



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3000 • Sacramento, CA 95811
(916) 322-5660 • Fax (916) 322-0886

To: Chair Remke, Commissioners Cardenas, Hatch, and Hayward
From: Commissioner Audero
Subject: Policy Regarding the Procedures for Setting Monthly Agendas
Date: March 12, 2018

I. REQUESTED ACTION

That the Commission take public comment on, discuss, and, if appropriate, adopt a Bagley-Keene-compliant policy regarding a more collaborative procedure for setting the Commission's monthly agenda.

II. BACKGROUND

Under the FPPC's current Statement of Governance Principles, Section II entitled "THE CHAIRMAN," the Chair currently is empowered to set the Commission agenda with input from Commissioners and staff, prioritizing and scheduling agenda items as appropriate. Although the FPPC's Governance Principles currently are under review by an especially-created committee that will present recommendations to the Commission, an immediate need has arisen to address the agenda powers of the Chair that cannot wait until the issuance of a revised Statement of Governance Principles.

Specifically, a concern has arisen that the Commission's monthly agendas are being created unilaterally by the Chair and, among other things, [i] posted without first being circulated to the Commissioners for review, [ii] posted without sufficient time to revise the agenda while still satisfying the Open Meeting laws, [iii] materially changing the language of the Commissioner's requested agenda items such as to prevent or preclude discussion or action on certain items, and/or [iv] refusing altogether to act on the Commissioners' requests about the agenda, including the inclusion of stated agenda items. This not only violates the requirement in the Governance Principles that the agenda be set with input from the Commissioners, but also has the alarming consequence of allowing a sole Commissioner, in this case the Chair, to in effect control the actions of the Commission.

Recently, the Chair flexed her agenda powers to try to prevent the Commission from taking action on certain agenda items. Specifically, Items 21 and 22 of the February 2018 agenda, requested by Commissioners Hayward and Audero, respectively, originally were written by the Chair in such a way as to impede action on those items. Both were designated as "Information Only" even though no such request was made by Commissioners Hayward or Audero and even though no such designation had been used in the past. In addition, the agenda's introductory paragraph was revised (without consultation with, or even mention to, the other

Commissioners) to state, for the first time in Chair Remke's tenure, that only those items that were not otherwise noted could have action taken on them. Given their "Information Only" designation, this of course meant that the Commission would be precluded from taking action on Items 21 and 22.

Requests made by Commissioners Hayward, Hatch and Audero to revise the agenda to remove this impediment to action, lodged with sufficient time to comply with the Open Meeting requirements, were first ignored and then rebuffed by the Chair. Refusing to take the necessary steps to revise the language of the agenda items to reflect the Commissioners' intent to take action, the Chair took only the trifling steps of removing the "Information Only" designation and the new language in the first paragraph, and warned that this still left the agenda items without "sufficient notice to take formal 'action' on these matters." Further timely requests that the agenda items be revised to remove any limitations the Chair perceived as to the Commissioners' ability to take action were ignored. *See* Exhs. 1 and 2. At the February 2018 meeting, the Chair attempted to prevent action on these items based on "notice concerns" - concerns she self-servingly and unnecessarily had created. *See* YouTube video, February 2018 meeting, at 2:31.25-54; 2:48.42-2:54.59.

Most recently, the Chair again flexed her agenda powers with respect to Commissioner Audero's March 2018 agenda items. To avoid a repeat of the February 2018 mischaracterizations, Commissioner Audero indicated during the February 2018 meeting that she had four future agenda items that she wanted to read into the record. Chair Remke invited as follows:

Commissioner Audero, you're going to tell me how these agenda items will be worded for next month. *See id.*, at 4:36.05.

In response, Commissioner Audero read her requested agenda items into the record. *See id.*, at 4:36-4:54.

Acknowledging that there existed a "strong belief" that she had had a "heavy hand in [the February 2018] agenda" and was "trying to prevent discussion," Chair Remke clarified that she was "trying to merely make sure that requests are fully stated and we know what we are voting on before we vote." *See id.*, at 4:51.08-21. Chair Remke also instructed the Commissioners in the following practice for the setting of future agenda items:

[T]he best approach would be for anyone who is asking for an item to be on the agenda to write exactly their own agenda item, as you [referring to Commissioner Audero] have done here, and if I still am not sure where the proposed action is, I would reach out to that individual so that we can avoid the Bagley Keene violations." *See id.*, at 4:51.36-4:52

This approach was consistent with Chair Remke's earlier instructions to the Commissioners:

In the future, yes, I would suggest if you are requesting an item be placed on the agenda and you know that you are going to ask for a vote on a proposed action, you have that proposed action stated. *See id.*, at 2:52.24-37.

At no time did Chair Remke express any uncertainty about the proposed actions in Commissioner Audero's agenda items – not at the February meeting, not after the Commission Assistant requested (and received from Commissioner Audero) a written copy of the agenda items, and not in any other context of setting the March 2018 agenda. Still, despite her instructions, and despite the fact that Commissioner Audero's agenda items clearly articulated the proposed actions, Chair Remke unilaterally revised those March 2018 agenda items as follows:

Audero-Proposed Agenda Item No. 1:

The Commission, having voted to proceed with a review of its Enforcement priorities and the creation/revision of a procedures manual that will contain the procedures and practices of the Enforcement Division for the resolution of its cases, will review at the March meeting alternatives for the method of conducting, or causing to be conducted, this review, including, but not limited to, that it be conducted by the Commission directly, or by a committee of the commission to present recommendations to the Commission, or by an independent Task Force or other work group also to present recommendations to the Commission, or by any other means that the Legal Division can suggest to us that would work within our structure, as well as a discussion and vote on the nature and extent of the process review (in other words, its scope). This discussion at the March meeting will be informed by the commissioner's thoughts, the thoughts of staff, Enforcement, public comment, and I am requesting an impartial formal memorandum and presentation by the Legal Division regarding the pros and cons, advantages and risks, of each alternative method of going about this process (in other words, by the Commission, by a committee, by a task force, etc.), including but not limited to any limitations imposed on each method by the Open Meeting laws. I propose this to be an action item for formal item – the action under this agenda item will be the selection and adoption by the Commission of the preferred method for conducting the review and the scope of that review, and the issuance of instructions regarding the preparation of whatever may be necessary for the next step for the review process, including but not limited to the launch of the review process, all to be discussed and issued a formal vote at the April 2018 or subsequent meeting.

Remke-Revised Agenda Item No. 1:

Review of Enforcement Priorities and Procedures. At the February 15, 2018 meeting, the Commission voted to review its enforcement priorities and create a procedures manual. Commissioner Audero requested this item to discuss and vote on the method for conducting the review, the scope of the review, and the issuance of instructions regarding the preparation of the next steps of the review process, including the launch of the review process itself.

Audero-Proposed Agenda Item No. 2:

Under the FPPC's current Statement of Governance Principles, section II entitled "THE CHAIRMAN," the Chair currently is empowered to set the Commission agenda with input from Commissioners and staff, prioritizing and scheduling agenda items as appropriate. Although the FPPC's Governance Principles currently are under review by an especially-created committee that will present recommendations to the Commission about its revisions, an immediate need has arisen to address the agenda powers of the Chair that cannot wait until the issuance of a revised Statement of Governance Principles. Specifically, a concern has arisen that the agendas are being created unilaterally and posted without being first circulated to the Commissioners for review, or without sufficient time to revise the agenda after it is posted while still satisfying the Open Meeting laws, all of which could constitute a violation of the requirement that the agenda items must be set with input from the Commissioners. Because recent attempts have been made to use the characterization or language of an agenda item to dictate whether the Commissioners may take action on that item or not, it has become imperative that we revise the agenda powers such that they afford Commissioners ample opportunity to review the agenda before it is posted and with sufficient time to revise it while still satisfying the Open Meeting laws. Toward that goal, under this agenda item, we will discuss and vote on a procedure to be used going forward for the preparation, issuance and posting of the agenda, including but not limited to a timeline of tasks related thereto, which procedure will remain in place until the Statement of Governance Principles replaces or otherwise adopts said procedure.

Remke-Revised Agenda Item No. 2:

Review of Process to Prepare the Commission Agenda for Posting. Commissioner Audero requested this item to discuss and vote on a procedure to use going forward for the preparation, issuance and

posting of the Commission agenda, including a timeline of tasks related thereto, with the goal of affording the Commissioners ample opportunity to review the agenda before it is posted and with sufficient time to revise it while still satisfying the open meeting laws.

Audero-Proposed Agenda Item No. 3:

Under the FPPC's current Statement of Governance Principles, Section entitled 'THE EXECUTIVE DIRECTOR,' subsection B2 – the ED is required to “report[] regularly to the Chairman and Commission on the status of FPPC finances, administrative actions, goals and achievements.” In the years 2016 and 2017, and I've been here since mid-2015, the Commission has received no such report. Issues to discuss and take formal action on under this agenda item is an understanding of this absence of reporting, public comment regarding the interest and need for such reporting, and a vote by the Commission regarding whether to require a monthly or other periodic reporting from the Executive Director to the Commission going forward and, if so, the nature and extent of such report beyond the already identified topics of “finances, administrative actions, goals and achievements,” and, of course, always under a consideration of privilege issues.

Remke-Revised Agenda Item No. 3:

Review of Reports Provided by the Executive Director.
Commissioner Audero has requested this item to discuss and vote on the Executive Director's duty to report regularly to the Chair and Commission on the status of FPPC finances, administrative actions, goals and achievements, and determine the type of report that should be provided going forward, including the nature and extent of such report beyond the already identified topics and a consideration of privilege issues.

Audero-Proposed Agenda Item No. 4:

Referencing the January 2018 Commission meeting, specifically the discussion of the Lucan matter, the question arose whether Commissioners have the authority to set aside or otherwise revise a closure letter. Specifically, the question was whether Commissioners could instruct the Enforcement Division to re-write all or part of a closure letter with language that the Commissioners would approve, or otherwise rescind and issue the closure letter with that language. We did not have the benefit of our Legal Division weighing in on it – somehow in re-reading the transcript, I see that the question was posed but we got off track so we did not have the benefit of the Legal Division weighing in on this. I would

like the Legal Division to present an impartial legal memorandum to the Commission with an answer to the question of whether the Commission can instruct Enforcement to rewrite all or part of a closure letter, and the memorandum will include (1) legal authorities to support any position taken, if any; (2) an analysis of how to interpret the absence of legal authorities, if that is the case and we know that that is possible; and (3) a recommendation on how to proceed in future similar circumstances with an explanation of whether that recommendation was reached based on the law or on best practices. In addition, the Commission will take public comment on the issue and based on this, the Commission will vote on whether to adopt the recommendation of the Legal Division as a go-forward procedure or to send this matter to the Attorney General's office requesting an opinion.

Remke-Revised Agenda Item No. 4:

Review whether the Commissioners can instruct the Enforcement Division to re-write all or part of a closure letter in a specific case with language that the Commissioners approve, or otherwise rescind and issue it with that language, starting with an analysis from the Legal Division with a possible request from the Attorney General's office.

Upon review of the revised agenda items, Commissioner Audero requested that the agenda items be placed on the agenda as she had read them into the February 2018 meeting record pursuant to the Chair's own February 2018 instructions. Chair Remke refused to do so. *See Exh. 3.* In a conciliatory gesture given the lack of time before the required posting of the agenda, Commissioner Audero offered to resolve the impasse by leaving the agenda items as Chair Remke had revised them subject to the concurrent posting of this memorandum intended to adequately inform the invited public comment. *See id.*

III. PROPOSED ACTION FOR MARCH 2018 MEETING

It has become dishearteningly apparent through these recent incidents that unilateral control of the agenda has been exercised to attain unilateral control of the Commission – a supremacy never intended for any single Commissioner, not even the Chair. In light of these improper, content-based attempts to prevent transparent discussion and inhibit public action, it is necessary that the Commission revise the agenda powers such that no one Commissioner can wield such a heavy sword.

Welcoming public comment, the Commission will discuss and, if appropriate, vote on a Bagley-Keene-compliant procedure for the preparation, issuance, and posting of the agenda, including but not limited to a timeline of tasks related thereto, which procedure can also be voted to remain in place until the Statement of Governance Principles replaces or otherwise adopts it.

EXHIBIT 1

Re: February agenda item 22

MA

Maria Audero

Mon 2/5, 4:38 PM

Jodi Remke; Erin Peth; Brian Hatch; Frank Cardenas <frank@frankcardi+3 more

Reply all |

Inbox

You replied on 2/13/2018 8:43 AM.

Action Items

Thank you for revising the agenda to delete the "Information Item" designation.

I disagree with your assessment on whether we can take "formal action," to the extent I understand what you mean by that, at least as to the agenda item I requested - Commissioner Hayward can speak for her item. Please therefore revise the agenda I requested to delete any limitations that you perceive as to our ability to take "any" action whatsoever so that we can avoid the debate at the meeting.

Thank you,
Maria

From: Jodi Remke

Sent: Monday, February 5, 2018 4:22 PM

To: Maria Audero; Erin Peth; Brian Hatch; Frank Cardenas; Jack Woodside; John Feser; Allison Hayward

Subject: RE: February agenda item 22

I share the concerns about avoiding the issue raised during the Lucan matter and that is why I specifically placed items "information items," and changed the opening comments on the agenda to clarify that not all items are for action.

My motivation in setting the agenda as Chair is simply to follow best practices - providing sufficient notice to the public as to what may be voted on and an opportunity for the Commissioners to reach a decision after being fully briefed. While I believe I made the correct

determination on the disputed items, I will modify the agenda as requested. However, I do not believe there is sufficient notice to take formal "action" on these matters other than agreed-upon next steps on the issues.

Jodi

From: Maria Audero

Sent: Monday, February 5, 2018 4:12 PM

To: Erin Peth <EPeth@fppc.ca.gov>; Jodi Remke <JRemke@fppc.ca.gov>; Brian Hatch <bhatch@fppc.ca.gov>; Frank Cardenas <frank@frankcardenas.com>; Jack Woodside <JWoodside@fppc.ca.gov>; John Feser <jfeser@fppc.ca.gov>; Allison Hayward <ahayward@fppc.ca.gov>

Cc: Maria Audero <MAudero@fppc.ca.gov>

Subject: Re: February agenda item 22

Sorry to hear this and good luck. There is nothing worse than a downed server.

In the meantime, there isn't much to discuss regarding the issues raised in our emails. Even if our intent for these agenda items was not understood initially, you now have in writing that we would like these marked for action. I do not know if a window closes at "close of business" (usually 5 pm) to revise the agenda, but it should not take much work to revise this agenda - just delete the "(Information Item)" characterization and re-issue the agenda.

Thanks a lot,
Maria

From: Erin Peth

Sent: Monday, February 5, 2018 4:07 PM

To: Maria Audero; Jodi Remke; Brian Hatch; Frank Cardenas; Jack Woodside; John Feser; Allison Hayward

Subject: Re: February agenda item 22

At this point, we don't know. Our IT staff is looking into the issue to figure out the cause.

Erin

From: Allison Hayward

Sent: Monday, February 5, 2018 4:05:40 PM

To: Erin Peth; Maria Audero; Jodi Remke; Brian Hatch; Frank Cardenas; Jack Woodside; John Feser

Subject: Re: February agenda item 22

Thanks for the heads up. Is this another state agency email issue, or one just affecting the FPPC? (If you know).

A.

From: Erin Peth
Sent: Monday, February 5, 2018 4:02 PM
To: Maria Audero; Jodi Remke; Brian Hatch; Frank Cardenas; Jack Woodside; John Feser; Allison Hayward
Subject: Re: February agenda item 22

All -

Please be advised that we are having technical difficulties with our email this afternoon. We are only able to receive and send from our mobile devices. We are trying to get to the bottom that. And in the meantime are also reviewing the issues raised below. Thanks for your patience as we work through everything.

Erin

From: Allison Hayward
Sent: Monday, February 5, 2018 3:41:08 PM
To: Maria Audero; Jodi Remke; Brian Hatch; Frank Cardenas; Erin Peth; Jack Woodside; John Feser
Subject: Re: February agenda item 22

I concur. Whether we will be able to come to some decision on these matters at our next meeting is something I can't predict.

But this agenda seems to prejudge. I think that's wrong.

If a majority can agree to something that moves items forward (or kills an item), we shouldn't be prevented from doing so because the Chair has designated an item for information or discussion, rather than for action.

Allison

From: Maria Audero
Sent: Monday, February 5, 2018 3:16 PM
To: Allison Hayward; Jodi Remke; Brian Hatch; Frank Cardenas; Erin Peth; Jack Woodside; John Feser
Cc: Maria Audero
Subject: Re: February agenda item 22

Erin, Jack, and John,

Having not received a response from Chair Remke to the below emails, and to my email of this morning asking for a change to the March meeting date, I wonder if she is not in today. Just in case, I am forwarding this to the two of you and asking that someone please respond so that we know the matters we are raising are being attended to. Please also respond in time today so that we can discuss the necessary changes to the agenda to meet the Bagley Keene 10-day notice requirement.

Many thanks,
Maria

From: Allison Hayward
Sent: Monday, February 5, 2018 3:01 PM
To: Maria Audero; Jodi Remke; Brian Hatch; Frank Cardenas
Cc: Maria Audero
Subject: Re: February agenda item 22

Nor was it my intent that the per diem item be a discussion item.

Commissioner Allison Hayward

From: Maria Audero
Sent: Monday, February 5, 2018 2:57:53 PM
To: Jodi Remke; Allison Hayward; Brian Hatch; Frank Cardenas
Cc: Maria Audero
Subject: Re: February agenda item 22

Chair Remke,

I note that you also changed the first paragraph in the agenda to include a limitation that only those items that are not otherwise noted may have action taken on them. I believe that is an intent to ensure that by marking my agenda item as "Information Item," we will be prevented from taking action on such item. As stated below, that was not my intent with my request.

Thank you,
Maria

From: Maria Audero
Sent: Monday, February 5, 2018 2:50 PM
To: Jodi Remke; Allison Hayward; Brian Hatch; Frank Cardenas

Cc: Maria Audero

Subject: February agenda item 22

Chair Remke,

I have reviewed the agenda for the February Commission meeting and am concerned of the way that the agenda item I requested has been characterized: "Information Item." I did not request that it be so characterized, and this characterization could result in the Commission not being able to take action on this item in February, which is not my intent.

Here is what I said when I requested the agenda item:

Commissioner Audero: I don't know if it needs to be an agenda item but I would really appreciate if you could send to me or circulate it especially now with the new Commissioner the May 2015 streamline memo that would be that would be the only thing I would ask and then I would like for us to put on the next agenda the beginnings of a discussion for us to do a process review of Enforcement so that we can review it take a look at it get public comment on what works what doesn't work what's helpful what's not helpful and then make some I don't know if there's even anything that's written I don't know that there was an Enforcement manual for example so I know I'm familiar with the Department of Labor Standards Enforcement here in California has an Enforcement manual this is how we're going to enforce things and you know it has some substantive rules etc and I'm not suggesting that we go into the substantive issues but I would like a thorough review of our Enforcement process with public comment and you know just kind of put that idea on the next agenda so that we can discuss how to go about do the doing that and **whether that is the creation of a committee like the Governance Committee that we created or the you know we do this without a committee and I do completely open in public comment without having a committee that makes a recommendation to the Commission** so I would like that put on the agenda

First, my request does not contemplate that we limit the discussion to Enforcement's view only. I did not say this and would like to be sure that this item is open for public comment.

In addition, my point about the possibility of creating a committee intends that we take a vote on a process that we will follow, assuming the Commission first votes that we should undertake a review of Enforcement's processes.

I would like to avoid the problem we had during our last meeting with the Lucan matter, where the characterization of the agenda item was used to try to preclude action from being taken.

I would like this agenda item changed into an "Action Item" **today** and have the agenda recirculated in time to comport with the 10-day notice requirement of Bagley Keene. Please contact me at your earliest convenience and with sufficient time for resolution today if you believe this is not do-able for any reason.

Thank you,
Maria

EXHIBIT 2

Inbox

From: Brian Hatch
Sent: Monday, February 5, 2018 4:36 PM
To: Jodi Remke; Maria Audero; Erin Peth; Frank Cardenas; Jack Woodside; John Feser; Allison Hayward
Subject: RE: February agenda item 22

Jodie,

My email has just started to work. Unfortunately for me, I hadn't tried to check email today until after the email stopped working.

After scanning the tread of emails about your designation of the two agenda items that Allison and Marie are referring to as discussion only, I would like to convey to you that your action, while heavy handed, can be remedied by you today.

I can't for the life of me, figure out what purpose you had in mind, but I can tell you that it will earn you some well deserve criticism. Please reconsider your action and fix this before close of business today!

Thanks, Brian

From: Jodi Remke
Sent: Monday, February 5, 2018 4:22 PM
To: Maria Audero <MAudero@fppc.ca.gov>; Erin Peth <EPeth@fppc.ca.gov>; Brian Hatch <bhatch@fppc.ca.gov>; Frank Cardenas <frank@frankcardenas.com>; Jack Woodside <JWoodside@fppc.ca.gov>; John Feser <jfeser@fppc.ca.gov>; Allison Hayward <ahayward@fppc.ca.gov>
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Subject: Re: February agenda item 22

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Commissioner Allison Hayward

From: Maria Audero
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To: Jodi Remke; Allison Hayward; Brian Hatch; Frank Cardenas
Cc: Maria Audero
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Thank you,
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Sent: Monday, February 5, 2018 2:50 PM

To: Jodi Remke; Allison Hayward; Brian Hatch; Frank Cardenas

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Subject: February agenda item 22

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Here is what I said when I requested the agenda item:

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contact me at your earliest convenience and with sufficient time for resolution today if you believe this is not do-able for any reason.

Thank you,
Maria

EXHIBIT 3

Re: March Agenda

MA

Maria Audero

Yesterday, 11:11 AM

Jodi Remke; Erin Peth; John Feser

Reply all |

Inbox

Thank you. I will forward my memo on Monday.

From: Jodi Remke
Sent: Friday, March 9, 2018 10:50 AM
To: Maria Audero
Cc: Erin Peth; John Feser
Subject: RE: March Agenda

Commissioner Audero – Attached is the agency letterhead. To be posted with the agenda, we need any material you wish to submit by noon on Monday, March 12th.

From: Maria Audero
Sent: Friday, March 9, 2018 10:29 AM
To: Jodi Remke <JRemke@fppc.ca.gov>
Cc: Maria Audero <MAudero@fppc.ca.gov>; Erin Peth <EPeth@fppc.ca.gov>; John Feser <jfeser@fppc.ca.gov>
Subject: Re: March Agenda

Jodi,

To resolve this impasse, I propose the following compromise: we use your language and I attach a memorandum just like the other staff memos on other agenda items. If you are agreeable, please send me FPPC letterhead and I will send you the memorandum for inclusion in the agenda. If not, please use my language.

I am looping in Erin Peth and John Feser because you have not responded to my prior email of this morning and I fear that this delay will prevent a resolution in time for the posting of the agenda on Monday.

Many thanks,

Maria

From: Maria Audero
Sent: Friday, March 9, 2018 7:36 AM
To: Jodi Remke
Subject: Re: March Agenda

Jodi,

I disagree with you and insist that you use my language in the agenda. You do not have the authority to unilaterally change the language of my requested agenda item.

Thank you,
Maria

From: Jodi Remke
Sent: Thursday, March 8, 2018 5:29 PM
To: Maria Audero
Subject: RE: March Agenda

Commissioner Audero - In addition to placing as many of your items on the agenda as time and resources allowed, my objective was to use your language to provide sufficient notice of the scope of discussion and any proposed action.

However, as is standard practice for state boards and commissions, the agenda descriptions are neutral. This practice avoids any appearance of bias or prejudice on an item by the Commission before a public meeting is held. Personal opinions and viewpoints can be shared during the meeting when all Commissioners and the public have an equal opportunity to participate in the discussion.

The agenda will not and was not intended to limit the scope of your items or the proposed actions you described.

From: Maria Audero
Sent: Wednesday, March 7, 2018 3:20 PM
To: Jodi Remke <JRemke@fppc.ca.gov>
Cc: Sasha Linker <SLinker@fppc.ca.gov>
Subject: Re: March Agenda

Jodi,

I am aware of 11125(b), but the fact that a description "need not" exceed 20 words does not place a limitation on the length of the agenda item. The only limitation is the term "brief description" and I believe mine is sufficiently brief while still advising the public of the issues to be discussed and voted on. You had an opportunity to voice your concerns in February when I requested these items and did not. To the contrary, you agreed that we should read our agenda items as we want them into the record.

I request that you insert my agenda item as I requested it.

Thank you,
Maria

From: Jodi Remke
Sent: Wednesday, March 7, 2018 2:41 PM
To: Maria Audero
Cc: Sasha Linker
Subject: RE: March Agenda

Commission Audero –

As I'm sure you're aware, Government Code section 11125(b) provides that the agenda shall contain "a brief description of the items of business to be transacted or discussed in either open or closed session. A *brief general description* of an item generally need not exceed 20 words." The proposed brief general descriptions satisfy this requirement, as well as your goal to vote on the issues, while maintaining neutrality on the issues or potential outcomes.

And of course, you'll be able to advocate your position and repeat your concerns on these topics again at the public meeting.

From: Maria Audero
Sent: Wednesday, March 7, 2018 12:53 PM
To: Jodi Remke <JRemke@fppc.ca.gov>
Cc: Sasha Linker <SLinker@fppc.ca.gov>
Subject: Re: March Agenda

Sorry, I meant ... I read into the "February" meeting record - not March meeting record. It's probably self-evident, but just to be sure we are on the same page.
Thanks.

From: Maria Audero
Sent: Wednesday, March 7, 2018 12:15 PM

To: Jodi Remke
Cc: Sasha Linker
Subject: Re: March Agenda

Jodi,

To avoid any particular characterization of the agenda item as different from what I want, I read into the March meeting record the language to be used on the agenda. I then sent that language via email to Sasha to facilitate this process. Is there a reason you are summarizing the language I provided instead of inserting exactly what I requested?

Thanks a lot,
Maria

From: Jodi Remke
Sent: Monday, March 5, 2018 4:54 PM
To: Maria Audero
Cc: Sasha Linker
Subject: March Agenda

Commissioner Audero - Below for your review are the proposed descriptions for the items you requested on the March Agenda. I'm also adding a section for pending requests under "Proposed Future Agenda Items." As the posting deadline is Monday, March 12th, I'd appreciate any comments no later than Friday, March 9th. Thank you.

Review of Enforcement Priorities and Procedures. At the February 15, 2018 meeting, the Commission voted to review its enforcement priorities and create a procedures manual. Commissioner Audero requested this item to discuss and vote on the method for conducting the review, the scope of the review, and the issuance of instructions regarding the preparation of the next steps of the review process, including the launch of the review process itself.

Review of Process to Prepare the Commission Agenda for Posting. Commissioner Audero requested this item to discuss and vote on a procedure to use going forward for the preparation, issuance and posting of the Commission agenda, including a timeline of tasks related thereto, with the goal of affording the Commissioners ample opportunity to review the agenda before it is posted and with sufficient time to revise it while still satisfying the open meeting laws.

Review of Reports Provided by the Executive Director. Commissioner Audero has requested this item to discuss and vote on the Executive Director's duty to report regularly to the Chair and Commission on the status of FPPC finances, administrative actions, goals and achievements, and determine the type of report that should be provided going forward, including the nature and extent of such report beyond the already identified topics and a consideration of privilege issues.

Proposed Future Agenda Items.

Note: The Commission may not discuss or act on any matter raised during public comment that is not included on this agenda, except to decide to place the matter on the agenda of a future meeting. (Government Code Sections 11125 & 11125.7(a).) Below is a list of items currently pending for future agendas and the Commissioners who requested them.

- (Hayward and Audero) Solicit Attorney General's opinion to clarify some of the advice provided by deputies attorney general at a presentation on the Bagley-Keene Open Meeting Act.
- (Audero) Request the Attorney General's office review its 1977 advice letter (*The Honorable Michael Bennett*, 60 Ops. Cal. Atty. Gen. 16), and let us know if the advice is still applicable considering the application of California's minimum wage law to state employees as of January 1, 2001.
- (Audero) Review whether the Commissioners can instruct the Enforcement Division to re-write all or part of a closure letter in a specific case with language that the Commissioners approve, or otherwise rescind and issue it with that language, starting with an analysis from the Legal Division with a possible request from the Attorney General's office.
- (Hayward) Review the feasibility of holding a future Commission meeting in a location other than Sacramento.

Jodi Remke

Chair

Fair Political Practices Commission

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