



MINUTES
SPECIAL MEETING OF THE
DIXON CITY COUNCIL

JANUARY 18, 2012

1. **CALL TO ORDER**

The Special Meeting of the Dixon City Council was called to order at 6:01 p.m. by Mayor Jack Batchelor, Jr.

2. **PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Mayor Jack Batchelor, Jr.

3. **ROLL CALL**

Present: Councilmembers Thom Bogue, Rick Fuller, Mayor Jack Batchelor, Jr.

Absent: Vice Mayor Dane Besneatte (Arrived at 6:17 p.m.)
Councilmember Michael Ceremello (Arrived at 6:05 p.m.)

4. **REVIEW AND DISCUSSION BY THE CITY COUNCIL OF THE DRAFT "SUNSHINE ORDINANCE"**

Mayor Batchelor announced the Council would begin a thorough section-by-section review of the proposed ordinance until 8:00 p.m., at which time the meeting would adjourn and another meeting would then be scheduled, if necessary, to continue the review.

The following Sections of the Draft Sunshine Ordinance were reviewed, comments received from City Council and the public, and the Clerk was directed to enter the final wording determination into the draft document and submit to Council at the next workshop in mark-up for review. (Mark-up version is attached as part of the Minutes).

Section 00.00.1 Findings and purpose. No changes.

Section 00.00.2 Citation. No changes.

Section 00.00.3 Applicability.

Councilmember Fuller noted that Section 3.B should clearly define which ordinances have been superseded.

Section 00.00.4 Definitions.

Councilmember Ceremello asked why the Legislative Body meetings in Section 4.A.(2) were limited to two times and thought one time was even sufficient.

Mayor Batchelor noted Ad Hoc Committees should be included.

Larry Simmons commented there should be an exchange of information with no decision necessary.

Dave Scholl noted the Definitions section does not mention the City Council itself. He recommended shortening 4.B, retaining 4.C, and eliminating 4.D.

Ginger Emerson noted that an "Agenda" is different from an "Agenda Packet".

Jon Cox, Acting City Manager, confirmed at this point in the meeting that the City would be assuming responsibility for updating the ordinance with the changes.

Vice Mayor Besneatte felt the "Sunshine Commission" should be eliminated from the ordinance, and noted the City Council is the ultimate authority and it is unnecessary to create another legislative body.

Ourania Riddle suggested that before eliminating the Sunshine Commission the Council should discuss the duties of that commission addressed in Section 00.00.29.

Vice Mayor Besneatte noted he had read Section 00.00.29 and thinks it should also be eliminated.

Mayor Batchelor noted the ordinance provides the Sunshine Commission with more authority than the elected officials, a commission is not needed for citizens to come forward with a complaint, and he could not support including the commission in the ordinance.

Councilmember Bogue felt the Sunshine Commission could be valuable if a future Council was not as cooperative and open as the current Council.

Vice Mayor Besneatte noted there is always a layer of redress authorized by the Supreme Court and the extra layer will not be helpful.

Councilmember Ceremello supported eliminating the Sunshine Commission, noted a commission could be added later if future councils do not display the same openness, but opposed 4.B because it does not allow those closest to situations and most knowledgeable to participate.

Larry Simmons noted a Commission cannot have more authority than the City Council and should only be advisory but would enable citizens to complain and provide opinions.

Ms. Riddle noted her concern was not with this Council, but future Councils, and the Commission would offer citizens an opportunity to express a complaint without filing a legal action.

Dave Scholl noted the procedure for the meeting was to go section-by-section and not jump around, confirm the wording is correct and eliminate sections at the end of the discussion.

Councilmember Ceremello noted the ordinance should include language that can only be changed by a vote of the people.

Ian Arnold noted his involvement with the School Board and Library Commission and his experience with controlling bureaucracy, noted since the District Attorney does not understand the Brown Act a commission also may not, and he recommended if there are three votes to pass the ordinance it will be up to the citizens to enforce it.

Ginger Emerson noted the mistaken impression that people have competence and will be listened to and the lack of confidence some have in this Council and the Planning Commission.

Councilmember Fuller agreed that the Sunshine Commission is not necessary and considered it a "deal-killer". He recommended removing Sections 4F, 29 and 30.

It was determined that Section 00.00.4.I would remain as stated.

Section 00.00.5 Meetings to be Open and Public

Vice Mayor Besneatte felt this section served no additional purpose beyond what is already in the Brown Act.

Councilmember Fuller was unclear as to the meaning of "greater or more expedited accommodation" and the wording was modified.

Councilmember Bogue noted the Brown Act includes the wording "or their agents" and that wording was added to Section 5.B.

Mr. Franke referred to statements that this Council is pure and transparent and noted that the founders of the Constitution looked at 3,000 years of history to determine what man can do wrong.

Vice Mayor Besneatte recommended the City Attorney be contacted on whether this section differs from the Brown Act and, if it is redundant, it should be eliminated.

Mr. Scholl recommended the Section remain.

Ms. Riddle noted former City Attorney McMurtry used to meet with councilmembers to discuss items and, although unsure if that practice continues, she recommended the section be included for that reason.

Councilmember Ceremello noted he has refused to participate in lunches with Mr. Dean.

Byron Chapman noted the ordinance should be easy to understand without referring to the Brown Act and the additional wording helps in understanding.

Larry Simmons asked where the Council can go to get their information if they can't talk to the people.

Discussion of the Sunshine Ordinance concluded after review of Section 00.00.5, to continue with Section 00.00.6 at another special meeting.

Mayor Batchelor concluded the meeting, directed the Deputy Clerk to incorporate the recommended changes into the draft ordinance, noted he planned to schedule another meeting for February 22nd or 23rd depending upon availability, and noted the City Attorney should be present at all future Sunshine Ordinance Workshops.

5. **PUBLIC COMMENTS**

There were no additional comments.

6. **CITY COUNCIL COMMENTS**

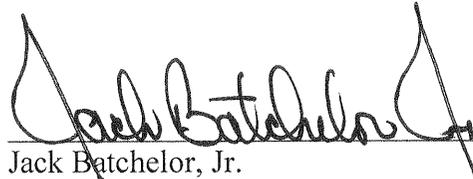
There were no additional comments.

7. **ADJOURNMENT**

The Special Meeting of the Dixon City Council was adjourned at 8:14 p.m.



Suellen Johnston
Acting Deputy City Clerk



Jack Batchelor, Jr.
Mayor

Attachments:

Draft Dixon Sunshine Ordinance in mark-up with meeting revisions.

ORDINANCE NO. _____
AN ORDINANCE AMENDING DIXON MUNICIPAL CODE CHAPTER
00.00.X REGULATING PUBLIC MEETINGS AND PUBLIC RECORDS
KNOWN AS THE CITY OF DIXON SUNSHINE ORDINANCE.

THE CITY COUNCIL OF THE CITY OF DIXON DOES HEREBY ORDAIN AS FOLLOWS:

Section 00.00.1 Purpose and Intent

A. This Chapter is intended to supplement the Ralph M. Brown Act and the California Public Records Act with rules providing the public with greater access to meetings of city bodies and records of city officials and departments.

B. The Dixon City Council enacts these amendments to assure that the people of the city remain in control of the government they have created.

Section 00.00.2 Citation.

This Chapter of the Dixon Municipal Code shall be known as the Dixon Sunshine Ordinance (Ordinance).

Section 00.00.3 Applicability and Interpretation.

A. The provisions of this Ordinance supersede other ordinances inconsistent therewith.

B. All terms and provisions of state law and this Ordinance supporting transparency and public access shall be interpreted broadly and liberally; all terms and provisions of state law and this Ordinance limiting transparency shall be interpreted narrowly and strictly.

Section 00.00.4 Definitions.

The words and phrases used in this Ordinance have the same meanings with respect to meetings as the identical terms used in the Brown Act and the same meanings with respect to records as the identical terms used in the California Public Records Act, except as provided in this section.

A. "Legislative body" includes:

(1) any advisory board, commission or task force created and appointed by the mayor and approved by the city council, and

(2) a temporary, informal ad hoc committee solely comprising less than a quorum of a legislative body, which meets ~~at least two times~~ with members of other legislative bodies and/or staff about a particular issue for the express purpose of formulating recommendations regarding that issue to the legislative body of which it is a committee.

B. "Agenda" means a document that informs the public about a meeting of a legislative body, published in advance of the meeting ~~which at a minimum:~~ that is compliant with The Brown Act.

~~(1) identifies the legislative body conducting the meeting,~~

~~(2) specifies the time and location of the meeting,~~

~~(3) lists each item of business to be discussed or transacted and describes the action proposed by staff for each such item, and~~

~~(4) lists all relevant supporting documents for each such item.~~

C. "Agenda packet" means the agenda for a particular meeting with all its supporting documents and is available on the City website.

~~D. "City" means the City of Dixon, California.~~

~~ED.~~ "Closed session" means a discussion that begins with an invitation to the public to comment on the agenda-listed topic thereof and thereafter excludes the public as permitted by the Brown Act and this Ordinance and ends with an open session at which a public report is made regarding that part of the meeting that excluded the public.

~~F. "Sunshine Commission" means the Sunshine Commission established by this Ordinance in Section 00.00.29~~

~~GE.~~ Agenda "notice" shall mean the posting of an agenda in a location that is freely accessible to the public 24 hours a day and posting of the agenda packet on the city's website.

~~HF.~~ "Quorum" means a majority of the total authorized membership of a legislative body.

~~HG.~~ "Supporting documents" means all records, regardless of form, medium or author, which are provided to members of a legislative body for their use in considering agenda items for a particular meeting, along with all communications that have been timely received for that meeting.

Section 00.00.5 Meetings To Be Open And Public.

A. All meetings of any legislative body shall be open and public as required by the provisions of the Brown Act and of this Ordinance. In case of inconsistent requirements under the Brown Act and this Ordinance, the requirement which would result in greater or more expedited accommodation transparency and openness to the public shall apply.

B. No staff member or member of a legislative body or their agents shall privately lobby or brief a majority of the members of that or another legislative body, either at one place and time or serially, to propose, oppose, or otherwise discuss any recommendation or agenda item pending or to be submitted to such legislative body.

Section 00.00.6 Conduct of Meetings for Additional Bodies Covered by the Ordinance.

To the extent not inconsistent with state or federal law, a legislative body shall require, as a condition of any agreement or amendment to or renewal thereof with any other public agency, including a joint powers authority, that any meeting of a legislative body of such public agency at which an item concerning the common interests of the city and the agency is discussed or considered, shall be conducted pursuant to the Brown Act and this Ordinance.

Section 00.00.7 Speakers' Right to Anonymity.

For items appearing on the agenda, the public shall be invited to make comments at the time each item comes up for consideration by the body. Members of the public addressing the body may do so without identifying themselves, unless they are asking the body to add an item to a future agenda or to remove an item from the consent agenda for separate consideration.

Section 00.00.8 Conduct of Business; Time and Place for Meetings.

Each legislative body shall schedule regular and special meetings on weekday evenings, to begin no earlier than six thirty 6:30 p.m. and to end no later than eleven 11:00 p.m.

Section 00.00.9 Submitting Items for the Regular Meeting Agendas.

A. Each legislative body shall establish a process for placing items, including presentations, on its own regular meeting agendas and designating a contact person responsible for receiving proposed agenda items and supporting documents. Applicable guidelines for the public shall appear on the city's website and on each agenda.

B. With the exception of appeals from a decision of the planning commission, any member of the public may place an item under the purview of a legislative body on its agenda for a future meeting by presenting the item to the contact person designated pursuant to subsection A. Items submitted by the public shall be placed on the action calendar and cannot be moved to the consent calendar.

Section 00.00.10 Agenda Content.

A. All agendas and documents in agenda packets related to open session discussion or action shall be made available, as soon as completed, on the city's website and for public inspection and copying, whether or not disseminated to members of the body.

B. Agenda items shall be written in easily understood language without undefined abbreviations or acronyms and should at a minimum provide the following information: an accurate description of the subject matter, options for action, recommended action and rationale, fiscal impact, and contact information for the person most knowledgeable about the item.

C. If an item appears on an agenda but the legislative body fails to meet any of the additional notice requirements under this section, the body may take action only if:

(1) The minimum notice requirements of the Brown Act have been met; and,

(2) The body, by a two-thirds vote of its members, adopts a finding that, upon consideration of the facts and circumstances, it is not reasonably possible to meet the additional notice requirements under this section, and either of the following exists:

(a) the need to take immediate action on the item is required to avoid a specified substantial and irreparable adverse impact that would occur if the action were deferred to a subsequent special or regular meeting, such as a need to comply with a deadline imposed by a court, by law or by legally binding agreement or determining eligibility for a grant, gift or other valuable benefit;

(b) the item relates to a purely ceremonial or commendatory action of no known or reasonably foreseeable controversy.

D. Notwithstanding the provisions of this subsection, the City Council, Redevelopment Agency, or the Sunshine Commission may excuse, by a two-thirds vote of those members present, any of the additional notice requirements imposed by Section 00.00.X so long as the failure to meet any additional notice requirement was due to the first occurrence of a specifically described software or hardware failure.

E. Nothing in this section shall prohibit a legislative body from taking action to schedule items for a future meeting to which regular or special meeting notice requirements will apply, or to distribute agenda-related materials relating to items added pursuant to 0X before or during a meeting.

F. When items are withdrawn from the agenda of a regular or special meeting after publication of the agenda but before the meeting, all physically and website posted copies of the agenda shall be amended to state the reason for withdrawal.

Section 00.00.11 Public Notice Requirements.

A. Any notice that is mailed, posted or published by a city department, board, agency or commission to those residing within a specific area to inform them of a proposed or planned activity that might impact their property or neighborhood shall be brief, concise and written in plain, easily understood English.

B. The notice shall describe the activity, its known or estimated start and completion dates, its known or anticipated effects on the property or neighborhood, and a telephone contact for residents who have questions.

C. If the notice announces a public meeting or hearing concerning the activity, it shall state that those unable to attend may submit to the city, by the date of the proceeding, written comments regarding the subject of the meeting or hearing, that these comments will be made a part of any official public record, and that they will be brought to the attention of the person or persons conducting the public meeting or hearing. The notice shall also state the name and address of the person or persons to whom those written comments should be submitted.

D. If mailed notices are returned undelivered, the person designated to receive written comments shall investigate the reason the notice was not delivered and make additional attempts via telephone or email to contact any resident not notified.

Section 00.00.12 Public Speech Rights during Meetings.

A. Legislative bodies shall not prohibit non-profane public criticism of the body or staff expressed either orally or by holding signs that do not block the view of others attending.

B. Speakers have the right to use presentation tools, which shall be provided by the city, if available, and when requested five business days in advance of the meeting date, or supplied by the speaker and brought to the meeting room before the meeting and installed and loaded by staff.

C. The public has the right to alert a legislative body about a suspected violation of this Ordinance or other procedural regulations by the following means:

(1) At any time up to and during the meeting of a legislative body, if a matter is believed to be a violation of this Ordinance or the Brown Act, a member of the public may submit a complaint to the City Clerk on a "sunshine alert" form developed by the Sunshine Commission.

(2) The City Clerk shall report the alert to the Sunshine Commission.

(3) The Sunshine Commission shall investigate and prepare a follow-up report on each alert received and place it on its agenda for discussion and recommendation.

Section 00.00.13 Public Comment by Members of Legislative bodies.

A. Every member of a legislative body retains the rights of any citizen to comment publicly on the wisdom or propriety of government actions, including those of the legislative body of which he or she is a member. Bodies shall not sanction, reprove or deprive members of their rights as elected or appointed officials to express their judgments or opinions, including those judgments or opinions pertaining to the wisdom, propriety or lawfulness of discussions or actions taken in closed session. However, the release of specific factual information made confidential by law including, but not limited to, privileged attorney-client communications, other than by the procedures set forth under state law or this Ordinance, may constitute grounds for censure or for an action for injunctive or declaratory relief by the body.

Section 00.00.14 Special and Emergency Meetings.

A. Special meetings of any legislative body may be called at any time by the presiding officer or by a majority of the members for the following purposes only:

- (1) to take action on an urgent matter that must be addressed sooner than the next regular meeting, such as action required to avoid a specified substantial and irremediable adverse impact that would occur if the action were delayed; or to comply with a deadline imposed by a court, by law or by legally binding agreement or one determining eligibility for a grant, gift or other valuable benefit; or to take a purely ceremonial or commendatory action of no known or reasonably foreseeable controversy scheduled by another person or organization on a date over which the city had no control; or
- (2) to address a matter of sufficient complexity, controversy or both that addressing it at a regular meeting would leave insufficient time to address more conventional business on the agenda; or
- (3) to meet at a location outside the city for purposes permitted by the Brown Act, or at a location within the city of sufficient capacity to accommodate an anticipated public attendance significantly larger than experienced at ordinary regular meetings.

B. Special Meetings shall be given notice by:

- (1) Posting a paper copy of the agenda in a location freely accessible to the public at least 48 hours (excluding Saturdays, Sundays and holidays) before the time of the meeting set forth in the agenda; and
- (2) Delivering a copy of the agenda by email to each member of the legislative body, to each local newspaper or other media organization having requested such notice, and to each agenda subscriber having requested such notice at least 48 hours (excluding Saturdays, Sundays and holidays) before the meeting. In addition, at least 24 hours before the meeting, the agenda packet shall be placed in the Dixon Public Library and posted on the city's website. Failure to timely post a copy of the agenda on the website because of software or hardware failure shall not constitute a defect in the notice for a special meeting if the city complies with all other posting and noticing requirements.

C. During a meeting held to address a "dire emergency" created by criminal or terrorist activity, the legislative body may meet in closed session solely to confer with law enforcement officials as permitted by Government Code Section 54957, if agreed to by a two-thirds vote of the members of the legislative body present, or, if less than two-thirds of the members are present, by a unanimous vote of the members present.

Section 00.00.15 Closed Sessions.

A. A legislative body shall meet in closed session only as permitted by the Brown Act and this Ordinance. In addition to the brief general description of agenda items to be discussed or acted upon in open session, the agenda descriptions of closed session topics optional under Government Code Section 54954.5 are mandatory under this Ordinance.

B. Any closed session action taken without proper agenda disclosure pursuant to this section is subject to invalidation pursuant to the provisions of Government Code Section 54960.1.

C. The procedures for closed session shall be as follows:

(1) Prior to any closed session, the presiding officer of the legislative body shall orally announce in open session the general purpose for the closed session, and shall cite and explain the statutory or case authority under which the session is being closed.

(2) In open session, before public comment or discussion by the body of any closed session item, the City Attorney or appropriate staff shall provide an oral update or progress report on matters under litigation settlement negotiations, real property negotiations, or employee unit bargaining. This report shall confine itself to facts already known to the party with whom negotiations are taking place.

(3) The public shall have the opportunity to directly address the legislative body on any closed session item on the agenda, prior to questions and discussion by the legislative body on the item and after the oral report by the City Attorney or appropriate staff.

(4) The presiding officer and members of the body shall have the opportunity to discuss the basis for convening into closed session, to ask questions, and to respond to questions from the public.

(5) Nothing in this section shall require or authorize a disclosure of information that is confidential by law.

Section 00.00.16 Conduct of Closed Session

A. For closed sessions on real property negotiations, the agenda shall identify the property by address, parcel number, and, in the case of a purchase or lease, the proposed use of the property. Disclosure of the source or sources of payment for the property must be specified when negotiations are complete. After any initial closed session to consider the sale, lease, gift, purchase, or exchange of any property to which the city or redevelopment agency has or will have an ownership or possessory interest, such local bodies shall notice for open session a discussion of the advisability of taking such an action before a final action is taken in the matter.

B. With respect to any closed session discussion pertaining to employee salaries and benefits, the council shall not use as its designated representative any employee having a direct interest in the outcome of the negotiations.

C. Where the justification for holding a closed session on "anticipated litigation" is that the "existing facts and circumstances" suggest there is some "significant exposure to litigation," the City Attorney shall publicly state, prior to the closed session, those facts and circumstances.

D. No closed sessions shall be held for discussions of any proposed City Manager goals and performance objectives. Nor shall any related documents be withheld from the public.

E. No closed sessions shall be held for discussions of any proposed City Manager salary increase. Nor shall any related documents be withheld from the public

F. No closed sessions shall be held for discussions of any proposed City Manager incentive, bonus or monetary award, or other non-salary compensation. Nor shall any related documents be withheld from the public.

G. After closed session labor negotiation consultations resulting in a proposed agreement supported by a majority of council members, the agreement shall be made public at the same time as it is presented to the members of the employee organization. The agreement shall be open for public discussion and comment prior to the final council vote.

H. All authorizations for the purchase, sale, lease or exchange of any real property interest, for contracts with unrepresented employees, or for agreements of any other kind whatsoever discussed in closed session shall be given only by vote taken in an open meeting at least one week after release of the text of the proposed agreement accompanied by an announcement thereof sent to the newspapers and other media having requested notice of special meetings.

I. Immediately following the end of any closed session where no agreements were authorized as governed by subdivision H, the legislative body shall make a report in open session describing all other matters decided or any direction given either by unanimous consensus or vote, and if by vote, the vote or abstention of each member. This disclosure shall be followed by an opportunity for public comment and a re-vote in full view of the public.

J. All closed sessions of any legislative body shall be audio recorded in their entirety and made a part of the record of the meeting. The recordings shall be archived in the custody of the City Attorney. These recordings and any other records of the closed session shall be made available to the public whenever all rationales for keeping the records confidential are no longer applicable, for example:

- (1) upon settlement or final adjudication of a litigated matter discussed in closed session;
- (2) upon commencement of a city employee labor agreement discussed in closed session;
- (3) upon final transfer of an interest in real property discussed in closed session; or
- (4) upon termination of an employee for cause, or without cause but resulting in payment to the employee of an amount in cash or other form valued at more than one year's salary, where the hiring and any evaluation of performance of the employee were discussed in closed session.

Recordings of closed sessions of a legislative body convened due to anticipated legislation shall be released to the public in the earliest of the following circumstances if no litigation is filed:

- 1) one year after the meeting;
- 2) upon expiration of the statute of limitations for the anticipated litigation;
- 3) upon settlement or conclusion of the controversy leading to anticipated litigation.

K. The location of reports required by subdivision K shall be in a venue that is open to the public and supports video transmission, audio, and video-streaming. The report on closed session actions shall be reduced to writing and posted no later than the end of the following business day to the city's website and to all other places where the agenda of the legislative body in question is posted.

L. No term of any agreement reached in closed session shall cause either party to forfeit any cash or other item of benefit or advantage for speaking publicly about the agreement or the matters resolved thereby.

Section 00.00.17 Information Accessible by the Public.

A. It is the intent of this Ordinance to provide for the disclosure, upon request, of all records in the custody or control of the city in printed or electronic form to the maximum extent permitted by law and, wherever permitted, to waive or reduce the City's discretion to withhold records and information, including but not limited to, the following:

(1) Draft documents and memoranda or other written communications between staff, members of legislative bodies, and/or third parties concerning a proposed policy, action or agreement subject to approval by a legislative body shall be preserved and made available for public review beginning fifteen (15) days prior to the presentation for approval by a legislative body.

(2) (a) Litigation-related records other than attorney-client communications subject to unwaived privilege under the Evidence Code shall be subject to disclosure when the litigation to which they relate has been settled, finally adjudicated or precluded by a statute of limitations. In addition, other communications to some degree relevant to litigation are public records subject to disclosure at any time, including without limitation:

(i) pre-litigation claims against the City,

(ii) records received or created by a department in the ordinary course of business that were not subject to the attorney-client privilege at the time of their creation, and

(iii) amounts billed by or paid to outside counsel or other independent contractors, identifying the case or other matter to which they relate and the general types of service rendered.

(b) No attorney representing the City shall solicit or agree to any settlement provision that would restrict disclosure of terms or communications between each party after settlement, and any such provision shall be void.

(c) No communication with a legal advisor to the City shall be exempt from disclosure as confidential attorney-client communication or otherwise to the extent that it concerns an actual or potential conflict of interest, analyzes a proposed legislative provision or administrative action of the City, reports on the status of negotiations relating to a claim by or against the City, or consists of advice on compliance with, analysis of, liability under, or otherwise concerning the Ralph M. Brown Act, the California Public Records Act, the Political Reform Act, any governmental ethics code, or this Ordinance.

C. Personnel Records listed below shall be disclosed:

(1) Job descriptions.

(2) Salary, benefits, overtime pay and all other remunerations whatsoever provided to each current employee by name and position.

(3) Pension and benefits provided to each retired employee by name and position.

(4) Communications with a recognized employee organization.

(5) Characteristics of the pool of applicants seeking employment or appointment to a particular position,

(a) Sex, age and ethnic group;

(b) Years of any graduate and undergraduate study, degree(s) and major or discipline;

(c) Years of employment in the private and/or public sector;

(d) Whether currently employed in the same position for another public agency;

(e) Other non-identifying particulars as to experience, credentials, aptitudes, training or education entered in or attached to a standard employment application form used for the position in question.

D. Law enforcement reports prepared by the Police Department are public records and must be disclosed, except as prohibited by State and Federal law.

(1) Records exempt from disclosure under the California Public Records Act pertaining to any investigation, arrest or other law enforcement activity shall be disclosed to the public to the full extent permitted by law after the prosecution to which they relate has been finally adjudicated, the District Attorney or a court determines that a prosecution will not be sought against the subject involved, or the statute of limitations for filing charges has expired, whichever occurs first. Information may be redacted from such records and documents and withheld if, based upon the particular facts, the public interest in nondisclosure clearly outweighs the public interest in disclosure. Such redacted information may include:

(i) The names of juvenile witnesses or suspects;

(ii) Personal or otherwise private information related or unrelated to the investigation if disclosure would constitute an unwarranted invasion of privacy;

(iii) The identity of confidential informants or secret investigative techniques or procedures;

(iv) Information whose disclosure would endanger law enforcement personnel, a witness, or party to the investigation; or

(2) The Department shall maintain a record, which shall be a public record and which shall be separate from the personnel records of the agency, of the number of citizen complaints against the department or its officers, the number and types of cases in which discipline is imposed and the nature of the discipline imposed. This record shall be maintained in a format that to the extent possible assures that the names and other identifying information of individual officers involved is not disclosed directly or indirectly.

F. Contracts, contract bids, responses to requests for proposals and all other records of communications between the City, Redevelopment Agency and individuals or business entities seeking contracts shall be open to inspection and copying following the contract award or acceptance of a contract offer. Nothing in this provision requires the disclosure of a person's net worth or other proprietary financial information submitted for qualification for a contract until and unless that person is awarded the contract. All bidders and contractors shall be advised that information covered by this subdivision will be made available to the public upon request.

G. The following budgetary and other financial information shall not be exempt from disclosure:

(1) Any proposed budget for the City, or Redevelopment Agency, including any of their departments, programs, projects or other categories, which has been compiled by or submitted to the City Manager.

(2) All bills, claims, invoices, vouchers or other records of payment obligations, as well as records of actual disbursements showing the amount paid, the payee and the purpose for which payment is made

H. All records concerning potential environmental impacts generated or received by the City, including but not limited to documents resulting from compliance with the California Environmental Quality Act (CEQA) and the National Environmental Protection Act (NEPA), for projects wholly or partially within the City of Dixon shall be made available to the public in any requested available format in accordance with Section 00.00.X

Section 00.00.18 No Balancing Test or Deliberative Process Privilege.

Neither the City nor any officer, employee, agent, or elected or non-elected official may assert California Public Records Act Section 6255 as the authority for withholding any information based on a showing that the public interest in withholding the information, including but not limited to a claim of "deliberative process" privilege, outweighs the public interest in disclosure.

Section 00.00.19 Notices and Posting of Information.

A. At a minimum, the following shall be posted on the City's website and provided in written form in the City Clerk's Office and at the reference desk of the Dixon Public Library:

Dixon Municipal Code

Building Code

General Plan and Area Plans

Zoning Ordinance

Landmarks Preservation Ordinance

Sunshine Ordinance

Citizen's Guide to Public Information

Records Index

Records Retention Schedule

Council Rules of Procedure (when revised to comply with this Ordinance)

Commissioner's Manual (when revised to comply with this Ordinance)

Conflict of Interest Code

Statements of Economic Interest

Appointment Calendars

Agendas and Minutes of the Meetings of all legislative bodies

B. Each legislative body shall designate one or more locations to post paper notices. Designated posting locations shall be freely accessible to members of the public twenty-four (24) hours per day, visually prominent, and readable from the public right of way. Notices and agendas shall include links as to where supporting documents and other agenda-related documents may be found on the City's website. In addition, such documents shall be placed at the Dixon Public Library.

C. At a minimum, within six months after enactment of this Ordinance, each legislative body shall have posted on the City's website all current meeting agendas, minutes, and other documents required to be made public, and thereafter make reasonable efforts to post past materials. Each legislative body shall make reasonable efforts to ensure that its portion of the City's website is updated on at least a weekly basis.

D. Large documents, such as drafts and final copies of City budgets and records concerning environmental impacts, including but not limited to, those resulting from compliance with the California Environmental Quality Act (CEQA) shall be posted on the City's website and made available at designated City offices with copies available for borrowing by the public at the Dixon Public Library.

E. Notices shall be written in easily understood language without undefined abbreviations or acronyms and give a full description of the subject, applicable regulations, significant consequences of taking action or non-action, when and where the subject will be considered, opportunities for public comment, and where to obtain further information.

F. The Sunshine Commission shall review public notices to ensure that they conform to the requirements of this Ordinance and work to improve publicly accessible information databases to ensure consistency, equity, timing, and extent of noticing for meetings and other matters of public interest.

G. Meetings on matters related to or actions taken in anticipation of a potential development project or other land use matter, such as but not limited to grant applications, project funding, and ordinance changes, including but not limited to, general plan and area plan amendments or rights transfers, shall be noticed at least as extensively as is required for meetings on said projects.

Section 00.00.20 Public Records Index.

A. The City shall maintain a public records index that identifies types of records maintained by departments and offices, including those of elected officials and legislative bodies. The index shall be available to the public and organized under a uniform reference system that permits a general understanding of the types of records maintained, in which offices and departments, and for what periods of retention. The Index shall be sufficient to aid the public in making a focused inquiry regarding public records. The index shall be posted on the City's website and available in written form in the City Clerk's office and in the Dixon Public Library.

B. The Index shall classify each type of record as either: (1) "Open," meaning accessible to the public without exception and subject to immediate disclosure; or (2) "Partially Open," meaning possibly containing some exempt content, such that review is required; or (3) "Closed," meaning that disclosure of the document is prohibited by state or federal law. Each classification of a record as "Partially Open" or "Closed" shall identify the specific legal authority relied upon in assigning that classification.

C. The City Manager shall be responsible for preparing and maintaining the Index. He/she shall report on the progress of developing the Index to the Sunshine Commission on at least a quarterly basis until it is completed, which shall be no later than twelve (12) months from the enactment of this Ordinance. In identifying the types of records to be maintained, each department, office, Legislative

body, and public official is encouraged to solicit public participation in developing a meaningful Records Index. The completed Index shall be reviewed by the Commission and submitted for approval by the City Council.

D. The Index shall be periodically reviewed by staff and the Sunshine Commission for accuracy and completeness.

E. A notation of any change in the Index shall be noted on the City's website and posted in the Dixon Public Library for a period of at least three (3) months.

Section 00.00.21 Public Review File.

A. Any document relating to matters subject to discussion in open and public session of a legislative body, whether or not docketed on a current agenda, that is sent or received by a member of a Legislative body shall be part of the legislative body's Public Review File, which shall be organized in a manner that facilitates public access to the material. The Public Review File shall be maintained by a designated person for each Legislative body and be accessible to any person during normal office hours. The City Clerk shall maintain a central registry of locations where Public Review Files can be accessed. Electronic versions of such documents, including email communications to or from members, shall be filed and maintained under the member's name in a public review file on the city's website irrespective of the hardware or software used to create or receive them.

Section 00.00.22 Immediate Disclosure of Public Records Request.

A. In addition to providing access to all records which are public records pursuant to the California Public Records Act (Government Code 6250 et seq.) and this ordinance,

B. The City of Dixon shall accept, as a minimum, public records requests submitted by the following methods: phone, U.S. mail (or its equivalent), over the counter and by email via electronic internet forms. Additional methods of submission shall be allowed as may be approved by the Dixon City Council.

C. The person seeking the information need not state a reason for making the request or the use to which the information will be put.

D. City shall keep a log of each submitted request and the results thereby showing, as a minimum, date of request, a brief summary of the request, the date the response was completed or and the records were available, an indicator to denote no records were available (when applicable), the name of the requestor (when furnished), their email address (when furnished) and the staff member(s) responsible for processing the request. Submissions which provide no method of response must still be logged-in but otherwise may be ignored.

E. All requests received via any format where an email address was provided shall be sent a return email acknowledgement of the receipt within one (1) business day after the request is received. Reasonable effort shall be exerted to promptly complete requests or make documents available within two (2) business days.

F. Documents which constitute active city agreements/contracts entered into prior to the effective date of this ordinance which exceed \$5,000 shall be digitized in response to a public records request or as time is available and published via the internet as the electronic documents become available.

Details such as vendor, amount, date, etc. of all checks issued and available in the city's financial accounting system shall be published via the web. All documents which constitute new agreements/contracts with totals exceeding \$5,000 shall be digitized, processed with optical character recognition and published via the internet to facilitate document retrieval.

G. The City Clerk shall publish in the annual budget document the number of public records requests received during that fiscal year, the number of requests where documents were available, the number of requests where no documents were available in response to the request, the number of requests completed (or records available) within: 24 hours, 5 days, 10 days and over 10 days.

H. The City Clerk shall promptly report to the city council any improper hindrance in the offering of public records. Such hindrances include managerial direction to falsely indicate that electronic records are unavailable or instructions to falsely respond to a request indicating no documents are responsive when the Clerk has knowledge of responsive documents. Anyone who improperly hinders the offering of public records shall be guilty of a misdemeanor.

Section 00.00.23 Minimum Withholding.

No record shall be withheld from disclosure in its entirety unless all information contained in it is exempt from disclosure by law. Any redacted, deleted or segregated information shall be keyed by footnote or other clear reference to the appropriate justification for withholding. Such redaction, deletion or segregation shall be done personally by the attorney or other staff member conducting the exemption review.

Section 00.00.24 Justification For Withholding.

A. Any withholding of information shall be justified, in writing, within two business days of the day of the request as follows:

(1) A withholding under a permissive exemption in the California Public Records Act or this ordinance shall cite the legal authority and, where the exemption is based on the public interest in favor of not disclosing, explain in practical terms how the public interest would be harmed by disclosure.

(2) A withholding on the basis that disclosure is prohibited by law shall cite the applicable legal authority.

(3) A withholding on the basis that disclosure would incur civil or criminal liability shall cite any statutory or case law supporting that position.

Section 00.00.25 Fees for Records

A. No fee shall be charged for making Public Records available for review.

B. No fee shall be charged for documents routinely produced in multiple copies for distribution to the public, e.g. Meeting Agendas.

C. Reproduction charges for documents copied on the order of the requester shall not exceed five (5) cents per page copy charges. If the direct cost of duplication, as defined by the Attorney General, is more than 5 cents per page the Local Agency shall provide documentation supporting the additional cost.

D. Documents available in electronic format shall be made available via email to the requestor at no charge or reproduced in paper form upon payment of reproduction charges plus postage when applicable. Upon each single request, documents of fewer than 20 pages located by the City Clerk's designee shall be scanned and emailed at no charge to the requestor. A request for more than one document at the same time shall be considered a single request.

E. Large documents that many members of the public are likely to want to study, such as City budgets and environmental review documents, including but not limited to those related to the California Environmental Quality Act (CEQA) and the National Environmental Protection Act (NEPA), shall be posted on the City's website and made available for inspection at designated City offices and the Dixon Public Library, where copies shall be made available for borrowing by the public.

Section 00.00.26 Responsibilities of the Mayor.

If the Mayor delivers a State of the City address, it shall be given in a disabled accessible venue with, audio and video-streaming and transmission capabilities. The event shall be noticed, recorded, free to the public and open to all. The address shall include a report on the previous year's Sunshine complaints, how they were resolved, and a summary of any actions taken or pending related to provisions of this Ordinance.

Section 00.00.27 Enforcement – Cure and Correction.

A. Nothing in this ordinance shall prevent a Legislative body from curing or correcting an action challenged on grounds that a governing body violated the Ralph M. Brown Act, Public Records Act or any material provision of this Ordinance.

B. A Legislative body shall cure and correct an action challenged as involving a violation of the Brown Act, this Ordinance or both by placing the action on a subsequent meeting agenda for separate determinations of whether to cure and correct the challenged action and, if so, whether to affirm or supersede rescind the challenged action after first taking any new public testimony.

C. If the Legislative body does not address the challenged action at the first meeting following receipt of the challenge, any person may institute proceedings for enforcement under this ordinance before the Sunshine Commission.

D. If enforcement action is not taken by a Legislative body 45 days after a complaint is filed any person may institute proceedings for injunctive relief, declaratory relief, or writ of mandate in any court of competent jurisdiction to enforce his or her rights, or those of the public, under this Ordinance.

E. If a court determines that the Ralph M. Brown Act, the California Public Records Act or this Ordinance was violated, the plaintiff's attorney fees shall be imposed on the City Attorney (or whatever counsel was consulted) if his or her advice supported the violation. If the city officials who caused the violation did so without reliance on the appropriate attorney's advice—they never asked, they withheld or misstated key material facts in asking, or they simply disregarded the advice—then they shall be ordered to pay the plaintiff's attorney fees.

Section 00.00.28 Responsibility for Administration.

Unless otherwise specified, the City Manager shall administer and coordinate the implementation of the provisions of this Chapter for all bodies, agencies and departments under his or her authority, responsibility or control.

~~Section 00.00.29 Sunshine Commission.~~

~~A. A Sunshine Commission ("Commission") is established by this Ordinance.~~

~~B. The commission is a permanent three member volunteer citizen oversight commission derived from applicants who are not employees of the city, do not have immediate family members employed by the city and do not have such a close relationship with elected or appointed officers of the city as to reasonably call into question their objectivity in participating in commission determinations. All commission members shall have a demonstrated interest in open and ethical government through such activities as, but not limited to, attendance at meetings of government bodies, requests for documents from government agencies, disseminating information about government to others, and familiarity with the Brown Act and/or Public Records Act. All members shall be without known conflicts of interest and shall be residents of the city.~~

~~C. The commission will meet as needed, but at least quarterly, unless greater frequency is directed by the city council.~~

~~D. The commission shall provide an annual report on implementation of and compliance with this ordinance.~~

~~E. Former commission members shall be barred from city employment for at least one year after they leave the commission. Applications for each open four year term must be filed with the City Clerk on or before the council meetings immediately following passage of this act and for each subsequent regularly scheduled election where city council members are elected and subsequent commission vacancies. At such time three applicants will be randomly selected by the City Council to serve a four year term to establish overlapping terms. The commission's contact information shall be published on public records request forms and on the city's website.~~

~~F. Where a vacancy has been created by voluntary resignation of a Commissioner the application process shall commence. Within forty five (45) days, from the pool of applicants, a member will be randomly selected by the City Council to finish the unexpired term of the Commissioner.~~

~~G. The responsibilities of the Commission include:~~

~~(1) Ensuring that the City's business is conducted in full view of the public to the maximum extent allowed by State and Federal law and this Ordinance;~~

~~(2) Educating members of Legislative bodies, Staff, and the public on the role of Sunshine in the City of Dixon; and~~

~~(3) Advising the Council and Staff on open government issues.~~

Section 00.00.30 Commission Legal Counsel.

The City Attorney shall, upon request, provide legal counsel for the Commission. If a majority of the Commission or the City Attorney determines that there is a conflict of interest, which the Commission

~~declines to waive, the City shall, at the Commission's request, provide the reasonable fees and expenses of outside counsel chosen by the Commission, from the City Attorney's budget for outside counsel.~~

Section 00.00.31—29 Severability.

A. The provisions of this Chapter are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this Chapter, or the invalidity of the application thereof to any person or circumstances, shall not affect the validity of the remainder of this Chapter, or the validity of its application to other persons or circumstances.

B. This ordinance shall be amended or repealed only by the vote of the people.