

Item 11 - Staff Memorandum - Adjustment of the PEC's Regular Meeting Notice Period



Francis Upton IV, Vice Chair
Tanya Bayeva
Alea Gage
Vincent Steele
Karun Tilak

Nicolas Heidorn, Executive Director

TO: Public Ethics Commission
FROM: Nicolas Heidorn, Executive Director
DATE: January 5, 2025
RE: Amending the PEC's Meeting Notice Period

Under the state Ralph M. Brown Act, local government bodies are generally required to post their meeting agendas at least 72 hours in advance of a meeting. However, under Oakland's Sunshine Ordinance, the Public Ethics Commission (PEC or Commission) is required to post its regular meeting agendas ten days in advance (OMC 2.20.080.), which has presented administrative challenges for staff, especially whenever the Commission meets in two consecutive months. At its December 2024 meeting, Commissioner Upton IV asked Commission staff to return with an analysis of this 10-day regular meeting notice requirement and provide recommendations for changes to this provision, which would require City Council approval. **Staff recommends that the Commission propose to the City Council that the Commission's regular meeting notice period be shortened from 10 days to 7 days, which would be more administratively manageable for staff while still providing significant advance notice to the public of Commission activities.**

Background to Oakland's Sunshine Ordinance

Under the state Ralph M. Brown Act, local governments must post their regular meeting agendas at least 72 hours in advance. In 1997, the City Council adopted Oakland's Sunshine Ordinance, which the PEC enforces, to "supplement the Ralph M. Brown Act and the California Public Records Act to assure that the people of the City of Oakland can be fully informed and thereby retain control over the instruments of local government in their city." (OMC 2.20.010(C).) The Sunshine Act requires the City Council, Port, and PEC – but not other local City bodies – post agendas ten days in advance. Advance notice is important for transparency and helps to ensure commissioners, affected parties, and the public have the time to review agenda information and that parties and the public can prepare to provide comment before government action is taken.

The duration of Oakland's 10-day notice requirement likely took into account the fact that in the 1990s agendas were still being physically mailed to agenda subscribers and could take several days to be delivered. When the Sunshine Ordinance was adopted, home internet usage was not yet the norm. Only [18.6% of U.S. households](#) had internet access in 1997, compared with over [90%](#) by 2021. The PEC has no mail agenda subscribers today, and instead emails its agenda out to all subscribers the same day its agenda is posted online and in physical form at City Hall.

PEC Agenda Posting Turnaround Time

Currently, the PEC generally holds its regular meetings on the third Wednesday of every other month. This is the first year that the Commission has adopted a bi-monthly (every two month) meeting calendar, in recognition of the fact that the Commission is entering a rebuilding period with respect to

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its enforcement program and is likely to have less enforcement activity. In prior years, the Commission met twice per quarter in 2024 and monthly in 2023.

When the Commission meets in two consecutive months, the turnaround between one meeting concluding and preparing materials for the next meeting can be extremely tight. Because the Commission meets on a Wednesday, and 10-day notice for a Wednesday meeting falls on a Sunday, the Commission is required to post on the preceding Friday, resulting in a 12-day notice period in practice. Moreover, to accommodate a Friday posting, draft reports are due to the Executive Director on the preceding Wednesday, to allow one day for review and revisions. As a result, in some months staff had only 10 working days – i.e. two weeks – to finish agenda materials after one meeting concluded.

Sample Posting Schedule for the PEC’s October 2024 Meeting

Sun	Mon	Tues	Wed	Thurs	Fri	Sat
Sept. 8	9	10	11 Meeting #1	12 Agenda Drafting	13	14
15	16	17	18	19	20	21
22	23	24	25 Draft Due	26 Review	27 Posting	28
29	30	Oct. 1	2	3	4	5
6	7	8	9 Meeting #2	10	11	12

The City Council and Port of Oakland are also required to meet this advance notice requirement, but have significantly more staff resources for doing so than the Commission. For the Council, reports are being produced by all ~25 of the City’s departments and generally come to the Council on a staggered basis. Meanwhile, [as of 2023](#), the Port reported having over 470 employees and annual revenues exceeding \$400 million, far exceeding the Commission’s resources.

Other Ethics Commissions

Amongst peer California ethics commissions (Los Angeles, San Francisco, and San Diego), Oakland is the only Ethics Commission that is legally required to provide notice earlier than the 72 hours required under the Brown Act. As a matter of practice, most of those other commissions generally post their agendas 4-7 days in advance of their regular meetings, which is significantly shorter than the 12 days that the PEC follows.

Ethics Commission Meeting Notice Requirements & Practices

City	Legal Requirement	Practice
Oakland	10 days	12 days
Los Angeles	3 days	5 days
San Diego	3 days	7 days
San Francisco	3 days	4 days

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Recommendation

Staff recommends that the Commission recommend to the City Council that the PEC’s regular meeting notice be shortened from 10 days to 7 days. Since the Sunshine Ordinance was first adopted in 1997, the accessibility of PEC agendas has increased significantly, as the public can now look up these agendas on the PEC’s website the day they are posted, or receive them that same day by subscribing to the PEC’s email listserv, rather than having to wait several days for the agenda to arrive by mail. A 7-day notice period would:

- provide the public and regulated parties with significant advance notice of potential PEC actions, including a full weekend to study the proposal;
- reduce the administrative burden on staff of meeting a 12-day actual posting deadline, particularly in consecutive months with regular meetings; and
- be equal to or greater than the notice provided by peer ethics commissions.

A similar type of notice requirement modernization was also recently undertaken with the state Political Reform Act, which is the body of ethics and campaign finance laws the state Fair Political Practices Commission (FPPC) enforces. Until 2024, any amendments to the state PRA – originally adopted in the 1970s -- had to be in print for 12 days before they could be adopted, to ensure the public had sufficient notice of the proposed action. While well-intentioned, in practice this requirement made it difficult to pass PRA bills because compromise amendments became impossible at the end of the legislative session. So, in 2023, with the support of the FPPC and good government organizations, the Legislature passed SB 681 (Allen, Chap. 499, Statutes of 2023), reducing the number of days that a bill had to be posted in its final form prior to adoption from 12 days down to 8 days. The author of the bill explained that “extended periods for public review of [PRA] bills is vital to ensuring government accountability and transparency, however, the current timeline dates back to 1985 before the advent of the modern internet when physical copies of bills were distributed by mail.”

Next steps: Any amendment to the Sunshine Ordinance must be approved by the City Council. If the Commission wishes to move forward with this proposal, staff will draft potential amendment language to the Sunshine Ordinance for the Commission to vote to propose to the City Council. This proposed amendment would likely be grouped in a larger PEC Omnibus Cleanup Proposal that staff intends to prepare. *Alternatively*, the Commission may decide that this item is not worth acting on at present, since the Commission is meeting on a bi-monthly basis this year and is under less posting turnaround pressure than in prior years.