  
5 disclosed as soon as presented to the body, and its final terms shall be immediately disclosed  
6 upon approval by the body.

7 (5) Collective Bargaining: Any collectively bargained agreement shall be made publicly  
8 available at least 15 calendar days before the meeting of the policy body to which the  
9 agreement is to be reported.

10 (c) Reports required to be made immediately may be made orally or in writing, but shall  
11 be supported by copies of any contracts, settlement agreements, or other documents related  
12 to the transaction that were finally approved or adopted in the closed session and that  
13 embody the information required to be disclosed immediately shall be provided to any person  
14 who has made a written request regarding that item following the posting of the agenda, or  
15 who has made a standing request for all such documentation as part of a request for notice of  
16 meetings pursuant to Government Code Sections 54954.1 or 54956.

17 (d) A written summary of the information required to be immediately reported pursuant  
18 to this section, or documents embodying that information, shall be posted by the close of  
19 business on the next business day following the meeting, in the place where the meeting  
20 agendas of the body are posted. (Added by Ord. 265-93, App. 8/18/93; amended by  
21 Proposition G, 11/2/99)

22 (e) For each agenda item of a policy body covered by this Ordinance that involves  
23 anticipated litigation, the City Attorney's Office or the policy body shall disclose at any time  
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1 requested and to any member of the public whether such anticipated litigation developed into  
2 litigation and shall identify the court, case number, and date the case was filed.<sup>36</sup>

3 (f) Review of Closed Session Justifications<sup>37</sup>

4 No later than 30 days following the effective date of this subsection.

5 (1) For each closed session, each public body shall maintain a record of the date and  
6 time of the closed session, the justification for the closed session and the subject matter  
7 discussed in closed session, and shall include all minutes, recordings or other records

8 (2) At least quarterly, a public body shall review the records of prior closed meetings.  
9 The review shall determine whether any part of the minutes, recordings or other records  
10 withheld from public access can now be made accessible to the public. If the public body  
11 determines that any part of the previously withheld materials can now be disclosed, it shall do  
12 so. Upon completion of a review, the body shall adopt a resolution stating that the body has  
13 conducted the review and that all information from closed meetings that can be made  
14 available to the public, as of the date of the review, has been made available. The resolution  
15 shall also state, as precisely as possible, when and under what circumstances any remaining  
16 withheld materials may be disclosed to the public.

17 (3) The Sunshine Commission is authorized to adopt any rules and regulations  
18 necessary to implement this section.

19  
20 **SECTION 67.13. BARRIERS TO ATTENDANCE PROHIBITED.**<sup>38</sup>

21  
22  
23 <sup>36</sup> Moved from old 67.8-1(b).

24 <sup>37</sup> New 67.12(f) provides a requirement for Policy Bodies to track and routinely review records of closed  
25 sessions to determine when those materials may be released to the public when justification for closed session  
no longer exists.

<sup>38</sup> Revised 67.13 – developed with assistance of representatives of Mayor's Office on Disability – provides  
for enhanced accommodations and time frames for requesting accommodations, applied to all policy bodies and  
not just boards and commissions enumerated in Charter.

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1 (a) No policy body shall conduct any meeting, conference or other function in any  
2 facility or in a manner that excludes persons on the basis of actual or presumed class identity  
3 or characteristics, or which is inaccessible to persons with ~~physical~~ disabilities, or where  
4 members of the public may not be present without making a payment or purchase. Whenever  
5 the Board of Supervisors, a board or commission enumerated in the charter, or any committee  
6 thereof anticipates that the number of persons attending the meeting will exceed the legal  
7 capacity of the meeting room, any public address system used to amplify sound in the  
8 meeting room shall be extended by supplementary speakers to permit the overflow audience  
9 to listen to the proceedings in an adjacent room or passageway, unless such supplementary  
10 speakers would disrupt the operation of a City office.

11 (b) ~~Each board and commission~~ All policy bodies enumerated in the charter shall  
12 provide sign language interpreters, assisted listening devices, or note-takers, or other needed  
13 accommodations for persons with disabilities at each regular meeting, provided that a request  
14 for such services is communicated to the secretary or clerk of the board or commission, at  
15 least 48 hours before the meeting, ~~except for Monday meetings, for which the deadline shall~~  
16 ~~be 4 p.m. of the last business day of the preceding week.~~ When requests for such services are  
17 made by a member or members of the public at least 72 hours prior to the meeting, - the  
18 policy body shall comply with the request. If the request is made less than 72 hours before  
19 the meeting the policy body should attempt to comply with the request, if possible.

20 (c) ~~Each board and commission~~ All policy bodies enumerated in the charter shall  
21 ensure that accessible seating for persons with disabilities, including those using wheelchairs,  
22 is made available for each regular and special meeting.

23 (d) ~~Each board and commission~~ All policy bodies enumerated in the charter shall  
24 include on the agenda for each regular and special meeting the following statement: "In order  
25 to assist the City's efforts to accommodate persons with severe allergies, environmental

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1 illnesses, multiple chemical sensitivity or related disabilities, attendees at public meetings are  
2 reminded that other attendees may be sensitive to various chemical based products. Please  
3 help the City accommodate these individuals."

4 (e) All Policy Bodies ~~The Board of Supervisors~~ shall seek to provide translators at  
5 each of its regular meetings and all meetings of its committees for each language requested,  
6 where the translation is necessary to enable ~~San Francisco residents~~ members of the public  
7 with limited English proficiency to participate in the proceedings provided that a request for  
8 such translation services is communicated to the Policy Body Clerk ~~of the Board of~~  
9 ~~Supervisors~~ at least 48 hours before the meeting. For meetings on a Monday or a Tuesday,  
10 the request must be made by noon of the last business day of the preceding week. The  
11 Policy Body Clerk ~~of the Board of Supervisors~~ shall first solicit volunteers from the ranks of  
12 City employees and/or from the community to serve as translators. If volunteers are not  
13 available the Policy Body Clerk ~~of the Board of Supervisors~~ may next solicit translators from  
14 non-profit agencies, which may be compensated. If these options do not provide the  
15 necessary translation services, the Policy Body Clerk may employ professional translators.  
16 The unavailability of a translator shall not affect the ability of the Policy Body ~~Board of~~  
17 ~~Supervisors~~ or its committees to deliberate or vote upon any matter presented to them. ~~In any~~  
18 ~~calendar year in which the costs to the City for providing translator services under this~~  
19 ~~subsection exceeds \$20,000, the Board of Supervisors shall, as soon as possible thereafter,~~  
20 ~~review the provisions of this subsection.~~

21 (f) Boards and Commissions enumerated in the charter shall, by 2010 broadcast all  
22 meetings held in City Hall on the San Francisco Government TV channel or its successor via  
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1 real-time audio streaming and/ or real-time audio/video streaming on the Internet. All other  
2 policy bodies are encouraged to broadcast their meetings similarly as feasible.<sup>39</sup>

3 (g) All policy bodies and passive meeting bodies shall comply with the guidelines  
4 and recommendations of the Mayor's Office of Disabilities Accessible Public Event Checklist.

5 Added by Ord. 265-93, App. 8/18/93; amended by Ord. 292-95, App. 9/8/95; Ord. 482-96,  
6 App. 12/20/96; Proposition G, 11/2/99)

7  
8 **SECTION 67.14. ~~TAPE RECORDING, FILMING AND STILL PHOTOGRAPHY.~~**<sup>40</sup>

9 (a) Any person attending an open and public meeting of a policy body or passive  
10 meeting body shall have the right to record the proceedings with an audio, ~~or video~~ and/or  
11 digital recorder or a still or motion picture camera, or to broadcast the proceedings, in the  
12 absence of a reasonable finding of the policy body that the recording or broadcast cannot  
13 continue without such noise, illumination or obstruction of view as to constitute a persistent  
14 disruption of the proceedings.

15 (b) ~~All Policy Bodies Each board and commission enumerated in the charter shall~~  
16 audio record each regular and special meeting, including closed sessions. Each such audio  
17 recording, and any other audio or video recording of a meeting of any other policy body made  
18 at the direction of the policy body, shall be a public record subject to inspection pursuant to  
19 the California Public Records Act (Government Code Section 6250 et seq.). These recordings  
20 shall be kept indefinitely by the City, and shall not be erased or destroyed unless the  
21 recordings are being transferred into a different format for archival or accessibility  
22 requirements, and shall not be erased or destroyed. Inspection of any such recording shall

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24 <sup>39</sup> New 67.13(f) provides that boards and commissions enumerated in the Charter shall broadcast their  
meetings on SFGTV by 2010 and encourages other policy bodies to do so.

25 <sup>40</sup> Revised 67.14 provides that in light of advances in technology, recordings of meetings shall be kept  
indefinitely; clarifies costs City can charge for making copies; and requires all policy bodies to digitally record  
meetings by 2010 and post recordings on their website within 3 days.

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1 be provided without charge on an appropriate play back device made available by the City;  
2 copies of any such recordings shall be provided upon request and payment for the actual cost  
3 of the medium on which the copy is recorded. Requests shall be made through the  
4 department, board, commission, task force, or committee whose meeting is recorded.  
5 Requests shall be completed in the order of receipt and no additional charges shall be  
6 assessed for expedited service.

7 (c) Closed session recordings, made pursuant to Section 67.14(b), shall be made  
8 available whenever all rationales for closing the session are no longer applicable. Recordings  
9 of closed sessions of bodies covered by this Ordinance wherein the justification for the closed  
10 session is "anticipated litigation" shall be released to the public in accordance with any of the  
11 following provisions: TWO years after the meeting if no litigation is filed; UPON EXPIRATION  
12 of the statute of limitations for the anticipated litigation if no litigation is filed; as soon as the  
13 controversy leading to anticipated litigation is settled or concluded.<sup>41</sup>

14 (d) All policy bodies shall be required to digitally record their meetings by 2010. Any such  
15 digital recordings that are made shall be posted on the policy bodies' website within three  
16 days. The City Administrator shall assist policy bodies in carrying out their duties under this  
17 subsection. (Added by Ord. 265-93, App. 8/18/93; amended by Proposition G, 11/2/99)

18  
19 **SECTION 67.15. PUBLIC TESTIMONY.**

20 (a) Every agenda for regular and special meetings shall provide an opportunity for  
21 members of the public to directly address a policy body on any items of interest to the public  
22 that isare within the policy body's subject matter jurisdiction, provided that no action shall be  
23 taken on any item not appearing on the agenda unless the action is otherwise authorized by  
24 Section 67.7(e) of this article. However, in the case of a meeting of the Board of Supervisors,

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<sup>41</sup> Moved from old 67.8-1(a).

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1 ~~the agenda need not provide an opportunity for members of the public to address the Board~~  
2 ~~on any item that has already been considered by a committee, composed exclusively of~~  
3 ~~members of the Board, at a public meeting wherein all interested members of the public were~~  
4 ~~afforded the opportunity to address the committee on the item, before or during the~~  
5 ~~committee's consideration of the item, unless the item has been substantially changed since~~  
6 ~~the committee heard the item, as determined by the policy body Board.~~<sup>42</sup>

7 (b) Every agenda for special-special meetings at which action is proposed to be  
8 taken on an item shall provide an opportunity for each member of the public to directly  
9 address the body concerning that item prior to action thereupon. However, in the case of a  
10 meeting of the Board of Supervisors, the agenda need not provide an opportunity for  
11 members of the public to address the policy body on any item that has already been  
12 considered by a committee, composed exclusively of members of the policy body, at a public  
13 meeting wherein all interested members of the public were afforded the opportunity to address  
14 the committee on the item, before or during the committee's consideration of the item, unless  
15 the item has been substantially changed since the committee heard the item, as determined  
16 by the policy body.<sup>43</sup>

17 (c) Time and Order of Public Speakers

18 A policy body shall adopt reasonable regulations to ensure that the intent of  
19 subdivisions (a) and (b) are carried out, including, but not limited to:

20 (1) regulations limiting the total amount of time allocated for public testimony on  
21 particular issues and for each individual speaker. Each policy body shall adopt a rule  
22 providing that each person wishing to speak on an item before the body at a regular or special  
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25 <sup>42</sup> Moved to subsection (b) below for consistency. No substantive change intended.

<sup>43</sup> Moved from subsection (a) above for consistency. No substantive change intended.

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1 meeting shall be permitted to be heard once for ~~up to a~~ minimum of three minutes per agenda  
2 item.<sup>44</sup>

3 (2) If the Chair of a meeting finds that a large number of speakers wish to speak on  
4 a particular item, the chair may reduce each individual speaker's time, but may not limit the  
5 time to less than two minutes per speaker. The Chair shall announce any modification of the  
6 three-minute minimum before public testimony on that item commences. The chair has  
7 discretion to provide extra time for those who need accommodation for an interpreter or  
8 because they have a disability.<sup>45</sup> Time limits shall be applied uniformly-consistently to  
9 members of the public wishing to testify.

10 (3). The Chair May Allow a Designated Speaker(s)<sup>46</sup>

11 (A). If allowed by the chair members of the public may, for any item which is  
12 agendized for adoption or discussion by any Policy Body, authorize a Designated  
13 Speaker or Speakers, who will present the arguments regarding an issue for adoption  
14 for up to 15 minutes, or for a time which is equal to the amount of time allowed to the  
15 Department or presenting party, excluding the time required to answer questions posed  
16 by the body. The Designated Speaker(s) and the Department or other presenting party  
17 for an item to be adopted shall be allowed to speak in summary for five minutes directly  
18 prior to the vote by a Policy Body.

19 (B). It shall be the responsibility of the designated speaker to file, with the  
20 Clerk or Secretary, a Request to Authorize a Designated Speaker prior to the  
21 commencement of an item and to guarantee that at least six members of the public,

24 <sup>44</sup> Revised to provide a minimum of three minutes public testimony in normal course.

25 <sup>45</sup> Clarifies circumstances and method by which chair may set public comment to less than three minutes  
but no less than two minutes.

<sup>46</sup> Creates new procedure for designated public speaker(s).

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1 present and prepared to speak, have designated their allotted speaking time to the  
2 requester.

3 (C). The Chair shall, by show of hands, determine that a designated speaker  
4 has the consent of six members of the public who are present and prepared, to speak  
5 on an issue, and shall announce the designated speaker(s).

6 (4) Rules for the Order of Speakers.<sup>47</sup>

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7 A chair shall accept public testimony in a fair and evenhanded way, without  
8 manipulation in the order of speakers, absent good cause. Each policy body shall adopt  
9 regulations for the order of speaking, which shall include but not be limited to the following:

10 (A) Speaker cards, when available and submitted, shall be used in the order  
11 of submission to designate the order of speakers, except that the chair may alternate  
12 "pro" and "con" speakers if they are designated on the forms.

13 (B) Members of the public who have not submitted speakers cards may form  
14 a line to speak and shall be called upon in the order of appearance at the front of the  
15 line, except that the chair may allow disabled or elderly-frail members of the public to  
16 speak out of turn.

17 (C) If a meeting is recessed, adjourned or the chair has ordered a break, the  
18 order of speakers from the previous session shall be maintained.

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

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<sup>47</sup> Provides additional guidance and limitations on order of speakers.

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

4 (f) Members of the public shall have access to all audio-visual equipment used by a  
5 department or Policy Body for presentations made to that policy body consistent with time  
6 limits provided in subsection (c). Prior notification in the agenda or public notice that a  
7 presentation will be made using audio/visual equipment or technology shall be provided,  
8 listing the specific equipment.<sup>48</sup> (Added by Ord. 265-93, App. 8/18/93; amended by  
9 Proposition G, 11/2/99)

11 SECTION 67.16. MINUTES.

12 (a) ~~The clerk or secretary of each board and commission enumerated in the~~  
13 ~~charter all policy bodies~~ shall record the minutes for each regular and special meeting of the  
14 ~~board or commission those bodies.~~<sup>49</sup>

15 (b) The minutes shall state the time the meeting was called to order, the names of  
16 the members attending the meeting, time of each member's arrival if after commencement of  
17 the meeting and the time of each member's departure if prior to the adjournment of the  
18 meeting, the roll call vote on each matter considered at the meeting, the time the board or  
19 commission began and ended any closed session, the names of the members and the  
20 names, and titles where applicable, of any other persons attending any closed session, a list  
21 of those members of the public who spoke on each matter if the speakers identified  
22 themselves, whether such speakers supported or opposed the matter, a brief summary of  
23 each person's statement during the public comment period for each agenda item, and the

25 <sup>48</sup> Explicitly provides public access to equipment used by city employees.

<sup>49</sup> Revised to provide that minimum minute requirements apply to all Policy Bodies.

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1 time the meeting was adjourned. Any person speaking during a public comment period may  
2 ~~supply submit a brief written summary comments~~ of their comments which that shall, if no  
3 more than 150 words, be included in the body of the minutes or attached to the minutes and  
4 noted in the item. The minutes shall also include the text of any resolution adopted by or  
5 modified by a policy body within the body of the minutes or as an attachment.<sup>50</sup>

6 (c) The draft minutes and any attachments thereto from of each meeting shall be  
7 posted on the policy body's website and be available for inspection and copying upon request  
8 no later than ten working days after the meeting. The officially adopted minutes shall be  
9 available for inspection and copying upon request no later than ten working days after the  
10 meeting at which the minutes are adopted. Upon request, minutes required to be produced  
11 by this section shall be made available in Braille ~~or increased type size~~ alternative formats for  
12 persons with disabilities. If real time captioning is provided at a meeting, if separable, it shall  
13 also be posted on the web site. The City Administrator shall assist policy bodies in carrying  
14 out their duties under this subsection.<sup>51</sup> (Added by Ord. 265-93, App. 8/18/93; amended by  
15 Proposition G, 11/2/99)

16  
17 **SECTION 67.17. PUBLIC COMMENT BY MEMBERS OF POLICY BODIES.**

18 Every member of a policy body retains the full constitutional rights of a citizen to  
19 comment publicly on the wisdom or propriety of government actions, including those of the  
20 policy body of which he or she is a member. Policy bodies shall not sanction, reprove or  
21 deprive members of their rights as elected or appointed officials for expressing their  
22 judgments or opinions, including those which deal with the perceived inconsistency of non-

23 \_\_\_\_\_  
24 <sup>50</sup> Provides increased information must be provided in the minutes to allow more information for public  
review, tracking and historical research purposes.

25 <sup>51</sup> Requires posting of draft minutes on policy body website, and in alternative formats where available, as  
well as posting of any real-time captioning provided at a meeting to improve public access and ability to monitor  
actions taken in public meetings.

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1 public discussions, communications or actions with the requirements of state or federal law or  
2 of this ordinance. Every member of a policy body shall be allowed to speak freely on any  
3 issue before the body subject only to time limits, which may be imposed on all members  
4 equally.<sup>32</sup> The release of specific factual information made confidential by state or federal law  
5 including, but not limited to, the privilege for confidential attorney-client communications, may  
6 be the basis for a request for injunctive or declaratory relief, of a complaint to the Mayor  
7 seeking an accusation of misconduct, or both. (Added by Ord. 265-93, App. 8/18/93;  
8 amended by Proposition G, 11/2/99)

9  
10 **SECTION 67.18. SUPERVISOR OF PUBLIC FORUMS**<sup>53</sup>

11 (a) Within three months of the enactment of this provision, the City Attorney's office  
12 shall establish a Supervisor of Public Forums position, which can at the discretion of the City  
13 Attorney be combined with the existing Supervisor of Public Records position mandated by  
14 Section 67.21 of the Ordinance.

15 (b) Any person may petition the Supervisor of Public Forums for a determination  
16 whether a Policy Body or Passive Meeting Body has violated any provision of Article II, Public  
17 Access to Meetings, of this Ordinance. The Supervisor of Public Forums shall inform the  
18 petitioner, as soon as possible and within 10 days, of its determination on whether a violation  
19 occurred. This determination shall be in writing. Upon determination by the Supervisor of  
20 Public Forums that a violation has occurred, the Supervisor of Public Forum shall immediately  
21 order the Policy Body or Passive Meeting Body to correct such violation as soon as possible,  
22 but no later than at its next meeting. If the Policy Body or Passive Meeting Body fails to

23  
24 <sup>52</sup> Revised to alleviate allegations of favoritism and provide equal opportunity for comment to body  
25 members.

<sup>53</sup> New 67.18 creates new Supervisor of Public Forums, consistent with existing provisions for Supervisor  
of Public Records.

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1 comply with any such order, the Supervisor of Public Forums shall notify the San Francisco  
2 Ethics Commission, Board of Supervisors, District Attorney, or the State Attorney General  
3 who shall take whatever measures they deem necessary and appropriate to insure  
4 compliance with the provision of this Ordinance. The Supervisor of Public Forums shall copy  
5 the Sunshine Commission on all correspondence pertaining to its duties under this  
6 subsection.

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