

Meeting Date: 9/13/2016

Report Type: Staff/Discussion

Report ID: 2016-00875

Title: Transparent Government and Public Engagement (Sunshine Ordinance)

Location: Citywide

Recommendation: 1) Review an Ordinance Naming Title 4 and adding Chapter 4.04 to the City of Sacramento Code Related to Transparent Government and Public Engagement; and 2) pass a Motion forwarding to City Council for approval.

Contact: Shirley Concolino, MMC, City Clerk, (916) 808-5442, Office of the City Clerk

Presenter: Shirley Concolino, MMC, City Clerk, (916) 808-5442, Office of the City Clerk

Department: City Clerk / Office of the City Attorney

Division: City Clerk

Dept ID: 04001011

Attachments:

1-Description/Analysis

2-Ordinance

3-Framework

4-Status Chart

City Attorney Review

Approved as to Form

Matthew Ruyak

9/8/2016 5:26:04 PM

Approvals/Acknowledgements

Department Director or Designee: Shirley Concolino - 9/8/2016 4:05:40 PM

Description/Analysis

Issue Detail: This Sunshine Ordinance was presented to the Law and Legislation Committee on July 12, 2016. At that time Common Cause and the League of Women Voters requested additional time to provide input. Since that time they have submitted a memo with 15 key areas of concern and recommendations. In addition, the City Clerk met with them to discuss the memo. A status chart summarizing the issue is Attachment 4 to this report. The city is already doing most of what is being requested; however, many are captured by city policy, resolution, or in state code, rather than in the proposed ordinance.

Background: At the November 6, 2014 City Council meeting Mayor Johnson appointed the Good Governance Ad Hoc Committee to evaluate good governance reforms that he felt reflected the input and interest of the community. The Committee includes Councilmembers Ashby, Schenirer, Warren and Mayor Johnson. The Mayor asked the Committee to evaluate the good governance issues noted below as well as other possible proposals and make recommendations to the City Council. The Committee was charged with reporting to the City Council with a work plan and timeline for a sunshine ordinance.

On January 6, 2015 the Committee presented to the City Council recommendations on an approach, mapping process, and timeline. During June/July 2015, the Ad Hoc Committee held three community meetings to solicit input on ethics and neighborhood engagement.

Following the community meetings, the Good Governance Ad Hoc Committee asked staff to meet with representatives from the League of Women Voters, Common Cause and former FPPC Chief of Enforcement Gary Winuk to get input.

Concurrently, Mayor Johnson asked Mayor Pro Tem Ashby to bring back a final report of recommendations from the Good Governance Ad Hoc Committee to Council no later than the end of September. On September 15, 2015 the Ad Hoc Committee presented recommendations to Council resulting in direction to the City Clerk to work with the City Attorney to draft a Sunshine Ordinance and bring the ordinance forward to City Council for review and approval within 60-90 days; and directing the City Clerk to implement the transparency and public engagement recommendations. City staff, including the City Clerk, City Attorney, and members of the Mayor and Council Offices, have met several times with representatives of the League of Women Voters, Common Cause and former FPPC Chief of Enforcement Gary Winuk to refine a framework of recommendations for government reforms for

the City of Sacramento. The Framework of Recommendations (Attachment B) is supported by the League of Women Voters, Common Cause and Mr. Winuk.

Policy Considerations: The recommendations in this report are consistent with the City Council direction to identify opportunities for good governance, improved transparency, compliance, and public engagement.

Financial Considerations: None at this time.

Economic Impacts: Not applicable.

Environmental Considerations: Not applicable.

Sustainability: Not applicable.

Commission/Committee Action: The Ad Hoc Committee on Good Governance recommendations are the basis of the proposed Sunshine Ordinance.

Rationale for Recommendation: This “Sunshine Ordinance” formalizes the City’s current practices and incorporates best practices from other cities to improve transparency and compliance, and encourage public engagement.

Local Business Enterprise (LBE): Not applicable.

ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

AN ORDINANCE NAMING TITLE 4 OF THE SACRAMENTO CITY CODE,
AND ADDING CHAPTER 4.04 TO THE SACRAMENTO CITY CODE
RELATING TO TRANSPARENT GOVERNMENT AND PUBLIC ENGAGEMENT

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1. Findings and Purpose.

- A. The Ralph M. Brown Act (Government Code section 54950 et seq., the "Brown Act") provides for public access and participation in meetings of California legislative bodies.
- B. Section 30 of the Sacramento City Charter provides that the city council shall determine its own rules and order of business.
- C. The Maddy Act (Government Code section 54970 et seq.) mandates active and transparent recruitment of citizens to serve on local advisory boards, commissions, and committees.
- D. The California Public Records Act (Government Code section 6250 et seq.) provides the public with timely access to public records.
- E. The Political Reform Act, specifically Government Code section 87300, requires the City of Sacramento adopt a conflict of interest code that designates positions required to file Statements of Economic Interests (Form 700) and assigns disclosure categories specifying the types of interests to be reported.
- F. Section 33 of the Sacramento City Charter provides that "the city council shall require the city clerk to keep a permanent public record of its proceedings showing all action considered and taken, motions and records, the text of ordinances and resolutions introduced or adopted and all amendments thereto proposed or adopted, and the vote of each council member regarding any matter before the city council or any committee thereof."
- G. Section 71 of the Sacramento City Charter provides, in part, that the city clerk shall be responsible for the official records of the city and that the city council may prescribe addition duties of the city clerk.

- H. This ordinance is intended to enhance the public’s ability to participate in the city’s decision-making process and have access to public information and records.

SECTION 2.

Title 4 of the Sacramento City Code is entitled “Ethics and Open Government.”

SECTION 3.

Chapter 4.04 is added to the Sacramento City Code to read as follows:

Chapter 4.04 Transparent Government and Public Engagement (Sunshine Ordinance).

4.04.010 Short Title

This chapter shall be known and may be cited as the “Sacramento Sunshine Ordinance.”

4.04.020 Minimum Posting of Council Agenda Materials.

A. The city clerk shall post the agenda of each regular or adjourned regular meeting of a city legislative body (as that term is defined in Government Code section 54952) at least 120 hours in advance of the meeting in a location that is freely accessible to members of the public as required by the Ralph M. Brown Act.

B. All agreements requiring council approval must be posted on the city’s website and be made available to the public prior to council action unless determined otherwise by the city attorney.

C. Unless waived by two-thirds vote of council, all labor agreements and all agreements greater than \$1,000,000 must be posted on the city’s website and be made available to the public at least 10 days prior to council action.

4.04.030 Record of City Council’s Actions; Publication.

A. The city clerk shall, within a reasonable time and for each city legislative body (as that term is defined in Government Code section 54952), provide public access to all meeting records, including agendas, reports and supplemental material, action minutes, proposed and adopted ordinances, proposed and adopted resolutions, and other meeting correspondence.

B. Whenever practicable, the city clerk shall stream live video and audio to the city's website for city legislative body meetings and archive them for access from the city's website.

C. The requirements in this section are in addition to the requirements in the Ralph M. Brown Act and the Council Rules of Procedure.

4.04.040 Ad Hoc Committee Reports to Council.

A. The chair of an ad hoc committee – that is, one that is excepted from the definition of legislative body under Government Code section 54952(b)– shall provide an oral report at the first council meeting following an ad hoc committee meeting.

B. The city clerk shall place an item on the council agenda, including a written report, when an ad hoc committee is dissolved.

4.04.050 Information About Boards and Commissions.

In addition to the requirements of the Maddy Act (Government Code section 54970 et seq.), the city clerk shall publish to the city's website information about each city board and commission, including the current roster and vacancy information, and shall provide easy access to apply for any vacant seat.

4.04.060 Regional Organizations and Joint Powers Authority Appointments.

The city clerk shall publish to the city's website each January the approved appointments of councilmembers to regional organizations and joint powers authorities.

4.04.070 Citywide Policies and Procedures.

The city clerk shall publish and update all approved citywide policies and procedures to the city's website.

4.04.080 Annual Review of Records Management Policy and Retention Schedule.

The city clerk shall, at least annually, review, update, and publish the city's records management policy, which shall include the city's records retention schedule.

4.04.090 Training on Records Management Policy and Retention Schedule.

- A. Each elective official, appointed officer, and department director shall be responsible for designating the city staff within their respective control who must complete training on the city's record management policy and retention schedule.
- B. Every odd-numbered year, designated staff shall complete training on the city's records management policy and retention schedule.
- C. The city clerk shall be responsible for developing the records management training program and requirements which, at a minimum, must include training on state law requirements and the city's record retention policy.

4.04.100 Public Records Access.

- A. The city clerk shall identify and publish a catalog of public records that are available on the City's website and accessible in the online records library.
- B. The city's chief information officer shall publish data sets to the city's open data portal according to the city's published open data policy.
- C. The city clerk shall report to council annually providing the metrics of California Public Records Act requests and responses.

4.04.110 Annual Review of Social Media Policy.

At least annually, the social media policy shall be reviewed and updated by the City's records manager.

4.04.120 Social Media Policy Training.

- A. Each elective official, appointed officer, and department director shall be responsible for designating the city staff within their respective control who must complete training on the city's social media policy.
- B. Every even-numbered year, designated staff shall complete training on the city's social media policy.
- C. The city clerk shall be responsible for developing the social media policy training program and requirements, which must include, at a minimum, training on the city's social media policy.

4.04.130 Fair Political Practice Commission Disclosure.

The city clerk shall publish to the city's campaign statement public web portal campaign contributions and expenditures, campaign statements filed by candidates and committees, and committee's filing history by election.

4.04.140 Statement of Economic Interests - Form 700.

The city clerk shall publish to the city's conflict of interest public web portal completed forms for filers identified in the city's conflict of interest code.

4.04.150 Annual Review of Sunshine Ordinance.

Each January, the city clerk shall report to the city council on the operation of this chapter, and make appropriate recommendations for the amendment of this chapter. Nothing in this section precludes additional reviews and reports on this chapter throughout the year.

4.04.150 Violations.

The violation of any provision of this chapter is not a misdemeanor or infraction. Violations may be reported to the office of compliance for investigation and appropriate action.

GOOD GOVERNANCE AD HOC COMMITTEE
FRAMEWORK OF RECOMMENDATIONS
ON OPEN GOVERNMENT

Transparency

- Create a Sunshine Ordinance centralizing all city records retention, open meeting, and other transparency laws.
- Ad Hoc Committees
 - Amend the Council Rules of Procedure to include regular updates by Ad Hoc Committees at the end of the City Council agenda
 - Public posting of Ad Hoc reports/recommendations prior to presentation to Council Standing Committees or City Council
- Agendas:
 - Codify current City Council practice publishing agendas 5 days in advance
 - Require agreements over \$1 million to be noticed 10 days prior to Council action Allow notice subscription for these agreements
 - Provide copies of correspondence supporting/opposing agenda items to City Council prior to Council taking any action. Retain all correspondence as part of public record
- Designate a Public Records Manager/Ombudsman within the City Clerk's office who can help formulate records requests; help mediate records disputes; and produce an annual report on requested statistics
- Post online the city's Records Retention Policy
- Require city staff to complete records retention training every two years
- Disclose behested payments online
- Create organized *Topic Portals* within Open Data Portal, e.g. for Budget & Finances Portal, Public Policy Portal, Public Safety Portal, Land Use Portal, State Open Meeting requirements, etc.
- Require a 2/3 vote to remove the City Auditor or the City Independent Budget Analyst from office

Public Engagement

- Create a public engagement webpage that provides information on how the public can effectively engage in city processes and decision making
- Adopt a social media policy for information flow to community
- Allow written public comment (including email) for any agenda item
- Look at reinstating on-line public comments as part of Granicus update
- Other council meeting procedural issues will be codified in the annual update of the City Council Rules of Procedure.

	Common Cause Proposed Changes to the Ordinance	Prop. ORD	Reso or CRP	City Policy	State Code	Comments
1	Allow Council members to introduce proposed ordinances or resolutions, which shall be referred to the Law and Legislation Committee.		✓			Currently, in accordance with the CRP, members are able to introduce ordinances at the council meeting (Chapter 7,J,9)
2	Require that proposed ordinances and resolutions be referred to the Law and Legislation Committee.		✓			Ordinances currently go to L&L; Resolutions that are legally binding to the citizens could be included.
3	Require, absent an urgency finding, that agenda materials be posted five days in advance, or when they are provided to the council.	✓				Contained in the proposed ordinance
4	Require every legislative body to offer email subscription for their agendas at no cost.				✓	Already done; we have a 'subscribe feature' for our agendas
5	Allow the public to submit written or electronic public comment on any agenda item. Public comment should be collected and provided to the Council, and posted online, the day before the meeting		✓			We already accept written correspondence and make it available in the day or two after a meeting via the online record library. (Chapter 7,D) Members of the public are now able to use eComment to submit comments electronically. This information will also be posted to the online record library.
6	Require members of legislative bodies to disclose behested payments (e.g. through filing Form 803 early) prior to voting on an agenda item that materially affects the payor. Post all behested payments online in a convenient, searchable format				✓	All of the behested payments are currently available online and in compliance with the 30 day posting requirement. However, the Clerk's Office is working to make them available in smaller sized volumes for downloading, and ensuring that they are fully searchable. We do not currently require filing prior to voting on an agenda item.
7	Require communications regarding city business to be conducted on city devices. Provide all elected officials and department heads with city cell phones and email addresses.			✓		Our current policy is being reviewed and vetted and should be complete within the next 30-60 days. All elected officials and department heads currently have city email addresses. With regard to mobile devices we are reviewing best practices one of which is BYOD.
8	Require public posting of city reports considered or produced by the ad hoc committee prior to the ad hoc committee recommendations being presented to Council.					Typically ad hocs do not have reports. In those cases where there is a report it is incorporated into the council staff report and posted 5 days prior. There is no provision for ad hoc reports to be posted independently of the staff report. If we were to do so it would be contained in our CRP.
9	Have the Council review and adopt the city's Records Retention policy every two years.		✓			The Council adopted by Reso. 2007-0276 the retention schedule authorizing the Clerk to make changes based on changing law or

	Common Cause Proposed Changes to the Ordinance	Prop. ORD	Reso or CRP	City Policy	State Code	Comments
						business needs. The Clerk could bring the record retention schedule forward every two years as an information item to City Council. This requirement would be added to our CRP.
10	Retain records kept as part of a project file for four years or more, rather than two.			✓		See above – by bringing the schedule to City Council, members of the public will have an opportunity to make recommendations on retention. Additionally, we currently keep project files completion date + 10 years.
11	Designate an employee within the City Clerk’s office to serve as public records ombudsman to help members of the public formulate records request, mediate request disputes, and produce an annual report on PRA request statistics.			✓		This position already exists and is known as the citywide Records Manager. This position currently assists the public and coordinates requests and annually reports on PRA statistics. WE recently converted our system to GovQA which greatly enhances our ability to track, respond and provide statistics. These reports can easily be made available on the web. The Records Management policy can be updated to capture this language.
12	Create a citizen engagement webpage which explains at minimum, how to find and contact their Councilmember, attend a meeting, provide public comment, apply to serve on a board or commission, register to vote, and run for office. This webpage should be translated into Sacramento’s primary non-English languages, as required for ballot materials under the Voting Rights Act.		✓			We now have a “How Do I” page as part of the transparency and open government aspects to the Sunshine Ordinance. A lot has been incorporated on this page. The Clerk’s Office has committed to developing additional pages with more in- depth information regarding ways the community can interact with the City.
13	Willful violations of the Sunshine Ordinance, Public Records Act, or Brown Act referred to the Ethics Commission for enforcement.					This commission does not exist at this time.
14	Allow, in the discretion of the chair, speakers who are physically present at a meeting to cede their time to another speaker, with a reasonable upper limit on the time that can be ceded. Allow witnesses to be designated in the agenda that would not be subject to the 2 minute times limits.		✓			Members are currently allowed to ask questions of speakers or ask someone to speak on an item. It is the chair’s discretion to ask a member of the pubic for comment and/or allow someone to speak longer than 2 minutes. We currently do not allow the ceding of time between speakers.
15	Create an online “Calendar of Anticipated Legislative Actions” where staff will post when they anticipate					We refer to this as the preliminary agenda used as an internal working document as it changes by the hour. Releasing it would

	Common Cause Proposed Changes to the Ordinance	Prop. ORD	Reso or CRP	City Policy	State Code	Comments
	significant legislative items to come before the city's legislative bodies. Allow the posting of draft items to the calendar to allow for earlier public feedback.					cause confusion not clarity. We could certainly look at listing major items with approximate timelines with the disclaimer that one must call the city clerk's office to confirm the date as this too is subject to change. This could be captured as part of our CRP update this January.