



CONSENT CALENDAR
June 11, 2019

To: Honorable Mayor and Members of the City Council
From: Open Government Commission
Submitted by: Dean Metzger, Chair, Open Government Commission
Subject: Amending the Commissioners' Manual Regarding Submission of Revised or Supplemental Agenda Material

RECOMMENDATION

Adopt a resolution revising the Commissioners' Manual to require commissioners and board members be subject to the same procedures as the general public.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

At its January 18, 2018 meeting the Open Government Commission reviewed a complaint alleging violation of the Open Government Ordinance and Brown Act at the November 15, 2017 Planning Commission meeting. The complainant alleged, and it was not disputed, that a Planning Commissioner used a memo that was not part of the public packet. It was handed out to the Commission members at the meeting with a copy placed in a binder. The memo, unavailable to the public except for the copy in the binder, was used as the basis for much of the discussion. It became difficult for the public to follow the discussion without ready access to the document. While the Open Government Commission found no violation of the Open Government Ordinance or Brown Act, it was concerned about the difficulty the public had following a discussion among commission members without access to the documents.

The juxtaposition of the complaint suggested to the Commission members that a requirement to create more transparent discussion of items on the City's commissions and boards by providing the public with the same material available to members of the commission and/or board.

At its March 21, 2019 meeting, the Open Government Commission voted to recommend to Council the adoption of a resolution to add the following revision to Chapter V. Commission Procedures, Section E Administrative Procedures to the Commissioners' Manual (*Motion to send report to City Council, including corrections to be made before sent*; M/S/C: Metzger/Blome; Ayes: Blome, Harper, Napoli, McLean, Metzger, O'Donnell, Saver, Smith, Tsui; Noes: None; Abstain: None; Absent: None):

Submission of Supplemental and Revised Agenda Material after the agenda and packet have been distributed and at or before the meeting.

E. ADMINISTRATIVE PROCEDURES

Commission and Board Documents

The agenda packet for a commission or board meeting contains the agenda, reports related to agenda items, and communications from the public received prior to the distribution of the agenda packet.

All writings or documents, including communications from the public, **Commissioners and Board Members** that are related to any item on an agenda and distributed to a majority of the commission or **board members** after the agenda packet is distributed, but before **or at** the meeting must be made available for public inspection at the time the writing or document is distributed to a majority of the commission or **board** at a designated location identified on the agenda. The commission **or board** secretary maintains a public viewing binder for these documents.

All writings or documents, including communications from the public, that are distributed to a majority of the commission **or board members** at the commission **or board** meeting must be made available for public inspection as quickly as possible. Members of the public submitting written communications at commission, **or board** meetings should be encouraged to bring enough copies for all commissioners **and board members**, staff and at least five additional copies for ' members of the public (15 copies total, for most commissions **and boards**).The secretary is not required to immediately make copies of documents provided at the meeting when adequate copies are not provided by the submitting individual. Documents distributed at the meeting will be available in the public viewing binder the next business day.

BACKGROUND

See above.

ENVIRONMENTAL SUSTAINABILITY

No impact on environmental sustainability.

RATIONALE FOR RECOMMENDATION

Berkeley Municipal Code 2.06.190(A)(t)(d) states the Open Government Commission shall advise the City Council of its opinion, conclusion or recommendation as to any complaint.

CITY MANAGER

City Manager takes no position on the recommendation of this report.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

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