

File No. 101191

Committee Item No. 6
Board Item No. 11

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Rules

Date December 2, 2010

Board of Supervisors Meeting

Date 12/14/10

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Completed by: Linda Wong

Date November 29, 2010

Completed by: L.W.

Date 12/6/10

An asterisked item represents the cover sheet to a document that exceeds 25 pages. The complete document is in the file.

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[Administrative Code - Publication Requirements]

Ordinance amending Chapter 2 of the San Francisco Administrative Code by adding Article XII, Sections 2.96 through 2.100, to define “published” as required by San Francisco Charter Article XVII to: (1) establish requirements for publishing notices; (2) establish standards for and define the “City's Official Website Homepage”; (3) establish procedures for standardizing and defining notice and publication requirements for future proposed ordinances; and (4) authorize the Clerk of the Board of Supervisors to adopt regulations to implement this Article.

NOTE: Additions are single-underline italics Times New Roman;
deletions are ~~strike-through italics Times New Roman~~.
Board amendment additions are double-underlined;
Board amendment deletions are ~~strikethrough normal~~.

Be it ordained by the People of the City and County of San Francisco:

Section 1. The San Francisco Administrative Code is hereby amended by adding Article XII, to Chapter 2, to read as follows:

ARTICLE XII. PUBLICATION OF NOTICES.

SEC. 2.96. FINDINGS.

(a) San Francisco Charter Article XVII, defines “Notice” to mean publication (as defined by ordinance), and a contemporaneous filing with the Clerk of the Board of Supervisors or other appropriate office. Charter Article XVII further empowers the Board of Supervisors by ordinance to define the term “Published” and requires the Board of Supervisors to seek a recommendation from the Clerk of the Board of Supervisors before adopting such an ordinance. The Clerk of the Board of Supervisors participated in the drafting of this ordinance.

(b) The City has greatly expanded its use of electronic media to provide information to the public, and individuals' access to those media has also expanded greatly. In adopting this Article XII

1 the Board of Supervisors intends to: (1) maximize use of electronic media as a cost effective means of
2 publishing notices; (2) provide uniform implementation of Charter Article XVII's "publication"
3 requirement to the extent that implementation of this Article XII does not conflict with notice or
4 publication requirements specifically imposed by federal or State law or by the San Francisco Charter
5 or applicable City ordinances; (3) provide City agencies with a standard notice and publication
6 procedure that future City legislation can incorporate; and (4) establish a mechanism to ensure that
7 drafters of all future legislation that addresses publication and notice consider the use of this standard
8 notice and publication procedure.

9 **SEC. 2.97. DEFINITIONS.**

10 (a) "City's Official Website Homepage" shall mean the first screen that opens at sfgov.org or
11 any successor City official internet address.

12 (b) "Department's Website Homepage" shall mean the first screen that opens at the
13 Department's website address.

14 (c) "Notices" shall mean all notices to the public required under the Charter.

15 (d) "Published" shall mean posted on the City's Official Website Homepage, on the applicable
16 Department's Website Homepage, and at the Main Branch of the San Francisco Public Library, as
17 more fully described in Section 2.98, provided that the Department shall cause a summary of the
18 Notice to be published in the "Official Newspaper" as set forth in Administrative Code, Chapter
19 2, Article IX. The summary shall contain enough information to enable a person of average
20 intelligence to determine whether he or she needs to review the information and materials
21 more fully on the Website Homepage.

22 **SEC. 2.98. PUBLICATION REQUIREMENTS.**

23 (a) The City Librarian shall designate a place in the Main Branch of the Public Library,
24 accessible to the public, for the posting of Notices in hard copy. The City Librarian shall cause such
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1 Notices to be posted promptly upon receipt. For purposes of this subsection (a), "posting" may include
2 placing a notice in a file that is readily identifiable and available to the public.

3 (b) The Department of Technology shall place on the City's Official Website Homepage a
4 "Notices" section which shall include links to Notices of all City departments. The Department of
5 Technology shall cause such Notices to be posted promptly.

6 (c) City departments shall (1) transmit Notices to the Department of Technology for
7 posting on the City's Official Website Homepage; and (2) post Notices on the Department's
8 Website Homepage, either directly or through the Department of Technology, as applicable.
9 post Notices on a "Notices" page accessible from the Department's Website Homepage. The
10 Department of Technology shall cause such Notices to be posted promptly upon receipt. to be
11 accessible via the Notices section placed on the City's Official Website Homepage.

12 (d) This Article is not intended to change (1) the duration of, or time during which City, State
13 or federal law requires an official or agency to publish or post a Notice; (2) the identity of the official
14 or agency responsible for publishing or posting a Notice; or (3) publication or posting requirements
15 that City, State or federal law otherwise impose on City officials or agencies.

16 (e) The publication requirements established in subsections (a), (b), and (c) above shall be
17 deemed satisfied if the City has substantially complied with the requirements, meaning the Notice has
18 been posted at the Main Branch of the Public Library, and on either the City's Official Website
19 Homepage or the Department's Website Homepage.

20 **SEC. 2.99. REVIEW OF PROPOSED ORDINANCES.**

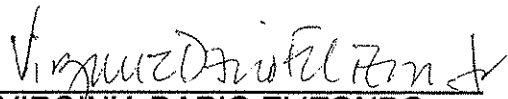
21 The Clerk of the Board of Supervisors shall review all future proposed ordinances that have
22 been introduced that contain notice and publication requirements, and may recommend to the sponsor
23 of the legislation that the proposed ordinance incorporate the notice and publication requirements as
24 set forth in this Article XII, to the maximum extent consistent with federal and State law. The Clerk's
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1 failure to perform this review on any ordinance shall not invalidate the ordinance, or form the basis for
2 any legal challenge to the ordinance.

3 **SEC. 2.100. REGULATIONS.**

4 The Clerk of the Board of Supervisors, in consultation with the City Librarian and/or the
5 Director of the Department of Technology, to the extent the Clerk deems appropriate, may adopt
6 regulations, consistent with this Article XII and Charter Section 16.112, governing the operational
7 procedures for implementing the provisions set forth in this Article XII.

8 APPROVED AS TO FORM:
9 DENNIS J. HERRERA, City Attorney

10 By: 
11 VIRGINIA DARIO ELIZONDO
12 Deputy City Attorney
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LEGISLATIVE DIGEST

[Publication Requirements]

Ordinance amending Chapter 2 of the San Francisco Administrative Code by adding Article XII, Sections 2.96 through 2.100, to define "published" as required by San Francisco Charter Article XVII to: (1) establish requirements for publishing notices; (2) establish standards for and define the "City's Official Website Homepage"; (3) establish procedures for standardizing and defining notice and publication requirements for future proposed ordinances; and (4) authorize the Clerk of the Board of Supervisors to adopt regulations to implement this Article.

Existing Law

In 2009, San Francisco Charter Article XVII, was amended to authorize the Board of Supervisors to define the terms "Notice" and "Published" by ordinance, with a recommendation from the Clerk of the Board of Supervisors.

San Francisco Charter Section 16.112 requires the City to publish notices and hold public hearings for certain actions. These requirements are in addition to those of the Brown Act and Sunshine Ordinance. Additionally, there are certain City actions that require notice under Section 16.112, but that do not require a public hearing; therefore notice of these actions do not appear on the City's or the department's website as part of a meeting agenda.

Amendments to Current Law

- 1) Defines "published" to mean posted on the City's website homepage, on the applicable department's website homepage, and at the Main Branch of the San Francisco Public Library.
- 2) Requires the Department of Technology to place on the City's Official Website Home Page an "Official Notices Link" which shall include links to official notices of all departments.
- 3) Requires City departments to post Notices required by the Charter on the department's homepage and to transmit notices to the Department of Technology for posting on the City's homepage.
- 4) Requires Departments to publish a summary of the Notice in the newspaper that contains enough information to enable a person of average intelligence to determine whether he or she needs to review the information and materials more fully on the Website Homepage.

This ordinance does not change existing notice requirements or create new ones, rather it authorizes "publication" by "posting" on the City's website, if no procedure is specified. It also

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establishes a mechanism to incorporate publication by posting on the website into new ordinances.

Background Information

The City has greatly expanded its use of electronic media to provide information to its citizens and individuals' access to those media, has also expanded greatly. The intent of the legislation is to:

- Maximize use of electronic media as a cost effective means of publishing notices.
- Provide uniform implementation of Charter Article XVII's "notice" and "publication" requirements to the extent that implementation of this ordinance does not conflict with notice or publication requirements specifically imposed by federal or State law or by the San Francisco City Charter or City ordinance.
- Provide City agencies with a standard notice and publication procedure that future City legislation can incorporate.
- Establish a procedure to ensure that drafters of all future legislation that addresses publication and notice consider the use of this standard publication and notice procedure.

The Clerk of the Board of Supervisors participated in the drafting of this legislation.

*J. Rules Committee members
CRB*

File 101191

Referral from the Board of Supervisors Rules Committee - File 101191

Marco Bruno

to:

Linda Wong

11/02/2010 04:01 PM

Cc:

Teresa Galvis, Ron Vinson

Show Details

History: This message has been forwarded.

1 Attachment



DT - memo to Board - Public Notices.pdf

Linda,

per your request attached is the Dept of Technology's response to a memo regarding a referral from the Board of Supervisors Rules Committee - File 101191.

please let us know if you have any questions.

thanks

marco
581-3972



MEMORANDUM

From: Chris Vein, Department of Technology
To: Linda Wong, Clerk, Board of Supervisors Rules Committee
Date: November 1, 2010
RE: Referral from Board of Supervisors Rules Committee – File 101191

PROPOSED RECOMMENDATIONS

After reviewing the proposed ordinance, the Dept. of Technology would like to recommend the following changes.

- On Sec 2.98.b – We recommend replacing the last sentence in paragraph (b) (on page 2 - lines 24-25) as follows:

"The Department of Technology shall cause such Notices section to be posted promptly."

- On Sec 2.98.c - We recommend replacing the entire paragraph (c) (on page 3 - lines 1 through 4) as follows:

(c) City departments shall post Notices on the Department's Website Homepage. The Department of Technology shall cause such Notices to be accessible via the Notices section placed on the City's Official Website Homepage.

RATIONALE OF RECOMMENDATIONS

The recommended changes are necessary because, per the City's COIT Web policy each City Department owns and publishes its own content online. The Dept. of Technology supports the system that enables publishing information online while City Departments are responsible for publishing all their content including notices. The Dept. of Technology is responsible for maintaining the City's Official home page and will create a Notices section with the required links upon Board's approval of this ordinance.

