



Open Government Commission

ACTION CALENDAR
September 14, 2021

To: Honorable Mayor and Members of the City Council

From: Open Government Commission

Submitted by: Brad Smith, Chairperson, Open Government Commission

Subject: Open Government Commission Recommendations to City Council
Regarding Teleconferenced Meetings

RECOMMENDATION

Establish City Council practices for holding public meetings via teleconference technologies: (1) clearly define how the order of public speakers is determined and maintain a speaker's queue visible to members of the public; (2) clearly outline the process by which a speaker may cede time to another speaker; and (3) require that addendums to agenda items be made accessible to the public on the City Website as soon as they are made available to members of City Council.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

This recommendation was approved by the Open Government Commission ("OGC") at its regular meeting of June 17, 2021.

M/S/C (Ching/Tsang) to adopt recommendation as written and submit to City Council
Ayes: Newman, O'Donnell, Ching, Sheahan, Blome, Hynes, Humbert,
Tsang, Smith; Noes: none; Abstain: none; Absent: none

This recommendation is provided by the OGC pursuant to its authority under BMC § 2.06.190.A.2 to "propose additional legislation or procedures that it deems advisable to ensure the City's compliance with [the Open Government Ordinance], the Brown Act, the Public Records Act, and the Lobbyist Registration Act, and advise the City Council

as to any other action or policy that it deems advisable to enhance open and effective government in Berkeley.”

BACKGROUND

With the transition of Berkeley City Council meetings to teleconference technologies, the OGC has observed many difficulties that have reduced the public’s ability to effectively organize and voice their opinions in meetings held through Zoom. Because public participation is a necessary ingredient in democratic governance, the Open Government Commission recommends that the Berkeley City Council consider the changes below. We acknowledge that this recommendation is being made at a time when we may soon be able to return to in-person meetings. However, the OGC recognizes these technologies may continue to be used as a supplement, or may be put in place again in the future. Having policies readily available will ensure that the rights guaranteed to the public through the Berkeley City Council Rules of Procedure and Order are maintained.

First, unlike in-person meetings, where like-minded speakers could line up in an order of their choosing, there is currently no mechanism to maintain any sort of speaker’s queue that is visible to the public. Consequently, whereas members of the public may have an idea of when they will be called for public comment in an in-person meeting, this does not currently exist for members of the public in virtual meetings. We recommend that some mechanism or service be made available to the public to inform them of the order of speakers.

In a similar vein, during public comment, there have been instances where a member of the public may wish to cede time to another, permitted under the Rules of Procedure and Order. Through in-person meetings, this right could be exercised by simply lining up together, or by spontaneously offering to cede time when another speaker’s time has elapsed. However, with virtual meetings and the restricted abilities of participants in Zoom Webinars, there is no way to indicate the desire to cede time effectively (in either of the aforementioned cases). We recommend that a written policy be developed to address this issue and give clarity to the process of ceding time (a possible recommendation could be for the presiding officer to make an announcement at the beginning of the meeting, giving the public the opportunity to announce intent to cede time).

Lastly, we understand that supplemental materials are often introduced within the 72-hour public notice requirement, and often, such addendums are introduced within 24 hours of the meeting, or even during the meeting itself. This gives the public less time and opportunity to formulate opinions for public comment. Per the Brown Act, “they [agenda materials] must be made available to the public as soon as they are distributed to the members of the legislative body.” To fulfill this requirement, we request that all supplemental materials be made available on the City Website at the time that they are introduced to City Council, ideally 24 hours in advance. Adopting this practice will allow for civic engagement by all members of the public, including those who may have limited access to the internet.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental effects related to the recommendation in this report.

RATIONALE FOR RECOMMENDATION

These recommendations aim to ensure the public has the ability to fully access and participate in City Council meetings.

ALTERNATIVE ACTIONS CONSIDERED

None.

CITY MANAGER

The City Manager takes no position on the content of the recommendation. To assist the Council in its consideration, the City Manager is providing information on the proposed recommendation based on current City practices and policies. For the first recommendation, City staff has researched possible alternatives, and there is no feasible method within the Zoom platform to show the list of speakers to attendees. For the second recommendation, ceding of time is not permitted in virtual meetings pursuant to the City Council Rules of Procedure. For the third recommendation, City staff currently, and since the beginning of the pandemic, posts all supplemental and revised materials to the website with the agenda item at the same time the materials are made available to members of City Council.

CONTACT PERSON

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