

**CITY OF LODI
INFORMAL INFORMATIONAL MEETING
"SHIRTSLEEVE" SESSION
CARNEGIE FORUM, 305 WEST PINE STREET
TUESDAY, JANUARY 9, 2001**

An Informal Informational Meeting ("Shirtsleeve" Session) of the Lodi City Council was held Tuesday, January 9, 2001 commencing at 7:09 a.m.

A. ROLL CALL

Present: Council Members – Hitchcock, Howard, Land, Pennino and Mayor Nakanishi

Absent: Council Members – None

Also Present: City Manager Flynn, City Attorney Hays, and City Clerk Blackston

B. CITY COUNCIL CALENDAR UPDATE

City Clerk Blackston reviewed the weekly calendar (filed).

C. TOPIC(S)

C-1 "Budget Policies"

Note: This item was rescheduled to the next regularly scheduled Shirtsleeve Session on January 16, 2001.

C-2 "Agenda Reorganization and Public Notice Requirements"

Comments by the Public on Non-Agenda Items

Council Member Land stated that he has been asked by numerous members of the public to move "Comments by the Public on Non-Agenda Items" earlier on the Council agendas. He suggested placing the item to follow "Presentations".

Council Member Howard supported the idea of moving the public comments item earlier on the Council agenda; however, she suggested moving it to follow the "Consent Calendar".

There was general consensus of the Council to move "Comments by the Public on Non-Agenda Items" to follow the "Consent Calendar".

Consent Calendar

Council Member Hitchcock felt that too many items are placed on the Consent Calendar. She agreed that routine, non-controversial items are appropriate consent items; however, she indicated that this guideline is not always being followed. Also there are certain matters that are non-controversial, and yet the public still needs to be informed. Shirtsleeve Session topics are often complex issues that should not be placed on the Consent Calendar because the public needs to hear the discussion. Ms. Hitchcock stated that appropriation of funds, awarding of bids and contracts, and first reading of ordinances should not be placed on the Consent Calendar.

Mayor Pro Tempore Pennino agreed with staff's recommendations for Consent Calendar items with the exception of the first reading of ordinances.

City Attorney Hays explained that, typically, discussion regarding ordinances is done at the time of the second reading. Most frequently the first reading of an ordinance would be placed under the Regular Calendar. Its placement on the agenda depends on the subject matter. In reference to award of bids, Mr. Hays commented that staff presentations would have already been given prior that point. Projects are generally discussed in-depth at the time that plans and specifications are approved.

Deputy City Manager Keeter described the agenda preparation process. Departments submit their agenda item descriptions (titles) to the City Clerk's Office on Friday, nearly a week and a half prior to the meeting. On the following Monday, the City Manager reviews with staff all the proposed items for the agenda. It is then decided, as a team, whether the items are appropriately listed as Consent or if additional discussion under the Regular Calendar would be necessary. The final agenda is prepared by the City Clerk's Office and the packet is distributed to Council on Thursday or Friday prior to the Wednesday regular meeting. During this review period Council is encouraged to contact staff regarding any questions they may have, particularly for consent items.

Mayor Pro Tempore Pennino stated that Council Members cannot be prohibited from pulling an item off the Consent Calendar for discussion; however, they should make every attempt to communicate with staff prior to the meeting to get their questions addressed.

Council Member Howard pointed out that even though staff is thorough in their reports and communications it can sometimes be very insightful to discuss issues openly and hear what other Council Members feel about a particular item. It is difficult to completely define what topics should be under the Consent Calendar, due to the infinite variety of matters that come before the Council.

Mayor Nakanishi voiced his satisfaction with the current procedure that staff has been following. He explained that he thoroughly reviews the agenda packet, and communicates with staff if he has any questions. Although he can make quick decisions, Mayor Nakanishi stated that he is open to ideas and willing to listen to all discussion. He suggested that if Council Members wish to remove an item from the Consent Calendar for discussion, it should be moved to the Regular Calendar.

Council Member Hitchcock emphasized the need for Council to discuss issues in public. Decisions should not be made in the City Manager's Office. Council Members should remain open-minded, consider one another's opinions, and make their decisions at the meetings.

Mayor Pro Tempore Pennino explained that when he communicates with staff he is merely asking questions and does not make up his mind on how to vote until he is at the meeting. He suggested that staff continue with their current process for agenda preparation and selection of items for the Consent Calendar and that Council Members contact staff in advance if they need clarification.

City Manager Flynn stated that it would be helpful for staff to know in advance if a Council Member wished to pull an item from the Consent Calendar. This would allow staff an opportunity to prepare for a full presentation.

General consensus of Council was to notify staff in advance if they wished to remove an item from the Consent Calendar. City Manager Flynn stated that when reading the Consent Calendar items at the meeting he would announce which items will be moved to the Regular Calendar, and identify the Council Member who made the request.

Amendments to Order of Business / Closed Session

City Clerk Blackston reported that Lodi Municipal Code, Section 2.04.100, Order of Business, was last amended in 1994. Since that time, certain items have been added to the Council agenda, which she outlined as follows: 1) Presentations (as a subtitle); 2) Miscellaneous (under Communications); and, 3) Return to Open Session / Disclosure of Action. She suggested including these items in the Ordinance to amend the above Code section, which will also be necessary for moving the item for "Comments by the Public on Non-Agenda Items".

Ms. Blackston offered for discussion the benefits of holding Closed Sessions prior to the regular Council meeting, which include: 1) allowing Council to make decisions at an

Continued January 9, 2001

earlier hour; 2) not keeping paid consultants and legal counsel waiting until the end of the meeting; and 3) interested parties will not be kept waiting for disclosure of action.

General consensus of the Council was to hold Closed Sessions prior to the regular Council meeting. Discussion ensued regarding what time the Closed Sessions should begin, and 5:30 p.m. to 6:00 p.m. was generally agreed upon, depending on the estimated time needed for discussion.

Alcoholic Beverage Control License Applications

Council Member Land questioned the need for Alcoholic Beverage Control (ABC) licenses to be listed on the Council agenda.

City Attorney Hays recalled that the Council had requested it in the past.

Council Member Hitchcock stated that at some point there had been a large number of ABC licenses being approved, and citizens and Council were concerned about proliferation of establishments selling alcohol.

Community Development Director Bartlam reported that the Planning Commission reviews and approves through the Use Permit process any new ABC license at a location, or a new license to an individual that is not transferred from the prior license at that location. The ABC licenses listed on the agenda are routine matters and are not required to be on the Council agenda.

General consensus of the Council was to remove Alcoholic Beverage Control License Applications from the agenda. ABC transfers will be copied to Council for informational purposes as they are received.

Town Hall Meetings

City Manager Flynn announced that the Mayor has requested Town Hall meetings be scheduled on a monthly or quarterly basis. The first meeting would be on the topic of electric utility issues.

Mayor Pro Tempore Pennino stated that monthly Town Hall meetings would be too frequent in his opinion. He agreed with holding the meetings on a quarterly basis.

Council Member Hitchcock supported having monthly Town Hall meetings, noting that it would set a routine and generate more public interest. She suggested holding the meetings off-site, possibly at Hutchins Street Square in a more informal setting, as the Forum is intimidating for some members of the public.

Council Member Howard asked for clarification on the Council's role during the Town Hall meetings.

Mayor Nakanishi responded that he envisioned the Town Hall meetings to be an opportunity for the public to provide input and ask questions of Council and staff. If there happened to be little public interest or attendance, the time could be spent communicating between Council and staff.

Council Member Land supported the idea of holding Town Hall meetings; however, he too indicated that monthly may be a little too frequent.

Mayor Nakanishi offered holding quarterly Town Hall meetings at the Forum, and every other month hold informal "Meet the Mayor" sessions possibly at different locations. Other Council Members could participate if they wished to.

Mr. Flynn commented that the Mayor has also requested monthly luncheons with the Council and different community groups.

Public Notice Requirements

City Clerk Blackston stated that the Council was provided "Guidelines for Public Notice" (filed) for informational purposes and to illustrate the myriad types of public notices and their significance. Currently, Lodi's official public notice posting location is at the Police Department. She explained that the Government Code specifies that the posting location must be freely accessible to the public 24 hours a day, as well as being wheelchair accessible. As the Police Department is not the most appropriate location for posting Council agendas and other public notices, Ms. Blackston stated that she is working toward changing the official posting location to the Carnegie Forum. She will also pursue other ways to make information more accessible to the public, such as installing a computer in City Hall for public use allowing them an opportunity to use the City's electronic imaging software (Fortis) for public records research.

Council Member Land expressed his support of Carnegie Forum being the City's official posting location.

Council Member Howard noted that some cities publish their Council agendas and Consent Calendars in the newspaper.

Mr. Flynn stated that staff would look into the cost for publications.

D. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

- Bob Johnson, 1311 Midvale Road, Lodi, pointed out that any time a Council Member abstains from voting on an item, they should disclose the reason for their abstention.

City Attorney Hays concurred.

Council Member Land cited Lodi Municipal Code Section 2.04.140 and read, "... the council member abstains from voting by reason of his/her interest in the matter before the council and that reason is stated at the meeting."

- In response to Council Member Hitchcock, Finance Director McAthie stated that they are not recommending any budget policy changes from the last two-year budget.
- Council Member Pennino commented that when Council is given "blue copy" documents of changes just before a meeting, the changes should be identified by using bold lettering for additions and strikeout for text being omitted.

E. ADJOURNMENT

No action was taken by the City Council. The meeting was adjourned at approximately 8:04 a.m.

ATTEST:

Susan J. Blackston
City Clerk

Mayor's & Council Member's Weekly Calendar

WEEK OF JANUARY 9, 2001

Tuesday, January 9, 2001

- 7:00 a.m. Shirtsleeve Session
1. Budget Policies
 2. Agenda Reorganization and Public Notice Requirements
- 7:00 p.m. Nakanishi. Parks and Recreation Commission meeting, Carnegie Forum. Mayor to present Certificate of Recognition to retiring member, Patty Steward.
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Wednesday, January 10, 2001

Reminder Howard. LCC Mayors/Council Members Institute, Sacramento, 1/10 - 1/12/01.

Thursday, January 11, 2001

Reminder Howard. LCC Mayors/Council Members Institute, Sacramento, 1/10 - 1/12/01.

8:00 a.m. San Joaquin Regional Rail Commission meeting, Stockton Airport Screening Room.

6:00 p.m. Nakanishi. 48th Lodi District Grape Growers Annual Banquet, Grape Festival Grounds, Chardonnay Hall.

Friday, January 12, 2001

Reminder Howard. LCC Mayors/Council Members Institute, Sacramento, 1/10 - 1/12/01.

Saturday, January 13, 2001

Sunday, January 14, 2001

Monday, January 15, 2001

Noon - 1:30 p.m. Nakanishi. 4th Annual Celebration of Unity in honor of Reverend Dr. Martin Luther King, Jr., Hutchins Street Square ~ Kirst Hall. Mayor to present a proclamation.

Disclaimer: This calendar contains only information that was provided to the City Clerk's office

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CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Agenda Reorganization And Public Notice Requirements

MEETING DATE: January 9, 2001

PREPARED BY: City Clerk

RECOMMENDED ACTION: That Council review the attachments and discuss proposals for City Council Agenda reorganization, general consent calendar criteria, and public notice requirements.

BACKGROUND INFORMATION: During the Shirtsleeve Session staff will review with Council proposals for the City Council Agenda reorganization, general consent calendar criteria, and public notice requirements. The following attachments are included for your review:

- Attachment A – Overhead copies which will be used as topic guides during presentations
- Attachment B – Proposal for City Council Agenda reorganization
- Attachment C – Excerpts from The California Municipal Law Handbook related to closed session disclosure
- Attachment D – International Institute of Municipal Clerks Technical Bulletin entitled "Consent Agenda"
- Attachment E – Guidelines for Public Notice

FUNDING: None required.



Susan J. Blackston
City Clerk

SJB/jmp

Attachments

APPROVED: _____

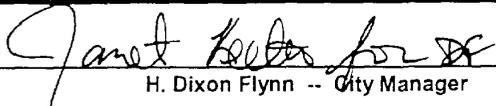

H. Dixon Flynn -- City Manager

EXHIBIT A

Council Agenda Reorganization

- **Comments by the Public**
- **Closed Session**
- **Disclosure of Action**
- **Consent Calendar Criteria**

Consent Calendar Criteria

- **Effective Procedure to Handle Routine Matters on the Agenda Expeditiously**
- **Non-Controversial in Nature**
- **Routine in Nature**
- **No Need for Discussion Can be Foreseen**

Process for Building the Consent Calendar:

- **Departments Submit Titles**
- **City Clerk Creates a Draft Agenda**
- **City Manager Reviews with Management Team**
- **Revisions**
- **Final Agenda and Packet Distribution**
- **Individual Reviews with Council Members**

Examples of Typical Consent Calendar Items:

- Approval of Minutes
- Approval of Claims
- Set dates for Hearings
- Approval of Plans and Specifications
- Appropriation of Funds
- Awarding Bids / Contracts
- Accepting Improvements
- Approve Records Destruction
- First Reading of Ordinances
- Topics Covered During Shirtsleeve Sessions

Questions and Follow-up:

- **1-2 Days Prior to Council Meeting**
- **Opportunity to Review Questions**
- **Apprise Staff of Concerns**

EXHIBIT B

LMC Sec. 2.04.100 Order of Business CURRENT	LMC Sec. 2.04.100 Order of Business PROPOSED
<ul style="list-style-type: none"> A. Roll call; B. Invocation; C. Pledge of allegiance; D. Presentations: <ul style="list-style-type: none"> 1. Awards; 2. Proclamations; E. Consent calendar (Reading; comments by the public; council action); F. Public hearings; G. Communications; <ul style="list-style-type: none"> 1. Claims filed against the City of Lodi; 2. Alcoholic beverage control license applications; 3. Reports: boards/commissions/task forces/committees, 4. Appointments; H. Regular calendar; I. Ordinances; J. Comments by the public on non-agenda items; K. Comments by the city council members on non-agenda items; L. Closed session; M. Adjournment 	<ul style="list-style-type: none"> A. Roll call; B. Invocation; C. Pledge of allegiance; D. Comments by the public on non-agenda items; E. Presentations: <ul style="list-style-type: none"> 1. Awards; 2. Proclamations; 3. Presentations; F. Consent calendar (Reading; comments by the public; council action); G. Public hearings; H. Communications; <ul style="list-style-type: none"> 1. Claims filed against the City of Lodi; 2. Alcoholic beverage control license applications; 3. Reports: boards/commissions/task forces/committees, 4. Appointments; 5. Miscellaneous; I. Regular calendar; J. Ordinances; K. Comments by the public on non-agenda items; K. Comments by the city council members on non-agenda items; L. Closed session; M. Return to open session / disclosure of action N. Adjournment

NOTE: Consideration of holding closed sessions prior to the 7:00 p.m. regular meetings (with disclosure of action reported at beginning of regular meeting) will also be discussed.

d. SUBJECT MATTER ANNOUNCEMENTS IN OPEN SESSION OF
THE CLOSED SESSION

(1) IN GENERAL

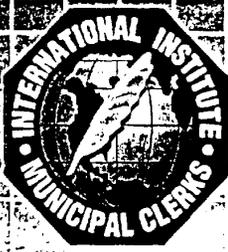
Before conducting any closed session, the legislative body must announce in open session the items to be discussed. Cal. Gov't Code § 54957.7(a). The disclosure may be a simple reference to the agenda item number or letter. The closed session may be conducted (and the announcement may be given) at a location different from that of the regular meeting provided such location is announced in the agenda. Cal. Gov't Code § 54957.7(c).

f. ACTION AND VOTE DISCLOSURE IN OPEN SESSION AFTER THE CLOSED
SESSION

(1) IN GENERAL

After any closed session, the legislative body must reconvene in open session and make a public report of specified actions, and the vote or abstention of every member present. Cal. Gov't Code § 54957.7(b). The reports may be made orally or in writing. Cal. Gov't Code § 54957.1(b).

PRACTICE TIP: The interrelationship of sections 54957.7 and 54957.1 is neither totally consistent nor entirely logical in view of the statutory objectives of the 1993 amendments. Section 54957.7(b), apparently requires the legislative body to reconvene in open session after a closed session even if no disclosure is required under section 54957.1.



TECHNICAL BULLETIN

CONSENT AGENDA

EXHIBIT D

The Council Agenda is an outline for the orderly and efficient conduct of regular city council meetings. It sets forth the items of business and the order in which they are planned to be considered.

The form of the agenda may be prescribed by ordinance or resolution, by city council rules or, simply, by long custom and practice. Whatever the source of its form, the Agenda is an effective management tool for smoothly conducted council meetings which assure citizens of their city officials' competence.

The Consent Agenda is an effective procedure to handle routine matters on the agenda expeditiously. The Consent Agenda may be used by municipalities of any size with proper planning during preparation of the agenda and training of council and administrative participants.

WHAT IS A CONSENT AGENDA?

The Consent Agenda is used as a tool to help shorten council meetings. In many cities, council meetings routinely take three or more hours. However, by making use of the Consent Agenda, the council meeting is invariably shortened.

A Consent Agenda contains routine items which are not controversial and do not need further discussion. Early in the council meeting, the group of items may be approved with one motion and one roll call vote.

In some municipalities the Consent Agenda has been called the "Consent Calendar" or "General Order of Business," but its purpose and manner of use is the same.

Generally, the Consent Agenda portion of the printed agenda is preceded by an explanatory note to the public, such as the following examples show:

"All matters listed under item 3, Consent Agenda, are considered to be routine by the city council and will be enacted by one motion in the form listed below. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately."

"All items listed with an asterisk (*) are considered to be routine and non-controversial by the Council and will be approved by one motion. There will be no separate discussion

of these items unless a council member or citizen requests it in which case the item will be removed from the Consent Agenda and considered in its normal sequence on the agenda as part of the General Orders."

Policy Resolution No. 64

Resolution of the city council of the city of ___ adopting rules of order for the conduct of council meetings.

Be it resolved by the city council of the city of ___ state of ___, that said council does hereby rescind Policy Resolution No. 1; and Be it further resolved that said city council does hereby adopt Rules of Order for the Conduct of Council Meetings as follows:

1. Manner of Addressing Council - Time Limit
2. Roll Call Vote
3. Order of Business

The business of the Council shall be taken up for consideration in substantially the following order except as may be otherwise ordered by the Mayor or Council:

1. Roll Call
2. Approval or Correction of Minutes
3. Consent Agenda
4. Opening of Bids
5. Hearings
6. Planning Commission Recommendations
7. Petitions and Applications
8. Communications
9. City Manager's Recommendations
10. Unfinished Business
11. New Business

4. Consent Agenda Defined

Those items on the Council Agenda which are considered routine by the City Manager and City Clerk, e.g., Grant Deeds, Grants of Easement, final reading and adoption of Ordinances, Auditor's Reports as to Cash Count, Standard Subdivision Agreements, Calls for Bids, Reports of Administrative Actions and Proposals, Leases and Agreements previously approved in principle, etc., shall be marked with an asterisk (*) and, unless the Mayor or a Council specifically requests that such item on the Agenda marked to be considered under "General Order of Business" be removed therefrom and Council action taken separately on said item in the order appearing on the Agenda, these items so marked shall be approved, adopted, accepted, etc., by motion of the Council and roll call vote. Those items so approved under the heading "Consent Agenda" will appear in the Council minutes in their proper form, i.e., resolution accepting grant deed or easement, adoption of ordinance upon final reading, etc.

5. Report of Administrative Actions and Proposals

HOW TO IMPLEMENT

Where it has been used most successfully, the Consent Agenda has been established with full consensus of the Council, Municipal Clerk, and administration. It is important to be certain that all are well informed and that the council and administration are in agreement before implementation of the Consent Agenda procedure.

Most city councils can temporarily amend their usual order of business to permit the use of a Consent Agenda on a trial basis. If the council decides to use the Consent Agenda procedure regularly, it may be necessary to amend the existing resolution or ordinance describing the rules of order for the conduct of council meetings. The example on page 1 includes appropriate excerpts from a typical resolution.

TYPICAL ITEMS

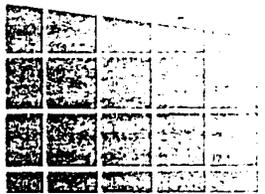
Items included in the Consent Agenda should be those about which no controversy or need for discussion can be foreseen. Usually the council and the city administration agree in advance on the general types of items that are to be included.

The following are types of routine business found on the Consent Agenda of several cities:

- Approval of license applications and bonds
- Approval of minutes
- Approval of final tract maps
- Approval of payment of contracts
- Approval of annexations
- Receive and file or refer correspondences
- Set dates for hearings
- Appointments
- Resignations

Some city councils have considered the following items to be routine, and they have appeared on an occasional Consent Agenda:

- Appropriation of Funds
- Approval of ordinance for adoption (final presentation)
- Authorize City Clerk to canvass ballots
- Approve publishing of intent to annex
- Approve finance warrants
- Authorize call for bids
- Accept grant deeds
- Approve records destruction
- Approve leases and agreements
- First reading of ordinance
- Approve the unanimous recommendations of advisory committees



In some cities, the actual items to be placed on each Consent Agenda are selected at a weekly city department head's meeting. In other cities, the council (or the majority and minority leader) chooses the consent items at a brief pre-council meeting.

APPROVAL OF THE CONSENT AGENDA

When the Consent Agenda items are physically grouped together on the printed agenda, it is often handled in one motion from the council table, "I move that the Consent Agenda, Item 3 (c items 'a' through 'e') be approved as indicated," followed by roll call vote.

When the routine items throughout the agenda are indicated by a special symbol, the Consent Agenda is scheduled as a regular item of business. At that time, the mayor or Municipal Clerk may read aloud the items to be considered part of the Consent Agenda before there is a motion for approval as in the paragraph above.

In either case, the Consent Agenda items are considered as one item of business.

REMOVAL OF AN ITEM FROM THE CONSENT AGENDA

Consent Agenda items are not discussed separately. If an item needs discussion, it is removed from the Consent Agenda and discussed separately, either immediately after the Consent Agenda approval or in its normal sequence on the regular agenda. A typical motion to effect might be, "I move that we approve the Consent Agenda items through 'e' with the exception of item 'c.'"

There is not a generally accepted standard of who may cause an item to be moved from the Consent Agenda to the regular agenda. Items may be moved "for good cause," "if discussion is required," "if any member of the council asks," or "if a council member or citizen requests."

To maintain good public relations and citizen confidence, it may be wise to strongly protect the right to discuss any item. An item can be easily and amicably moved to the general agenda at the request of any councilman or of any citizen wishing to address the council on the subject.

TYPICAL AGENDA FORMATS

The council has seen the items on the Consent Agenda beforehand and is familiar with them by the time the council meeting begins. For the council members to act on these items without discussion, adequate information on them must be distributed well in advance with the agenda. When Consent Agenda items are grouped together, as shown in the following examples, it has proved helpful to indicate on the Consent Agenda the committee, department or municipal official who recommends approval of each item.

Another format to use is putting the Consent Agenda items where they would normally occur in the general agenda order. Indicate this format with a special symbol (*). When this format used, the information on each item, including the Consent Agenda items, is attached to the agenda.

Agenda -- City Council Regular Meeting

Monday, September 17, 19__

1. Roll Call
2. Approval/Correction of Minutes of Regular Meeting held September 4, 19__
3. Consent Agenda
 - *All items listed with an asterisk (*) are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Council member or citizen requests, in which event the item will be removed from the General Order of Business and considered in its normal sequence on the agenda.
4. Report of Bid Opening
 - a. Storm Drain Installation, East Avenue to West Street, Pine Subdivision
 - b. Installation of 24-Inch Waterline, North Trail and South Street
5. Hearings
 - a. Acme Development Company, Rezoning (RZ-199) R-2 & R-3: B3000 to R-UTH
 - b. Brown, Inc., Rezoning (RZ-201), C-2 to C-2: HP
6. Planning Commission Recommendations
 - *a. Approval Variance (V-141), John Doe
 - b. Approval Variance (V-142), Brown, Inc.
 - c. Approval Variance (V-143), Acme Development Company
 - *d. Approval Parcel Map (P.M.-234), James Doe
 - *e. Denial Variance (V-133), Richard Smith
 - f. Extension of Interim Growth Policy
7. Petition and Applications
 - a. First Church, Request Refund of Housemoving Fee, Application Withdrawn, and Chief Building Inspector's Report as to Costs
 - b. Green Valley Runners Club, Request Permission to Use City Streets for Annual Champagne Marathon, September 30, 19__
 - c. City Chamber of Commerce, Request Permission to Install Fifteen Directional Signs at Appropriate Points Throughout City
 - *d. Petition (100% Signed) for Annexation and Resolution #__ "Anderson Road - Moody Avenue Annexation District"
 - *e. Report of Administrative Actions and Proposals (R.A.A.P.)
8. Communications
 - *a. Board of Condemnation, re: Robert Wilson Property at 530 Main Street and Set Date for Hearing, October 1, 19__
9. City Manager's Recommendations
 - *a. Call for Bids, Curb, Gutter & Driveway Approaches, County Road & State Avenue, Bid Opening, 11 a.m., Thursday, September 17, 19__
 - b. First Reading Ordinance #__, Amend Municipal Code, Permitting Wholesale Water Rates to Industrial users Within City Limits
 - c. Property Acquisition, State Surplus Lands, Southwest Corner, Virginia Avenue & Highway 29
 - d. Negotiations, City Employees Organization
10. Unfinished Business
 - a. Bicentennial Report, Harry Turner
 - b. First Reading Ordinance #__, Amend Municipal Code, Section 25077, Speed Zone, Sand Avenue and Frank Road
11. New Business
 - *a. Resolution #__ Authorizing Payment of Claims
 - *b. Approval of Ajax Insurance Company Bond 141053M, \$1,000, Maintenance Bond, Release Bond 140153, \$16,000 and Resolution #__ Authorizing Maintenance Agreement, Traveller Enterprises, Hill Subdivision
 - *c. Release Bond, Larry Crown, Use Permit (UP-401) Range Road
 - *d. Resolution #__ Authorizing Agreement and Resolution #__ Accepting Grant Deed, Sand Avenue Widening, Masonic Hall Association and Approve \$1,000 Bond
 - *e. City Auditor's Report, Cash Count, June 30, 19__

I. Consent Agenda

- A. Approval of Minutes of June 3, 19__, as on file in the City Clerk's office. Recommended by the City Clerk.
- B. Approval of Warrants -- Nos. 18851 through 18856 and Nos. 18857 through 18977 (May & June), inclusive, as recommended by the Director of Finance.
- C. Claim - Lynda Smith, alleged damage of \$114.25 to car at Northline and Southside Drive; 10:20 p.m., May 22, 19__, alleged fault of Police Dept. Denial of said claim and referral to Insurance Carrier recommended by City Administrator.
- D. Final Approval of water line in East Avenue under proposed route #60 freeway, amount of \$8,304.30 (total cost of project -- \$9,277), 10% retention (\$922.70) will be held for 30 days and, at end of this period, the final payment to be made of the 10% retention. Recommended by the City Engineer (ABC Pipeline Construction, Inc.).

II. Consent Agenda

- A. Ordinance No. -- amending the appropriation ordinance for the year ending December 31, 19__, relating to funds for an option to purchase land adjacent to the Municipal Airport. (second presentation)
Recommendation: Pass ordinance on final presentation.
- B. Ordinance No. 74-145 annexing to the City that territory sometimes known as Addition No. 2. (second presentation)
Recommendation: Pass ordinance on final presentation.
- C. Ordinance No. 74-147 vacating Lot 1, Block 1, Jones Subdivision situated northwest of East Road and West Road. (second presentation)
Recommendation: Pass ordinance on final presentation.
- D. Ordinance No. 74-148 amending Chapter XIV (zoning) of the Code of the City, as amended, relating to limitations on permitted accessory uses. (second presentation)
Recommendation: Pass ordinance on final presentation.
- E. Preliminary and final plat of Jones Subdivision Filing No. 2 by Acme, Inc., a portion of the Southwest Quarter Section 24-13-67, containing 2.19 acres, more or less, situated northwest of East Road and West Road.
Minor Land Subdivision Committee Report and Recommendation: The Minor Land Subdivision Committee by a vote of 5-0 elected to approve this plat subject to the provisions listed on Item 3 of the Minor Land Subdivision Committee minutes of October 29, 19__.

INCORPORATION OF THE CONSENT AGENDA INTO THE MINUTES

When the Consent Agenda is used, particular care must be given to incorporating the Consent Agenda items into the minutes. In the minutes of the meeting, the actions passed in the Consent Agenda motion are recorded individually and in full. Generally, City Clerks record each of the items included with "yeas" and "nays" as if passed separately. However, many municipalities do not record the individual vote of each consent agenda item. Below is an excerpt from a format commonly used by many municipalities.

I. Consent Agenda

- (a) Approval of the Minutes from the Council's Meetings of January 18 and 28, 1994
 - (b) Licenses and Bonds Approved
 - Transient Merchant
Fobair Furniture, National Guard Armory, James N. Fobair
 - Food Establishment
A&W Root Beer Stand, 1317 Southeast Broadway, Louis R. Schuller
 - Plumber
Jim and Dude's Plumbing and Heating, Inc. 334 West Clark Street
 - (c) Resolution 84-9 Adopted - Jobs 7907 and 7908 - Call for Hearings: Resolution 84-9 calls for a public hearing on proposed Jobs 7907 and 7908 - curb, gutter and bituminous paving in the Northaire Industrial Park
(See secretary's Original Resolution 84-9 included with these minutes)
 - (d) Resolution 84-16 Adopted - Council Meetings: Resolution 84-16 adopts the City Council procedures for 1984
(See Original Resolution 84-16 included with these minutes)
- (Councilman) ___ moved, (Councilman) ___ seconded that the Consent Agenda items be approved as proposed.

SUMMARY

Consent Agendas have been an effective technique in city council meetings in many cities. In others the technique has not been successful. Some City Clerks are enthusiastic about them; others "hate" the procedure. This bulletin seeks only to describe the Consent Agenda for those interested.

This bulletin was updated and revised by the 1983-84 IIMC Agenda and Minutes Committee and reviewed by the 1995-96 IIMC Meeting Administration Committee. The information contained in this Technical Bulletin is not to be considered as IIMC endorsed or recommended practices, but is presented simply as a selection of techniques developed in other communities which have aided the Municipal Clerks in fulfilling their responsibilities. You are urged to examine your local charter or applicable state laws to determine if the procedures can be utilized in your own community.

The 1983-84 IIMC Agenda and Minutes Committee was chaired by Linda Oliver, CMC, City Clerk, Albert Lea, MN.

Technical Bulletins are available to IIMC members for \$6. Non members - \$18 (prepaid).



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**NEW LAW AND ELECTIONS SEMINAR
LEAGUE OF CALIFORNIA CITIES**

**GUIDELINES FOR PUBLIC NOTICE
PRESENTATION OUTLINE**

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1. BASICS ABOUT PUBLIC NOTICE

1. Why Do We Give Public Notice? The main purpose of giving public notice is to provide people with their constitutional opportunity to be heard on matters which may affect their rights and to encourage and facilitate public participation and open government.
 1. The Brown Act states: "In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly." Gov't Code § 54950.
 2. The Brown Act generally requires all meetings of local bodies to be "open and public". Gov't Code § 53953(a). In order for meetings to be open and public, the public must have knowledge of the meeting and the business which be discussed. The public notice requirements are intended to ensure compliance with these goals.
2. What are the Bases of the Notice Requirement?
 1. *Federal Constitution.* The Due Process Clause of the Fourteenth Amendment gives people the right to receive notice and the opportunity to be heard. Generally, the notice and opportunity to be heard requirements apply to "adjudicatory" hearings where a person's rights will be affected

and not legislative actions. Adjudicatory actions are those in which the agency applies existing laws to a given set of facts or circumstances. Legislative acts are those which establish new rules, policies or standards.

2. *State Statute.* The Brown Act (Government Code § 54950 *et seq.*)
 1. The Brown Act (Government Code § 54950 *et seq.*)
 2. State Statutes. Some state statutes require that public notice and hearings be required. For example, zone changes and general plan amendments require that notice of public hearings be given by mail or publication.

3. *Local Ordinances.* Cities can enact their own ordinances to require that public notices be given in a specific manner and to certain parties as long as they are not inconsistent with State law. Cities can generally require that notice be given to a larger group than required by State law, but not a smaller group.

3. What Methods Can Cities Use to Provide Notice? Statutes and ordinances may provide that notice be given in any or all of the following ways:
 1. *Posting in public places.* Notices which are “posted” must be “freely accessible to the members of the public.” Gov’t Code § 54954.2(a).

 2. *Publishing in Newspaper of “General Circulation”.* What is a “newspaper of general circulation” and what does it mean to be an “adjudicated newspaper”?
 1. If published notice is required and If a newspaper has been adjudicated for your city, you will be required to publish in that newspaper. If there is no “adjudicated newspaper” in your particular city, you may publish in an adjudicated newspaper for your *county* or post in at least three public places. *See* Gov’t Code § 36933 (ordinances).
 2. *“Newspaper of General Circulation”.* Government Code § 6000 provides: “A ‘newspaper of general circulation’ is a newspaper published for the dissemination of local or telegraphic news and intelligence of a general character, and has been established, printed and published at regular intervals in the State, county, or city where publication, notice by publication, or official advertising is to be given or made for at least one year preceding the date of the publication, notice or advertisement.”
 3. *“Adjudicated Newspaper”.* Government Code § 6027: “On and after July 1, 1952, a newspaper shall not be in fact or in law a newspaper of general circulation unless it obtains or has therefore obtained a judicial decree establishing it as having such status

pursuant to the provisions of this article.” In order to be adjudicated, a newspaper will have to go to court and prove that it meets the requirements of Government code § 6000 for a specific geographic area. The court will then make a ruling and judgment that the newspaper is a “newspaper of general circulation” for the area.

3. *Mail*

1. Certain statutes allow for use of the address on the latest equalized tax assessment role for service by mail to “owners”. *See* Gov’t Code §§ 35311 (annexation), 53050(j) (assessments), 53521 (community rehab. districts); 58108 (districts), 65905 (variances & CUP’s).
2. If the statute does not say you can use the equalized assessment role, make sure your addresses are correct. *Plaggmier v. City of San Jose*, 101 Cal. App. 3d 842 (1980) (Using an outdated address of a property owner did not provide adequate notice for California Environmental Quality Act (CEQA) purposes). CEQA Guidelines now provide that you can use the latest equalized assessment roll. CEQA Guidelines §§ 15072(b) and 15087(a).

4. *Website/E-mail*: Website notices and posting are encouraged for California Environmental Quality Act (CEQA) notices. *See* CEQA Guidelines. While the procedure is encouraged and will be mandated for State agencies next year, it has not yet been statutorily approved or required for public notices by cities (yet).

2. **WHAT IS ADEQUATE NOTICE?**

1. Posted Notice

1. *Where Can I Post a Notice?* Posting in a location “freely accessible to the members of the public.” Gov’t Code § 54954.2(a). The posting location must remain accessible even when the location is closed for business and over the weekend, if necessary. For certain land use decisions, the affected property must also be posted with a notice of the hearing.
2. *What Must Be in the Agenda?* The notice must describe the agenda item sufficiently for members of the public to determine the general nature of the subject matter so that they may seek further information on items of interest. A brief, but accurate, description on the agenda “generally need not exceed 20 words.” Gov’t Code § 54954.2(a).

2. What Does the Notice Have to Contain? A notice must adequately describe the action under consideration to satisfy the right to due process. *Drum v. Fresno County Dept. Pub. Works*, 144 Cal. App. 3d 777 (1983). The notice should include a description of all items or approvals that the legislative body will be acting on. For example, if a development project will require a variance, a conditional use permit and a site plan review, all of the approvals as well as an accurate description of the project should be included. Notices must also include the date, time and place of any hearing or meeting which will be held and to provide the public with an opportunity to be heard.
3. What Constitutes Mailing for Proper Notice? Depositing the notice in the mail with postage prepaid is generally sufficient; failure to receive the notice will not invalidate the city's action. See *Newberry Springs Water Ass'n v. County of San Bernardino*, 150 Cal. App. 3d 740, 746 (1984).

3. WHAT HAPPENS IF NOTICE IS INADEQUATE?

1. Specific Circumstances:
 1. *Meeting Notices and Agendas.* The failure to post a meeting agenda in compliance with Government Code § 54954.2 may subject the local agency to an action to invalidate any action taken. An interested person must first make a demand of the legislative body to cure the violation (by re-posting an agenda and holding a duly noticed meeting). If the legislative body does not cure the violation, the district attorney or any interested person may file a lawsuit asking the court to determine whether the action taken by the legislative body is valid. Gov't Code § 54960.1. There are still exceptions for substantial compliance with the notice requirements and for certain actions which will not be invalidated, even if posting was inadequate. See Gov't Code § 54960.1(d).
 2. *Ordinances.* Failure to publish or post as required prevents the ordinance from taking effect or being valid, unless it is an ordinance which may statutorily become effective immediately. Gov't Code § 36933.
 3. *Planning and Zoning.* Failure to provide the requisite public notice and hearing procedures required by Government Code §§ 65854 - 65857 can render a zoning ordinance void. *Sounhein v. City of San Dimas*, 11 Cal. App. 4th 1255, 1260 (1992). However, development permit applications will not be overturned for failing to provide requested mailed notice unless there has been a judicial finding of a prejudicial error *and* substantial injury. Gov't Code § 65945.

4. *CEQA*. If you choose to use direct mailing, make sure the addresses of all parties who must be noticed (i.e. contiguous property owners) are correct. Failure to reach a property owner because of an incorrect address or unlisted owner may render the notice deficient and void the CEQA, as well as subsequent land use approvals invalid. *Plaggmier v. City of San Jose*, 101 Cal. App. 3d 842 (1980). CEQA now permits the use of the latest equalized tax assessment roll.
2. What happens if Requested Mailed Notice is Not Received? Failure of mailed written notice will not likely invalidate city's action. The actions of a local body are *not* invalidated if a person who has requested that written notice be mailed did not receive the agenda. Gov't Code § 54954.1.
3. What Can Happen if Public Notice is Not Given? There has never been a criminal conviction for a violation of the Brown Act. In general, before bringing a legal action to challenge an action on inadequate notice, the challenger must bring the problem to the attention of the agency and the the agency will be given an opportunity to cure or correct any violations within 30 days, if necessary. Gov't Code § 54960.1. If a challenger sues and wins, a court can require the agency to reconsider the action after proper notice.

4. SPECIFIC PUBLIC NOTICE SITUATIONS

1. Meetings.

1. *Agenda Posting.*

1. Regular Meetings. Post agenda at least 72 hours before a regular meeting. Gov't Code § 54954.2.
2. Special Meetings (Called by Mayor or Majority of Members). Deliver no less than 24 hours before meeting to members and any newspapers or radio stations who request notice in writing. Post notice at least 24 hours before meeting. Gov't Code § 54956.
3. Emergency Meetings. Telephone newspaper or radio stations which have requested notice one hour before meeting. Gov't Code § 54956.5. Post minutes, attendance, actions, etc. for 10 days after meeting.

2. *Canceling or Adjourning a Meeting to another day or time.* The City Clerk may adjourn a meeting to a new date if no members of the legislative body arrive. The City Clerk should post the adjournment order at the site of the meeting and provide notice of the new meeting date by

delivering the notice at least 24 hours prior to the new meeting time. Gov't Code § 54955.

3. *Adjourning Meeting to another time.* Same as above, except that if the new meeting time is less than 24 hours away, the order or notice must be *immediately* posted after the adjournment. Gov't Code § 54955.1.
2. Ordinances (Three Alternatives).
 1. Publish the full text of the ordinance and vote count once within 15 days after passage in a newspaper of general circulation. If there is no adjudicated newspaper, post the ordinance and vote count in three public places or publish in an adjudicated newspaper for the county. Gov't Code § 36933.
 2. Five days before adoption, publish a summary in a newspaper of general circulation and post the full text in City Clerk's office. Within 15 days after adoption, publish the summary and vote count and post in the City Clerk's office. Gov't Code § 36933.
 3. If no summary is available, publish 1/4 page display of general nature of and information about proposed ordinance five days before adoption. Within 15 days after adoption, publish 1/4 page display of general information about ordinance and vote count.
 3. Planning and Zoning
 1. *Publish and post 10 days prior to meeting.* Most land use actions require, publication in a newspaper of general circulation or posting in three locations within the city at least 10 days prior to the meeting, unless other authority also requires mailing. Some actions statutorily require that notice be mailed to affected parties and all residents within a 300 foot radius. Gov't Code §§ 65090, 65091 & 65353. Notices should always be sent to the affected property owner or applicant. Some local ordinances extend the 300 foot radius to a greater area. Review and follow your local development or zoning code requirements.
 2. *Drive Through Facilities.* New Law: SB 2001 amending Government Code §§ 65090 and 65091:
 1. Publication or Posting. Government Code § 65090(d): "*Whenever a local agency considers the adoption or amendment of policies or ordinances affecting drive-through facilities, the local agency shall*

incorporate, where necessary, notice procedures to the blind, aged, and disabled communities in order to facilitate their participation. The Legislature finds that access restrictions to commercial establishments affecting the blind, aged, or disabled is a critical statewide problem; therefore, this subdivision shall be applicable to charter cities. "

2. Notice by Mail or Delivery. Government Code § 65091(d):
 "Whenever a hearing is held regarding a permit for a drive-through facility, or modification of an existing drive-through facility permit, the local agency shall incorporate, where necessary, notice procedures to the blind, aged, and disabled communities in order to facilitate their participation in any hearing on, or appeal of the denial of, a drive-through facility permit. *The Legislature finds that access restrictions to commercial establishments affecting the blind, aged, or disabled, is a critical statewide problem; therefore, this subdivision shall be applicable to charter cities. "*

3. *California Environmental Quality Act (CEQA)*. In addition to notice to other agencies, public agencies must provide notice of the preparation of environmental documents and the opportunity for the public to review the draft documents before approval. Website posting is *encouraged* by the State CEQA Guidelines.

1. Negative Declarations. At least 20 days before adoption (or 30 days if sent to State Clearinghouse), the local agency must publish, post on and off the site *or* mail to owners and occupants of contiguous property. Pub. Res. Code §§ 21092, 21092.3
2. Environmental Impact Reports (EIR's)--Notice of Availability. At least 30 days before (but no more than 60 days), publish, post on and off site, or mail to owners and occupants of contiguous property. Pub. Res. Code §§ 21104, 21153, 21092, 21092.3.

4. Taxes

1. After Proposition 218, taxes must be submitted to and approved by the voters. "General taxes," which are imposed for general government purposes, must be approved by a majority of the voters. "Special taxes," which are imposed for a specific purpose, must be approved by 2/3 of the voters. Cal. Const. art. XIIC.
2. Before placing a general or special tax on the ballot for voter approval, the city council must adopt an ordinance or resolution and must agendaize and

publish and/or post a notice in accordance with the procedures for noticing the adoption of an ordinance. See Section IV.B., above. Notices for the submitting a tax to the voters should include a description of the type of tax, the rate of the tax, the method of collection, the date on which the election will be held, and, for special taxes, the purpose for which the imposition is sought. Cal. Gov't Code §§ 52723 - 53750.

5. Assessment Districts

1. For the levy of a *new or increased* property-related assessment, the public notice procedures mandated by Proposition 218 must be followed. These procedures are detailed in Government Code § 53753 and require the mailing of a detailed notice and ballot at least 45 days prior to the public hearing and vote on the proposed assessment.
2. For continuing assessments, which are not being increased or extended, follow the notice and hearing requirements set forth in the statutes under which the assessment is authorized. These will vary depending on the type of assessment being continued.

6. Property Related Fees and Charges.

1. Proposition 218 imposes special requirements for a certain category of "property related fees and charges." Property related fees and charges must be subject to majority protest procedure at a public hearing *and* a vote of either the affected property owners or community. The types of fees and charges which are subject to Proposition 218 are still being litigated in the courts. You should consult with your City Attorney to determine whether Proposition 218 applies to the particular type of fee or charge.
 2. If Proposition 218 applies, no less than 45 days prior to the hearing on the property related fee or charge, the public agency must mail notice to each record owner of an identified parcel upon which a fee or charge may be imposed. The notice must describe the parcels identified, the amount of the fee or charge, the basis upon which the amount of fee or charge was calculated, the reason for the fee or charge and the date, time and place of the public hearing on the proposed fee or charge. Cal. Const. art. XIII D, § 6(a)(1).
7. Redevelopment. See specific mailing and publishing procedures for each type of action in the "Guidelines for Public Notice." The redevelopment plan approval

process includes numerous notices which must be given to different groups people for different lengths of time, depending on the action.

5. NEW TECHNOLOGIES

1. Teleconferencing. The agenda must be posted in all locations where legislative body members will participate in a meeting by teleconferencing. Gov't Code § 54953(b). Presumably, if the teleconferencing facility is outside of the jurisdiction and a 72-hour posted notice is required, the notice should be sent to and posted at the teleconferencing facility 72 hours before the meeting.
2. Website Posting.
 1. While many cities post agendas and notices on their websites, cities are not yet statutorily required to post their agendas and meeting notices on their websites. State agencies, however, will be required to provide notice of its meetings on the internet beginning July 1, 2001.
 2. CEQA
 1. Guideline § 15201 provides that procedures to encourage public participation "should include, whenever possible, making environmental information available in electronic format on the Internet, on a web site maintained or utilized by the public agency."
 2. Guideline § 15202(c) provides: "To the extent that the public agency maintains an Internet web site, notice of all public hearings should be made available in electronic form on the site." When the CEQA Guidelines say "should", "[p]ublic agencies are advised to follow this guidance in the absence of compelling, countervailing considerations." If your city has an official website, you "should" post your CEQA notices and draft reports.
3. E-mailed Notice. E-mail is not yet authorized in statutes for legal notice. Continue to use "snail mail" in addition to any e-mail which may be requested.