

14-013

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DIXON, AMENDING
TITLE 2 OF THE DIXON MUNICIPAL CODE TO ADD CHAPTER 2.06 OPEN
GOVERNMENT**

WHEREAS, the City Council recognizes that a well-functioning and trustworthy government must be founded in openness and accessibility; and

WHEREAS, the State of California has recognized the importance of openness to local governments and has enacted the Ralph M. Brown Act and the California Public Records Act, which both apply to the City; and

WHEREAS, section 54953.7 of the Government Code authorizes the legislative bodies of cities to impose more restrictive requirements on themselves and their appointed legislative bodies to provide greater access to meetings than what the Ralph M. Brown Act requires; and

WHEREAS, adopting the requirements of the Ralph M. Brown Act in the City's municipal code, ensures lasting transparency, regardless of any changes in state law; and

WHEREAS, imposing additional requirements will add clarity and increased transparency to the City's process.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DIXON DOES ORDAIN AS FOLLOWS:

SECTION 1. Title 2 of Dixon's Municipal Code titled "Administration" shall be amended to include Chapter 2.06 "Open Government", which shall read as follows:

2.06.010 Purpose.

There is a tradition in California law to protect the public's access to the workings of the government, including the actions and communications of public officials and staff. The Ralph M. Brown Act and the California Public Records Act are two key pieces of legislature which hold governments responsible and safeguard individual rights to participate in the processes of government. While state laws already provide guidelines for public access, it is important that the City is not dependent upon state laws to protect public participation and public access to the government process. The purpose of this

chapter is to commit the City to maintaining an open and accessible governmental process, notwithstanding any future developments in state laws.

2.06.020 Citation of Chapter.

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

2.06.030 Definitions.

For the purposes of this chapter, terms shall have the following meanings:

- A. "Agenda" means a document that informs the public about a Meeting, published in advance of the Meeting which, at a minimum, (1) identifies the Legislative Body conducting the Meeting; (2) specifies the time and location of the Meeting; and (3) lists each item of business to be discussed or transacted and notes what action, if any, is recommended by staff.
- B. "Agenda Packet" means the Agenda for a particular Meeting along with all of the relevant Supporting Documents for the Agenda.
- C. "City" means the City of Dixon, California.
- D. "Closed Session" means a Meeting that begins with a public comment period, followed by a session that excludes the public as permitted by state law, and ends with an open session during which a public report is made, to the extent required by state law.
- E. "Emergency Meeting" means a Meeting called pursuant to D.M.C. 2.06.100.
- F. "Emergency Situation" means an emergency, which shall be defined as work stoppage, crippling activity, or other activity that severely impairs public health, safety, or both, as determined by a majority of members of the Legislative Body.
- G. "Emergency Situation, Dire" means a dire emergency, which shall be defined as a crippling disaster, mass destruction, terrorist act, or threatened terrorist activity that poses peril so immediate and significant that requiring a Legislative Body to provide one (1) hour notice before holding an emergency meeting may endanger the public health, safety, or both, as determined by a majority of the members of the Legislative Body.

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H. "Legislative Body" or "Legislative Bodies" means (1) the City Council; and (2) the City's commissions, committees, boards, and other bodies, whether permanent or temporary, decisionmaking or advisory, created by charter, ordinance, resolution, or formal action of a Legislative Body. However, advisory committees, composed solely of the members of a Legislative Body that are less than a quorum of a Legislative Body are not Legislative Bodies, except that standing committees of a Legislative Body, irrespective of their composition, which have a continuing subject matter jurisdiction, or a meeting schedule fixed by charter, ordinance, resolution, or formal action of a Legislative Body are Legislative Bodies.

I. "Meeting" means any congregation of a majority of the members of a legislative body at the same time and location, including teleconference location, to hear, discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the legislative body. Meeting shall not include any of the following six exceptions: (1) contacts between a member of a Legislative Body and any other person (who is not a member); (2) a conference or similar gathering that is open to the public and which addresses issues of general interest to the public or to public agencies; (3) community meetings which are open and publicized and held by another organization to address a topic of local community concern; (4) open and publicized meetings of another Legislative Body or of the Legislative Body of another local agency; (5) standing committee meetings of the Legislative Body where the members who are not members of the standing committee do not speak or participate in the meeting; and (6) social or ceremonial events. During any of the six (6) exceptions to meetings, a majority of members cannot discuss among themselves, other than part of a scheduled program, business of a specific nature that is within the City's subject matter jurisdiction.

J. "Special Meeting" means a Meeting called pursuant to D.M.C. 2.06.090.

K. "Supporting Documents" means all documents, regardless of form or medium or author, that are provided to members of a Legislative Body for their use in considering Agenda items for a particular Meeting.

L. "Brown Act" means Cal. Gov't Code §§ 54950 et. seq., as they may be amended from time to time.

M. "Public Records Act" means Cal. Gov't Code §§ 6250 et. seq., as they may be amended from time to time.

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2.06.040 Relationship to Brown Act.

This chapter is meant to implement the open government requirements created in the Brown Act. In the event that there is a discrepancy between this chapter and the Brown Act, either as it exists at the time this ordinance is enacted or as it may be amended, the stricter requirement shall be applied, unless doing so would contravene state law. Additionally, it is the intent of City Council that the California caselaw that has developed for the Brown Act should be used to interpret this chapter, to the extent practical.

2.06.050 Access to Meetings.

All Meetings of every Legislative Body of the City shall be open to the public, and all persons shall be permitted to attend any Meeting, except as otherwise provided in this chapter.

2.06.060 Communications of Legislative Body.

Members of a Legislative Body shall not use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the Legislative Body, unless such communication and action occurs at a properly noticed Meeting.

2.06.070 Content of Meetings.

No action or discussion shall be undertaken on any item not appearing on the posted Agenda, except that members of the Legislative Body or City staff and consultants may briefly respond to statements made or questions posed by persons exercising their public testimony rights. In addition, on their own initiative or in response to questions posed by the public, a member of a Legislative Body or its staff may ask a question for clarification, make a brief announcement, or make a brief report on his or her own activities. Furthermore, a member of a Legislative Body, or the body itself, subject to rules or procedures of the Legislative Body, may provide a reference to staff or other resources for factual information, request staff to report back to the Legislative Body at a subsequent meeting concerning any matter, or take action to direct staff to place a matter of business on a future Agenda.

Notwithstanding the above, a Legislative Body may take action on an item not appearing on the posted Agenda if it publicly identifies the item and either: (A) a majority of the Legislative Body votes that either an Emergency Situation or a Dire Emergency Situation exists; (B) two-thirds of the Legislative Body or, if less than two-thirds of the Legislative Body are present, all of the members of Legislative Body present, vote that there is need to take immediate action and that need for action came to the attention of the City after the Agenda was posted; or (C) the item was posted for a prior meeting of

the Legislative Body that occurred not more than five (5) calendar days prior to the date action is taken on the item where the item was continued to the present meeting.

2.06.080 Legislative Body Agenda Process for Regular Meetings.

A. For all regular Meetings for a Legislative Body of the City, the Agenda Packets shall be posted and distributed by the City Clerk or designee no later than seventy-two (72) hours before the scheduled date for the Meeting.

B. The Agenda shall avoid undefined abbreviations or acronyms not in common usage and terms whose meanings are not typically known to the general public. The description 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 about the item.

C. Distribution shall include the following:

1. Delivery of the Agenda Packet to each member of the Legislative Body.
2. Posting of the Agenda Packet to the City's website.
3. Placing copies of the Agenda Packet in viewing binders in the office of the City Clerk.
4. Mailing or emailing copies of the Agenda to any resident of the City who requests to receive the Agenda in writing.
5. Making copies of the Agenda available in the office of the City Clerk, without a charge.
6. Posting the Agenda in a location that is freely accessible to the Public.

D. Failure to post the Agenda Packet to the City's website shall not be a basis for cancelling the Meeting.

2.06.090 Special Meetings.

The presiding officer or a majority of members can call a Special Meeting at any time.

A. Persons to Notify. To call a Special Meeting, written notice must be delivered to: (1) each member of the Legislative Body; and (2) each local newspaper of general circulation and radio or television station requesting notice in writing.

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B. Method of Notification. Notice shall be received at least twenty-four (24) hours before the time of the Special Meeting being called. The written notice may be dispensed with as to any member who at or prior to the time the Meeting convenes files with the clerk or secretary of the Legislative Body a written waiver of notice. The waiver may be given by telegram. The written notice may also be dispensed with as to any member who is actually present at the Meeting at the time it convenes.

The call and notice shall be posted at least twenty-four (24) hours prior to the Special Meeting in a location that is freely accessible to members of the public. For Special Meetings of the City Council or another Legislative Body where: (1) the members are compensated for their appearance; and (2) one of the members is also a member of the City Council, notice shall also be posted on the City's website.

C. Contents of Notice. The call and notice shall specify the time and place of the Special Meeting and the business to be transacted or discussed. No other business shall be considered at these Meetings by the Legislative Body.

D. Prohibited Subject Matter for Special Meetings. A Legislative Body shall not call a Special Meeting regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits, of a City executive, as defined in Government Code Section 3511.1(d), as it may be amended from time to time. However, the City may call a Special Meeting to discuss the City's budget.

2.06.100 Emergency Meetings.

A. In the case of an Emergency Situation or Dire Emergency Situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities, a Legislative Body may hold an Emergency Meeting without complying with the twenty-four (24) hour notice and posting requirements provided herein. When an Emergency Meeting is called, the requirements set forth in D.M.C. 2.06.060 shall apply, except for the notice requirements provided therein.

B. Notice Requirements. For Emergency Situations the presiding officer of the Legislative Body or designee shall notify each local newspaper of general circulation and radio or television station that has requested notice of Special Meetings by telephone one (1) hour before the Emergency Meeting. For Emergency Dire Situations the presiding officer of the Legislative Body or designee shall notify each local newspaper of general circulation and radio or television station that has requested notice of Special Meetings by telephone one (1) hour before the Emergency Meeting at or near the time members of the Legislative Body are notified. If phone services are not functional, these notice requirements are waived, and the presiding officer or designee

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shall notify the required media of the fact of the holding of the Emergency Meeting, the purpose of the Meeting, and any action taken at the Meeting as soon after the Meeting as possible.

C. Closed Session. A Legislative Body may adjourn into closed session during an Emergency Meeting if the Legislative Body votes to do so by either (1) two-thirds (2/3) of the Legislative Body who are present; or (2) if two-thirds (2/3) of the members of the Legislative Body are not present, by the unanimous vote of the members that are present.

D. Posting of Minutes. As soon as possible after the Emergency Meeting, the City shall post in a public place: (1) Minutes of the Emergency Meeting shall include; (2) a list of persons or entities the presiding officer or designee notified or attempted to notify; (3) a copy of the rollcall vote; and (4) any actions taken at the Meeting.

2.06.110 Planning Notice Requirements.

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.

2.06.120 Number and Timing of Meetings.

The City Council shall hold a minimum of twenty-four (24) Meetings, or the amount needed to conduct City business in a timely manner, whichever is greater, each calendar year. Any other Legislative Body of the City shall hold the amount of Meetings needed to carry out its duties in a timely manner.

Except at Meetings where the adoption of a budget is proposed or where City Council determines by two-thirds (2/3) vote that there is a legal or fiscal necessity to hold a hearing, no public hearing may commence later than 10:00 p.m.

2.06.130 Reports regarding regional bodies.

Councilmembers who represent the City on regional governmental bodies and commissions shall provide a report briefly summarizing any action taken by the regional governmental body at the regularly scheduled City Council Meeting immediately following a meeting by the regional governmental body. If the report is made in writing, it shall be included in the Agenda Packet. If the report is made orally, it shall be made during open session and shall be included as an item on the Meeting's Agenda.

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2.06.140 Broadcast and Recording of Meetings.

A. To the extent feasible, all regular and special Meetings of the City Council, Planning Commission, Transportation Advisory Commission, and the Parks and Recreation Commission shall be recorded, televised and archived for replay.

B. The broadcast requirements shall not apply if necessary equipment malfunctions or if a Meeting is changed to a location that does not have the technological capabilities to perform broadcasting.

C. In the event that video recording is not possible, City staff should make an effort to make an audio record of the Meeting. Such audio record shall be recorded, streamed, and archived for replay.

D. A technical malfunction affecting this section shall not impact the validity of City business transacted during a meeting. However, City staff is responsible for taking every reasonable effort to record a Meeting in some format, if regular recording equipment fails.

2.06.150 Disclosure of Ex Parte Contacts.

For every Legislative Body public hearing that involves zoning, landmarks, subdivision, or other discretionary approval or authorization, each member planning to participate in the decision shall orally disclose any ex parte contacts he or she has had concerning the subject of the hearing, after the staff presentation. Members shall also submit a written report of such contacts prior to the commencement of the hearing. When possible such report shall be included in the Agenda Packet. In the event that ex parte contact is made after the deadline for adding documents to the Agenda Packet, the written report shall be circulated at the Meeting where the public hearing is being held and shall be available for public review within one (1) business day of the Meeting at the City Clerk's office.

2.06.160 Closed Session and Litigation.

A. Before any closed session, a Legislative Body shall meet in open session for the purpose of taking public comment solely on the subject(s) of the closed session.

B. Immediately following the end of the closed session, the Legislative Body shall make a report in open session describing any final action taken as required by state law, as well as any other matter or statement the Legislative Body decides to make. If the closed session is not followed the same day by a regular meeting of the Legislative Body, the report shall also be made at the next regular meeting.

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C. When litigation involving the City is finally adjudicated or otherwise settled, the text and terms of any settlement shall be a public record unless the settlement agreement restricts the disclosure of the terms and text of the settlement.

D. If the City Council authorizes a settlement during closed session but does not report the terms of the settlement agreement immediately following the end of the closed session, the text and terms of the settlement shall be included in the Agenda Packet of the regular Meeting following the execution of the settlement agreement by all parties.

Closed sessions and the public reports following closed sessions shall be made at Council Chambers. Public reports following closed sessions shall be broadcast as provided in D.M.C. 2.06.140 of this chapter.

2.06.170 Presentation Tools for the Public.

A. Members of the public may use City equipment for audio/visual presentations for items on the meeting agenda of the City Council if the presentation is provided to the City Clerk no later than four (4) days before the meeting. Requests for presentation tools are subject to reasonable availability of any equipment that the proposed presentation would require.

B. Nothing in this chapter authorizes a member of the public to use City property without permission and oversight of City staff. Nothing in this chapter limits the authority of Legislative Bodies to set time limits for presentations.

C. The City is not required to provide equipment that it does not have readily and regularly available at regular meetings. Further, the City may restrict the use of City equipment or the connection of non-city devices to City devices if it determines that it must do so to avoid damage or corruption of City equipment, systems, or infrastructure.

D. The City in no way guarantees the quality, integrity, or compatibility of its equipment and any individual who chooses to use the City's available equipment does so at his or her own risk. Should a malfunction in the City's equipment cause damage to an individual's property or prevent an individual from giving an intended presentation, the City will in no way be liable or accountable to the individual.

2.06.180 Speaker's Rights.

A. A Legislative Body may require members of the public wishing to speak on items appearing on the Agenda to fill out a speaker card. However, the Legislative Body shall

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not require an individual to provide his or her name or address as a condition of speaking, if the individual wishes to remain anonymous.

B. No Legislative Body shall abridge or prohibit public criticism of the policies, procedures, programs or services of the City, or of any other aspect of its proposals or activities, or of the acts or omissions of the City, even if the criticism implicates the performance of one or more public employees. Nothing in this subsection shall confer any privilege or protection beyond that which is otherwise provided by law.

2.06.190 Accessibility of Meetings.

No Legislative Body may conduct a meeting in a facility that is inaccessible to person with physical disabilities, or where members of the public may not be present without making a payment or purchase. Whenever a Legislative Body anticipates that the number of persons attending a meeting may exceed the legal capability of the room, the City shall action to provide additional listening areas for the public.

2.06.200 Records available through the City's website.

To the extent it is practical, the reasonably current versions of any of the following documents which may exist or links to documents shall be available on the City's website and at the City Clerk's office:

- A. Dixon Municipal Code
- B. Zoning Ordinance
- C. General Plan
- D. Specific Plans
- E. Sunshine Ordinance
- F. City's Records Retention Policy
- G. City Council Rules of Procedure
- H. Agenda and Minutes of the meetings for all Legislative Bodies that are present on the City's website as of the date this Ordinance becomes effective.
- I. Agenda and Minutes of the meeting for all Legislative Bodies that are held on or after the date this Ordinance becomes effective.

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J. Statements of Economic Interest filed by presiding City officials during their current term due, pursuant to state law requirements.

K. Index of regional bodies on which the City is represented and the City representatives who serve on them.

2.06.210 Contributions to the City.

Any gift of funds, goods, or services worth more than One Thousand Dollars (\$1,000) in the aggregate, which may be accepted or collected by the City or any of its functionaries or Legislative Bodies, for the purpose of carrying out or assisting any City function, shall be approved at a regular meeting of the City Council.

2.06.220 Large Document Borrowing.

Large published documents produced by or on behalf of the City, such as City Budgets and environmental impact reports, shall be available at the City Clerk's office for review during regular business hours. Copies shall also be made available for borrowing by the public at the Dixon Public Library.

2.06.230 Public Records Act Request Form.

A. The City shall create a form to be filled out for every Public Records Act request. Copies of the form shall be available at the City Clerk's office. The form shall also be posted on the City's website. Individuals shall not be required to complete a form to make a Public Records Act request. In the event that an individual makes a Public Records Act request without completing the City's form, a member of the City's staff shall complete a form for the request to be placed in the City's file. Each completed form will be retained in the City's records and shall include the following information.

1. The date the City received the Public Records Act request.
2. The date the City sent a determination letter to the person making the request.
3. The date the City provided records.
4. A note of any records that were withheld or redacted.

2.06.240 Justification for Withholding Records.

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Any refusal to disclose a public record shall be justified in writing, citing the statutory authority or case law supporting the determination that the records are exempt from disclosure.

2.06.250 Police Complaints.

The City Policy Department shall maintain a public record that is updated at least annually and which shall state: (A) the number of complaints made against the City Police Department, (B) the date of the complaint, (C) the nature of the complaint, and (D) any discipline imposed. This record shall not include personal information regarding either the City's employees or members of the public.

2.06.260 Severability.

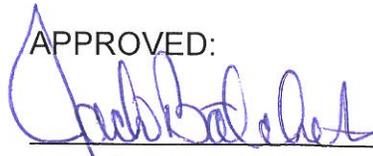
The provisions of this chapter are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this chapter, or the invalidity of the application thereof to any person or circumstances, shall not affect the validity of the remainder of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

SECTION 2. The City Clerk shall cause this Ordinance to be published in a newspaper of general circulation in the City of Dixon within fifteen (15) days of its enactment; shall certify to the enactment and publication of this Ordinance, and shall cause this Ordinance and its certification to be entered in the Book of Ordinance of the City.

This Ordinance was introduced at a meeting of the City Council of the City of Dixon duly held on the 23rd day of September, 2014, and approved at a meeting of the City Council of the City of Dixon duly held on the 14th day of October, 2014, by the following roll call vote:

AYES:	Besneatte, Bird, Castanon, Batchelor
NOES:	Bogue
ABSENT:	None
ABSTAIN:	None

APPROVED:



Jack Batchelor, Mayor

ATTEST:



Suellen Johnston, City Clerk

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