



City of Arts & Innovation

Governmental Processes Committee

TO: HONORABLE MAYOR AND CITY COUNCIL DATE: FEBRUARY 5, 2025

FROM: CITY CLERK
CITY ATTORNEY

WARDS: ALL

SUBJECT: REVIEW OF THE SUNSHINE ORDINANCE, RIVERSIDE MUNICIPAL
CODE TITLE 4

ISSUE:

Review and Discuss Title 4 (Sunshine Ordinance) of the Riverside Municipal Code.

RECOMMENDATIONS:

That the Governmental Processes Committee:

1. Review Title 4 of the Riverside Municipal Code, known as the Sunshine Ordinance, and provide direction on potential amendments to update and streamline the Ordinance; and
2. Request staff bring forth specific language recommendations along with a corresponding ordinance to the City Council for approval.

BACKGROUND:

Historically, protocols relating to the conduct and notice of public meetings have been governed by Government Code section 54950 *et seq.*, or the “Brown Act.” This state law sets the floor for open meetings laws and applies to most governing bodies of local agencies. The Riverside City Charter expanded the reach of the Brown Act with section 408.

In 2015, the City Council adopted Title 4 of the Riverside Municipal Code, known as the Sunshine Ordinance. The Sunshine Ordinance further expanded open meeting laws, providing for a 12-day agenda publication period. Initially, the Sunshine Ordinance applied to the City Council, City Council Standing Committees, Planning Commission, Board of Public Utilities, and the Community Police Review Commission. In 2017, the Sunshine Ordinance was expanded to apply to all boards and commissions. The Sunshine Ordinance was amended again in 2020 to revise provisions for placing urgent items on an agenda,

special meeting notice requirements, extension of the ability to continue items to a future meeting and adding items and additional materials to special meeting agendas.

Summary of the Sunshine Ordinance

RMC Title 4 consists of three chapters: Chapter 4.01 General Provisions; Chapter 4.05 Public Access to Meetings; and Chapter 4.10 Policy Implementation.

Chapter 4.01 – General Provisions

Chapter 4.01 states the findings and purpose of the Sunshine Ordinance, which is to assure that the deliberations and operations of the City Council, commissions, boards, advisory bodies and other agencies of the City are open to the public and to “assure that the people of the City of Riverside can be fully informed and thereby retain control over the instruments of local government in their city.” (RMC § 4.01.010.)

Chapter 4.05 – Public Access to Meetings

Chapter 4.05 governs meeting access and agenda requirements. It contains the majority of the substance of the Sunshine Ordinance. Below is a summary of each section of this chapter.

4.05.010 – Definitions

This section provides to applicable definitions for many terms used throughout the Sunshine Ordinance. All definitions from the Brown Act and Public Records Act are incorporated into the Sunshine Ordinance. Significant Sunshine Ordinance definitions include:

Agenda shall mean the agenda of a local body which has scheduled the meeting. The agenda shall meet the requirements of Government Code § 54954.2, except that the timing requirements of this ordinance shall control. For closed sessions, the agenda shall meet the requirements set forth in Government Code § 54954.5. The agenda shall contain a brief, general description of each item of business to be transacted or discussed during the meeting and shall avoid the use of abbreviations or acronyms not in common usage and terms whose meaning is not known to the general public. The agenda may refer to explanatory documents, including but not limited to, correspondence or reports, in the agenda related material. A description of an item on the agenda is adequate if it is sufficiently clear and specific to alert a person of average intelligence and education whose interests are affected by the item that he or she may have reason to attend the meeting or seek more information on the item.

Agenda related materials shall mean the agenda, all reports, correspondence and any other document prepared and forwarded by staff to any local body, and other documents forwarded to the local body, which provide background information or recommendations concerning the subject matter of any agenda item. Notwithstanding the

foregoing, agenda related materials shall not include: 1) the written text or visual aids for any oral presentation so long as such text or aids are not substituted for, or submitted in lieu of, a written report that would otherwise be required to meet the filing deadlines of this ordinance, and 2) written amendments or recommendations from the Mayor or a member of a local body pertaining to an item contained in agenda related materials previously filed pursuant to Section 4.05.050 or Section 4.05.060.

Local Body shall mean:(1) The Riverside City Council; (2) Any board, commission, task force or committee which is established by City Charter, ordinance, or by motion or resolution of the City Council;(3) Any advisory board, commission or task force created and appointed by the Mayor and which exists for longer than a 12-month period; and, (4) Any standing committee of any body specified in subsections D.1., 2., or 3.

"Local body" shall not mean any congregation or gathering which consists solely of employees of the City of Riverside.

The definition of local body includes almost all types of boards and commissions and their standing committees. Some exceptions are ad hoc committees created by a board or commission and task forces created by someone other than the Mayor or City Council.

Meeting shall mean any congregation of a majority of the members of a local body at the same time and location, including teleconference location as permitted by Government Code § 54953, to hear, discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the local body and shall also mean a meal or social gathering of a majority of the members of a local body immediately before, during or after a meeting of a local body. This definition also prohibits the use of a series of communications to discuss or deliberate an item; however, separate conversations with City staff to answer questions are permitted so long as the person does not communicate the positions and comments of other members of the local body. Conferences, community meetings, meetings of other local bodies, and social or ceremonial events are also excluded from the definition of *meeting* so long as the members of the local body do not discuss matters within their jurisdiction during the event.

Notice shall mean the posting of an agenda in a location that is freely accessible to the public 24 hours a day and as additionally specified in Section 4.05.050 and Section 4.05.060.

4.05.030 – Meetings to be open and public: Application of Brown Act

All meetings of local bodies, as defined in the Sunshine Ordinance, shall be open and public to the same extent as if that body were subject to the Brown Act (Government Code § 54950) unless greater access is required by the Sunshine Ordinance. This section expands the reach of the Brown Act to all local bodies subject to the Sunshine Ordinance.

4.05.040 – Conduct of business: Time and place for meetings

This section requires all local bodies to establish through formal action a time and place for regular meetings. Except in limited circumstances, all meetings are to be held within the City of Riverside. Meetings that fall on a holiday, the meeting shall be held on the next regular meeting date unless a special meeting is scheduled and appropriately noticed. In the event of emergencies, meeting locations may be moved, with provisions for noticing the location change. Finally, this section provides that no local body may take action where a quorum of the local body becomes present at a standing or ad hoc committee meeting.

4.05.050 – Notice and agenda requirements: Regular Meetings

This section sets out detailed provisions for the notice and agenda publication for regular meetings of local bodies. It is split into four major topics: Notice for regular meetings; supplemental agendas; submittal of additional documents; and excuse of Sunshine notice requirements.

Notice for Regular Meetings

Twelve days advanced notice and agenda posting is required for the City Council, City Council Standing Committees, and all City Boards and Commissions. Agendas must be accessible 24 hours a day and also posted online.

Supplemental agenda and related materials requirements

This subpart provides a process for amending and supplementing agendas after the 12-day notice requirement but no later than 72 hours prior to the meeting. Agendas may be amended or supplemented for specific reasons:

1. To add an item due to an emergency or urgency, provided the local body makes the required findings in section 4.05.050.D before taking action
2. To delete or withdraw any item from a posted agenda
3. To provide additional information to supplement agenda materials, where the information was not known to staff or considered relevant at the time the agenda materials were submitted, such as responding to requests or questions raised by a member of the local body
4. To correct errors or omissions, to change a financial amount, or clarify or conform the agenda title to accurately reflect the nature of the action to be taken
5. To continue an item to a future regular meeting, provided that members of the public are given the opportunity to address the local body on the limited question of whether to continue the item.

Submittal of additional documents

This subpart establishes a process for the submittal and distribution of additional documents that are necessary to the deliberation of an agendaized matter but were not available prior to publication of the agenda materials.

Excuse of the Sunshine Notice Requirements

This subpart sets out four instances where the 12 days' notice requirement may be excused altogether. However, in all cases the 72-hour minimum set by the Brown Act must still be met. The local body may take action on an item if one of the following applies:

1. Two-thirds vote of the members present where it was not reasonably possible to meet the 12-day notice requirement and one of the following circumstances exists:
 - a. The need to take immediate action is required to avoid a substantial impact if item were deferred;
 - b. The need to take immediate action relates to federal, state, county or other governmental legislation or action or the local body's eligibility for any grant or gift; or
 - c. The item relates to a purely ceremonial or commendatory action
2. Mayor or a Council member, with the concurrence of two other Council Members believes an item is urgent, and the urgency is affirmed prior the item's consideration by four votes of the City Council, and the failure to meet the 12 days' notice was due to one of the following reasons:
 - a. The need to take immediate action came to the attention of the local body after the agenda was posted; or
 - b. A software or hardware impairment occurred and notice requirements were met 72 hours before the date of the meeting
3. Closed session items relating to ongoing, proposed, or threatened litigation
4. Item was continued from a prior agenda for a regular meeting

Emergency Items

Finally, a local body may take action on an item not appearing on a posted agenda only if the matter is determined to be an emergency by a majority vote of the local body, such as a work stoppage, crippling disaster or other activity which severely impairs public health, safety or both.

4.05.060 – Notice and agenda requirements: Special Meetings

This section sets out requirements for special meetings. Agendas for special meetings must be posted at least five calendar days prior to the meeting. Local bodies must also post the agenda on the local body's website at least five calendar days prior to the meeting. The business of the special meeting is limited to that as stated in the agenda and are generally to be held in the same location as regular meetings, unless the City Manager designates an alternative meeting location. Twelve days' notice must be given for special meetings held at an alternative meeting location. Special meetings may not be noticed in place of a regular meeting in order to avoid the 12-day notice requirement for regular meetings.

The five-day notice requirement for special meetings may be waived if the Mayor or a majority of the City Council believe an item is urgent and there is a need to take immediate

action. Such a special meeting is still required to comply with special meeting requirements of the Brown Act.

4.05.070 – Public Testimony at regular and special meetings

The Sunshine Ordinance incorporates the City Council's rules and procedures resolution for the governance of the proceedings. Local bodies cannot prohibit public criticism of the policies, procedures, programs or services of the local body, even if the criticism implicates the performance of one or more public employees.

The Brown Act also requires that the public be permitted to attend meetings and address the local body prior to the deliberation or action on items.

4.05.080 – Minutes and recordings

The City Council, City Council Standing Committees, Planning Commission, Board of Public Utilities, Budget Engagement Commission, and Community Police Review Commission are required to make visual and audio records of every open meeting, which must be kept for at least five years and be made available to the public.

All other local bodies must keep minutes of all regular and special meetings. At a minimum, the minutes must include the time of the meeting was called to order, the names of members in attendance, each matter considered, the time the local body began and ended a closed session, and the time the meeting was adjourned.

Chapter 4.10 - Policy Implementation

4.10.010 – Responsibility for Administration

The City Manager is tasked with administering and coordinating the implementation of the Sunshine Ordinance for all local bodies, agencies and departments under his or her authority, responsibility or control. The City Clerk or other responsible department shall timely post all agendas and shall make agenda materials available for public inspection.

DISCUSSION:

Administrative Challenges and Potential Updates to Streamline the Sunshine Ordinance

The city currently has sixteen (16) Boards and Commissions, defined as 'Local Bodies.' These local bodies meet monthly, totaling twelve (12) meetings per year, with most serving as advisory groups to the City Council. The 12-day posting requirement of the Sunshine Ordinance makes it challenging for staff to plan and prepare thoughtful, detailed, and timely reports. This delay impacts the advisory bodies' ability to provide recommendations promptly.

Out of the sixteen (16) boards and commissions, only four (4) are decision-making bodies. The remaining twelve (12) are advisory bodies that offer recommendations to the City Council for consideration. Given their oversight responsibilities and the City Council's eventual review of their recommendations, the 12-day notice requirement may be reduced to facilitate a more efficient and streamlined agenda publication process.

Staff recommends that GPC consider amending RMC Section 4.05.010 (D) to describe the following:

Policy Body shall mean:

1. The Riverside City Council;
2. Board of Ethics, Board of Public Utilities, Citizens Police Review Commission, and Planning Commission;
3. Any standing committee of any Policy Body.

Advisory Body shall mean:

1. Any advisory board, commission, or task force established by City Charter, ordinance, or by motion or resolution of the City Council, except for a Policy Body;
2. Any advisory board, commission, or task force created and appointed by the Mayor, and which exists for longer than a 12-month period
3. Any standing committee of any Advisory Body.

Staff recommends amending Section 4.05.050 to reference the two types of meeting bodies and clarify the posting requirements. Specifically, the Policy Bodies should continue to require a 12-day notice, while the Advisory Bodies must comply with the notice requirements specified by the Brown Act.

Excuses of Sunshine Notice Requirements–

Section 4.05.050(D) pertains to the excusal of Sunshine Notice Requirements. The existing language is unclear, as it treats the excusal of the Ordinance and the exceptions to the Ordinance as interchangeable concepts. Staff recommends revising the language to clearly define and differentiate between Exceptions, along with a specified process for them, and Excusals, which should also have a distinct process.

Exceptions of the Sunshine Ordinance – Ceremonial Presentations and Software/Hardware

The Mayor serves as the official head of the city for all ceremonial purposes. Occasionally, situations require the Mayor to recognize community-based organizations or individuals for their extraordinary contributions to the community. These matters are often time-sensitive and do not require City Council approval or policy setting.

However, the current Sunshine Ordinance stipulates that a two-thirds vote of the members present is needed to add such items to the agenda after the 12-day publication period. To address this, staff recommends amending Section 4.05.050(D)(1)(c) to state that items relating to purely ceremonial or commentary actions should be an exception to the Ordinance, rather and subject to the excuse procedure.

Furthermore, Section 4.05.050(D)(2)(b) states that a software or hardware impairment as defined by the Ordinance and such additional notice requirements are satisfied no later than 72 hours before the date of the meeting should be written as an exception as well.

Exception of the Sunshine Ordinance – Closed session

Presently, under RMC section 4.05.050(D)(3) closed session items relating to ongoing, proposed or threatened litigation are excepted from the 12-day notice requirement, so long as the 72-hour notice required by the Brown Act is met. The Brown Act authorizes several additional types of closed session items not currently included as excepted from the Sunshine Ordinance.

These include real property negotiations, labor negotiations, public employee appointments and performance evaluations, and threats to public services or facilities. As a result, closed session discussion on these other issues, which are often time sensitive, cannot be placed on an agenda without 12 days' notice.

This exception in the Sunshine Ordinance could be expanded to include all types of closed sessions authorized by the Brown Act. However, 72 hours' notice will still be required by the Brown Act.

Below is a comparison of the definitions, agenda notice requirements, and related provisions from other agencies with a Sunshine Ordinance:

City	Definitions	Agenda Notice Requirements	Other Provisions
Anaheim	Meeting: Same as Brown Act Legislative Body: Same as Brown Act	Draft Agenda to City Council: 5 days prior Publish: 72 Hours	None specified
Irvine	Meeting: Incorporates Brown Act definition Local Body: City Council, Commissions, Committees	Publish: 7 Days for all local bodies	Items can be added 72 hours before: - If they would benefit from prompt action - Requested by Mayor or City Council - For continuing/removing items

City	Definitions	Agenda Notice Requirements	Other Provisions
Alameda	<p>Meeting: Prohibit meals with a majority prior to meetings</p> <p>Policy Body: City Council, charter or ordinance created boards and commissions, and committees</p> <p>Passive Body: Groups meeting with a single member of a policy body, the Mayor, or Department Head</p>	<p>Publish: 12 days for City Council</p> <p>7 days for all other policy bodies</p>	None specified
San Francisco	<p>Meeting: Prohibit meals with a majority prior to meetings</p> <p>Policy Body: Board of Supervisors, Charter Commissions, Standing Committees</p> <p>Passive Body: Groups that meet or discuss with Mayor or Department Head</p>	Publish: 72 Hours	None specified
Oakland	<p>Meeting: Same as Riverside</p> <p>Local Body: Same as Riverside</p>	<p>Publish: 10 days for City Council, Redevelopment Agency, Board of Port Commissioners, and Standing Committees</p>	None specified

STRATEGIC PLAN ALIGNMENT:

The City's Sunshine Ordinance (Title 4) contributes to the City Council's Envision 2025 Strategic Plan Priority and Goals:

Community Well-Being – Ensuring safe and inclusive neighborhoods where everyone can thrive with the following goal:

Goal 2.4 - Support programs and innovations that enhance community safety, encourage neighborhood engagement, and build public trust; and,

High Performing Government – Providing world-class public service that is efficient, accessible, and responsible to all, with the following goals:

Goal 5.2 - Utilize technology, data, and process improvement strategies to increase efficiency, guide decision making, and ensure services are accessible and distributed equitably throughout all geographic areas of the City.

Goal 5.3 - Enhance communication and collaboration with community members to improve transparency, build public trust, and encourage shared decision-making.

FISCAL IMPACT:

There is no fiscal impact associated with this report.

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Approved as to form: Jack Liu, Interim City Attorney

Attachments:

1. Sunshine Ordinance
2. Presentation