

CITY CLERK'S OFFICE
RESPONSE TO COMPLAINANT QUESTIONS
CODE OF ETHICS COMPLAINT
HUNTER V PLASCENCIA
Submitted by Colleen J. Nicol, City Clerk
September 8, 2020

Question 0

State your qualifications.

Over 35 years of experience in the municipal clerk profession including over 25 years with the City of Riverside City Clerk's Office. I hold a Bachelor's Degree in Mathematics, a Masters Degree in Public Administration, and achieved both Certified Municipal Clerk and Master Municipal Clerk certifications.

Question 1

Generally, around the time of December 2019, how did the agenda of a regular City Council meeting get set?

The process today is the same as around the time of December 2019. Agenda reports are submitted electronically by Departments and elected officials into the agenda publication system. If assistance with the electronic submittal process is required, the assistance is provided by the City Clerk's Office or the City Manager's Office. Draft agendas are reviewed at the agenda conference both the week preceding and the week of publication. Regular attendees at the agenda conference include the Mayor, Mayor Pro Tem, City Attorney, City Clerk, City Manager, Assistant City Managers, Deputy City Manager(s), and Communications Officer. At the agenda conference, direction is given to the City Clerk on placement of agenda items on Discussion, Consent, and the afternoon or evening portion of the agenda. Direction may also be given to remove items from the draft agenda or that additional items are expected.

Question 2

Generally, around the time of December 2019, how would a City Councilmember bypass the regular notice requirements of our Sunshine ordinance in order to get things put late on an agenda of a regular City Council meeting?

In December of 2019, the Sunshine Ordinance required publication of City Council agendas twelve days in advance of regular meetings. Special meetings required at least five days advance publication. The Sunshine Ordinance provided a list of exceptions to add items to the agenda subsequent to publication. Those exceptions included:

- 2/3rds vote of City Council to add an item to the agenda where it was not reasonably possible to meet the additional notice requirements and one of the following exists:

- Need to take immediate action to avoid a substantial impact if action is deferred to a subsequent special or regular meeting;
- Need to take immediate action related to federal, state, county, or other governmental agency legislation or action or eligibility for a grant or gift; or
- Relates to a purely ceremonial or commendatory action.
- Mayor or a Councilmember with concurrence of another Councilmember believe an item to be urgent and failure to meet additional notice requirements was due to:
 - Need for immediate action came to attention of local body after agenda was posted; or
 - Software or hardware impairment related to agenda publication
- Closed session
- Item continued by the City Council at a regularly noticed City Council meeting to a subsequent City Council meeting

Added agenda items must publish no later than 72 hours before the meeting per State law and the Sunshine Ordinance.

Question 3

Specifically, to your knowledge, when, how, and by whom did item number 7A of the 12/17/19 City Council meeting get placed on the agenda? Please provide any other relevant knowledge you have as to that specific process.

Subsequent to the agenda publication for the December 17, 2019, meeting a report was submitted to the City Clerk's Office by Councilwoman Plascencia which was co-signed by Councilmember Fierro for addition to the December 17, 2019, agenda. On Friday, December 13, 2019, the City Clerk's Office republished the December 17, 2019, agenda adding item Nos. 7A, 28A, and 58A. Items requested to be added to the agenda subsequent to the twelve-day publication are generally included in the republished agenda on the Friday preceding the Tuesday City Council meeting.

Question 4

Who wrote the title for the agenda item for 7A? Who prepared the specific items within the agenda packet for item 7A?

As the City Clerk, I hold the responsibility for authoring the agenda wording which is written to reflect the report recommendations' content to advise the public of the item presented for consideration by the City Council. As such I take responsibility for the agenda title published for agenda item 7A on the December 17, 2019, agenda. I do not recall if I was aware or not at the time of who prepared the written report.

Question 5

Has Councilwoman Plascencia received any training on the Sunshine ordinance? If so when? Did she ask the Clerk's office for any advisement on bypassing normal notice requirements in regards to item number 7A? If so, what was advised?

On December 6, 2019, Councilwoman Plascencia participated in an orientation presented by the City Attorney and City Clerk where training was provided on the Sunshine Ordinance. I do not specifically recall an inquiry by Councilwoman Plascencia regarding the adding of agenda item no. 7A on the December 17, 2019, agenda. However, it is common for elected officials to inquire with my Office about the process for adding items to the agenda after publication. When asked, I and my staff advise the elected official of the provisions of the Sunshine Ordinance current at the time as set forth in Riverside Municipal Code Title 4 - Public Meetings and Public Records.