

OPEN GOVERNMENT ORDINANCE

City Council Meeting
December 1, 2020

Sue Gallagher, City Attorney
Magali Telles, Community Engagement Director
Danielle Garduño, Community Engagement Coordinator
Stephanie Williams, City Clerk

Open Government

- A culture that values public engagement
- Focused on strong communication
- Open and transparent
- Honors the community
- Invites participation and collaboration

Open Government

- Openness is strength
- Balance expectations responsibly
- Act effectively and timely
- Ensure public's health, safety and welfare
- Fiscally and environmentally sustainable

Proposed Open Government Ordinance

- Open Government Task Force Report
- Formation of Council Subcommittee
- Public meetings – Step by step ordinance review
- Presentation to Council

Key Elements

Opening the doors for greater public participation:

- Enhanced Agenda Requirements
- Translation Standards
- Management of Meetings for Public Convenience
- Ready Access to Public Records and Data
- Education

Agenda Requirements: Contents

- Brief meaningful description
- Recommended action
- Budget impacts
- Prior Council actions
- English and Spanish

Agenda Requirements: Timing

- Early Posting of Preliminary Agenda
- Early Posting of Supporting Documents
- Early Posting of Final Agenda
- Exceptions

Origins of Preliminary Agenda

- Sierra Club Settlement (1994)
- Early Council Agenda Policy (Policy No. 000-35)
 - Post agenda 9 days prior to Council meeting
 - Staff reports made public at same time
 - Exception for good cause
 - Not applicable special and emergency meetings or closed sessions

Timing of Preliminary Agenda

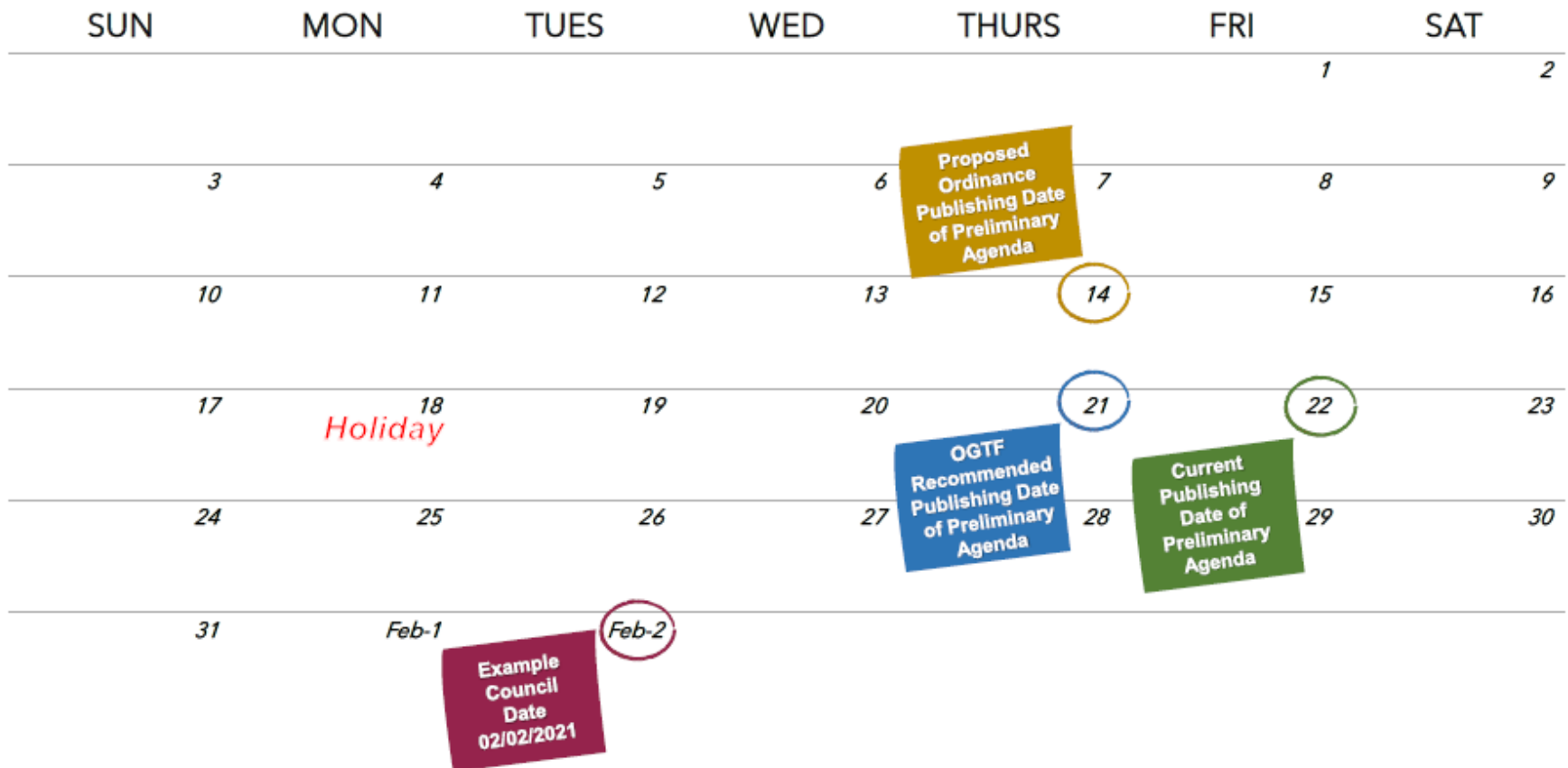
- Brown Act: No requirement for preliminary agenda
- Existing requirement: Post 9 calendar days before Council meeting
- Task Force Recommendation: Post 12 calendar days before Council meeting
- Proposed Ordinance: Post 12 business days before Council meeting

Timing of Preliminary Agenda



Jan/Feb

PRELIMINARY AGENDA PUBLISHING DEADLINES



Timing of Supporting Documents

- Brown Act: Provide to public when provided to Council
- Existing Practice: Post with Final Agenda
- Task Force Recommendation: Post 12 calendar days prior to Council meeting
- Proposed Ordinance: Add supporting documents to Preliminary Agenda as the documents become available

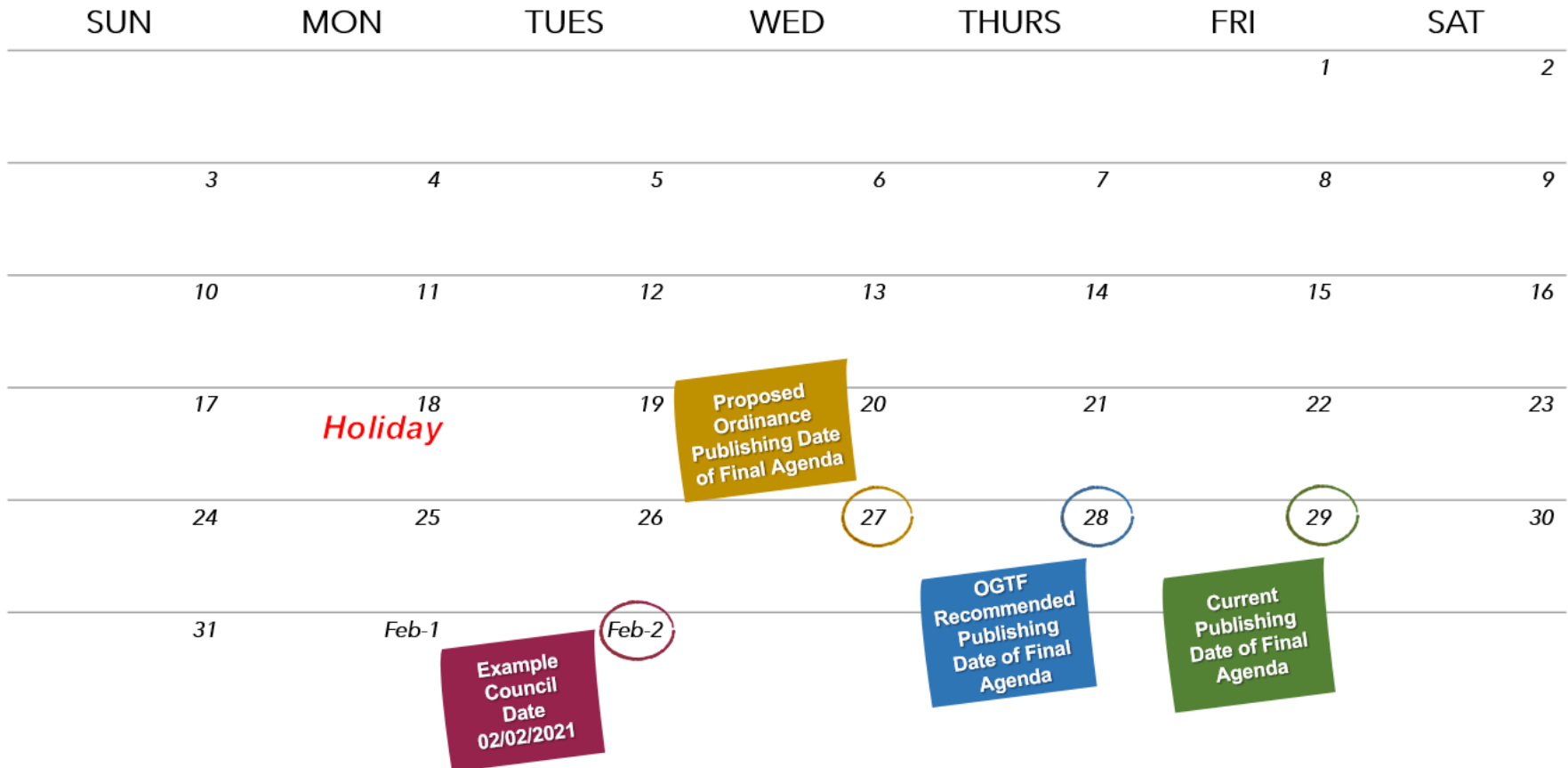
Timing of Final Agenda

- Brown Act: Post 72 hours before Council meeting
- Existing Requirement: Post 72 hours before Council meeting
- Task Force Recommendation: Post 5 calendar days before Council meeting
- Proposed Ordinance: Post 4 business days before Council meeting

Timing of Final Agenda

Jan/Feb

FINAL AGENDA PUBLISHING DEADLINES



Summary of Agenda Schedule

- Assuming no holidays, post preliminary agenda two and a half weeks prior to Council meeting
- Assuming no holidays, post final agenda on Wednesday prior to Council meeting
- On-going posting of supporting documents

Operational Impacts



Council Agenda Sample Timeline (OPEN GOV)

Business Day Count, Sample for **2/2/2020 Council Agenda**

Monday	Tuesday	Wednesday	Thursday	Friday
1/4 CC -21	1/5	1/6	1/7	1/8
	Staff Packets due in Legistar by 12pm	Generate Prelim agenda and CCO review/prep		
1/11 CC -16 Agenda Review: Prelim Agenda NEW - Send for translation	1/12	1/13	1/14 <u>Publish</u> Prelim Agenda NEW - Send GovDelivery notice	1/15 NEW - Rolling addition of Supporting Documents
1/18 CC -11 HOLIDAY Agenda Review: Final Agenda	1/19	1/20	1/21 NEW - Agenda must be in final form to send to translation services.	1/22
1/25 CC -6	1/26	1/27 <u>Publish</u> Final Agenda	1/28	1/29
2/1 CC -1	2/2 CC COUNCIL MEETING	CC +1	CC +2	CC +3

Questions/Considerations

Frequency of republishing agenda once supporting docs become agenda ready

No real impact to Public Hearings or Ordinance Summaries as they are published no less than 10 calendar days prior to the City Council Meeting, usually 11 calendar days (7 business days)

Exceptions

- Why allow any variations?
 - Time-sensitive grant applications
 - Time-sensitive contracts
 - Time-sensitive emergent issues
 - Time-sensitive appeals
 - Need for coordination with partner agencies

Exceptions – Preliminary Agenda

- Item not appearing on Preliminary Agenda:
 - May be placed on final agenda, but no action shall be taken unless:
 - Affirmative vote of six Council Members (or unanimous vote if less than six Council Members present); AND
 - Finding of good cause

- Good cause: “As a result of exceptional circumstances beyond the control of the Council, compliance with the 12 day requirement would impose a substantial burden on the City’s ability to conduct its business or result in prejudice to a private person.”

Exceptions: Final Agenda

- Item not on Final Agenda may be considered if:
 - Majority vote of City Council that an emergency poses a severe threat to public health and safety; OR
 - Two-thirds vote of the Council that “there is a need to take immediate action and that the need for action came to the attention of the City subsequent to the posting of the final agenda”; OR
 - Continued from a prior meeting of the Council occurring within last five calendar days.

Translation Requirements

- Agenda
- Meetings

Translation Requirements: Agenda

- Automatic:
 - Agendas provided in English and Spanish
 - Agendas provided in other languages if resident speakers exceed 5% of City population

- Upon request:
 - Agendas provided in Braille or enlarged type at no cost
 - Agendas provided in languages other than English or Spanish at no cost

Translation Requirements: Meetings

- Live Spanish translation shall be provided at all regularly scheduled Council meetings
- Final closed caption shall be available in English and Spanish
- Telecommunication devices for speech and hearing impaired upon request

Meeting Management

- All meetings in Council Chambers will be broadcast
- Strive for time-certain scheduling of hearings
- Prioritize public hearings
- Transparency as to agenda changes and continuances
- Disclosures prior to and after Closed Session
- Public education -- Citizens Guidebook

Meeting Minutes

- Speaker cards: Opportunity for speakers to include one-sentence description of comments on speaker card
- Timing:
 - If no video available, draft minutes to be available no later than 15 business days after the meeting
 - Final approved minutes to be posted no later than 5 business days after approval

Public Records

- Designates City Clerk as Public Records Coordinator
- Each department to designate Department Representative
- Staff training and public education
- Timeframes and procedures for response to records requests
- Annual reporting

Appeal Procedures - PRA

- Two step process
- Initial Complaint Form
 - Allegations of failure to produce disclosable records
 - Filed with City Clerk's Office
 - Determination to be made "as soon as possible," but no later than 10 days after receipt of complaint

Appeal Procedures - PRA

- Petition to City Council
 - Referral to Subcommittee for decision
 - Petition to be heard at next available Subcommittee meeting
 - Inform Petitioner of decision within 2 days of meeting
- Annual report of appeals and dispositions

Access to City Data

- All data generated by the City available for public review
- Unless exempt from disclosure under the Public Records Act
- Consolidated into a single web portal for ease of access

Enforcement of Ordinance

- Complaint must be filed within 30 business days of alleged violation
- Hearing before City Manager, within 90 days of receipt of complaint
- Decision to be issued within 30 business days of the hearing

Enforcement of Ordinance

- Three unfounded complaints within 12 months, complainant barred from complaints for one year
- Voluntary cure or correction permitted
- Annual report of complaints and dispositions

Education

- Preparation of Citizens Guidebook
 - City government structure and organization
 - City government responsibilities and functions
 - Terms and definitions
 - Opportunities for participation
- On-going training and education

Questions?