



DATE: January 13, 2015

AGENDA ITEM # 5

TO: City Council
FROM: Mayor Pepper and Councilwoman Prochnow
SUBJECT: Open Government Policy

RECOMMENDATION:

Adopt Resolution No. 2015-02, establishing a policy governing access to public meetings and public records

SUMMARY:

Estimated Fiscal Impact:

Amount: Unknown at this time

Budgeted: No

Public Hearing Notice: Not applicable

Previous Council Consideration: August 26, 2014, September 9, 2014 and December 9, 2014

CEQA Status: Not applicable

Attachments:

1. Resolution No. 2015-02
2. Open Government Policy
3. Previously proposed Open Government Ordinance

BACKGROUND

At the August 26, 2014 City Council meeting, a short discussion was held on the proposed Open Government Ordinance (Attachment 3) as proposed by an ad hoc committee consisting of Mayor Pro Tem Pepper and Councilwoman Carpenter. It was determined that a study session was needed to allow sufficient time to discuss the details of this proposed ordinance.

On September 9, 2014 the City Council held a study session on the proposed Open Government Ordinance.

On December 9, 2015, Councilwoman Prochnow replaced Councilwoman Carpenter on the Open Government Ad Hoc Committee. A proposed policy was presented to the Council at the meeting and comments from the public and the Council were received.

Objectives

1. To facilitate the ability of Los Altos to be fully and equally informed participants in their local government, by providing complete and timely information that empowers them to engage thoughtfully with the City Council.
2. To provide more transparency and greater access to information by going beyond the minimum legal requirements specified in the Brown Act, and by defining specifically what will and will not be disclosed in response to Public Records Act requests.

DISCUSSION

An Open Government Ordinance is recommended to increase the transparency of the City's actions and to provide more accessibility in some areas than is currently required under State law. As a start, it is proposed that an Open Government Policy be adopted that focuses specifically on those areas that expand the City's transparency beyond that required under State law. The proposed policy reflects input received from the public and the City Council at the December 9, 2014 meeting. It is proposed that this policy be adopted and its implementation be piloted for the next few months, with a formal review of its implementation in May 2015. At that time, with several months experience with this Open Government Policy, the Council can reconsider adopting an Open Government Ordinance, codifying those practices of increased transparency in the City.

The proposed Resolution and Open Government Policy (Attachments 1 and 2) focus on nine areas where the City will seek to expand its transparency and openness:

1. The City will maintain an Open Government page on the City website, which will include a brief description of the Brown Act.
2. The final City Council agenda, including accompanying materials, will be posted 8 calendar days before a City Council meeting on the City's website. The agenda will also be distributed to the media. The local newspaper, the Los Altos Town Crier, has agreed to include the agenda in the issue published on the Wednesday prior to the City Council meeting.

3. The Planning and Transportation Commission and the Design Commission will review the public noticing distance requirements for commercial and residential property changes, respectively. The Planning and Transportation Commission will also consider requiring that all commercial development applications in any of the business districts install story poles as a condition of seeking approval.
4. Staff responses to questions from Councilmembers and members of the public will be posted on the City's website before City Council meetings. This allows both the public and the Councilmembers access to the same information before the meeting starts.
5. All regular and special meetings of City Council and Planning and Transportation Commission that are held in the Community Chambers will be video recorded. All other public meetings of the City Council, Commissions, and Committees will be audio taped. All tapes will be kept permanently.
6. Requests for public records will be posted on the website, including the requestor, the description of the request and whether the request was fulfilled. This provides more transparency on who is requesting public records and if those requests are being fulfilled.
7. The City will maintain an index of public records, including the retention period, for those records. This index will be posted on the City's website.
8. Two City Council members will serve on an ad hoc Open Government Committee during the piloting of this Open Government Policy.
9. This Open Government Policy will be reviewed at the first meeting in May every year. At that time, codifying this policy into a City ordinance will be considered.

FISCAL IMPACT

The cost and work impact on city staff with the implementation of this Open Government policy is unknown. As part of the review of the policy each May, the cost and staff resource impacts of this ordinance will be reviewed.

PUBLIC CONTACT

Posting of the meeting agenda serves as notice to the general public.

RESOLUTION NO. 2015-02

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS
ESTABLISHING A POLICY GOVERNING ACCESS TO PUBLIC MEETINGS
AND PUBLIC RECORDS**

WHEREAS, transparency in decision making is a cornerstone of democracy; and

WHEREAS, elected officials, commissions, and other policy bodies of the City undertake the people's business and in so doing commit themselves to the highest principles of transparency so that every citizen can know and participate in democracy at the local level; and

WHEREAS, California has a long tradition of laws designed to protect the public's access to the workings of government, and each generation of elected officials and municipal employees should commit themselves to the principles of transparency and seek to implement new approaches that keep the public informed about policy decisions. Experience teaches that as government evolves, so must the laws designed to ensure that the workings of local government remain visible to all; and

WHEREAS, transparency in governmental policy decisions is paramount and only in rare and unusual circumstances should decisions made on behalf of the people take place out of public view. Those circumstances should be carefully and narrowly defined; and

WHEREAS, public accountability for all decisions made on behalf of the people will protect the public's interest in open government; and

WHEREAS, the City Council enacts this Policy to assure that the people of the City remain in control of the government they have created; and

WHEREAS, private entities, individuals, employees and officials of the City have rights to privacy that must be respected. However, when a person or entity is before a policy body, that person, and the public, has the right to an open and public process.

NOW THEREFORE, BE IT RESOLVED, that the City Council of the City of Los Altos hereby authorizes the following:

1. That the "Policy of the City of Los Altos Regarding Openness in City Government" attached hereto as Exhibit A and incorporated by this reference be adopted.

I HEREBY CERTIFY that the foregoing is a true and correct copy of a Resolution passed and adopted by the City Council of the City of Los Altos at a meeting thereof on the ___day of___, 2015 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Janis C. Pepper, MAYOR

Attest:

Jon Maginot, CMC, CITY CLERK

A POLICY OF THE CITY OF LOS ALTOS REGARDING OPENNESS IN CITY GOVERNMENT

Section 1 The Brown Act

All meetings of city policy bodies (City Council, Commissions, and Committees) shall be open and public, and governed by the provisions of the Ralph M. Brown Act (Government Code Sections 54950 et. seq.). The Brown Act serves as a floor, not a ceiling, for transparency and openness. Policies are provided here that go beyond the minimum requirements of law to instill public confidence and increase transparency.

The City will maintain an “Open Government” page on the City website. This policy will be available on that site as well as a brief summary of the Brown Act.

Section 2 Posting of Agendas

~~At least ten (10) calendar days before a regular City Council meeting, a preliminary agenda shall be posted on the City’s website and provided to the media. This preliminary agenda will contain a meaningful description of each item of business anticipated at the time of posting, including whether the item is decision-making or discussion-only.~~

At least ~~eight~~^{five} (85) calendar days before a regular City Council meeting, a final agenda and accompanying staff reports, etc. materials shall be posted on the City’s website. ~~The agenda will be and~~ provided to the media. This final agenda shall contain a meaningful description of each item of business to be transacted or discussed at the meeting and all related items, including staff reports, proposals and contracts that will be considered for action. Agendas shall specify for each item of business the proposed action or a statement the item is for discussion only. The agenda shall also be made available for public inspection and copying at both public libraries and ~~city~~ City Hall during normal business hours.

Section 3 Public Noticing

[This section will be updated after review, and recommendations are received, by the PTC and DRC to the City Council in March 2015 (approximately).] As part of the implementation of an Open Government Policy, it is proposed that public noticing for property changes to commercial projects be increased to include all properties within 1000’ and that all commercial development applications in any of the business districts install story poles as a condition of seeking approval. City Council requests the Planning and Transportation Commission

~~determine the broad implementation of these proposed policies and provide a recommendation back to the City Council in by March 2015.~~

~~City Council requests that the Design Review Commission review the noticing policies for residential projects that come before the DRC and provide input to the City Council by March 2015 as to any changes proposed by the DRC to increase public noticing. All public notices will be mailed, posted or published by a City department, task force, agency or Commission to residents residing within 1000 feet of a specific area to inform those residents of a matter that may impact their property or that neighborhood area. These will include all residential and commercial property changes, including remodels and new construction, and shall be brief, concise and written in plain, easily understood English.~~

~~The public notice will 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.~~

~~If the notice informs the public of a public meeting or hearing, then the notice shall be delivered no later than 10 days before the public meeting or hearing.~~

~~Notices shall also be posted at residential sites on signs that are at least 9 inches by 12 inches in size. Notices shall be posted at commercial sites on signs that are at least 3 feet by 6 feet in size.~~

Section 4

~~Recording of Meetings and Retention of Recordings~~ Comments on Agenda Items

Members of the public may submit statements and/or comments regarding any item on City Council, Commission, and/or Committee meeting agendas.

Staff responses to questions from Council members and members of the public as well as statements or comments by members of the public on City Council agenda items will be posted on the City's website as soon as practicable, and no later than noon on the day of the Council meeting, provided the questions have been received by 9 am on the day prior to the Council meeting. Questions and responses received after this time period will be posted on the City's website as soon as practical. Questions and comments will be posted in a manner that will attempt to protect the privacy of the submitter. Staff will edit the posted questions as needed to protect the privacy and identification of the questioner. ~~within one business day of receipt and no later than three (3) hours prior to the Council meeting, provided that comments and questions are received by the City at least four (4) hours prior to start of the meeting.~~

Section 5

Recording of Meetings and Retention of Recordings

City of Los Altos

Open Government Policy Dec 12 2014 Discussion Draft

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ATTACHMENT 2

~~All Regular and Special Meetings of the City Council and Planning and Transportation Commission that are held in the Community Chambers shall be video recorded each meeting. All regular meetings of Commissions and Committees shall be audio recorded. All other public meetings of the City Council and the Planning and Transportation Commission, as well as all other Commissions and Committees meetings, shall be audio recorded as practical. each meeting.~~ Each such video and audio recording shall be a public record subject to inspection pursuant to the California Public Records Act. The video recording of meetings of the City Council and Planning and Transportation Commission shall be made available within one week of the meeting by webcast on the City's website and shall remain on the City's website permanently. The audio and video record of all meetings under this section shall be kept permanently.

Section 6 Public Records Requests

~~The City Clerk and/or his or her designee shall permit the public record, or any segregable portion of a record, to be inspected and examined by any person and shall furnish one copy thereof upon payment of a reasonable copying charge as may be set from time to time by the City Council. The City Clerk and/or his or her designee shall, as soon as possible and within ten (10) calendar days following receipt of a request for inspection or copy of a public record, comply with such request.~~

Requests for public records, including a brief description of the request, identification of the requester, the date requested, whether the request was granted, partially granted or denied, and the date the request was fulfilled, shall be posted on the City's website. This list shall be updated at least quarterly.

Section 7 Index of City Records

The City shall maintain a public records index that identifies the types of information and documents maintained by the City and its departments, agencies, task forces, commissions and elected officers. The index shall be for the use of City officials, staff and the general public, and shall be organized to permit a general understanding of the types of information maintained, by which officials and departments, for which purposes and for what periods of retention, and under what manner of organization for accessing, e.g. by reference to a name, a date, a proceeding or project, or some other referencing system. The City Clerk shall be responsible for the preparation and maintenance of this records index. The index shall be continuously maintained on the City's website and the two Los Altos libraries.

Section 8 Open Government Standing Committee

The Mayor shall appoint two City Council members to serve on ~~a standing ad hoc~~ Open Government Committee during the piloting of this Open Government policy. ~~Upon adoption of a final policy or an ordinance, the Mayor shall appoint two City Council members to serve on a standing Open Government Committee.~~ ~~The City Attorney shall serve as legal advisor to this Committee.~~ The term of each appointed member shall be two years. The Committee shall advise the City Council and provide information to ~~other the~~ City ~~departments-Manager~~ on appropriate potential ways in which to implement the Open Government Policy. The Committee shall develop appropriate goals to ensure practical and timely implementation of this ~~Chapter~~Policy. The Committee shall propose to the City Council amendments to this ~~Chapter~~Policy. The Committee shall report to the City Council at least once annually on any practical or policy problems encountered in the administration of this ~~Chapter~~Policy. ~~The Committee shall meet annually and shall receive and review annual reports on request for public information. Such report shall include the requester, the date requested, whether the request was granted, partially granted or denied, and the date the request was fulfilled.~~

Section 9 Open Government Policy Annual Review

This Open Government Policy will be reviewed by the City Council at the first meeting in May each year. ~~and annually thereafter by the City Council at the first meeting in May.~~ The review may also be called earlier at the request of the Open Government Committee. The review will include discussion about the cost and impact on Ceity staff of implementing this policy, consideration of additional open government and transparency sections to the policy, and a determination as to when it might be appropriate to adopt the policy as a ~~C~~eity ordinance.

A POLICY OF THE CITY OF LOS ALTOS REGARDING OPENNESS IN CITY GOVERNMENT

Section 1 The Brown Act

All meetings of city policy bodies (City Council, Commissions, and Committees) shall be open and public, and governed by the provisions of the Ralph M. Brown Act (Government Code Sections 54950 et. seq.). The Brown Act serves as a floor, not a ceiling, for transparency and openness. Policies are provided here that go beyond the minimum requirements of law to instill public confidence and increase transparency.

The City will maintain an “Open Government” page on the City website. This policy will be available on that site as well as a brief summary of the Brown Act.

Section 2 Posting of Agendas

At least eight (8) calendar days before a regular City Council meeting, a final agenda and accompanying materials shall be posted on the City’s website. The agenda will be provided to the media. This final agenda shall contain a meaningful description of each item of business to be transacted or discussed at the meeting and all related items, including staff reports, proposals and contracts that will be considered for action. Agendas shall specify for each item of business the proposed action or a statement the item is for discussion only. The agenda shall also be made available for public inspection and copying at both public libraries and City Hall during normal business hours.

Section 3 Public Noticing

[This section will be updated after review, and recommendations are received, by the PTC and DRC to the City Council in March 2015 (approximately).] As part of the implementation of an Open Government Policy, it is proposed that public noticing for property changes to commercial projects be increased to include all properties within 1000’ and that all commercial development applications in any of the business districts install story poles as a condition of seeking approval. City Council requests the Planning and Transportation Commission determine the broad implementation of these proposed policies and provide a recommendation to the City Council in March 2015.

City Council requests that the Design Review Commission review the noticing policies for residential projects that come before the DRC and provide input to the City Council by March 2015 as to any changes proposed by the DRC to increase public noticing.

Section 4 Comments on Agenda Items

Members of the public may submit statements and/or comments regarding any item on City Council, Commission, and/or Committee meeting agendas.

Staff responses to questions from Council members and members of the public as well as statements or comments by members of the public on City Council agenda items will be posted on the City's website as soon as practical, and no later than noon on the day of the Council meeting, provided the questions have been received by 9 am on the day prior to the Council meeting. Questions and responses received after this time period will be posted on the City's website as soon as practical. Questions and comments will be posted in a manner that will attempt to protect the privacy of the submitter.

Section 5 Recording of Meetings and Retention of Recordings

All Regular and Special Meetings of the City Council and Planning and Transportation Commission that are held in the Community Chambers shall be video recorded. All regular meetings of Commissions and Committees shall be audio recorded. All other public meetings of the City Council and other Commissions and Committees meetings shall be audio recorded as practical. Each such video and audio recording shall be a public record subject to inspection pursuant to the California Public Records Act. The video recording of meetings of the City Council and Planning and Transportation Commission shall be made available within one week of the meeting by webcast on the City's website and shall remain on the City's website permanently. The audio and video record of all meetings under this section shall be kept permanently.

Section 6 Public Records Requests

Requests for public records, including a brief description of the request, identification of the requester, the date requested, whether the request was granted, partially granted or denied, and the date the request was fulfilled, shall be posted on the City's website. This list shall be updated at least quarterly.

Section 7 Index of City Records

The City shall maintain a public records index that identifies the types of information and documents maintained by the City and its departments, agencies, task forces, commissions and elected officers. The index shall be for the use of City officials, staff and the general public, and shall be organized to permit a general understanding of the types of information maintained, by which officials and departments, for which purposes and for what periods of

retention, and under what manner of organization for accessing, e.g. by reference to a name, a date, a proceeding or project, or some other referencing system. The City Clerk shall be responsible for the preparation and maintenance of this records index. The index shall be continuously maintained on the City's website and the two Los Altos libraries.

Section 8 Open Government Standing Committee

The Mayor shall appoint two City Council members to serve on an ad hoc Open Government Committee during the piloting of this Open Government policy. Upon adoption of a final policy or an ordinance, the Mayor shall appoint two City Council members to serve on a standing Open Government Committee. The term of each appointed member shall be two years. The Committee shall advise the City Council and provide information to the City Manager on potential ways in which to implement the Open Government Policy. The Committee shall develop appropriate goals to ensure practical and timely implementation of this Policy. The Committee shall propose to the City Council amendments to this Policy. The Committee shall report to the City Council at least once annually on any practical or policy problems encountered in the administration of this Policy.

Section 9 Open Government Policy Annual Review

This Open Government Policy will be reviewed by the City Council at the first meeting in May each year. The review may also be called earlier at the request of the Open Government Committee. The review will include discussion about the cost and impact on City staff of implementing this policy, consideration of additional open government and transparency sections to the policy, and a determination as to when it might be appropriate to adopt the policy as a City ordinance.

ORDINANCE NO. 2014-xxx

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS CREATING A NEW CHAPTER 2.30 OF THE LOS ALTOS MUNICIPAL CODE ESTABLISHING REGULATIONS GOVERNING ACCESS TO PUBLIC MEETINGS AND PUBLIC RECORDS AND ESTABLISHING AN OPEN GOVERNMENT COMMITTEE

WHEREAS, transparency in decision making is a cornerstone of democracy; and

WHEREAS, elected officials, commissions, committees, task forces, and other agencies of the City undertake the people's business and in so doing commit themselves to the highest principles of transparency so that every citizen can know and participate in democracy at the local level; and

WHEREAS, California has a long tradition of laws designed to protect the public's access to the workings of government, and each generation of elected officials and municipal employees should commit themselves to the principles of transparency and seek to implement new approaches that keep the public informed about policy decisions. Experience teaches that as government evolves, so must the laws designed to ensure that the workings of local government remain visible to all; and

WHEREAS, transparency in governmental policy decisions is paramount and only in rare and unusual circumstances should decisions made on behalf of the people take place out of public view. Those circumstances should be carefully and narrowly defined; and

WHEREAS, public accountability for all decisions made on behalf of the people will protect the public's interest in open government; and

WHEREAS, the City Council enacts this Ordinance to assure that the people of the City remain in control of the government they have created; and

WHEREAS, private entities, individuals, employees and officials of Los Altos have rights to privacy that must be respected. However, when a person or entity is before a policy body, that person, and the public, has the right to an open and public process; and

WHEREAS, this Ordinance may be cited as "the Los Altos Open Government Ordinance."

NOW THEREFORE, the City Council of the City of Los Altos does hereby ordain as follows:

SECTION 1. AMENDMENT OF CODE: A new Chapter 2.30 to be titled "Public Meetings and Public Records" is hereby added to the Los Altos Municipal Code, to read as follows:

ARTICLE 1

2.30.010 Definitions

For the purposes of this Chapter, certain words and phrases used in the Chapter are defined as follows:

1. “City” shall mean the City of Los Altos
2. “Meeting” shall mean any of the following:
 - a. A congregation of a majority of the members of a policy body at the same time and place to discuss or deliberate City business (whether a “collective concurrence” is reached or not, as that term is used in *Wolfe v City of Fremont* (2006) 144 Cal. App. 4th 533),
 - b. 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 (whether a “collective concurrence” is reached or not, as that term is used in *Wolfe v City of Fremont* (2006) 144 Cal. App. 4th 533),
 - c. 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 (whether a “collective concurrence” is reached or not, as that term is used in *Wolfe v City of Fremont* (2006) 144 Cal. App. 4th 533),
 - d. “Meeting” shall not include any of the following:
 - i. 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, encourage or allow the restatement of the views of the other members;
 - ii. 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;
 - iii. 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
 - iv. Electronic mail exchanged between members of a policy body and/or City staff, exclusively through the use of those members’ City email addresses, so long as such electronic mail is subject to

inspection under subsection 2.30.170(11) of this act. Notwithstanding the foregoing sentence, such email exchanges shall not violate the Ralph M. Brown Act (Government Code Section 54950 *et seq.*).

3. “Policy bodies” shall mean the City Council, appointed subcommittees of the City Council except for *ad hoc* subcommittees appointed for a single purpose on a temporary basis, Commissions, Committees, and City-created Task Forces. Policy bodies shall not include a committee that consists solely of employees of the City of Los Altos.
4. “Public Information” shall mean the content of “public records” as defined in the California Public Records Act (Government Code Section 6250 *et seq.*), whether provided in documentary form or in an oral communication.
5. “Public Information” shall not include “computer software” developed by the City of Los Altos as defined in the California Public Records Act.
6. “Public official” shall mean every Council member, Commissioner, Committee member, employee and consultant of the City.

2.30.020 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 Chapter. In case of inconsistent requirements under the Brown Act and this Chapter, the requirement, which would result in greater or more expedited public access, shall apply.

2.30.030 Agenda Requirements; Regular Meetings

1. At least seventy-two (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 and all related items, including staff reports, proposals and contracts that will be considered for action. Agendas shall specify for each item of business the proposed action or a statement the item is for discussion only. In addition, a policy body shall post a current agenda on the City’s Internet website at least seventy-two (72) hours before a regular meeting.
2. At least ten (10) calendar days before a regular City Council meeting, a preliminary agenda containing a meaningful description of each item of business anticipated at the time of posting the preliminary agenda to be transacted or discussed at the meeting and all related items that are prepared and ready shall be posted. These agendas shall specify for each item of business the proposed action or a statement the item is for discussion only. In addition, the preliminary agenda shall be posted on the City’s Internet website at least ten (10) calendar days before the regular City Council meeting. Staff reports prepared and ready at the time of posting of the preliminary agenda will also be posted to the website.
3. A 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. Such documents shall be made available for public inspection and copying at a location indicated on the agenda during normal office hours.

4. The agenda shall specify the time and location of the regular meeting and shall be posted at locations that are freely accessible to members of the public, on the City's website and provided to the media.
5. 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.
6. Notwithstanding subdivision (5), the policy body may take action on items of business not appearing on the posted agenda under any of the following conditions listed below. Prior to discussing any item pursuant to this subdivision, the policy body shall publicly identify the item.
 - a. Upon a determination by a majority of the body that an emergency situation exists, such as an accident, natural disaster or work force disruption poses a threat to public health and safety.
 - b. 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 there is a need to take immediate action and that the need for such action came to the attention of the City subsequent to the agenda being posted as specified in subdivision (1).
 - c. The item was on an agenda posted pursuant to subdivision (1) 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.
7. Each policy body shall ensure that notices and agendas for regular and special meetings shall include the following notice:

KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE. Government's duty is to serve the public, reaching its decisions in full view of the public, Commissions, Task Forces, Councils and other agencies of the City 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. FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT THE OPEN GOVERNMENT COMMITTEE.
8. Each agenda of a policy body covered by this Open Government Ordinance shall include the address, area code and phone number, fax number, e-mail address and contact person for the Open Government Committee. Information on how to obtain a free copy of the Open Government Ordinance shall be included on each agenda.

2.30.040 Public Notice Requirements

1. Any public notice that is mailed, posted or published by a City department, task force, 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.
2. The notice 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.
3. 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 meeting 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. The notice shall state that submitting written comments does not preclude an individual from speaking at the meeting.

2.30.050 Additional Public Statements and Comments

When notice is given, as provided in this Chapter, by public policy or advisory bodies, members of the public may submit statements and/or comments regarding any item on those bodies' meeting agendas; those statements or comments shall become public record, regardless of whether their authors are present when the item at issue is discussed. Statements or comments shall be subject to review and consideration by those bodies if submitted before or during the hearing on the item. Staff responses to questions from Council members and members of the public as well as statements or comments by members of the public on agenda items will be posted on the City's website within one business day of receipt and no later than three (3) hours prior to the Council meeting, provided that said comments and questions are received by the City at least four (4) hours prior to start of the meeting.

2.30.060 Agenda Disclosures: Closed Sessions

1. In addition to the brief general description of items to be discussed or acted upon in open and public session, the agenda, any mailed notice and any call and notice, shall contain the specific, applicable Government Code Section and shall specify and disclose the nature of any closed sessions by providing all of the following information:
 - a. With respect to a closed session held to determine whether an applicant for a license or license renewal, who has a criminal record, is sufficiently rehabilitated to obtain the license:
LICENSE/PERMIT DETERMINATION
_____applicant(s)

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

- b. With respect to a closed session held with its negotiator prior to the purchase, sale, exchange or lease of real property:

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.

- c. With respect to a closed session held with legal counsel regarding pending litigation:

CONFERENCE WITH LEGAL COUNSEL

Existing Litigation:

Case Name _____

Court _____

Case Number _____

_____ Unspecified to protect service of process

_____ Unspecified to protect settlement posture

The space under “Existing Litigation” shall be used to specifically identify a case under discussion, 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.

- d. With respect to a closed session held with legal counsel regarding anticipated litigation:

CONFERENCE WITH LEGAL COUNSEL

Anticipated Litigation - _____ case(s)

- e. With respect to a closed session held regarding a threat to public services or facilities, appointment or dismissal of public employee, and public employee performance evaluation, either:

THREAT TO PUBLIC SERVICES OR FACILITIES

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

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:

- f. With respect to a closed session held with agency negotiators regarding compensation for represented and unrepresented employees, either:

CONFERENCE WITH NEGOTIATOR – COLLECTIVE BARGAINING

Name and title of City’s negotiator:

Organization(s) representing: _____

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 shall be listed. 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 the Ralph M. Brown Act and provided with any mailed or delivered notices required by the Ralph M. Brown Act.

2.30.070 Additional Requirements for Closed Sessions

Each agenda item for a policy body covered by this Chapter that involves 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 Chapter 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.

2.30.080 Agendas and Related Materials: Public Record

1. Agendas of meetings, meeting packets and any other documents on file with the clerk of the 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 before the hearing and be available to the public in sufficient quantities at the hearing commensurate with the anticipated needed number of copies that will be requested by people attending the hearing. However, this disclosure need not include any material exempt from public disclosure under this Chapter.
2. At the same time any regular meeting agenda is posted, City staff shall also post on its Internet website a complete set of all documents provided to the policy body in anticipation of such regular meeting. However, this disclosure need not include any material exempt from public disclosure under this Chapter. City staff shall not provide any non-exempt documents to a policy body at a regular meeting unless those documents were posted to the City's website at least 72 hours earlier, unless a majority of the members of the policy body specifically approve the submission of such belatedly provided documents following a showing by staff of good cause at the regular meeting that justifies waiving of this Internet posting requirement. Records which are subject to disclosure under subdivision (1) 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. Records which are subject to disclosure under subdivision (1) and which are distributed during or following their discussion at a public meeting shall be made available for public inspection and posted to the City's website immediately or as soon thereafter as is practicable.
3. A policy body may charge a duplication fee as may be set from time to time by the City Council for a copy of a public record prepared for consideration at a public meeting. Neither this section nor the California Public Records Act 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.

2.30.090 Closed Sessions

A policy body may, but is not required to, hold closed sessions on items within the subject matter jurisdiction of the policy body:

1. With the Chief of Police, or their designated law enforcement representatives, 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
2. To consider the appointment, employment, evaluation of performance, dismissal or discipline 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

3. Based on the advice of its legal counsel, 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:
 - a. 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
 - b. 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. from any such closed meeting, during the comments of a complainant, any or all other complainants in the matter.
4. With the City's designated representatives regarding matters within the scope of the collective bargaining or meeting and conferring with public employee organizations when a policy body has authority over such matters. The salary and benefits of the City Council will be discussed and acted upon by the City Council in open session. The salary and benefits of the City Manager, City Attorney and unrepresented employees shall be acted upon separately by the City Council in open session.
 - a. 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. Except for consultations with designated representatives, 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.
 - b. In addition to the closed sessions authorized by 2.30.090(4)(a), a policy body may hold closed sessions with its designated representatives on mandatory subjects within the scope of representation of represented employees.
5. All closed sessions shall allow for public comment on any proposed agenda items prior to Council entering into a closed session. Such opportunity shall be indicated on the meeting agenda.

2.30.100 Statements of Reasons for Closed Sessions

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

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disclosures and specifications required by Section 2.30.060 of this Chapter. In the case of adjourned and continued meetings, the statement shall be made with the same disclosures and specifications required by Section 2.30.060 of this Chapter, as part of the notice provided for the meeting. 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 2.30.060 of this Chapter. Nothing in this section shall require or authorize a disclosure of information prohibited by State or Federal law.

2.30.110 Disclosure of Closed Session Discussions and Actions

1. 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, any other law, or non-waiveable privilege. The disclosure shall be made in open session through the presiding officer of the body or such other person, present in the closed session, which the presiding officer designates to convey the information. Such vote shall be reported as soon as possible in open session. The minutes from the meeting in which the action is reported shall include the results of the vote.
2. A policy body shall publicly report any action taken in closed session and the vote or abstention of every member present thereon, as follows:
 - a. Real Property Negotiations: Approval given to a policy body's negotiator concerning real estate negotiations 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 (2) of this section need not be disclosed until the condition has been satisfied or the agreement has been reached with respect to all properties, or both.
 - b. 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, intervener or amicus curiae in any form of litigation as the result of a consultation 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.

- c. 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 ten (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 discounting an existing policy, practice or program, or otherwise acting other than to pay an amount of money less than \$50,000. 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 has been settled could be detrimental to the City's interests 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 subsection (2) of this section need not be disclosed until the other case is settled or otherwise finally concluded.
 - d. Employee Actions: Action taken by the City Council to appoint, employ, dismiss, transfer or accept the resignation of a public employee in closed session shall be reported immediately in a manner that identifies 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. Such report shall be consistent with the Ralph M. Brown Act, as well as applicable federal and state law. "Dismissal" within the meaning of this Chapter 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.
 - e. Collective Bargaining: Any collectively bargained agreement shall be made publicly available at least ten (10) calendar days before the meeting of the policy body to which the agreement is to be reported.
3. 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 the Ralph M. Brown Act.
 4. If there is a reportable action, 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.

2.30.120 Barriers to Attendance Prohibited

No policy body shall conduct any meeting, conference or other function in any facility 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 City Council, a task force, committee or commission, 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.

2.30.130 Tape Recording, Filming and Still Photography

1. Any person attending an open and public meeting of a policy body shall have the right to record the proceedings with an audio or video recorder or a still or motion picture camera, or to broadcast the proceedings, in the absence of a reasonable finding of the policy body that the recording or broadcast cannot continue due to its noise, illumination or obstruction of view as to constitute a persistent disruption of the proceedings.
2. The City Council and Planning and Transportation Commission shall video record each meeting. All other policy bodies shall audio record each meeting. Each such video and audio recording, and any video recording made at the direction of the policy body shall be a public record subject to inspection pursuant to the California Public Records Act. The video recording of meetings of the City Council and Planning and Transportation Commission shall within one week of the meeting be made available by webcast on the City's website and shall remain on the City's website permanently. The audio and video record of all meetings under this subdivision shall be kept permanently. Audio records of all policy body meetings shall be provided upon request and payment for the actual cost of the recording. Requests shall be made through the City Clerk.

2.30.140 Public Testimony and Council Announcements

1. Every agenda for regular meetings shall provide an opportunity for members of the public to directly address a policy body on any item, provided that no action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by subsection 2.30.030(6) of this Chapter.
2. Every agenda for 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 thereuon.

3. 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. However, the Chair of the meeting has discretion to adjust the speaking time. Time limits shall be applied uniformly to members of the public wishing to testify. The Chair of the policy body shall accept public testimony in a fair and evenhanded way, without manipulation in the order of speakers.
4. 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 subsection (3) of this section.
5. 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.

2.30.150 Minutes

1. The Clerk or staff liaison of each policy body shall record the written minutes of all regular meetings of the policy body.
2. The draft summary of actions of each meeting shall be posted on the City's website and be available for inspection and copying upon request no later than ten (10) working days after the meeting. The officially adopted minutes shall be available for inspection and copying upon request no later than ten (10) working days after the meeting at which the minutes are adopted. All votes shall be properly recorded.

2.30.160 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 Chapter. 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 not be the basis for a request for injunctive or declaratory relief, or both.

Article II

2.30.170 Process for Gaining Access to Public Records; Administrative Appeals

1. The City Clerk and/or his or her designee shall, at normal times and during normal and reasonable hours of operation, without unreasonable delay, and without requiring an appointment, permit the public record, or any segregable portion of a record, to be inspected and examined by any person and shall furnish one copy thereof upon payment of a reasonable copying charge as may be set from time to time by the City Council.
2. The City Clerk and/or his or her designee shall, as soon as possible and within ten (10) calendar days following receipt of a request for inspection or copy of a public record, comply with such request. Such request may be delivered to the office of the City Clerk and/or his or her designee by the requester orally or in writing by fax, postal delivery or email. If the City Clerk and/or his or her designee believes the record or information requested is not a public record or is exempt, the City Clerk and/or his or her designee shall justify withholding any record by demonstrating, in writing as soon as possible and within ten (10) calendar days following receipt of a request, that the record in question is exempt under express provisions of this Chapter.
3. The City Clerk and/or his or her designee shall assist a requester in identifying the existence, form and nature of any public records or information maintained by, available to, or in the custody of the City Clerk and/or his or her designee, and shall, when requested to do so, provide in writing within ten (10) calendar days following receipt of a request, a statement as to the existence, quantity, form and nature of records relating to a particular subject or questions with enough specificity to enable a requester to identify records in order to make a request under (2).
4. If the City Clerk and/or his or her designee refuses, fails to comply or incompletely complies with a request described in (2), the person making the request may petition the City Manager in writing, and in the form required by the Open Government Committee, for a determination whether the record requested is public. The City Manager shall inform the petitioner, as soon as possible and within ten (10) calendar days, of its determination whether the record requested, or any part of the record requested, is public. Where requested by the petition, and where otherwise desirable, this determination shall be in writing. Upon the determination by the City Manager that the record is public, the City Manager shall immediately order the City Clerk and/or his or her designee to comply with the person's request. If the City Clerk and/or his or her designee refuses or fails to comply with any such order within five (5) days, the City Manager shall notify the City Attorney who shall take whatever measures deemed necessary and appropriate to insure compliance with the provisions of this Chapter.
5. If the City Clerk and/or his or her designee refuses, fails to comply or incompletely complies with a request described in (2) above or if a petition is denied or not acted upon by the City Manager, the person making the request may

petition the Open Government Committee for a determination whether the record requested is public. The Open Government Committee shall inform the petitioner, as soon as possible and within two (2) days after its next meeting but in no case later than forty-five (45) days from when a petition in writing is received, of its determination whether the record requested, or any part of the record requested, is public. Where requested by the petitioner, and where otherwise desirable, this determination shall be in writing. Upon the determination that the record is public, the Open Government Committee shall advise the City Council as to whether the record should be public. The City Council and the City Attorney's office shall provide sufficient resources to allow the Open Government Committee to fulfill its duties under this provision. Where requested by the petitioner, the Open Government Committee may conduct a public hearing concerning the records request denial. The City Clerk and/or his or her designee shall attend any hearing and explain the basis for its decision to withhold the record requested. Petitions for City Council member records shall be made directly to the Open Government Committee for its determination according to this paragraph.

6. The administrative remedy provided under this Chapter shall in no way limit the availability of other administrative remedies provided to any person with respect to any officer or employee of any agency, executive office, department or task force; nor shall the administrative remedy provided by this section in any way limit the availability of judicial remedies otherwise available to any person requesting a public record. If the City Clerk and/or his or her designee refuses or fails to comply with the request of any person for inspection or copy of a public record or with an administrative order under this section, the Superior Court of California shall retain jurisdiction to order compliance.
7. In any court proceeding pursuant to this Chapter there shall be a presumption that the record sought is public, and the burden shall be upon the City Clerk and/or his or her designee to prove with specificity the exemption which applies.
8. At least once a year, and as otherwise requested by the Open Government Committee, the City Manager shall prepare a tally and report of every petition brought before it for access to records since the time of its last tally and report. The report shall at least identify for each petition the record or records sought, the Department of those records, the ruling of the City Manager, whether any ruling was overturned by a court and whether orders given to the City Clerk and/or his or her designee were followed. The report shall also summarize any court actions related to any petitions during that period. At the request of the Open Government Committee, the report shall also include copies of all rulings made by the City Manager and all non-Attorney Client privileged opinions issued.
9. The Los Altos City Attorney's office shall act to protect and secure the rights of the people of Los Altos to access public information and public meetings. The City Attorney or its designee will monitor the handling of public records when any elected public official or the City Manager leaves office and moves materials from the office. All elected officials and the City Manager shall surrender all public records in their possession to the City Attorney or its designee at the time of leaving office.

10. Release of documentary public information, whether for inspection of the original or by providing a copy, shall be governed by the California Public Records Act to the extent not addressed by this Chapter in accordance with the enhanced disclosure requirements provided in this Chapter.
11. Inspection and copying of documentary public information stored in electronic form shall be made available to the person requesting the information in any form requested which is available to or easily generated by the department, its officers or employees, including disk, tape, printout or monitor at a charge no greater than the cost of the media on which it is duplicated. Inspection of documentary public information on a computer monitor need not be allowed where the information sought is necessarily and inseparably intertwined with information not subject to disclosure under this Chapter. Nothing in this section shall require a department to program or reprogram a computer to respond to a request for information or to release information where the release of that information would violate a licensing agreement or copyright law.
12. Requests for public records, including a brief description of the request, identification of the requester, the date requested, whether the request was granted, partially granted or denied, and the date the request was fulfilled, shall be posted on the City's website. This list shall be updated quarterly.

2.30.180 Policy Regarding Use of Computer Systems

It is the policy of the City of Los Altos to utilize computer technology in order to reduce the cost of public records management, including the cost of collecting, maintaining and disclosing records subject to disclosure to members of the public under this section. To the extent that it is technologically and economically feasible, departments that use computer systems to collect and store public records shall program and design such systems to ensure convenient, efficient and economical public access to records and shall make public records easily accessible over public networks, including but not limited to the Internet.

2.30.190 Release of Oral Public Information

Release of oral public information shall be accomplished as follows:

1. Every department head shall designate a person or persons knowledgeable about the affairs of the department, to provide information, including oral information, to the public about the department's operations, plans, policies and positions (referred to herein as "a Department Head"). The department head may designate himself or herself for this assignment, but in any event shall arrange that an alternate or alternates be available for this function during the absence or unavailability of the person assigned primary responsibility. A list of every department and every designated and alternate Department Head for public record inspection purposes, along with those employees' business addresses, telephone numbers and email addresses, shall be available for inspection and copying at the Office of the City Clerk and shall be kept and regularly maintained on the City's website.

2. The role of the person or persons so designated shall be to provide information on as timely and responsive a basis as possible to those members of the public who are not requesting information from a specific person. This section shall not be interpreted to curtail existing informal contacts between employees and members of the public when these contacts are occasional, acceptable to the employee and the department, not disruptive of the employee's operational duties and confined to accurate information not confidential by law.
3. If it would take an employee more than fifteen (15) minutes to obtain the information responsive to an inquiry or inquiries from a member of the public, the employee shall notify the requester of the procedures for obtaining records under this Chapter.
4. Public employees shall not be discouraged from or disciplined for the expression of their personal opinions on any matter of public concern while on duty, so long as the opinion (1) is not represented as that of the department and does not misrepresent the department position; and (2) does not disrupt coworker relations, impair discipline or control by superiors, erode a close working relationship premised on personal loyalty and confidentiality, interfere with the employee's performance of that employee's duties or obstruct the routine operation of the office in a manner that outweighs the employee's interests in expressing that opinion. In adopting this subdivision, the City Council intends merely to restate and affirm court decisions recognizing the First Amendment rights enjoyed by public employees. Nothing in this section shall be construed to provide rights to City employees beyond those recognized by courts, now or in the future, under the First Amendment, or to create any new private cause of action or defense to disciplinary action.
5. Notwithstanding any other provisions of this Chapter, public employees shall not be discouraged from or disciplined for disclosing any information that is public information or a public record to any journalist or any member of the public.

2.30.200 Public Review File – Policy Body Communications

The City Clerk or the designated secretary of a particular policy body shall maintain a file, accessible to any person during normal office hours, containing a copy of all letters, memoranda or other communications which the clerk has distributed to or has been received by a quorum of the policy body concerning a matter calendared by the body within the previous thirty (30) days or likely to be calendared within the next thirty (30) days, irrespective of subject matter, origin or recipient, except commercial solicitations, periodical publications or communications exempt from disclosure under the California Public Records Act and not deemed disclosable under Section 2.30.210 of this Chapter.

2.30.210 Public Information That Must Be Disclosed

Notwithstanding a department's legal discretion to withhold certain information under the California Public Records Act, the following policies shall govern specific types of documents and information and shall provide enhanced rights of public access to information and records:

1. Drafts, Notes and Memoranda. No preliminary draft, note or memorandum shall be exempt from disclosure under Government Code Section 6254, subdivision (a) if it is kept in the normal course of business. For purpose of this Chapter, “normal course of business” means in the inherent nature of the City’s business in question, and in the method systematically employed for the conduct of the task in question. Preliminary drafts and memoranda concerning contracts, memoranda of understanding or other matters subject to negotiation or pending Council approval shall not be subject to disclosure pursuant to this provision until final action has been taken.
2. Litigation Material. Notwithstanding any exemptions otherwise provided by law, the following are public records subject to disclosure under this Chapter:
 - a. A pre-litigation claim against the City (excluding any investigative reports);
 - b. A record previously received or created by a department in the ordinary course of business that was not attorney/client privileged or attorney-work product when it was previously received or created
3. Contracts, Bids and Proposals
 - a. All initial City Requests for Proposals (“RFP’s) shall be kept in a central repository and shall be made available for public inspection. In addition, RFP’s shall be placed on the City’s website for a period from the date the RFP was issued to the date that the RFP is due.
 - b. Contracts, contractors’ bids, responses to requests for proposals and all other records of communications between the department and persons or firms seeking contracts shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person’s or organization’s net worth or other proprietary financial data submitted for qualification for a contract or other benefit. All bidders and contractors shall be advised that information provided which is covered by this subdivision will be made available to the public upon request. Immediately after any review or evaluation or rating of responses to a RFP has been completed, evaluation forms and score sheets and any other documents used by persons in the RFP evaluation or contractor selection process shall be available for public inspection. The names of scorers, graders or evaluators, along with their individual ratings, comments and score sheets or comments on related documents, shall be made immediately available after the review or evaluation of a RFP has been completed.
 - c. Budgets and Other Financial Information. Budgets, whether tentative, proposed or adopted, for the City or any of its departments, programs, projects or other categories, and all bills, claims, invoices, vouchers or other records of payment obligations as well as records of actual disbursements showing the amount paid, the payee and the purpose for which payment is made, other than payments for social or other services whose records are confidential by law, shall not be exempt from disclosure.
 - d. Appraisals, offers and counteroffers relating to the City’s purchase of real property are exempt until an agreement is executed.

2.30.220 Immediacy of Response

Notwithstanding the ten (10) calendar day period for response to a request permitted in the California Public Records Act, a request for a public record described in any nonexempt category which is received by the City Clerk and/or his or her designee shall be satisfied no later than the close of business on the day following the request unless the City Clerk and/or his or her designee advises the requester in writing that the request will be answered by a specific future date. The statutory deadlines are appropriate for more extensive or demanding requests, but shall not be used to delay fulfilling a simple, routine or otherwise readily answerable request. If the voluminous nature of the information requested, its location in a remote storage facility or the need to consult with legal counsel warrants an extension of an additional ten (10) calendar days, the requester shall be noticed as required within ten (10) calendar days of the request. Nothing in this section shall prohibit the requester and City Clerk or his/her designee from agreeing to a longer time than provided for herein for the provision of requested records. Any such mutual agreement shall be in writing and signed by the requester.

2.30.230 Withholding Kept to a Minimum

Information that is exempt from disclosure shall be masked, deleted or otherwise segregated so that the nonexempt portion of a requested record may be released and keyed by footnote or other clear reference to the appropriate justification for withholding required by this Chapter in Section 2.30.240.

2.30.240 Justification of Withholding

Any withholding of information shall be justified, in writing, as follows:

1. A withholding under a specific permissive exemption in the California Public Records Act, or elsewhere, which permissive exemption is not forbidden to be asserted by this Chapter, shall cite that authority.
2. A withholding on the basis that disclosure is prohibited by law shall cite the specific statutory authority in the Public Records Act or elsewhere.
3. A withholding on the basis that disclosure would incur civil or criminal liability shall cite any specific statutory or case law, or any other public agency's litigation experience, supporting that position.
4. When a record being requested contains information, most of which is exempt from disclosure under the California Public Records Acts and this Section, the City Clerk shall inform the requester of the nature and extent of the nonexempt information and suggest alternative sources for the information requested, if available.

2.30.250 Public Records That Must Be Disclosed

The following policies shall govern specific types of documents and information and shall provide enhanced rights of public access to information and access:

1. Notwithstanding exemptions provided for in the California Public Records Act (Government Code Section 6254, subdivision (c)), the following information shall be considered a public record and shall be made available for review upon request by any person, business or association: A listing of gross earnings by name and job title, including base salaries and other compensation. Other compensation shall include allowances, overtime and deferred compensation, leave cash-out payments and the percentage of base salaries that the City pays as the employer's CalPERS contribution.

2.30.260 Fees for Duplication

1. No fee shall be charged for making public records available for review.
2. For documents routinely produced in multiple copies for distribution, e.g. meeting agendas and related materials, a fee as may be set from time to time by the City Council may be charged, plus any postage costs.
3. For documents assembled and copied to the order of the requester, a fee as may be set from time to time by the City Council may be charged, plus any postage.
4. Copies of video recorded meetings shall be provided to the public upon request for the actual cost of materials (i.e. DVD) per meeting. Audio tapes of audio taped meetings shall be provided upon public request for the actual cost of the tape by the policy body whose meeting was recorded. The City Council shall from time to time approve a fee schedule determining these costs.

2.30.270 Index to Records

The City shall maintain a public records index that identifies the types of information and documents maintained by the City and its departments, agencies, task forces, commissions and elected officers. The index shall be for the use of City officials, staff and the general public, and shall be organized to permit a general understanding of the types of information maintained, by which officials and departments, for which purposes and for what periods of retention, and under what manner of organization for accessing, e.g. by reference to a name, a date, a proceeding or project, or some other referencing system. The index need not be in such detail as to identify files or records concerning a specific person, transaction or other event, but shall clearly indicate where and how records of that type are kept. The City Clerk shall be responsible for the preparation of this records index. Each department, agency, commission and public official shall cooperate with the City Clerk to identify the types of records it maintains, including those documents created by the entity and those documents received in the ordinary course of business and the types of requests that are regularly received. Each department, agency, commission and public official is encouraged to solicit and encourage public participation to develop a meaningful records index. The index shall clearly and meaningfully describe, with as much specificity as practicable, the individual types of records that are prepared or maintained by each department, agency, commission or public official of the City. The index shall be sufficient to aid the public in making an inquiry or a request to inspect. Any changes in the department, agency, commission or public official's practices or procedures affecting the accuracy of the information provided to the City Clerk shall be recorded by the City Clerk

on a periodic basis so as to maintain the integrity and accuracy of the index. The index shall be continuously maintained on the City's website and made available at the Los Altos Library.

2.30.280 Records Survive Transition of Officials

All documents prepared, received or maintained by any employee are the property of the City of Los Altos. The originals of these documents shall be maintained consistent with the records retention policies of the City of Los Altos. The City Manager or his/her designee shall monitor the transition of all employees to ensure that public documents are not unlawfully removed or destroyed during the transition. Employees shall not take non-public records upon leaving employment.

2.30.290 Internet Access/World Wide Web Minimum Standards

The City of Los Altos shall maintain on a World Wide Web site, or on a comparable, readily accessible location on the Internet, information that it is required to make publicly available. Each department is encouraged to make publicly available through the City's website as much information and as many documents as possible concerning its activities. These include, but are not limited to, campaign report forms, operating and capital budgets, meeting agendas, meeting minutes, public notices, and, when feasible, staff meeting reports. Each department shall post on the City's website all meeting notices required under this Chapter, all agendas and the minutes of meetings of its policy bodies. Notices and agendas shall be posted no later than the time that the department distributes this information to the public, allowing reasonable time for posting.

Minutes of meetings shall be posted as soon as possible, but in any event within one week after they have been approved. The City shall make reasonable efforts to ensure that its website is regularly reviewed for timeliness and updated on at least a weekly basis. The City shall also make available on its website, or on a comparable, readily accessible location on the Internet, a current copy of the Municipal Code.

The City shall also webcast all City Council and Planning and Transportation Commission meetings and archive the webcasts of such meetings permanently.

2.30.300 Correspondence and Records Shall Be Maintained

1. The City Manager shall for a reasonable period maintain, preserve and archive documents and correspondence, including but not limited to letters, emails, drafts, memoranda, invoices, reports and proposals that pertain to or are within the subject matter jurisdiction of the official's duties (as defined by the Open Government Committee) and shall disclose all such records in accordance with this Chapter.
2. Any email that is created or received in connection with the transaction of public business and which (1) the department or office retains as evidence of its activities, or (2) relates to the legal or financial rights of the City or of persons directly affected by the activities of the City is a public record. The standard for

determining if email is a public record that must be retained is identical to the standard that applies to any document.

2.30.310 Review of FPPC Statement of Economic Interests

1. During the annual filing period as required by the California Political Reform Act of 1974 (Government Code Section 81000 *et seq.*), the City Clerk as filing officer shall conduct a prima facie review of all FPPC Statement of Economic Interests filings of all officials required to file under Government Code Section 87200, and all designated employees and commission members required to file under the City's Conflict of Interest Code. The City Manager shall review the Form 700 submitted by the City Clerk.
2. Not later than April 15th of each year the City Clerk shall publish all Statement of Economic Interests filings onto the City's official website. The City Clerk shall also maintain on the City's website all prior years' filings of sitting City Council members, the City Manager, the City Attorney and members of the Planning and Transportation Commission so that these required disclosures are readily available to the public for inspection. Statements shall be removed from the website one (1) year after the official has left office.

ARTICLE III

2.30.320 The Open Government Committee

1. There is hereby established a task force to be known as the "Open Government Committee" consisting of two (2) City Council members and three (3) residents of the City appointed by the City Council. The City Attorney shall serve as legal advisor to the Committee.
2. The term of each appointed member sitting on the Open Government Committee shall be two years, from and after the first regular City Council meeting following the biennial certification of the City Council election, unless earlier removed by the City Council. In the event of such removal or in the event a vacancy otherwise occurs during the term of office of any appointive member, a successor shall be appointed for the unexpired term of the office vacated in a manner similar to that described herein for the initial members. The Committee shall elect a chair from among its appointive members. The term of office as chair shall be one year. Members of the Committee shall serve without compensation.
3. The Committee shall advise the City Council and provide information to other City departments on appropriate ways in which to implement this Chapter. The Committee shall develop appropriate goals to ensure practical and timely implementation of this Chapter. The Committee shall propose to the City Council amendments to this Chapter. The Committee shall report to the City Council at least once annually on any practical or policy problems encountered in the administration of this Chapter. The Committee shall meet annually and shall receive and review annual reports on request for public information. Such report

shall include the requester, the date requested, whether the request was granted, partially granted or denied, and the date the request was fulfilled.

4. The Open Government Committee shall recommend to the City Council an administrative process for the review and enforcement of this Chapter. No such administrative process shall preclude, delay or in any way limit a person's remedies under the Ralph M. Brown Act or the California Public Records Act.
5. In addition to the powers specified above, the Committee shall possess such powers as the City Council may confer upon it by ordinance or as the people of Los Altos shall confer upon it by initiative.

2.30.330 Responsibility for Administration

The City Manager shall administer and coordinate the implementation of the provisions of this Chapter. The City Clerk shall provide and perform administrative duties for the Committee and assist any person in gaining access to public meetings or public information. The City Manager shall provide the Committee's staff person with whatever facilities and equipment are necessary to perform said duties as budgeted by the City Council.

2.30.340 Department Head Declaration and Training

All City department heads and all management employees, all policy body members, and all employees and officials who are required to file a Statement of Economic Interests shall sign an affidavit or declaration stating under penalty of perjury that they have read the Open Government Ordinance and have taken training on the Open Government Ordinance within the first sixty (60) days of appointment or election. Training shall be taken each two years thereafter. The affidavit or declarations shall be maintained by the City Clerk and shall be available as a public record. Training shall be provided by the City Attorney's Office.

2.30.350 Enforcement Provisions

1. Any person may institute proceedings for injunctive relief, declaratory relief or writ of mandate in any court of competent jurisdiction to enforce that person's right to inspect or to receive a copy of any public record or class of public records under this Chapter or to enforce that person's right to attend any meeting required under this Chapter to be open, or to compel such meeting to be open.
2. A court shall award costs and reasonable attorneys' fees to the plaintiff who is the prevailing party in an action brought to enforce this Chapter.
3. If a court finds that an action filed pursuant to this section is frivolous, the City may assert its rights to be paid its reasonable attorneys' fees and costs.
4. Any person may institute proceedings for enforcement and penalties under this Chapter in any court of competent jurisdiction if enforcement action is not taken by a City or state official 50 days after a complaint is filed.

2.30.360 Open Government Ordinance Supersedes Other Local Laws; Applies to All Ordinances with Open Government Application

The provisions of this Open Government Ordinance supersede other local laws. Whenever a conflict in local law is identified, the requirement which would result in greater or more expedited public access to public information shall apply. The provisions of this Open Government Ordinance shall apply to all applicable and relevant provisions of the Los Altos Municipal Code.

2.30.370 Severability

The provisions of this Chapter are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this Chapter, or the invalidity of the application thereof to any person or circumstances, shall not affect the validity of the remainder of this Chapter, or the validity of its application to other person or circumstances.

SECTION 2. CONSTITUTIONALITY. If any section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

SECTION 3. PUBLICATION. This ordinance shall be published as provided in Government Code section 36933.

SECTION 4. EFFECTIVE DATE. This ordinance shall be effective upon the commencement of the thirty-first day following the adoption date.

The foregoing ordinance was duly and properly introduced at a regular meeting of the City Council of the City of Los Altos held on _____, 2014 and was thereafter, at a regular meeting held on _____, 2014 passed and adopted by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

Megan Satterlee, MAYOR

Attest:

Jon Maginot, CMC, CITY CLERK