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Item No. 12

SUNSHINE ORDINANCE TASK FORCE
AGENDA PACKET CONTENTS LIST

Compliance and Amendments Committee

Date: February 27, 2024

Review of The Sunshine Ordinance Page:

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Completed by: C. Leger Date 2/13/24

*An asterisked item represents the cover sheet to a document that exceeds 25 pages.
The complete document is in the file.

ARTICLE I IN GENERAL

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 and new information technologies 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.

(d) The right of the people to know what their government and those acting on behalf of their government are doing is fundamental to democracy, and with very few exceptions, that right supersedes any other policy interest government officials may use to prevent public access to information. Only in rare and unusual circumstances does the public benefit from

allowing the business of government to be conducted in secret, and those circumstances must ~~should~~ be carefully and narrowly defined to prevent public officials from abusing their authority.

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

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

(g) Private entities and individuals and employees and officials of the City and County of San Francisco have rights to privacy that must be respected. However, when a person or entity is before a policy body or passive meeting body, that person, or entity and the public, have ~~has~~ the right to an open and public process.

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

SECTION 67.2. CITATION.

This ~~chapter~~ Chapter may be cited as the San Francisco Sunshine Ordinance.

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

**ARTICLE II
PUBLIC ACCESS TO MEETINGS**

- Sec. 67.3. Definitions.
- Sec. 67.4. Passive Meetings ~~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; ~~Regular for 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. ~~Video and Audio~~ Recording, Filming and Still Photography.
- Sec. 67.15. Public Testimony.
- Sec. 67.16. Minutes.
- Sec. 67.17. Public Comment By Members of Policy Bodies

SECTION 67.3. DEFINITIONS.

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

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

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

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

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

(3) Any ~~other~~ use of personal intermediaries, ~~or~~ communications media or other means that could enable permit a majority of the members of a policy 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 thereupon.

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

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

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

(C) The attendance of a majority of the members of a policy body at a purely social, recreational, or ceremonial occasion other than one sponsored or organized by or for the policy body itself, provided that a majority of the members of the policy body refrains from using the occasion to discuss any ~~business matter~~ within the subject matter jurisdiction of ~~this the~~ policy body. A meal gathering of a policy body before, during, or after a

~~business~~ meeting of the policy body is part of that meeting and shall be conducted only under circumstances that permit public access to hear and observe the discussion ~~of members~~. Such meetings shall not be conducted in restaurants or other locations accommodations where public access is possible only in consideration of making a purchase or ~~some~~ other payment of value.

~~(C-1)~~(D) The attendance of a majority of the members of a policy body at an open and noticed meeting of a standing committee of the policy body, provided that the members of the policy body who are not members of the standing committee attend only as observers.

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

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

(c) "Passive meeting body" shall mean:

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

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

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

(4) "Passive meeting body" shall not include a committee that consists solely of ~~City employees of the City and County of San Francisco~~ created by the initiative of a member of a policy body, the Mayor, or a department head;

(5) Notwithstanding the provisions of paragraph (4) above, "Passive meeting

body" shall include a committee that consists solely of employees of the City and County of San Francisco when such committee is reviewing, developing, modifying, or creating city policies or procedures relating to the public health, safety, or welfare or relating to services for the homeless.

(d) "Policy body" shall mean:

(1) The Board of Supervisors;

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

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

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

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

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

~~(6)(7)~~ Any advisory board, commission, committee, or council created by a federal, state, or local grant whose members are appointed by City officials, employees or agents.

(e) "Posting" shall mean the following, with respect to posting of notice and agendas of meetings of policy or passive meeting bodies:

(1) All notices and agendas for policy meeting bodies shall be posted at least three (3) business days in advance of the meeting on a centralized location on the City's website, where the date, time and place of each meeting is listed;

(2) All notices and agendas, if created, for passive meeting bodies shall be posted at least three (3) business days in advance of the meeting on a centralized location on the City's website, where the date, time and place of each meeting is listed;

(3) All agendas for policy bodies shall be posted at least three (3) business days in advance of the meeting on the policy body's website;

(4) All notices and/or agendas for policy or passive meeting bodies shall

also be posted at least three (3) business days in advance of the meeting at the main Library:
and:

(5) All notices and/or agendas shall be physically posted outside the meeting room as soon as practicable, but no later than one hour (1) before the scheduled start of each meeting.

SECTION 67.4. PASSIVE MEETINGS BODIES: CONDUCT OF BUSINESS.

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

~~(b)(1) Such gatherings must need not be formally noticed. Notice of the time, place and nature of the meeting shall be posted on the City's website with a contact person's name and contact information at least three business days prior to the scheduled meeting except on the City's website whenever possible, although the time, place and nature of the gathering shall be disclosed and be disclosed by mail, e-mail, or fax upon inquiry by a member of the public, and any. If an agenda actually is prepared in advance for the gathering, it shall be accessible to such inquirers as a public record provided upon request, and as practicable, posted with the notice.~~

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

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

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

~~(e)(5) Gatherings subject to this subsection include advisory committees or other~~

multimember bodies created in writing or by the initiative of, or otherwise primarily formed or existing to serve as a non-governmental advisor to, a member of a policy body, the Mayor, the City Administrator, a department head, or any elective officer, and social, recreational or ceremonial occasions sponsored or organized by or for a policy body to which a majority of the body has been invited. This subsection shall not apply to a committee which consists solely of employees of the City and County of San Francisco.

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

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~~(f)(b)~~ To the extent not inconsistent with state or federal law, a policy body shall ~~cause to be included~~ include in any contract with an entity that owns, operates or manages any property in which the City has or will have an ownership interest, including a mortgage, and on which the entity performs a government function related to the furtherance of health, safety or welfare, a requirement that any meeting of the governing board of the entity ~~to address~~ that addresses or otherwise takes up any matter relating to the property or its government related activities on the property, or performance under the contract or grant, be conducted as provided ~~under this section in Subdivision (a) of this section.~~ Records made available to the governing board relating to such matters shall be likewise available to the public, at a cost not to exceed the actual cost up to 10 cents per page, or at a higher actual cost as demonstrated in writing to such governing board.

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

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

SECTION 67.6. POLICY BODIES: CONDUCT OF BUSINESS; TIME AND PLACE FOR MEETINGS.

(a) Each policy body, ~~except for advisory bodies,~~ shall establish by resolution or motion the time and place for holding regular meetings.

~~(b) 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 residing on 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.~~

~~(b)(e)~~ If a regular meeting would otherwise fall on a holiday, it shall instead be held on the next business day, unless otherwise rescheduled in advance. 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 67.6(c), and mailed notice if sufficient time permits.

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

~~(d)(e)~~ Meetings of ~~passive meeting~~ bodies as specified in Section ~~67.3(d)~~ ~~67.6(d)(4)~~ of this article shall be preceded by notice delivered ~~personally or by mail, e-mail, or facsimile as reasonably requested~~ at least three (3) business days ~~72 hours~~ before the time of such meeting to each person who has requested, in writing, notice of such meeting. If the ~~advisory~~ body elects to hold regular meetings, it shall provide by bylaws, or whatever other rule is utilized by that ~~advisory~~ body for the conduct of its business, for the time and place for holding such regular meetings. ~~In such case, no notice of regular meetings, other than the posting of an agenda pursuant to Section 67.7 of this article in the place used by the policy body which it advises, is required.~~

~~(e)(f)~~ Special meetings of any policy body, ~~including advisory bodies that choose to establish regular meeting times,~~ may be called at any time by the presiding officer thereof or

by a majority of the members thereof, by delivering ~~personally or by mail~~ written notice to each member of such policy body and the local media who have requested written notice of special meetings in writing. Such notice ~~of a special meeting~~ shall be delivered personally or by mail, e-mail, or facsimile as requested so that it is delivered as described in (e) at least three (3) business days~~72 hours~~ before the time of such meeting as specified in the notice. The notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meetings. Such written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the presiding officer or secretary of the body or commission a written waiver of notice. ~~Such waiver may be given by telegram.~~ Such written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes. Each special meeting shall be held at the regular meeting place of the policy body except that the policy body may designate an alternate meeting place provided that such alternate location is specified in the notice of the special meeting; further provided that the notice of the special meeting of the policy body shall be given at least ten (10) calendar~~15~~ days prior to said special meeting being held at an alternate location. This provision shall not apply where the alternate ~~alternative~~ meeting location is ~~located~~ within the same building as the regular meeting place.

(f) Unless otherwise required by state or federal law or necessary to inspect real property or personal property that 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 policy bodies shall be held within the City and County of San Francisco.

~~(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(c), and mailed notice if sufficient time permits.~~

(g) The initial meeting of a newly established policy body shall be considered a regular meeting and notice of the time and location of the meeting shall be given at least ten

(10) calendar days prior to said initial meeting being held, and delivered personally or by mail, e-mail, or facsimile as requested.

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

(a) At least three (3) business days ~~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 the meeting. Agendas shall specify whether ~~for~~ each item of business ~~the proposed is subject to possible action or a statement the item is for discussion only.~~ If a specific action is proposed or contemplated, it shall be included in the agenda item. ~~In addition, a policy body shall post a current agenda on its Internet site at least 72 hours before a regular meeting.~~

(b) A description is meaningful 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. The description ~~shall~~ should be ~~brief,~~ concise and written in plain, easily understood English. It shall refer to any explanatory documents that have been provided to the policy body in connection with an agenda item, such as correspondence or reports. Such documents shall be posted with the agenda and made available for public inspection and copying at a location indicated on the agenda during normal office hours.

(c) The agenda shall specify the time and location of the regular meeting ~~and shall be posted in a location that is freely accessible to members of the public.~~

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

(e) Notwithstanding Subdivision (d), the policy body may take action on items

of business not appearing on the posted agenda under any of the following conditions:

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

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

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

(f) Each ~~board and commission~~ and policy body established under enumerated in the Charter shall ensure that agendas ~~for regular and special meetings are made available to speech and hearing impaired persons through telecommunications devices for the deaf, telecommunications relay services or equivalent systems, and, upon request, to sight impaired persons through Braille or enlarged type and other material related to or agendized for its~~ meetings are accessible to persons with disabilities. Upon request, materials shall be made available in alternative formats. Requests should be made to the Clerk of the Board of Supervisors or secretary of the policy body at least two (2) business days prior to the meeting. Requests for material in alternative formats made less than two (2) business days prior to the meeting shall be met when possible. All policy bodies and passive meeting bodies shall comply with the guidelines and recommendations of the Mayor's Office of Disabilities Accessible Public Event Checklist.

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

KNOW YOUR RIGHTS UNDER THE SUNSHINE LAW

(Charter for the City and County of San Francisco)

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. The Sunshine Law assures that deliberations are conducted before the people and that City operations are open to the people's review.

FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE SUNSHINE LAW OR TO REPORT A VIOLATION, CONTACT THE SUNSHINE COMMISSION ADMINISTRATORS~~SUNSHINE ORDINANCE TASK FORCE~~.

(h) Each agenda of a policy body covered by this ~~Sunshine~~ Ordinance shall include the address, area code and telephone number, facsimile fax number, e-mail address, and a contact person ~~person's name~~ for the Sunshine Commission ~~Sunshine Ordinance Task Force~~. Information on how to obtain a free copy of the Sunshine Ordinance shall be included on each agenda.

(i) Each agenda of a policy body shall state that members of the public may submit statements and/or comments regarding any item on such body's meeting agenda; those statements or comments shall become a public record, regardless of whether their authors are present when the item at issue is discussed. The policy body may review and consider those statements or comments if received before or during the discussion of the item. Statements or comments received within ten business days after the meeting shall be included in the public record with a notation as to when they were received, though decisions shall not be affected by receipt thereof.

Section 67.7-1. PUBLIC NOTICE REQUIREMENTS.

(a) Any public notice that is mailed, posted, or published by a City department, board, agency, or commission to residents residing within a specific area to inform those residents of a matter that may impact their property or that neighborhood area, shall be brief,

concise and written in plain, easily understood English.

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

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

SECTION 67.8. AGENDA DISCLOSURES: CLOSED SESSIONS.

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

(a) With respect to every item of business to be discussed in closed session pursuant to Government Code section 54956.9 (a), each agenda item that involves existing litigation shall identify the court, case number, and date the case was filed on the written agenda.

~~(b)(a) In addition to the brief general description of items to be discussed or acted upon in open and public session, the agenda posted pursuant to Government Code Section 54054.2, any mailed notice given pursuant to Government Code Section 54054.1, and any call and notice delivered to the local media and posted pursuant to Government Code Section 54056 shall specify and disclose the nature of any closed sessions by providing all of the following information:~~ With respect to every item of business to be discussed in closed session pursuant to Government Code section 54957:

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~~(1) With respect to a closed session held pursuant to Government Code~~

Section 54956.7:

~~LICENSE/PERMIT DETERMINATION:~~

~~applicant(s)~~

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

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

~~CONFERENCE WITH REAL PROPERTY NEGOTIATOR~~

~~Property:~~

~~Person(s) negotiating:~~

~~Under negotiation:~~

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

~~The space under "Property" shall be used to list an address, including cross streets where applicable, or other description or name which permits a reasonably ready identification of each parcel or structure subject to negotiation. The space under "Person(s) negotiating" shall be used to identify the person or persons with whom negotiations concerning that property are in progress. The spaces under "Under negotiation" shall be checked off as applicable to indicate which issues are to be discussed.~~

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

~~CONFERENCE WITH LEGAL COUNSEL~~

~~Existing litigation:~~

~~Unspecified to protect service of process~~

~~Unspecified to protect settlement posture~~

~~or:~~

~~CONFERENCE WITH LEGAL COUNSEL~~

~~Anticipated litigation:~~

~~As defendant As plaintiff~~

~~The space under "Existing litigation" shall be used to specifically identify a case under discussion pursuant to subdivision (a) of Government Code Section 54956.9, including~~

~~the case name, court, and case number, unless the identification would jeopardize the City's ability to effectuate service of process upon one or more unserved parties, in which instance the space in the next succeeding line shall be checked, or unless the identification would jeopardize the City's ability to conclude existing settlement negotiations to its advantage, in which instance the space in the next succeeding line shall be checked. If the closed session is called pursuant to subdivision (b) or (c) of Section 54956.0, the appropriate space shall be checked under "Anticipated litigation" to indicate the City's anticipated position as defendant or plaintiff respectively. If more than one instance of anticipated litigation is to be reviewed, space may be saved by entering the number of separate instances in the "As defendant" or "As plaintiff" spaces or both as appropriate.~~

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

~~THREAT TO PUBLIC SERVICES OR FACILITIES~~

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

~~or:~~

~~PUBLIC EMPLOYEE APPOINTMENT/HIRING~~

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

~~PUBLIC EMPLOYEE PERFORMANCE EVALUATION~~

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

~~or:~~

~~PUBLIC EMPLOYEE DISMISSAL/DISCIPLINE/RELEASE~~

~~Number of employees affected:~~

~~or:~~

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

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CONFERENCE WITH NEGOTIATOR

– COLLECTIVE BARGAINING

Name and title of City's negotiator:

Organization(s) representing:

Police officers, firefighters and airport police

Transit Workers

Nurses

Miscellaneous Employees

Anticipated issue(s) under negotiation:

Wages Hours

Benefits

Working Conditions

Other (specify if known)

All

Where renegotiating a memorandum of understanding or negotiating a successor memorandum of understanding, the name of the memorandum of understanding:

In case of multiple items of business under the same category, lines may be added and the location of information may be reformatted to eliminate unnecessary duplication and space, so long as the relationship of information concerning the same item is reasonably clear to the reader. As an alternative to the inclusion of lengthy lists of names or other information in the agenda, or as a means of adding items to an earlier completed agenda, the agenda may incorporate by reference separately prepared documents containing the required information, so long as copies of those documents are posted adjacent to the agenda within the time periods required by Government Code Sections 54954.2 and 54956 and provided with any mailed or delivered notices required by Sections 54954.1 or 54956.

~~SECTION 67.8-1. ADDITIONAL REQUIREMENTS FOR CLOSED SESSIONS.~~

~~(a) All closed sessions of any policy body covered by this Ordinance shall be either audio recorded or audio and video recorded in their entirety and all such recordings shall be retained for at least TEN years, or permanently where technologically and economically feasible. Closed session recordings shall be made available whenever all rationales for closing the session are no longer applicable. Recordings of closed sessions of a policy body covered by this Ordinance, wherein the justification for the closed session is due to "anticipated litigation" shall be released to the public in accordance with any of the following~~

provisions: ~~TWO~~ years after the meeting if no litigation is filed; ~~UPON EXPIRATION~~ of the statute of limitations for the anticipated litigation if no litigation is filed; as soon as the controversy leading to anticipated litigation is settled or concluded.

(b) ~~Each agenda item for a policy body covered by this ordinance that involve existing litigation shall identify the court, case number, and date the case was filed on the written agenda. For each agenda item for a group covered by this ordinance that involves anticipated litigation, the City Attorney's Office or the policy body shall disclose at any time requested and to any member of the public whether such anticipated litigation developed into litigation and shall identify the court, case number, and date the case was filed.~~

SECTION 67.9. AGENDAS AND RELATED MATERIALS: PUBLIC RECORDS.

(a) Agendas of meetings, meeting packets, public records created by a department, or and any other records documents on file with the clerk or secretary of the policy body, when intended for distribution to all, or a majority of all, of the members of a policy body in connection with a matter anticipated for discussion or consideration at a public meeting shall be made available to the public for inspection and copying at the office of the policy body at least 48 hours before the hearing. To the extent possible, such documents shall also be made available through the policy body's Internet site. However, this disclosure need not include any material exempt from public disclosure under this ordinance. Unless demonstrably unfeasible, these materials shall be made available on the policy body's web site, at least 48 hours prior to the meeting. Public review copies of the agenda and all related documents that constitute the meeting packet shall be made available at the meeting to the public in sufficient quantities commensurate with the anticipated number of people attending the hearing. The materials that are distributed at the hearing shall be clearly legible.

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

~~amending a document at a meeting. Records which are subject to disclosure under subdivision (a) and which are intended for distribution to a policy body prior to commencement of a public meeting shall be made available for public inspection and copying upon request prior to commencement of such meeting, whether or not actually distributed to or received by the body at the time of the request.~~

Commented [3]: deleted language before or after additional language of same section?

~~(e) Records which are subject to disclosure under subdivision (a) and which are distributed during a public meeting but prior to commencement of their discussion shall be made available for public inspection prior to commencement of, and during, their discussion.~~

(cd) Records ~~that which~~ are intended for distribution or are distributed prior to or during subject to disclosure under subdivision (a) and which are distributed during their discussion a public meeting to members of a policy body shall be made available for public inspection immediately upon request or as soon thereafter as is practicable whether or not actually distributed to or received by the body at the time of the request.

~~(e) A policy body may charge a duplication fee of one cent per page for a copy of a public record prepared for consideration at a public meeting, unless a special fee has been established pursuant to the procedure set forth in Section 67.28(d). Neither this section nor the California Public Records Act (Government Code sections 6250 et seq.) shall be construed to limit or delay the public's right to inspect any record required to be disclosed by that act, whether or not distributed to a policy body.~~

SECTION 67.10. CLOSED SESSIONS: PERMITTED TOPICS.

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

(a) With the California Attorney General, District Attorney, agency counsel, security consultant, Sheriff, or Chief of Police, or their respective deputies, on matters posing a threat to the security of public buildings or a threat to the public's right of access to public services or public facilities.

(b) To consider the appointment, employment, evaluation of performance, or dismissal of a City employee, if the policy body has the authority to appoint, employ, or dismiss the employee, or to hear complaints or charges brought against the employee by

~~another person or employee unless the employee complained of requests a public hearing. The body may exclude from any such public meeting, and shall exclude from any such closed meeting, during the comments of a complainant, any or all other complainants in the matter. If the employee, who is the subject of the discussion, requests a public hearing, the hearing shall be public.~~ The term "employee" as used in this section shall not include any elected official, member of a policy body or applicant for such a position, or person providing services to the City as an independent contractor or the employee thereof, including but not limited to independent attorneys or law firms providing legal services to the City for a fee rather than a salary.

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

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

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

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

(3) A closed session may not be held under this section to consider the

qualifications or engagement of an independent contract attorney or law firm, for litigation services or otherwise.

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

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

(2) In addition to the closed sessions authorized by subsection 67.10(e)(1), a policy body subject to Government Code Section 3501, as amended at any time or any of its successor provisions thereto, may hold closed sessions with its designated representatives on mandatory subjects within the scope of representation of its represented employees, as determined pursuant to Section 3504.

SECTION 67.11. STATEMENT OF REASONS FOR CLOSED SESSIONS.

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

(b) In the case of an item added to the agenda as a matter of urgent necessity, the statement shall be made prior to the determination of urgency and with the same

disclosures and specifications as if the item had been included in the agenda pursuant to Section 67.8 of this article. Nothing in this section shall require or authorize a disclosure of information prohibited by state or federal law.

SECTION 67.12. DISCLOSURE OF CLOSED SESSION DISCUSSIONS AND ACTIONS.

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

(b) A policy 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 given to a policy body's negotiator 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 policy body shall report that approval, the substance of the agreement and the vote thereon in open session immediately. If final approval rests with another party to the negotiations, the body shall disclose the fact of that approval, the substance of the agreement and the body's vote or votes thereon upon inquiry by any person, as soon as the other party or its agent has informed the body of its approval. If notwithstanding the final approval there are conditions precedent to the final consummation of the transaction, or there are multiple contiguous or closely located properties that are being considered for acquisition, the document referred to in subdivision (b) of this section need not be disclosed until the condition has been satisfied or the agreement has been reached with respect to all the properties, or both.

(2) Litigation: Direction or approval given to the body's legal counsel to prosecute, defend or 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 pursuant to 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 City's intentions would be contrary to the public interest. The report shall identify the adverse party or parties, any co-parties with the City, any existing claim or order to be defended against or any factual circumstances or contractual dispute giving rise to the City's complaint, petition or other litigation initiative.

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

(4) Employee Actions: Action taken to appoint, employ, dismiss, transfer or accept the resignation of a public employee in closed session pursuant to Government Code Section 54957 shall be reported immediately in a manner that names the employee, the action taken and position affected and, in the case of dismissal for a violation of law or of the policy of the City, the reason for dismissal. "Dismissal" within the meaning of this eOrdinance includes any termination of employment at the will of the employer rather than of the employee, however characterized. The proposed terms of any separation agreement shall be

immediately disclosed as soon as presented to the body, and its final terms shall be immediately disclosed upon approval by the body.

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

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

(d) A written summary of the information required to be immediately reported pursuant to this section, or documents embodying that information, shall be posted by the close of business on the next business day following the meeting, in the place where the meeting agendas of the body are posted.

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

(f) Review of Closed Session Justifications

No later than 30 calendar days following the effective date of this subsection,

(1) For each closed session, each public body shall maintain a record of the date and time of the closed session, the justification for the closed session and the subject matter discussed in closed session, as well as all minutes, recordings or other records related to the closed session.

(2) At least quarterly, a public body shall review the records of prior closed meetings. The review shall determine whether any part of the minutes, recordings or other records withheld from public access can now be made accessible to the public. If the public

body determines that any part of the previously withheld materials can now be disclosed, it shall do so, and identify in the body's minutes past closed session materials that are now disclosable. Upon completion of a review, the body shall adopt a resolution stating that the body has conducted the review and that all information from closed meetings that can be made available to the public, as of the date of the review, has been made available. The resolution shall also state, as precisely as possible, when and under what circumstances any remaining withheld materials may be disclosed to the public.

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

Commented [4]: this is an authorization that might need to be done another way, possibly in Charter?

SECTION 67.13. BARRIERS TO ATTENDANCE PROHIBITED.

(a) No policy body shall conduct any meeting, conference or other function in any facility or in a manner that excludes persons on the basis of actual or presumed class identity or characteristics, or 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 the Board of Supervisors, a board or commission enumerated in the Charter, or any committee thereof anticipates that the number of persons attending the meeting will exceed the legal capacity of the meeting room, any public address system used to amplify sound in the meeting room shall be extended by supplementary speakers to permit the overflow audience to listen to the proceedings in an adjacent room or passageway, unless such supplementary speakers would disrupt the operation of a City office.

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

hours before the meeting, the policy body should attempt to comply with the request, if possible.

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

(d) All policy bodies ~~Each board and commission enumerated in the Charter~~ shall include on the agenda for each regular and special meeting the following statement: "In order to assist the City's efforts to accommodate persons with severe allergies, environmental illnesses, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City accommodate these individuals."

(e) All policy bodies ~~The Board of Supervisors~~ shall seek to provide translators at each of their ~~its~~ regular meetings and all meetings of their ~~its~~ committees for each language requested, where the translation is necessary to enable members of the public ~~San Francisco residents~~ with limited English proficiency to participate in the proceedings provided that a request for such translation services is communicated to the policy body ~~Clerk of the Board of Supervisors~~ at least forty-eight (48) hours before the meeting. For meetings on a Monday or a Tuesday, the request must be made by noon of the last business day of the preceding week. The policy body ~~Clerk of the Board of Supervisors~~ shall first solicit volunteers from the ranks of City employees and/or from the community to serve as translators. If volunteers are not available, the policy body ~~Clerk of the Board of Supervisors~~ may next solicit translators from non-profit agencies, which may be compensated. If these options do not provide the necessary translation services, the policy body ~~Clerk~~ may employ professional translators.

The unavailability of a translator shall not affect the ability of the policy body ~~Board of Supervisors~~ or its committees to deliberate or vote upon any matter presented to them. ~~In any calendar year in which the costs to the City for providing translator services under this subsection exceeds \$20,000, the Board of Supervisors shall, as soon as possible thereafter, review the provisions of this subsection.~~

(f) Each policy body shall, within six (6) months of passage of this amended

Ordinance, broadcast all meetings held in City Hall on the San Francisco Government TV channel (or its successor) or on the City's website via real-time audio streaming and/or real-time audio/video streaming. All other policy bodies are encouraged to broadcast their meetings similarly as feasible.

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

SECTION 67.14. ~~VIDEO AND AUDIO~~RECORDING, FILMING AND STILL PHOTOGRAPHY.

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

(b) All policy bodies ~~Each board and commission enumerated in the Charter~~ shall audio record each regular and special meeting, including closed sessions. Each such audio recording, and any other audio or video recording of a meeting of ~~any other policy body~~ made at the direction of the policy body, shall be a public record subject to inspection pursuant to the California Public Records Act (Government Code Section 6250 et seq.). These recordings shall be kept indefinitely by the City, and shall not be erased or destroyed unless the recordings are being transferred into a different format for public access, archival or retrieval requirements, and shall not be erased or destroyed. Inspection and playback of any such recording shall be provided without charge on an appropriate play back device made available by the City; copies of any such recordings shall be provided upon request and payment for the actual cost of the medium on which the copy is recorded. Requests shall be made through the department, board, commission, task force, or committee whose meeting is recorded. Requests shall be completed in the order of receipt, and no additional charges shall be assessed for expedited service.

(c) Closed session recordings, made pursuant to Section 67.14(b), shall be made

available whenever all rationales for closing the session are no longer applicable. Audio recordings of closed sessions of bodies covered by this Ordinance wherein the justification for the closed session is "anticipated litigation" shall be released to the public in accordance with any of the following provisions: two years after the meeting if no litigation is filed; upon expiration of the statute of limitations for the anticipated litigation if no litigation is filed; as soon as the controversy leading to anticipated litigation is settled or concluded.

(d)(e) — Every City policy body, agency or department shall audio or video record every noticed regular meeting, special meeting, or hearing open to the public held in a City Hall hearing room that is equipped with audio or video recording facilities, except to the extent that such facilities may not be available for technical or other reasons. Each such audio or video recording shall be a public record subject to inspection pursuant to the California Public Records Act (Government Code Section 6250 et seq.), and shall not be erased or destroyed, unless the recordings are being transferred into a different format for public access retrieval or archival requirements. The City shall make such audio or video recording available in digital form at a centralized location on the City's web site (www.sfgov.org) within seventy-two (72) hours of the date of the meeting or hearing and for a period of at least two years after the date of the meeting or hearing. Inspection of any such recording shall also be provided without charge on an appropriate play back device made available by the City. This subsection (d)(e) shall not be construed to limit or in any way modify the duties created by any other provision of this article, including but not limited to the requirements for recording closed sessions as stated in subsection (c) Section 67.8-1 and for recording meetings of policy bodies boards and commissions enumerated in the Charter as stated in subsection (b) above.

SECTION 67.15. PUBLIC TESTIMONY.

(a) Every agenda for regular and special meetings shall provide an opportunity for members of the public to directly address a policy body on any items of interest to the public that ~~is~~ are within the policy 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 Section 67.7(e) of this article. This provision shall apply to all meetings of the

Board of Supervisors and its committees. The public shall have the right to comment on amendments suggested by a staff presentation at a public hearing or that a member of a policy body had ready to introduce at the hearing. ~~However, in the case of a meeting of the Board of Supervisors, the agenda need not provide an opportunity for members of the public to address the Board on any item that has already been considered by a committee, composed exclusively of members of the Board, at a public meeting wherein all interested members of the public were afforded the opportunity to address the committee on the item, 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 policy body.~~

(b) Every agenda for ~~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 prior to action thereupon. However, in the case of a meeting of the Board of Supervisors, the agenda need not provide an opportunity for members of the public to address the Supervisors on any item that has already been considered by a committee, composed exclusively of members of the Board, at a public meeting wherein all interested members of the public were afforded the opportunity to address the committee on the item, 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 Board. However, nothing in this subsection is intended to exempt Board of Supervisors committees from the general public comment requirements under subsection (a). All policy and advisory bodies, including but not limited to those enumerated in the City Charter, who meet jointly shall take public comment separately on any and all matters on which they are acting separately.

(c) Time and Order of Public Speakers

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

(1) ~~regulations limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker.~~ Each policy body shall adopt a rule

providing that each person wishing to speak on an item before the body at a regular or special meeting shall be permitted to be heard at least once for up to a minimum of three (3) minutes per agenda item.

(2) If the chair of a meeting finds that a large number of speakers wish to speak on a particular item, the chair may reduce each speaker's time, but not to less than two (2) minutes per speaker. The chair shall announce any modification of the three-minute minimum before public testimony on that item commences. The chair has discretion to provide extra time for those who need accommodation for an interpreter or a disability. Time limits shall be applied uniformly consistently to members of the public wishing to testify.

(3) Rules for the Order of Speakers.

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

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

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

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

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

(e) To facilitate public input, any agenda changes or continuances shall be announced by the presiding officer of a policy body at the beginning of a meeting, or as soon

thereafter as the change or continuance becomes known to such presiding officer.

(f) Members of the public shall have access to all audio-visual equipment used by a department or policy body for presentations made to that policy body consistent with time limits provided in subsection (c). To the extent feasible, prior notification in the agenda or public notice that a presentation will be made using audio/visual equipment or technology shall be provided, listing the specific equipment.

SECTION 67.16. MINUTES.

(a) The clerk or secretary of each board and commission enumerated in the Charter all policy bodies shall record the minutes for each regular and special meeting of those bodies the board or commission.

(b) The minutes shall state the time the meeting was called to order, the names of the members attending the meeting, time of each member's arrival if after commencement of the meeting and the time of each member's departure if prior to the adjournment of the meeting, the roll call vote on each matter considered at the meeting, the time, based on a meeting-start time of 0:00, that the policy body began and ended discussion and action on each item on the agenda, the time the policy body board or commission began and ended any closed session, the names of the members and the names, and titles where applicable, of any other persons attending any closed session, a list of those members of the public who spoke on each matter if the speakers identified themselves, whether such speakers supported or opposed the matter, a brief summary of each person's statement during the public comment period for each agenda item, and the time the meeting was adjourned. Any person speaking during a public comment period may submit supply a brief written comments summary of their comments which to be attached to the minutes and noted in the item. that shall, if If no more than one hundred fifty (150) words, the comments shall be included in the body of the minutes in the section dealing with that item or matter. The minutes shall also include the text of any resolution adopted by or modified by a policy body within the body of the minutes or as an attachment.

(c) The draft minutes and any attachments thereto from of each meeting shall be

posted on the policy body's website and be available for inspection and copying upon request no later than five (5) business ~~ten~~ working days after the meeting. The officially adopted minutes shall be available for inspection and copying upon request no later than five (5) business ~~ten~~ working days after the meeting at which the minutes are adopted. Upon request, minutes required to be produced by this section shall be made available in ~~Braille or increased type size~~ alternative formats for persons with disabilities.

SECTION 67.17. PUBLIC COMMENT BY MEMBERS OF POLICY BODIES.

Every member of a policy body retains the full constitutional rights of a citizen to comment publicly on the wisdom or propriety of government actions, including those of the policy body of which he or she is a member. Policy bodies shall not sanction, reprove or deprive members of their rights as elected or appointed officials for expressing their judgments or opinions, including those which deal with the perceived inconsistency of non-public discussions, communications or actions with the requirements of state or federal law or of this Ordinance. Every member of a policy body shall be allowed to speak freely on any issue before the body subject only to time limits, which shall be imposed on all members equally. The release of specific factual information made confidential by state or federal law including, but not limited to, the privilege for confidential attorney-client communications, may be the basis for a request for injunctive or declaratory relief, of a complaint to the Mayor seeking an accusation of misconduct, or both.

ARTICLE I – IN GENERAL

67.1 Findings and Purpose

- (c) “and new information technologies” added.
- (e) Sunshine Task Force is changed to Sunshine Commission here and throughout.

ARTICLE II – PUBLIC ACCESS TO MEETINGS

67.3 Definitions

- (b) Meetings of Policy Bodies clarified.
- (c) Passive Meeting Bodies clarified.
- (d) Policy Body redefined, clarified.
- (e) Posting of Notice and Agenda requirements for Policy Bodies and Passive Meeting Bodies.

(1-2) Establishes a centralized location for notices and agendas on the City’s website for posting all meeting dates, times and places. Requires such postings 3 business days in advance of any meeting.

(3) Agendas for policy bodies must be posted on the bodies’ website 3 business days in advance of a meeting.

(4) Agendas for passive bodies must be posted at the Main Library 3 business days in advance.

(5) Notices and agendas must be posted outside the room where the meeting is to take place as soon as practicable, but no later than 1 hour before a meeting.

67.4 Passive Meeting Bodies: Conduct of Business

- (a) Accessibility clarified. Locations must have sufficient capacity, facilities, furniture and equipment.
- (b) Notice requirements: Mandatory on City website 3 business days prior; email, fax response on request. Agenda (if any) posted with Notice, available on request.

(c) Chair may provide for public comment.

(f) Closed sessions not permitted. [Not explicitly stated; 67.4(f)(6) was struck]

(f) Meetings involving City property or interest requirements [New (f); Several wording changes]

67.5 Meetings To Be Open and Public; Application of Brown Act

67.6 Policy Bodies: Time and Place for Meetings

(b) Requirement for meetings to be held in SF [Moved to (f)].

(b) Notice requirements for cancelled/rescheduled meetings.

(c) Time and Place for regularly held meetings bylaw requirement. Notice required 3 business days in advance.

(d) Notice of Meetings: 3 business days in advance.

(e) Special Meeting Notice requirements: 3 business days in advance, 10 days for different location.

(f) Meetings held within SF only. [Moved from 67.6 (b)]

(g) Initial Meetings: Notice requirements. [Cancelled/rescheduled meetings moved to 67.6 (b)].

67.7 Agenda Requirements for Meetings of Policy Bodies

(a) 72-hour requirement changed to 3 business days. Proposed actions must be included in agenda.

(c) Language about posting deleted.

(e) Continued items to be posted with prior agendas.

(f) Agendas available in alternative formats when requested 2 business days prior to meeting and must comply with the of the Mayor's Office of Disabilities Accessible Public Event Checklist.

(g) [Wording changes]

(h) [Wording changes]

(i) Pre-Meeting Public Comments to Be Circulated to Policy Body Members Prior to Meeting. Adds that each policy body's agenda shall state that members of the public may submit written statements and/or comments regarding any item on such body's meeting agenda, which statements or comments shall be promptly circulated to members of the policy body and shall become a public record, whether or not the authors are present when the item at issue is discussed. The policy body may review and consider those statements or comments if received before or during the discussion of the item. Additionally, written statements submitted up to 10 days following a policy body meeting will be incorporated into the public record of the meeting.

67.7-1 Public Notice Requirements

[Wording changes]

67.8 Agenda Disclosures: Closed Sessions

(a) Agendas to disclose nature of item. Existing litigated items shall disclose court, case number, and date the case was filed. Increased closed session agenda requirements by adding that each agenda item for a closed session of a policy body covered by this Ordinance that involves existing litigation shall identify the court, case number, and date the case was filed on the written agenda.

(b) (1-2-3) See 67.10

Commented [AMW1]: Some of the changes in this section are confusing to me—but likely not to others.

67.8-1 Additional Requirements for Closed Sessions [Moved to 67.12(e)]

67.9 Agendas and Related Materials: Public Records

(a) Agendas, meeting packets, and any public records (e.g., presentations), created by a department or any other records on file with the clerk or secretary of the policy body, when intended for distribution to all, or a majority of the members of a policy body in connection with a matter anticipated for discussion or consideration at a public meeting, shall be made available to the public for inspection and copying at the office of the policy body at least 48 hours before the meeting. Unless demonstrably unfeasible these materials shall also be made available on the policy body's web site.

(b) If any document or other written instrument subject to adoption, approval or award by a policy body is not available at least 48 hours before the meeting at which that document is scheduled to be adopted, approved or awarded and a member of the policy body requests that the matter be continued, the policy body must continue the item to a time not less than 48 hours after the document was made available.

(c) Materials meant to be distributed to members of a policy body prior to or during a meeting shall be available on request to the public.

67.10 Closed Sessions: Permitted Topics

(a) [Wording changes]

(b) If a City employee subject to appointment, employment, evaluation of performance, or dismissal of a City employee requests a public hearing it shall be public.

67.11 Statement of Reasons for Closed Sessions

67.12 Disclosure of Closed Session Discussions and Actions

(e) Anticipated litigation: for each agenda item of a policy body covered by this Ordinance that involves anticipated litigation, the City Attorney's Office or the policy body shall disclose at any time requested and to any member of the public whether such anticipated litigation developed into litigation and shall identify the court, case number, and date the case was filed.

(f) Review of Closed Session Justifications

(1) Each public body shall maintain a record of the date and time of the closed session, the justification for the closed session and the subject matter discussed in closed session, as well as all minutes, recordings or other records related to the closed session.

(2) Policy Bodies Must Review Prior Closed Sessions Quarterly and Determine if Previously Withheld Records Can Be Disclosed

At least quarterly, a public body shall review the records of prior closed sessions. The review shall determine whether any part of the minutes, recordings or other records withheld from public access have become accessible to the public. If the public body determines that any part of the previously withheld materials records is accessible, it shall do so, and identify in the policy body's minutes past closed session materials records that are now accessible.

67.13 Barriers to Attendance Prohibited

- (a) Term “physical” struck from “physical disabilities; other wording change
- (b) Accommodations for persons with disabilities shall be provided when requested 72 hours in advance.
- (c) [Wording change]
- (d) [Wording change]
- (e) Translations shall be provided if requested 48 hours in advance. Monday or Tuesday meetings requests must be made by noon of the last day of the week before the meeting.
- (f) Policy Bodies Meeting in City Hall Must Broadcast Its Meetings on SFGOV TV or Real-time Stream ^{1}_{SEP}
Each policy body that meets in City Hall shall broadcast on SFGOV TV or the City’s website via real-time audio streaming and/or real-time audio/video streaming. All other policy bodies are encouraged to broadcast their meetings similarly as feasible.
- (g) Meetings shall comply with the guidelines of the Mayor’s Office of Disabilities Accessible Public Event Checklist.

67.14 Recording, Filming and Still Photography

- (a) [Wording changes]
- (b) All policy bodies shall audio record each meeting, including special meetings and closed sessions. All recordings shall be kept indefinitely by the City. Copies shall be available at cost of the material; no expedited fees are allowed.
- (c) Recordings of Closed Sessions Shall Be Made Available Whenever the Statutory Basis No Longer Applicable
Closed session recordings, made pursuant to subdivision (b) shall be made available whenever all the statutory bases for closing the session are no longer applicable. Recordings of closed sessions of policy bodies wherein the legal basis for the closed session is “anticipated litigation” shall be fully accessible to the public upon the first to occur of (1): two years after the recorded session if no litigation is filed, (2) upon expiration of the statute of limitations for the anticipated litigation if no litigation is filed; and (3) as soon as the controversy leading to anticipated litigation is settled or concluded.
- (d) Recordings of meetings may not be destroyed unless the recordings are being transferred into a different format for public access retrieval or archival requirements.

67.15 Public Testimony

(a) [Wording changes]

(b) Moved from (a).

(c) Standardized rules for time and order of public speakers.

(1) Minimum of Three-Minute Public Comment Set for Each Agenda Item on a Policy Body's Agenda

Each person wishing to speak on an agenda item of a policy body meeting shall be permitted to be heard at least once for up to a minimum of three minutes per agenda item.

(2) The chair may limit time to 2 minutes if there are a large number of speakers. The chair may add additional time to accommodate a translator or a disability.

(3) Rules for the Order of Speakers [Detailed section with subsections (A), (B), and (C)]

(f) The public shall have access to all audio-visual equipment used by a department or policy body for presentations. Prior notification in the agenda or public notice that a presentation will be made using audio/visual equipment or technology shall be provided and list the equipment.

67.16 Minutes

(a) [Wording changes]

(b) Minutes shall include the time of arrival after commencement of the meeting and the time of each member's departure if prior to the adjournment of the meeting. The length of time for each item shall be recorded. Any person may submit written comments to be attached to the minutes and noted in the item. If no more than one hundred fifty (150) words, the comments shall be included in the body of the minutes in the section dealing with that item or matter. The minutes shall also include the text of any resolution adopted by or modified by a policy body within the body of the minutes or as an attachment.

(c) Draft minutes shall be available within 5 business days after a meeting on the body's website. Adopted minutes shall be available within 5 business days after the adoption.

67.17 Public Comment by Members of Policy Bodies

Every member of a policy body shall be allowed to speak freely on any issue before the body subject only to time limits, which shall be imposed on all members equally.

67.18 Prohibiting Disruptive Use of Cell Phones, Pagers and Similar Sound-Producing Electrical Devices at and During Public Meetings

Moved from 67.A.1

67.19 Supervisor of Public Forums

The City Attorney's office shall establish a Supervisor of Public Forums position, which may be combined with the existing Supervisor of Public Records position mandated by Section 67.38(e). The Supervisor of Public Forums will issue written determinations when requested regarding whether a body is a policy body or passive meeting body or whether a policy body or passive meeting body has violated any provision of Article II [Public Access to Meetings] or the Brown Act.

Commented [AMW2]: These were added for the 2016 version but later deleted by SF4S

For example, 67.19 is superfluous.

ARTICLE I – IN GENERAL

67.1 Findings and Purpose

- (c) “and new information technologies” added.
- (e) Sunshine Task Force is changed to Sunshine Commission here and throughout.

ARTICLE II – PUBLIC ACCESS TO MEETINGS

67.3 Definitions

- (b) Meetings of Policy Bodies clarified.
- (c) Passive Meeting Bodies clarified.
- (d) Policy Body redefined, clarified.
- (e) Posting of Notice and Agenda requirements for Policy Bodies and Passive Meeting Bodies.

(1-2) Establishes a centralized location for notices and agendas on the City’s website for posting all meeting dates, times and places. Requires such postings 3 business days in advance of any meeting.

(3) Agendas for policy bodies must be posted on the bodies’ website 3 business days in advance of a meeting.

(4) Agendas for passive bodies must be posted at the Main Library 3 business days in advance.

(5) Notices and agendas must be posted outside the room where the meeting is to take place as soon as practicable, but no later than 1 hour before a meeting.

67.4 Passive Meeting Bodies: Conduct of Business

- (a) Accessibility clarified. Locations must have sufficient capacity, facilities, furniture and equipment.
- (b) Notice requirements: Mandatory on City website 3 business days prior; email, fax response on request. Agenda (if any) posted with Notice, available on request.

(c) Chair may provide for public comment.

(f) Closed sessions not permitted. [Not explicitly stated; 67.4(f)(6) was struck]

(f) Meetings involving City property or interest requirements [New (f); Several wording changes]

67.5 Meetings To Be Open and Public; Application of Brown Act

67.6 Policy Bodies: Time and Place for Meetings

(b) Requirement for meetings to be held in SF [Moved to (f)].

(b) Notice requirements for cancelled/rescheduled meetings.

(c) Time and Place for regularly held meetings bylaw requirement. Notice required 3 business days in advance.

(d) Notice of Meetings: 3 business days in advance.

(e) Special Meeting Notice requirements: 3 business days in advance, 10 days for different location.

(f) Meetings held within SF only. [Moved from 67.6 (b)]

(g) Initial Meetings: Notice requirements. [Cancelled/rescheduled meetings moved to 67.6 (b)].

67.7 Agenda Requirements for Meetings of Policy Bodies

(a) 72-hour requirement changed to 3 business days. Proposed actions must be included in agenda.

(c) Language about posting deleted.

(e) Continued items to be posted with prior agendas.

(f) Agendas available in alternative formats when requested 2 business days prior to meeting and must comply with the of the Mayor's Office of Disabilities Accessible Public Event Checklist.

(g) [Wording changes]

(h) [Wording changes]

(i) Pre-Meeting Public Comments to Be Circulated to Policy Body Members Prior to Meeting. Adds that each policy body's agenda shall state that members of the public may submit written statements and/or comments regarding any item on such body's meeting agenda, which statements or comments shall be promptly circulated to members of the policy body and shall become a public record, whether or not the authors are present when the item at issue is discussed. The policy body may review and consider those statements or comments if received before or during the discussion of the item. Additionally, written statements submitted up to 10 days following a policy body meeting will be incorporated into the public record of the meeting.

67.7-1 Public Notice Requirements

[Wording changes]

67.8 Agenda Disclosures: Closed Sessions

(a) Agendas to disclose nature of item. Existing litigated items shall disclose court, case number, and date the case was filed. Increased closed session agenda requirements by adding that each agenda item for a closed session of a policy body covered by this Ordinance that involves existing litigation shall identify the court, case number, and date the case was filed on the written agenda.

(b) (1-2-3) See 67.10

Commented [AMW1]: Some of the changes in this section are confusing to me—but likely not to others.

67.8-1 Additional Requirements for Closed Sessions [Moved to 67.12(e)]

67.9 Agendas and Related Materials: Public Records

(a) Agendas, meeting packets, and any public records (e.g., presentations), created by a department or any other records on file with the clerk or secretary of the policy body, when intended for distribution to all, or a majority of the members of a policy body in connection with a matter anticipated for discussion or consideration at a public meeting, shall be made available to the public for inspection and copying at the office of the policy body at least 48 hours before the meeting. Unless demonstrably unfeasible these materials shall also be made available on the policy body's web site.

(b) If any document or other written instrument subject to adoption, approval or award by a policy body is not available at least 48 hours before the meeting at which that document is scheduled to be adopted, approved or awarded and a member of the policy body requests that the matter be continued, the policy body must continue the item to a time not less than 48 hours after the document was made available.

(c) Materials meant to be distributed to members of a policy body prior to or during a meeting shall be available on request to the public.

67.10 Closed Sessions: Permitted Topics

(a) [Wording changes]

(b) If a City employee subject to appointment, employment, evaluation of performance, or dismissal of a City employee requests a public hearing it shall be public.

67.11 Statement of Reasons for Closed Sessions

67.12 Disclosure of Closed Session Discussions and Actions

(e) Anticipated litigation: for each agenda item of a policy body covered by this Ordinance that involves anticipated litigation, the City Attorney's Office or the policy body shall disclose at any time requested and to any member of the public whether such anticipated litigation developed into litigation and shall identify the court, case number, and date the case was filed.

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- (f) Policy Bodies Meeting in City Hall Must Broadcast Its Meetings on SFGOV TV or Real-time Stream ^{§ 54.2}_{§ 54.2}
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(a) [Wording changes]

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(3) Rules for the Order of Speakers [Detailed section with subsections (A), (B), and (C)]

(f) The public shall have access to all audio-visual equipment used by a department or policy body for presentations. Prior notification in the agenda or public notice that a presentation will be made using audio/visual equipment or technology shall be provided and list the equipment.

67.16 Minutes

(a) [Wording changes]

(b) Minutes shall include the time of arrival after commencement of the meeting and the time of each member's departure if prior to the adjournment of the meeting. The length of time for each item shall be recorded. Any person may submit written comments to be attached to the minutes and noted in the item. If no more than one hundred fifty (150) words, the comments shall be included in the body of the minutes in the section dealing with that item or matter. The minutes shall also include the text of any resolution adopted by or modified by a policy body within the body of the minutes or as an attachment.

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67.19 Supervisor of Public Forums

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Commented [AMW2]: These were added for the 2016 version but later deleted by SF4S

For example, 67.19 is superfluous.

Suggested changes and comments on the Sunshine Ordinance made by committee members and members of the public at June 27, 2023, and October 24, 2023, meetings of the Compliance and Amendments Committee of San Francisco's Sunshine Ordinance Task Force.

ARTICLE I: IN GENERAL

SEC. 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.
- (d) The right of the people to know what their government and those acting on behalf of their government are doing is fundamental to democracy, and with very few exceptions, that right supersedes any other policy interest government officials may use to prevent public access to information. Only in rare and unusual circumstances does the public benefit from allowing the business of government to be conducted in secret, and those circumstances should be carefully and narrowly defined to prevent public officials from abusing their authority.
- (e) Public officials who attempt to conduct the public's business in secret should be held accountable for their actions. Only a strong Open Government and Sunshine Ordinance, enforced by a strong Sunshine Ordinance Task Force, can protect the public's interest in open government.
- (f) The people of San Francisco enact these amendments to assure that the people of the City remain in control of the government they have created.
- (g) Private entities and individuals and employees and officials of the City and County of San Francisco have rights to privacy that must be respected. However, when a person or entity is before a policy body or passive meeting body, that person, and the public, has the right to an open and public process.

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

SEC. 67.2. CITATION.

This Chapter may be cited as the San Francisco Sunshine Ordinance.

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

ARTICLE II: PUBLIC ACCESS TO MEETINGS

SEC. 67.3. DEFINITIONS.

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

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

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

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

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

(3) Any other use of personal intermediaries or communications media that could permit a majority of the members of a policy 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 thereupon.

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

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

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

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

(C-1)* The attendance of a majority of the members of a policy body at an open and noticed meeting of a standing committee of that body, provided that the members of the policy body who are not members of the standing committee attend only as observers.

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

(c) "Passive meeting body" shall mean:

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

Commented [LL1]: Do we need to modify this in light of the need for remote meetings during the pandemic? Should we strike "and place"?

Deleted: ;

Commented [LL2]: Change to "the policy body"?

Commented [LL3]: Change to "the policy body"?

Commented [LL4]: Need clarification. What about community business district formation committees and green benefit district formation committees? Not city bodies, but we know of examples where there was some city participation and that some received city funding but were not subject to the Sunshine Ordinance.

(2) Any group that meets to discuss with or advise the Mayor or any Department Head on fiscal, economic, or policy issues;

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

(4) "Passive meeting body" shall not include a committee that consists solely of employees of the City and County of San Francisco created by the initiative of a member of a policy body, the Mayor, or a department head;

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

(d) "Policy Body" shall mean:

(1) The Board of Supervisors;

(2) Any other board or commission enumerated in the Charter;

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

(4) Any advisory board, commission, committee or body, created by the initiative of a policy body;

(5) Any standing committee of a policy body irrespective of its composition.

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

(7) Any advisory board, commission, committee, or council created by a federal, State, or local grant whose members are appointed by City officials, employees or agents.

(Added by Ord. 265-93, App. 8/18/93; amended by Ord. 129-98, App. 4/17/98; Proposition G, 11/2/99)

Editor's note

**The drafters of Proposition G (November 2, 1999) 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.*

SEC. 67.4. PASSIVE MEETINGS.

(a) All gatherings of passive meeting bodies shall be accessible to individuals upon inquiry and to the extent possible consistent with the facilities in which they occur.

(1) Such gatherings need not be formally noticed, except on the City's website whenever possible, 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 gathering shall be accessible to such inquirers as a public record.

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

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

Commented [LL5]: The city should have a central meeting calendar for all meeting notices and agendas. Perhaps in section 67.29-2 about what information needs to be on the internet? Should it also be a requirement that members of the public must be allowed to subscribe to receive notices for meetings, by email and/or phone call?

(4) Such gatherings of a social or ceremonial nature need not provide refreshments to spectators.

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

(6) Gatherings defined in subdivision (5) may hold closed sessions under circumstances allowed by this Article.

(b) To the extent not inconsistent with State or federal law, a policy body shall include in any contract with an entity that owns, operates or manages any property in which the City has or will have an ownership interest, including a mortgage, and on which the entity performs a government function related to the furtherance of health, safety or welfare, a requirement that any meeting of the governing board of the entity to address any matter relating to the property or its government related activities on the property, or performance under the contract or grant, be conducted as provided in Subdivision (a) of this section. Records made available to the governing board relating to such matters shall be likewise available to the public, at a cost not to exceed the actual cost up to 10 cents per page, or at a higher actual cost as demonstrated in writing to such governing board.

Commented [LL6]: May need to revisit this in the context of 12L and nonprofits doing business with or for the city.

(Added by Ord. 265-93, App. 8/18/93; amended by Ord. 287-96, App. 7/12/96; Proposition G, 11/2/99)

SEC. 67.5. MEETINGS TO BE OPEN AND PUBLIC; APPLICATION OF BROWN ACT.

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

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

SEC. 67.6. CONDUCT OF BUSINESS; TIME AND PLACE FOR MEETINGS.

(a) Each policy body, except for advisory bodies, shall establish by resolution or motion the time and place for holding regular meetings.

(b) 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 residing on property owned by the City, or to meet with residents of another jurisdiction to discuss actions of the policy body that affect those

Commented [LL7]: We need clarity about what constitutes "place" and to think about what is allowed in terms of remote access and under what circumstances.

Commented [LL8]: Do we need to be more specific about what must happen and what policy bodies are responsible for before, during and after a meeting?

residents, all meetings of its policy bodies shall be held within the City and County of San Francisco.

(c) If a regular meeting would otherwise fall on a holiday, it shall instead be held on the next business day, unless otherwise rescheduled in advance.

Commented [LL9]: What constitutes a holiday? Does it need to be a state holiday? City holiday? A holiday observed by a member of the meeting body?

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

(e) Meetings of passive meeting bodies as specified in Section 67.6(d)(4) of this article shall be preceded by notice delivered personally or by mail or e-mail as reasonably requested at least 72 hours before the time of such meeting to each person who has requested, in writing, notice of such meeting. If the advisory body elects to hold regular meetings, it shall provide by bylaws, or whatever other rule is utilized by that advisory body for the conduct of its business, for the time and place for holding such regular meetings. In such case, no notice of regular meetings, other than the posting of an agenda pursuant to Section 67.7 of this article in the place used by the policy body which it advises, is required.

Deleted: ,

Deleted: , or facsimile

Commented [LL10]: Should this time be extended? Is three days enough for members of the public to review materials before a meeting?

(f) Special meetings of any policy body, including advisory bodies that choose to establish regular meeting times, may be called at any time by the presiding officer thereof or by a majority of the members thereof, by delivering personally or by mail written notice to each member of such policy body and the local media who have requested written notice of special meetings in writing. Such notice of a special meeting shall be delivered as described in (e) at least 72 hours before the time of such meeting as specified in the notice. The notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meetings. Such written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the presiding officer or secretary of the body or commission a written waiver of notice. Such written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes. Each special meeting shall be held at the regular meeting place of the policy body except that the policy body may designate an alternate meeting place provided that such alternate location is specified in the notice of the special meeting; further provided that the notice of the special meeting shall be given at least 15 days prior to said special meeting being held at an alternate location. This provision shall not apply where the alternative meeting location is located within the same building as the regular meeting place.

Commented [LL11]: Should this time be extended? Is three days enough for members of the public to review materials before a meeting?

Deleted: Such waiver may be given by telegram

(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(c), and mailed notice if sufficient time permits.

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

Commented [LL12]: Allyson Washburn sent additional suggested edits and wording suggestions to the SOTF Administrator that still need to be considered.

Commented [LL13]: Or 96 or 120 hours? More time for public to digest materials. Much debate on this. Mr. Pilpel suggests different time requirements for posting agendas and materials based on the frequency of the body's meetings.

Deleted: of business

SEC. 67.7. AGENDA REQUIREMENTS; REGULAR MEETINGS.

(a) At least 72 hours before a regular meeting, a policy body shall post an agenda containing a meaningful description of each item to be transacted or discussed at the meeting. Agendas shall specify for each item the proposed action or a statement the item is for discussion only, and where there is a staff recommendation, it shall be included on the agenda. In addition, a policy

Commented [LL14]: NEED TO RESOLVE ISSUE OF SOTF QUASI JUDICIAL HEARINGS

Deleted: of business

body shall post a current agenda on its website and on a centralized meeting agenda website for all City and County of San Francisco policy bodies at least 72 hours before a regular meeting.

Deleted: Internet

(b) A description is meaningful 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. The description should be brief, concise and written in plain, easily understood English. It shall refer to any explanatory documents that have been provided to the policy body in connection with an agenda item, such as correspondence or reports, and such documents shall be posted adjacent to the agenda or, if such documents are of more than one page in length, made available at a location indicated on the agenda during normal office hours.

Deleted: for public inspection and copying

(c) The agenda shall specify the time and location of the regular meeting and shall be posted in locations that are freely accessible to members of the public, including but not limited to: outside the meeting room if it is in City Hall or another public building, at the Government Information Center in the Main Branch of the San Francisco Public Library, and in any other location designated by a policy body.

Commented [LL15]: If it is posted by the deadline online and at City Hall but not at the library or other locations, must the meeting be cancelled? This recently came up as an obstacle for the SOTF.

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

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

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

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

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(3) The item was on an agenda posted pursuant to subdivision (a) for a prior meeting of the policy body occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.

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(f) Each policy body shall ensure that agendas for regular and special meetings are made available to speech and hearing impaired persons through telecommunications devices for the deaf, telecommunications relay services or equivalent systems, and, upon request, to sight impaired persons through Braille or enlarged type.

Deleted: board and commission enumerated in the Charter

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

Commented [LL16]: Seek explicit guidance from Mayor's Office on Disability

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KNOW YOUR RIGHTS UNDER
THE SUNSHINE ORDINANCE
(Chapter 67 of the

San Francisco Administrative Code)

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

Elected officials, departments, agencies, boards, commissions and other public bodies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

Deleted: Commissions, boards, councils

Deleted: agencies

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

(h) Each agenda of a policy body shall include the address, area code and telephone number, fax number, email address, and a contact person's name for the Sunshine Ordinance Task Force. Information on how to obtain a free copy of the Sunshine Ordinance shall be included on each agenda.

Deleted: covered by this Sunshine Ordinance

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(i) (Add section about written public comment that is submitted in advance, and urge policy bodies to review them in advance. Suggested text was sent to SOTF administrator by Allyson Washburn)

SEC. 67.7-1. PUBLIC NOTICE REQUIREMENTS.

(a) Any public notice that is mailed, posted or published by a City department, board, agency or commission to residents residing within a specific area to inform those residents of a matter that may impact their property or that neighborhood area, shall be brief, concise and written in plain, easily understood English.

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

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

Commented [LL17]: Pilpel wants to cut. Wolfe thinks we should keep, otherwise this function will be lost – other agencies aren't going to do this on their own. If we keep, Pilpel has alternate language proposal, suggests moving (c) up to 67.7. Allyson Washburn says her group hadn't thought about cutting this section; sees options for perhaps moving up to 67.7 and making it clear that these notices are about actions that a policy body will have agenda'd, and to which members of the public might want to submit comments

Commented [LL18]: Move up as 67.7i?

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General recommendations on amending the Sunshine Ordinance from discussion at June 27, 2023, Compliance and Amendments Committee meeting:

- Allyson Washburn:
 - o Convert the Sunshine Ordinance Task Force to a commission and have a charter amendment to that effect
 - o Could the board of supervisors clear up original drafting errors and ambiguities, such as substituting “three business days” for “72 hours,” and implement non-controversial changes, such as staggering terms for members of the task force?
- Maxine Anderson:
 - o Update ordinance to take into account technological advances and make sure information is being captured about government activity.
 - o We need a central location on the city’s website for all city meetings and agendas – one unified calendar that all departments could feed into.
 - o Passive meeting body hearing schedules should be posted on the city’s website and at the library.
- David Pilpel:
 - o Maintain lesser requirements for passive meeting bodies.
 - o Agenda and minute requirements should apply across the board for charter boards and commissions as well as to policy bodies.
 - o Draft minutes should be available soon after meetings, as is done by the Board of Supervisors.

Further discussion points were tracked as comments and line edits in a copy of the Sunshine Ordinance.

Notes taken by Lila LaHood, chair of SOTF’s Compliance and Amendments Committee.