



Sunnyvale

# Consider the Creation of a Formal Process for City Council Colleague Memorandums (Study Issue OCM 21-03)

David Carnahan, City Clerk  
**September 14, 2021**





## **Purpose of the Colleague Memorandum**

City Charter, Brown Act and Parliamentary Procedures

Policies From Other Agencies

Legal Considerations in Developing Memorandum

Potential Memorandum Purpose, Process and Format

Staff Analysis and Review of Memorandum Options

# Purpose of the Colleague Memorandum

---

- To provide an opportunity that allows Councilmembers to prepare memoranda on topics coming before the Council or on any matter within Council's subject matter jurisdiction.

---

Purpose of the Colleague Memorandum



## **City Charter, Brown Act and Parliamentary Procedures**

Policies From Other Agencies

Legal Considerations in Developing Memorandum

Potential Memorandum Purpose, Process and Format

Staff Analysis and Review of Memorandum Options

# City Charter, Brown Act and Parliamentary Procedures

---

## City Charter

- [Charter Section 616. Proceedings](#) provides the City Manager responsibility for adding items to City Council meeting agendas.

## Council Policy

- [Council Policy 7.3.19 Council Meetings](#) expands authority to the Mayor and a majority of the City Council during a Council meeting.

# City Charter, Brown Act and Parliamentary Procedures

---

## Ralph M. Brown Act (Brown Act)

- Does not provide regulations regarding who may add items to public meeting agendas.
- A gathering of four or more Councilmembers (a quorum) to discuss a topic under the City Council's subject matter jurisdiction is considered a public meeting.
- A quorum may be created through serial communications between Councilmembers or among Councilmembers through an intermediary.

(1) Ralph M. Brown Act: [Government Code Sections 54950 – 54963](#)

# City Charter, Brown Act and Parliamentary Procedures

---

## Parliamentary Procedures

- [Council Policy 7.3.19 Council Meetings](#) sets *The Standard Code of Parliamentary Procedure* (Sturgis) as the primary source for meeting protocol; subject to the provisions of the Brown Act and Council Policies.
- Sturgis does not provide rules regarding members of a legislative body drafting memorandum pertaining to items before the body.

(1) Sturgis, Alice (2001). *The Standard Code of Parliamentary Procedure*, 4th ed.

---

Purpose of the Colleague Memorandum

City Charter, Brown Act and Parliamentary Procedures



## **Policies From Other Agencies**

Legal Considerations in Developing Memorandum

Potential Memorandum Purpose, Process and Format

Staff Analysis and Review of Memorandum Options



# Policies for Santa Clara County Agencies

---

- The City of Palo Alto policy provides Councilmembers a method to add agenda items for future Council consideration.
- The City of San José policy provides Councilmembers a process to address existing agenda items.
- Santa Clara County permits one (1) or two (2) of five (5) Supervisors to address existing agenda items similar to San José.
- Other cities in Santa Clara County do not have similar policies.

# Policies From Other Agencies

Surveyed cities through the League of California Cities' City Clerk List Serve – received 2 responses

## Palo Alto

- Two (2) to three (3) of seven (7) Councilmembers can support memorandum.
- City Manager is consulted regarding existing operational capacity, fiscal impacts and staffing needs.
- Draft memorandum shared with City Attorney and City Manager.

## San José

- Less than a majority can support memorandum.
- Memorandum may be submitted directly to City Clerk for addition to agenda.
- Applicable to Council and Boards, Commissions, etc.

(1) Palo Alto Policy: [City Council Procedures and Protocols Handbook, Section 2.4.M](#)

(2) San José Policy: [Resolution 77135, Section 2.3.2.7](#)

# Sample Memorandums Other Agencies

## Palo Alto

- September 23, 2019 | [Affordable Housing Plan to Advance Housing Goals That Address Socio-Economic Diversity and Affordability](#)
- December 9, 2019 | [Anti-Vaping Measures](#)
- December 14, 2020 | [Safe Storage of Firearms](#)
- March, 15 2021 | [Referral to the Parks and Recreation Committee if a New Skate Park](#)
- June 21, 2021 | [Palo Alto Museum \(Roth Building\)](#)
- June 21, 2021 | [Affordable Housing Commercial Impact Fees](#)

# Sample Memorandums Other Agencies

## San José

- February 23, 2021 | Report # [21-322](#)  
[Mayor, Jones, Mahan & Jimenez 2/19](#) | [Carrasco 2/23](#) | [Cohen 2/23](#)
- February 25, 2021 | Report # [21-407](#)  
[Mayor 2/23](#) ; [Peralez 2/23](#) ; [Mayor 2/24](#) ; [Mayor 2/24](#) ; [Mahan 2/24 \(1\)](#) ; [Mahan 2/24 \(2\)](#)
- August 10, 2021 | Report # [21-1715](#)  
[Mahan 8/9](#) ; [Liccardo 8/9](#)
- August 31, 2021 | Report # [21-1893](#)  
[Peralez, Esparza & Jimenez 8/27](#) ; [Liccardo, Jones, Cohen, Foley & Mahan 8/27](#) ; [Arenas 8/30](#)

---

Purpose of the Colleague Memorandum

City Charter, Brown Act and Parliamentary Procedures

Policies From Other Agencies



## **Legal Considerations in Developing Memorandum**

Potential Memorandum Purpose, Process and Format

Staff Analysis and Review of Memorandum Options

# Legal Considerations in Developing Memorandum

---

- A gathering of four or more Councilmembers (a quorum) to discuss a subject under the City Council's subject matter jurisdiction is considered a public meeting.
- In order to maintain alignment with the Brown Act, no more than three (3) Councilmembers may have a discussion regarding the drafting of a Colleague Memorandum.

(1) Ralph M. Brown Act: [Government Code Sections 54950 – 54963](#)

---

Purpose of the Colleague Memorandum

City Charter, Brown Act and Parliamentary Procedures

Policies From Other Agencies

Legal Considerations in Developing Memorandum



**Potential Memorandum Purpose, Process and Format**

Staff Analysis and Review of Memorandum Options

# Potential Memorandum Process and Format

---

How many Councilmembers can discuss the agenda item to draft a memorandum:

- Option 1: Only one (1) Councilmember can prepare a memorandum for the City Council to consider.
- Option 2: Up to two (2) Councilmembers may jointly prepare a memorandum for the City Council to consider.
- Option 3: Up to three (3) Councilmembers (not to exceed a quorum) may jointly prepare a memorandum for the City Council to consider.



# Potential Memorandum Process and Format

Define the **process** for submitting the memorandum:

- Option 1: A draft Council memorandum is submitted to the City Manager and City Attorney for feedback. Councilmembers review feedback and submit updated draft to City Manager and City Clerk for inclusion with meeting agenda.
- Option 2: Council memorandum is submitted to the City Manager and City Attorney for informational purposes. The City Manager and City Clerk includes with meeting agenda. No staff feedback requested.

---

Purpose of the Colleague Memorandum

City Charter, Brown Act and Parliamentary Procedures

Policies From Other Agencies

Legal Considerations in Developing Memorandum

Potential Memorandum Purpose, Process and Format



**Staff Analysis and Review of Memorandum Options**

# Staff Analysis and Review of Memorandum Options

---

- Option 1: The City Manager and City Attorney are provided with a draft memorandum to analyze and review prior to publication.
- Option 2: Staff will not provide analysis of the Memorandum prior to publication.
- Option 3: Other direction as provided by Council.

# Conclusion

---

Consensus of majority Council for the following:

- ◆ Develop policy on colleague memorandums: yes / no
- ◆ If consensus is to move forward, identify options:
  - A. Allows adding new agenda item (Palo Alto) or allows commenting on an existing agenda item (San José).
  - B. Identify how many Councilmembers may sign: one, two or three.
  - C. (1) Include City Manager and City Attorney review and staff analysis; (2) do not include staff review.