



Office of the City Auditor

**Report to the City Council
City of San José**

**OFFICE OF THE CITY
CLERK: STREAMLINING
PROCESSES AND
CLARIFYING ROLES CAN
BETTER ENSURE
COMPLIANCE WITH
STATUTORY
RESPONSIBILITIES**

**Report 16-07
June 2016**



June 9, 2016

Honorable Mayor and Members
Of the City Council
200 East Santa Clara Street
San José, CA 95113

Office of the City Clerk: Streamlining Processes and Clarifying Roles Can Better Ensure Compliance with Statutory Responsibilities

The Office of the City Clerk (Clerk's Office) is the City department that the City Council, other departments, and the general public rely on for information regarding the operations and legislative history of the City. The City Clerk is the local official who administers democratic processes such as conducting elections, providing access to official City records, and performing legislative functions that promote government transparency. The Clerk's Office also provides fiscal, human resources, and other administrative support to the Mayor's Office and Council Offices.

Many of the City Clerk's specific responsibilities are guided by state laws, including the Ralph M. Brown Act, the Public Records Act, the Political Reform Act, and the Elections Code. City regulations and policies, such as the Ethics and Open Government provisions in the Municipal Code (Title 12), the City Council Open Government and Ethics Resolution, and various City and Council policies, also delineate various responsibilities of the City Clerk.

The objective of this audit was to examine the City Clerk's Office's performance of its primary statutory responsibilities, as well as its administrative activities to support the Mayor's Office and Council Offices. This audit was conducted because of concerns expressed by the City Council's Rules and Open Government Committee about the quality of services provided by the City Clerk's Office—in particular, difficulties that Councilmembers and candidates for office have had in getting reliable, accurate information on issues ranging from election-related rules to office budgets.

Finding 1: The City Clerk Should Streamline Processes and Clarify Roles in Providing Support to the City's Legislative Bodies. The full implementation of a shared agenda workflow management system can streamline the Council agenda process and reduce duplication of effort between the City Manager's and City Clerk's Offices. Utilizing this same software could also allow the Clerk's Office to prepare Council action minutes and synopses more timely. Council action minutes generally take three months, and several of the synopses we reviewed had not been posted within the one-week guidelines of the City's Open Government Resolution. Finally, because oversight responsibilities for the City's boards and commissions, decision-making bodies, and other advisory entities are split between the Clerk's Office and other City departments, not all new members receive orientations covering the Brown Act and other topics, members have not consistently received notifications about their responsibilities to attend ethics trainings and file Statements of Economic Interests, and meeting minutes are not always

posted within ten days per the Open Government Resolution requirements. Better coordination and clarification of oversight roles can lead to better service to the advisory bodies and help ensure compliance with state and local statutory regulations.

Finding 2: The City Clerk Should Prioritize and Ensure the Smooth Implementation of an Updated Records Management System. Council History and Documents (CHAD), the City's records management program for contracts and legislative documents, is outdated and severely limited in its functionality. Although the Clerk's Office is working with the Information Technology Department to implement an online records management platform, there appears to be little guidance from the City Clerk in determining the future functionality of the system. To ensure the smooth implementation of the system, the City Clerk should provide better guidance in developing and implementing appropriate policies and procedures for the system.

Finding 3: The City Clerk Should Improve Processes for Ensuring Compliance with State and Local Regulations on Elections and Ethics. The City Clerk is responsible for receiving and providing information on electoral forms and petitions, Statements of Economic Interests, and lobbyist registrations and reports. In each of these areas, the Clerk's Office can make improvements to better ensure compliance with state and local regulations: (1) the Clerk's Office should disseminate a consolidated list of required state and local campaign disclosure forms to candidates for office, and work with the City Attorney's Office to draft an amendment to the Municipal Code for Council consideration providing for additional steps to be taken to discourage late filings of required campaign disclosures; (2) the Clerk's Office can better ensure that all City employees required to file Statements of Economic Interests are identified and comply with their filing requirements by streamlining its use of available technology and clarifying the roles and responsibilities of department liaisons in the process; and (3) although the Municipal Code prescribes that the Clerk's Office host regular lobbyist trainings, no training has occurred since 2007; the Clerk's Office should begin hosting such trainings (in consultation with the City Attorney's Office) and create policies and procedures for collecting outstanding lobbyist fees and fines.

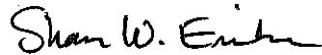
Finding 4: The City Clerk Should Provide Better Customer Service to the Mayor and Council Offices. The Clerk's Office does not have standard procedures for most of the support services it provides to Mayor and Council Offices. This has resulted in avoidable errors such as providing budget projections based on incorrect pay rates for Mayor and Council staff. The Clerk's Office can reduce the risk of errors and improve its quality of service by (1) establishing standard procedures for developing budget spreadsheets and providing those spreadsheets more timely, and (2) developing standard procedures and timeliness targets for other support services for which they currently do not exist (e.g., approving procurement card and travel expenditures, and processing Mayor and Council office contracts). The City Clerk should also coordinate annual trainings for Council Assistants and Chiefs of Staff on City and Council policies, the legislative process, and other topics.

Finding 5: The City Clerk Should Clarify Work Assignments and Monitor Performance of Statutory Responsibilities. At the time of the audit, the Clerk's Office had not clearly identified staff responsibilities across all work units, such as in an organizational chart or other plan. Not having such an organizational plan can lead to gaps in service when there is turnover, new priorities emerge, or other issues arise. For example, legal publications of ordinance titles and public hearing notices did not occur for a number of months in the fall of 2015 because one staff member left and those responsibilities were not assigned to other staff. In our opinion, the Clerk's Office needs an organizational chart that clearly delineates staff responsibilities across the Office's activities, including identifying leads for specific areas of

responsibility. The City Clerk should also begin reviewing performance measures related to the Office's statutory responsibilities on a regular basis to assess performance against established targets.

This report includes 20 recommendations. We will present this report at the June 16, 2016 meeting of the Public Safety, Finance, and Strategic Support Committee. We would like to thank the City Clerk's Office, the City Attorney's Office, and the City Manager's Office for their time and insight during the audit process. The City Clerk has reviewed the information in this report, and her response is shown on the yellow pages.

Respectfully submitted,



Sharon W. Erickson
City Auditor

finaltr
SE:lg

Audit Staff: Joe Rois
Cheryl Hedges
Michael Tayag

cc: Toni Taber
Rick Doyle
Kevin Fisher
Neelam Naidu

This report is also available online at www.sanjoseca.gov/audits

Table of Contents

Cover Letter	i
Introduction	1
Background	1
Audit Objective, Scope, and Methodology	6
Finding 1	
The City Clerk Should Streamline Processes and Clarify Roles in Providing Support to the City’s Legislative Bodies	9
The Council Agenda Preparation Process Should Be Simplified.....	9
The Process for Posting Synopses and Minutes Should Be Streamlined to Help Ensure Records of Government Proceedings Are Posted Timely	12
Clarifying Roles Among City Staff Can Help Ensure Members of the City’s Advisory Bodies Comply with Statutory Guidelines	14
Finding 2	
The City Clerk Should Prioritize and Ensure the Smooth Implementation of an Updated Records Management System	21
The Clerk’s Office Is Responsible for Maintaining Public Access to City Legislative Records.....	21
The Council History and Documents (CHAD) Records Management Program Is Outdated	23
Finding 3	
The City Clerk Should Improve Processes for Ensuring Compliance with State and Local Regulations on Elections and Ethics	27
The City Clerk Is the City’s Elections Official Under the California Elections Code	27
Improved Procedures and Technological Solutions Can Improve Compliance with Required Statement of Economic Interests Filings	31
The City Clerk Should Provide the Workshops Assigned Under the San José Municipal Lobbyist Ordinance	34
The City Clerk Should Develop Procedures to Ensure the Proper Collection of Required Lobbyist Registration Fees and Any Related Penalties and Interest.....	35
Finding 4	
The City Clerk Should Provide Better Customer Service to the Mayor and Council Offices	37
The Clerk’s Office Can Improve the Quality of Support Services Provided to Mayor and Council Offices.....	37

The Clerk’s Office Should Develop Standard Procedures for Tracking Budgets and Other Services Provided to Mayor and Council Offices	39
Training for Mayor and Council Staff Is a Key Component of Providing Quality Customer Service	42
Finding 5	
The City Clerk Should Clarify Work Assignments and Monitor Performance of Statutory Responsibilities.....	45
The City Clerk Is Responsible for Having a Plan in Place to Fulfill Statutory and Other Responsibilities	45
The City Clerk Can Better Meet Statutory Responsibilities by More Clearly Assigning and Distributing Work Among Staff.....	46
The City Clerk Should Review Performance Measures on an Ongoing Basis to Assess Performance.....	49
Conclusion.....	53
Appendix A	
Matrix of Public Meeting Requirements from Open Government Resolution	A-1
Appendix B	
State and City of San José Candidate Filings – Elections 2016	B-1
Appendix C	
City of Anaheim Candidate Filings – Elections 2016.....	C-1
Appendix D	
Staffing and Basic Requirements of Current Boards, Commissions, and Committees	D-1
City Clerk’s Response	yellow pages

Table of Exhibits

Exhibit 1: Select State and Local Laws and Regulations Governing the Provision of Services by the City Clerk	4
Exhibit 2: Clerk’s Office Expenditures and Authorized Positions, FY 2006-07 to FY 2015-16.....	5
Exhibit 3: Comparison of the San José Clerk’s Office to Other Jurisdictions with Similar Workloads and Responsibilities	6
Exhibit 4: City Council Agenda Administrative Process and Timeline.....	11
Exhibit 5: Select Elections-Related Responsibilities of the City Clerk	28
Exhibit 6: Comparison of San José and Sacramento Clerk’s Office Staffing of Administrative Support to Mayor and Council Offices	38
Exhibit 7: Distribution of Work by Job Classifications in the Clerk’s Office, May 2015.....	48

Introduction

The mission of the City Auditor's Office is to independently assess and report on City operations and services. The audit function is an essential element of San José's public accountability, and our audits provide the City Council, City management, and the general public with independent and objective information regarding the economy, efficiency, and effectiveness of City operations and services.

In accordance with the City Auditor's Fiscal Year (FY) 2015-16 Work Plan, we have completed an audit of the City Clerk's Office. This audit was conducted in response to a request by the City's Rules and Open Government Committee for an audit of the office.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. We limited our work to those areas specified in the "Audit Objective, Scope, and Methodology" section of this report.

The Office of the City Auditor thanks the City Clerk's Office, the City Attorney's Office, and the City Manager's Office for their time and insight during the audit process.

Background

As in other cities, the Office of the City Clerk (Clerk's Office) is a service department within the City of San José (City) that the City Council, City departments, and the public rely on for information regarding the operations and legislative history of the City. The Clerk's Office serves as the liaison between the public and the City Council. The City Clerk is the local official who administers governmental and democratic processes such as conducting elections, providing access to official City records, and performing legislative actions to promote transparency to the public.

The current City Clerk was appointed in October 2013. Prior to that, she was the Assistant City Clerk, a position she had held since October 2011.

The Clerk’s Office Performs a Variety of Tasks in Line with Its Mission to Maximize Public Access to Municipal Government

As described in the City’s Adopted Operating Budget, the mission and core service of the Clerk’s Office are as follows:

MISSION	CORE SERVICE
<i>Maximize public access to municipal government</i>	<i>Facilitate the City’s legislative process: Maximize public access to the City’s legislative processes such as elections, access to City records, and all legislative actions ensuring transparency to the public, and serve as a compliance officer for federal, state, and local statutes including the Political Reform Act, the Brown Act, and the Public Records Act</i>

The City’s Adopted Operating Budget outlines the Clerk’s Office duties as follows:

- Conduct elections for the Mayor, City Councilmembers, and ballot measures; work with proponents of initiatives in accordance with the City Charter and the State Elections Code; and work to maintain compliance with Open Government, campaign finance, lobbyist registration, Statements of Economic Interests, and other public disclosure requirements.
- Prepare and distribute agenda packets, synopses, and action minutes of City Council meetings and agendas and action minutes of the Rules and Open Government Committee meetings, and post them on the City’s website. Provide legislative services in accordance with Sunshine/Open Government Reforms.
- Provide access to the City’s legislative records and documents. Fulfill requests for the City’s legislative records and related public documents under provisions of the California Public Records Act. Update and post the Municipal Code, City Charter, and Council Policy Manual on the City’s website. Index all documents presented to the City Council for storage and retrieval, and make available to the public.
- Provide fiscal, grant, budget, human resources, payroll, administrative, and technical support services to the Mayor’s Office, City Council Offices, and the City’s Boards, Commissions, and Committees.
- Review and execute all City contracts for administrative compliance, and make them available for review.
- Conduct employee elections to nominate employee representatives for appointment by the City Council to the Retirement Boards. Conduct recruitment efforts and support the City Council’s selection of additional public members for the Retirement Boards, thus assisting in the implementation of governance reforms.

- Provide support for City Council appointments to boards, commissions, and committees. Provide direct support to the Council Appointment Advisory, Civil Service, Council Salary Setting, and Ethics Commissions.

The City's Operating Budget notes that the overarching issue for the City Clerk for the next five years is enhancing the use of technology to improve and expedite services. It further describes the Office's three strategic goals and objectives as:

1. Deploy technology resources effectively
2. Increase efficiency of service delivery
3. Maintain high levels of customer service

The Clerk's Office Has Specific Statutory Responsibilities Under State and Local Regulations

The City Clerk has specific duties outlined in the City Charter. Among the listed duties are:

- Attending and keeping an accurate record of the proceedings of the regular and special meetings of the City Council
- Keeping a record of all ordinances, written resolutions, and other records of the City Council in such a manner that the information contained therein is readily accessible to the public
- Being the custodian of the seal of the City

For the purposes of this report, the Clerk's Office's duties outlined in the City's Budget and listed above can be grouped broadly into four categories:

- Legislative support to the City Council, Committees, and the City's Boards and Commissions, including work related to meeting agendas, synopses, and minutes; legal posting of ordinances; and related services
- Records management, including archiving and retrieving (upon request) the City's legislative history and contracts, and processing contracts (see Finding 2)
- Elections and filings, including candidate filings and electoral petitions, lobbyist registrations and reports, and Statements of Economic Interests
- Administrative support to Mayor and Council Offices, including budget tracking, grant processing, human resources support, and other services

Each of these categories of services is guided by specific state or local regulations and policies, as seen in Exhibit I.

Exhibit I: Select State and Local Laws and Regulations Governing the Provision of Services by the City Clerk

Function	State Laws and Regulations	Local Laws and Regulations
Legislative support	<ul style="list-style-type: none"> • The CA Ralph M. Brown Act (related to transparency of legislative actions)¹ • CA Maddy Act (posting of open positions on Boards and Commissions)² 	<ul style="list-style-type: none"> • Municipal Code, Title 12 – Ethics and Open Government Provisions • City Council Open Government and Ethics Resolution • Council Policy 0-4 Consolidated Board and Commission Policies
Records management	<ul style="list-style-type: none"> • CA Public Records Act³ 	<ul style="list-style-type: none"> • Municipal Code, Title 12 – Ethics and Open Government Provisions • City Council Open Government and Ethics Resolution • City Policy Manual 6.1.1 Public Records Policy and Protocol
Elections and serving as City’s Filing Officer	<ul style="list-style-type: none"> • CA Political Reform Act⁴ • CA Fair Political Practices Commission regulations⁵ • CA Elections Code 	<ul style="list-style-type: none"> • Municipal Code, Title 12 – Ethics and Open Government Provisions • City Council Open Government and Ethics Resolution
Administrative support to Mayor and Council Offices	Not applicable	<ul style="list-style-type: none"> • Council Policy 0-38 City Council Expenditure and Reimbursement Policy • Other City and Council policies related to procurement card (P-card) usage, travel, and others

Source: Auditor analysis of state and local regulations and information provided by staff in the Clerk’s Office and the City Attorney’s Office

Clerk’s Office Budget and Staffing

The Clerk’s Office FY 2015-16 adopted operating budget is \$2.6 million. Exhibit 2 below shows the Clerk’s Office expenditures and authorized positions from FY 2006-07 to FY 2015-16.

¹ Government Code Sections 54950 et seq.

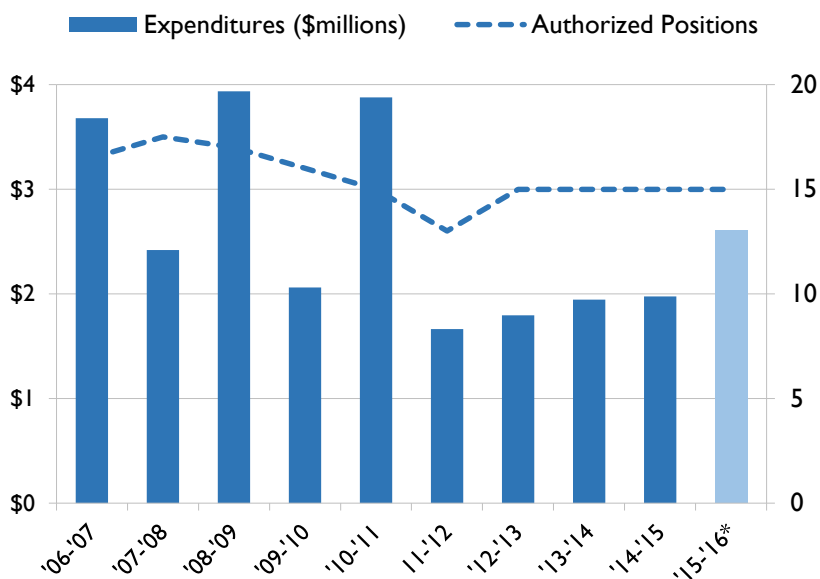
² Government Code Sections 54970 et seq.

³ Government Code Sections 6250 et seq.

⁴ Government Code Sections 81000 et seq.

⁵ Title 2, Division 6, Sections 18109-18997 of CA Code of Regulations.

Exhibit 2: Clerk's Office Expenditures and Authorized Positions, FY 2006-07 to FY 2015-16



Source: Auditor summary of budget documents

* FY 2015-16 is based on the Adopted Operated Budget, whereas all previous years are actual expenditures.

Note: Spikes in FY 2006-07, FY 2008-09, and FY 2010-11 were due to expenditures related to elections, which have since been reported in the Citywide Expenses section of the City's Operating Budget.

Though authorized staffing has remained constant at 15 authorized positions since FY 2012-13, there has been significant turnover. Approximately one third of current staff members began working with the Clerk's Office less than two years ago; moreover, more than half began their current position less than two years ago.

Comparisons with Other Jurisdictions

There are some typical functions of a City Clerk, such as legislative support, elections, and records management, which we found to be provided by all of the clerk's offices in the other jurisdictions with which we spoke.

There are other services provided that may be specific to the needs of an individual jurisdiction. As shown in Exhibit 3, for instance, the Oakland City Clerk's Office also oversees the management of a local government access cable television station, whereas other comparable jurisdictions do not provide this service. A common service provided by other clerk's offices but not provided by San José's Clerk's Office is passport processing. The Sacramento City Clerk was the only

one with whom we spoke that provides similar fiscal and administrative support services to the city’s mayor and council.

As Exhibit 3 shows, the San José Clerk’s Office is staffed similarly to other large jurisdictions in California that have similar scopes of services.⁶

Exhibit 3: Comparison of the San José Clerk’s Office to Those of Other Jurisdictions with Similar Workloads and Responsibilities

	San José	Anaheim	Long Beach	Oakland	Sacramento
Primary services: [*]					
Legislative support ^{**}	x	x	x	x	x
Elections/Filing Official ^{***}	x	x	x	x	x
Records management	x	x	x	x	x
Administrative Support for Mayor/Council	x				x
Other (see below)		(a)	(a) (b)	(c)	(a) (d)
Frequency of City Council meetings	Weekly	Biweekly	Weekly	Biweekly	Weekly
FTE	15	7	16.5	17.5	15

Source: Auditor summary based on interviews, websites, and adopted operating budgets

* This table may not include all operations of the respective offices; it is focused on the major functional areas as described in each city’s operating budget or through interviews. The key for other services is as follows:

- (a) Process passports
- (b) Solemnize marriages
- (c) Management of local government access cable television station
- (d) Advertise and receive bids, conduct bid openings

** Legislative support includes agenda services, recording of minutes and related tasks for the City Council, committees, and boards and commissions

*** The Filing Official receives all state- or locally-required electoral, lobbyist, and Statement of Economic Interests filings

Audit Objective, Scope, and Methodology

The objective of our audit was to examine the Office of the City Clerk’s performance of its primary statutory responsibilities, as well as its administrative activities to support the Mayor’s Office and Council Offices. We sought to understand the relevant management controls in place related to the City Clerk’s statutory responsibilities and have performed the following to achieve our audit objective:

- Reviewed City laws, regulations, and policies related to the City Clerk’s primary statutory responsibilities—the City Charter; the Municipal Code, including Title 12 Ethics and Open Government Provisions; the City

⁶ We also looked at San Diego, but it appears it has a different scope of services. The San Diego City Council meets twice weekly, and its clerk’s office processes passports and also coordinates and administers public hearings. Its annual budget is greater than \$5 million, and its staffing includes 45 FTE.

Council Consolidated Open Government and Ethics Resolution; and relevant sections of the City Administrative Policy Manual and the Council Policy Manual.

- Reviewed California state laws related to the City Clerk’s primary statutory responsibilities—Ralph M. Brown Act, Public Records Act, Political Reform Act of 1974, Maddy Act, and California Government and Elections Codes.
- Reviewed the City Clerk’s policies, procedures, and training materials related to its statutory and other responsibilities—both those for internal use and those for distribution to other departments and/or the public.
- Reviewed reference materials used by the City Clerk, including:
 - *City Clerks Handbook*, City Clerks Association of California, 2012 Edition
 - *2016 California Municipal Elections Handbook*, Martin & Chapman Co.
 - Fair Political Practices (FPPC) Commission manuals, particularly *Campaign Disclosure Manual 2 - Information for Local Candidates, Their Controlled Committees, and Primarily Formed Committees for Local Candidates (March 2015 and April 2016)*.
- Interviewed and shadowed the Clerk’s Office staff in various work units and interviewed department and Mayor/Council staff that interface with the Clerk’s Office for its primary statutory and Council support functions.
- Examined and observed the use of various software systems and programs utilized by the Clerk’s Office—Granicus (including Legistar), Civic Plus, Council History and Documents (CHAD), FileTrail, SharePoint Online, NetFile, and WebGrants.
- Reviewed and analyzed the Clerk’s Office’s performance measures related to its statutory and other responsibilities.
- Reviewed reference materials related to internal controls and organizational performance, including:
 - *Standards for Internal Control in the Federal Government*, United States Government Accountability Office (September 2014)
 - *Improving Organizational Performance and Governance: How the COSO Frameworks Can Help*, James DeLoach and Jeff Thomson, Committee of Sponsoring Organizations of the Treadway Commission (2014)
- Compared the Clerk’s Office’s roles, responsibilities, policies, and procedures with those of other agencies: City of Anaheim, City of Fremont, City of Fresno, City of Long Beach, City of Milpitas, City of Oakland, City of Sacramento, City of San Diego, City of Santa Clara, and City of Sunnyvale.

The scope of work focused specifically on the City Clerk's primary statutory responsibilities and the Clerk's Office's City Council support functions. Though we broadly surveyed the Clerk's Office's roles and responsibilities, we did not examine in detail all concurrent tasks, such as the acceptance of legal claims against the City.

Finding I The City Clerk Should Streamline Processes and Clarify Roles in Providing Support to the City’s Legislative Bodies

Summary

The Clerk’s Office provides legislative support to the City Council, City Council Standing Committees, and the City’s boards and commissions, including work related to meeting agendas, synopses, and minutes. The current process for developing Council agendas results in duplication of effort between the City Manager’s and Clerk’s Offices that could be reduced by fully implementing a shared agenda workflow management system. Utilizing this same software could also allow the Clerk’s Office to prepare Council action minutes and synopses more timely. Council action minutes generally take three months, and several of the synopses we reviewed had not been posted within the one-week guidelines of the City’s Open Government Resolution.

Because oversight responsibilities for the City’s boards and commissions, decision-making bodies, and other advisory entities (collectively referred to as “advisory bodies”) are split between the Clerk’s Office and other City departments, not all new advisory body members receive orientations covering the Brown Act and other topics, members have not consistently received notifications about their responsibilities to attend ethics trainings and file Statements of Economic Interests, and meeting minutes are not always posted within ten days per the Open Government Resolution requirements. Better coordination and clarification of oversight roles can lead to better service to the advisory bodies and help ensure compliance with state and local statutory regulations.

The Council Agenda Preparation Process Should Be Simplified

The Ralph M. Brown Act⁷ (Brown Act) guarantees the public’s right to attend and participate in local legislative meetings, stating:

The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

⁷ Government Code Section 54950 et seq.

The Brown Act requires a regular meeting be noticed through the posting of an agenda at least 72 hours before the meeting. The City's Open Government Ordinance and Resolution⁸ expanded on the Brown Act, setting stricter timeframes for specific components of public meetings, such as agendas, synopses, and minutes. The Open Government Ordinance⁹ states:

The City is committed to open and honest government and strives to meet the community's expectations consistently by providing excellent service, in a positive and timely manner, and in the full view of the public.

Appendix A shows the public meeting requirements as stated in the Open Government Resolution.

The Agenda Process Could Be Streamlined

The Council agenda process is a shared responsibility between the City Manager's Office (CMO) and the Clerk's Office, and their respective responsibilities are as follows:

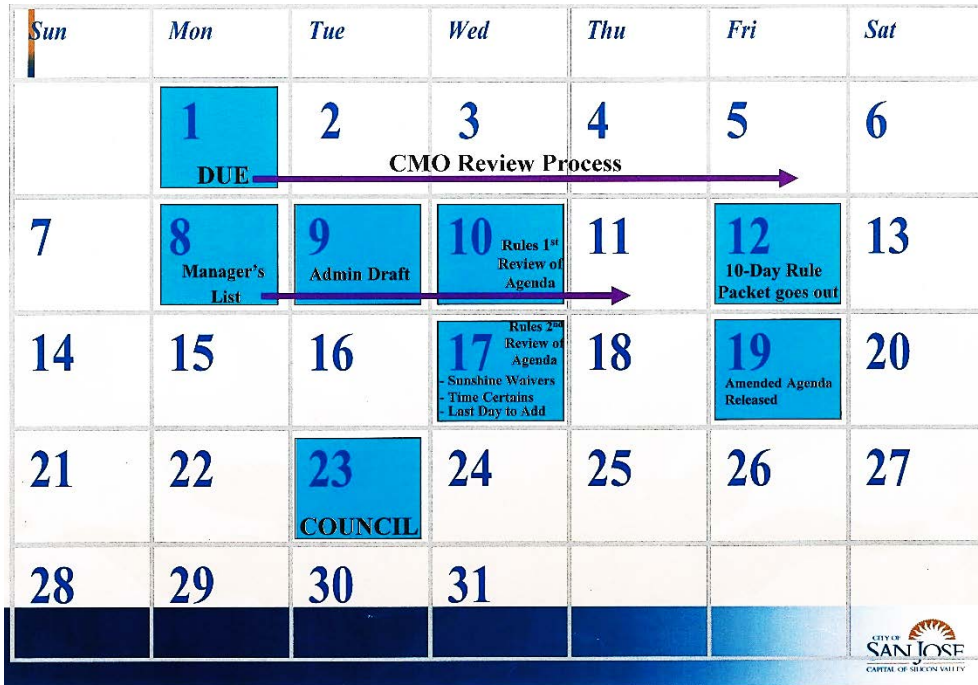
- Agenda Services within the City Manager's Office (CMO Agenda Services) drives the majority of the agenda, creating the first draft, as well as collecting and submitting all staff reports to the Clerk's Office.
- Agendadesk within the Clerk's Office maintains and posts the most recent drafts of agendas. It also maintains memos and reports from Councilmembers and appointees, as well as letters from the public.

The current timeline to create and post a finalized Council agenda is longer than in other cities—22 days. The City's Open Government Resolution requires Council agendas be posted 10 days in advance of meetings. Furthermore, agendas are reviewed twice by the Rules and Open Government Committee. Exhibit 4 shows the administrative process and timeline.

⁸ Resolution No. 77135.

⁹ San José Municipal Code Chapter 12.21.

Exhibit 4: City Council Agenda Administrative Process and Timeline



Source: City Manager’s Office, Agenda Services

Note: “DUE” refers to the date staff reports are to be submitted to CMO Agenda Services; “Manager’s List” refers to the City Manager’s draft Council agenda prior to the Clerk’s Office merging additional items; “Admin Draft” refers to the draft Council agenda after the Clerk’s Office has merged Council and appointee items (also referred to as “Administrative Agenda”); “Rules” refers to the Rules and Open Government Committee.

The current process is inefficient. There are many levels of review and edits, requiring frequent alterations to the agenda until finalized. For instance, following weekly City Manager Agenda Review meetings, CMO Agenda Services sends specific text edits to Agendadesk, which then incorporates requested changes into the document. This ultimately leads to multiple handoffs between CMO Agenda Services and Agendadesk.

The City contracts with a third-party vendor, Granicus, Inc. (Granicus), to provide webstreaming and hosting service for its Council meetings. Granicus also offers a Legislative Suite (powered by Legistar technology and often referred to simply as “Legistar”), which is an integrated workflow and document management system designed to support the legislative process in local governments. In 2012, CMO, in coordination with the Clerk’s Office and the Information Technology Department (ITD), executed an amendment to its Granicus contract that added the Legislative Suite. As noted in the Mayor’s FY 2012-13 Budget Message, the upgrade promised to improve the efficiency of the Clerk’s Office agenda/document workflow, among other City benefits (e.g., replace obsolete Granicus equipment in the Civic Center TV operation, improve the signal and add mobile streaming of

meetings, etc.). However, there has been little advancement in utilizing the technology until recently.

CMO Agenda Services is in the process of exploring potential long-term solutions for an electronic agenda workflow management system. One such solution is via Granicus/Legistar. In April 2016, CMO Agenda Services scheduled a three-day onsite training that included topics such as creating and publishing agendas using the software as well as processing meeting minutes electronically. Staff from the Clerk's Office participated. It is expected the electronic agenda management system will be trialed in August 2016. Fully utilizing such a system to eliminate the multiple handoffs of different versions of draft agendas can reduce duplication of effort between the CMO and Clerk's Office.

Recommendation #1: To reduce duplication of effort across units, the City Clerk's Office should work with the City Manager's Office Agenda Services to fully implement the shared agenda workflow system and eliminate the maintenance of draft agendas outside of the system.

The Process for Posting Synopses and Minutes Should Be Streamlined to Help Ensure Records of Government Proceedings Are Posted Timely

Proceedings of the City's public meetings are provided in a variety of ways, including video, unofficial transcripts, synopses, and action minutes. CMO is responsible for overseeing video and unofficial transcripts, whereas the Clerk's Office is responsible for synopses and action minutes.

San José City Council Minutes Generally Take Three Months to Be Completed

In August 2005, the City Council changed the type of official meeting minutes from detailed minutes to "action minutes," which are meant to be succinct descriptions of the decisions reached and actions to be taken. They are approved by Council and are the formal record of what was decided at the meeting.

The City Clerk's internal goal to post action minutes is three months. Other jurisdictions, such as Sacramento, aim to post draft minutes within 24 to 48 hours. Based on our review, Sacramento's minutes are generally approved by City Council within two weeks.

The Open Government Resolution provides no specific time requirement for when Council meeting action minutes must be completed; it stipulates they are to be completed "as soon as possible." We believe the City Clerk should establish a more aggressive timeframe to complete action minutes than the current three-month goal.

Synopses Are Not Always Posted in Accordance with Open Government Resolution Time Requirements

The Open Government Resolution requires Council synopses to be posted by the next Council meeting. The Clerk's Office has set an internal goal to post a synopsis online within three business days of a Council meeting. Although the Clerk's Office estimated it met this three-day goal 85 percent of the time during FY 2014-15, a sample of six Council meetings between August 2015 and March 2016 revealed that five had not met that timeframe and had not been posted within a week as required by the Open Government Resolution.

Other jurisdictions with which we spoke do not prepare Council meeting synopses. The San José City Clerk began preparing synopses in the mid-2000s, when there was a ten-month backlog of minutes in the City. This backlog led to an administrative need for synopses.

Today, it may be unnecessary for the Clerk's Office to post both synopses and action minutes. Video recordings of Council meetings, which are available shortly after, are indexed with each agenda item, making it easier for individuals to review actions taken. Freeing staff to focus solely on minutes could allow the Clerk's Office to reduce the turnaround time from meeting to minutes and begin to post them in a more timely manner.

Recommendation #2: To increase the transparency of legislative actions taken, the City Clerk's Office should decrease the turnaround time to create and post action minutes. Specifically, the City Clerk should:

- a) Establish and document a more aggressive timeframe for approval of minutes by Council,**
- b) Reconsider whether both Council meeting synopses and action minutes are still required, and**
- c) Bring to the City Council recommendations to update the Open Government Resolution to reflect these changes.**

Streamlining the Synopses and/or Minutes Processes Using Existing Technology Can Improve the Public's Access to Information

The current process to create and post a Council synopsis is cumbersome and includes the following:

- Prior to the meeting, staff prepares and formats a Word document from the current agenda that is later used for the synopses and action minutes.
- During the meeting, staff takes basic notes in a separate Word document.

- Following the meeting, staff fills in the pre-created Word document with the notes taken during the meeting.
- This document then requires approval from the City Clerk.
- Once approved, the document is posted on the City’s website, which requires coordination with other staff in the office.

As stated earlier, the Legislative Suite from Granicus has yet to be fully utilized, which could lead to additional efficiencies with regard to posting synopses and minutes. Presently, the Clerk’s Office uses Granicus to upload and publish Council agendas and index video recordings (via the software’s “LiveManager”) to align with each agenda item. LiveManager also has a “Notes” feature, which would allow Clerk’s Office staff to annotate the current (posted) agenda, eliminating the need to prepare a Word document beforehand.

Other jurisdictions that use Granicus, such as Oakland, utilize this “Notes” feature of the software for their minutes. This allows them to annotate the current (posted) agenda, which streamlines the process by eliminating the need to reformat an additional document. Based on a review of February and March 2016 Council meetings, Oakland’s City Council draft minutes were all available by the next Council meeting.

Additional efficiencies may be possible with the expanded use of Granicus, as mentioned earlier. In particular, potential benefits include the ability to:

- Capture motions, votes, and discussion summaries as they occur, helping to limit annotation work after the meeting.
- Annotate items through the software, which automatically links the items to the audio and video recordings; this also enables more efficient cleanup of minutes after the meeting.

The Clerk’s Office should use existing technology to reduce the amount of staff time required to prepare synopses and/or action minutes.

Recommendation #3: To ensure records of City Council proceedings are posted timely, the City Clerk should utilize existing technology to streamline the approval and posting of synopses and/or minutes.

Clarifying Roles Among City Staff Can Help Ensure Members of the City’s Advisory Bodies Comply with Statutory Guidelines

The City’s boards and commissions were established for the purpose of advising the City Council and providing ongoing input on policies and issues affecting the future of the San José community. Numerous groups serve in an advisory or

decision-making capacity, and the City’s Open Government Resolution defines these groups (which we refer to collectively as “advisory bodies”):

- *Boards, commissions, and committees* are those bodies created by either the City Charter or the City Council (excluding decision-making bodies).
- *Decision-making bodies* are those bodies created by either the City Charter or the City Council that, among other functions, powers, and duties, receive evidence and make final decisions about matters that cannot be appealed to another City body.¹⁰
- *Other advisory entities* are those that are created to advise the City, but are not created by the City Council.¹¹

Each type of advisory body is subject to various state and local regulations; however, the specific guidelines may vary based on various factors.¹² Specific state and local guidelines include the Maddy Act,¹³ Political Reform Act, Brown Act, and Open Government Resolution (see Appendix A).

Accountability for Oversight of Advisory Bodies Is Unclear in the Current Structure

Commission Secretaries are responsible for ensuring meetings are in accordance with the Brown Act and other local public meeting requirements, as well as Council Policies. The Clerk’s Office is the Commission Secretary for the Civil Service, Council Salary Setting, Council Appointment Advisory, and Ethics Commissions. Approximately 20 additional advisory bodies are staffed by CMO or other department liaisons who serve as Commission Secretaries. See Appendix D for a partial list of advisory bodies.

The Clerk’s Office has had various levels of involvement with advisory bodies and, in a few cases, has had limited or no involvement. For instance, the Clerk’s Office recently began hosting a quarterly Commission Secretary meeting for those

¹⁰ Examples of decision-making bodies include the Civil Service and Ethics Commissions.

¹¹ An example of an “other advisory entity” is the Bicycle Pedestrian Advisory Committee, whose members are appointed by the Director of Transportation.

¹² These factors include establishment authority (such as the San José Municipal Code), source of member’s appointment to committee (such as by Council or department), and others.

¹³ The Maddy Act applies to those bodies whose appointments are made by City Council. Per the Maddy Act, the Clerk’s Office is tasked with maintaining an accurate roster of board and commission members. Furthermore, the Maddy Act requires a list of all upcoming vacancies that are appointed by the City Council be posted on or before December 31st of each year. Whenever an unscheduled vacancy occurs, a special vacancy notice must be posted in the office of the City Clerk and the library not earlier than 20 days before and not later than 20 days after vacancy occurs. It is unclear whether this requirement has consistently been met. The City Clerk and City Attorney’s Office are working to update the *Boards and Commissions Policies* (Council Policy 0-4) to include language that special vacancy notices will be posted on the Clerk’s website, public library, and potentially other locations.

advisory bodies on its roster.¹⁴ On the other hand, the Clerk's Office has had no involvement with others, such as the Bicycle Advisory Pedestrian Committee.

The City Clerk Can Better Ensure Compliance with the Political Reform Act (Statement of Economic Interests), AB 1234 (Ethics Trainings), and Other City Requirements

To help promote the highest standards of ethical behavior in government at all levels, certain trainings and filings are required of some board and commission members, as well as members of other decision-making or advisory entities:

- *Code of Ethics* – Pursuant to the Municipal Code, the City's Code of Ethics applies to all board and commission members.
- *Ethics Training (AB 1234)* – The State requires two hours of training in ethics principles and laws every two years for appointed officials who are compensated for their service or reimbursed for their expenses.¹⁵
- *Statement of Economic Interests (Form 700) and Family Gift Report* – Certain persons who hold positions that involve making or participating in decisions that may have a material effect on their interests must file both forms. The Council determines which advisory bodies must do so.¹⁶

Historically, the City Clerk has coordinated the biennial review of the City's Conflict of Interest Code,¹⁷ which designates positions required to file Statements of Economic Interests, and the Clerk's Office has also maintained the proof of ethics training records.

However, not all members of advisory bodies have filed required forms or shown proof of training. For instance, according to the Clerk's Office, eight had yet to provide proof of ethics training as of April 25, 2016. Until recently, there had been little communication from the Clerk's Office with those who had not filed proofs of ethics training. In August 2015, new staff took over the Office's responsibilities related to advisory bodies, and the Clerk's Office began following up with members who had not provided proof of ethics training.

¹⁴ See footnote 7 regarding the Maddy Act's requirement for maintaining an accurate roster of board and commission members.

¹⁵ Members of the Appeals Hearing Board, Board of Administration for Federated City Employees Retirement System, Board of Administration for Police and Fire Department Retirement Plan, Ethics Commission, Civil Service Commission, Planning Commission, work2future Board, and Deferred Compensation Advisory Committee must comply with AB 1234.

¹⁶ Form 700 filers include members of the Airport Commission, Appeals Hearing Board, Arts Commission, Board of Administration for Federated City Employees Retirement System, Board of Administration for Police and Fire Department Retirement Plan, Ethics Commission, Civil Service Commission, Historic Landmarks Commission, Housing and Community Development Commission, Downtown Parking Board, Planning Commission, work2future Board, San José Arena Authority, and Deferred Compensation Advisory Committee.

¹⁷ Pursuant to Government Code Section 87306.

Similarly, because of concerns about past noncompliance, in February 2016 the Clerk's Office began notifying members of advisory bodies of their responsibility to file Statements of Economic Interests. Because of staff turnover, it is not clear whether the Clerk's Office or department liaisons sent such notifications in past years. As of April 25, 2016, five individuals had yet to file Form 700s as required. According to the Clerk's Office, these members have been notified that they have not filed as required.

Currently, there are no standard notification procedures for the processes surrounding AB 1234 or Form 700 compliance. To ensure compliance with the City's Conflict of Interest Code and AB 1234, the Clerk's Office should develop procedures to annually identify applicable advisory body members and notify them of their filing responsibilities, including additional notifications to those who have not filed as required.

Recommendation #4: To help ensure members of boards and commissions, decision-making bodies, and other advisory entities comply with state and local regulations, the City Clerk's Office should develop and implement standard procedures to:

- a) Identify which entities are required to file Statements of Economic Interests, attend required ethics trainings (AB 1234), and sign the City's Code of Ethics;**
- b) Notify members of those entities of such requirements;**
- c) Notify those in noncompliance of such requirements; and**
- d) Monitor and report noncompliance to the responsible officials.**

The Clerk's Office Could Better Monitor Compliance with the Brown Act and Open Government Requirements

Many advisory bodies must follow the Brown Act, and all must comply with the City's Open Government Resolution. Requirements differ among the City's advisory bodies (see Appendix A). For instance, a group designated as a "board and commission" is required to post action minutes within 10 days of holding its meeting, whereas an "other advisory entity" is not required to post any action minutes. Appendix D lists the City's advisory bodies.

According to the Clerk's Office, any action minutes are to be completed and posted by Commission Secretaries. However, action minutes are not always posted within the Open Government Resolution's time requirements. At least one commission often fails to post action minutes within 10 days, and at least one does not post finalized minutes on its commission website. The Clerk's Office neither tracks nor enforces compliance.

As described in the background, the City Clerk's mission is to *Maximize public access to municipal government*. In the City's Adopted Operating Budget, the City Clerk describes one of the Office's key services as ensuring compliance with the City's Open Government and other public disclosure requirements. Therefore, the Clerk's Office should develop and implement procedures to monitor the posting of action minutes for the City's boards and commissions. In particular, the City Clerk should work with departments to correct the issue, and notify CMO, and possibly Council, when action minutes of boards and commissions are consistently posted late.

Recommendation #5: The City Clerk should develop and implement policies and procedures to:

- a) Monitor compliance with the Open Government Resolution requirements for public posting of agendas and minutes by Commission Secretaries or other responsible officials for the City's boards and commissions, decision-making bodies, and other advisory entities, and**
- b) Report noncompliance to responsible officials.**

Clarifying Roles Can Increase Board and Commission Members' Compliance with Statutory Obligations

Last updated in 1991, the *Consolidated Board and Commission Policies* (Council Policy 0-4)¹⁸ is outdated and is in the process of being revised. According to the Clerk's Office, updates will include requiring mandatory trainings for new board and commission members within the first year of appointment and more clearly defining responsibilities for Commission Secretaries and the Clerk's Office. The mandatory trainings in the draft as of April 2016 cover, but are not limited to, the City Charter, select chapters of the Municipal Code, and other City and Council Policies.¹⁹

¹⁸ Council Policy 0-4 only applies to boards and commissions whose members are appointed by the City Council pursuant to the City Charter and San José Municipal Code. Therefore, it does not apply to the San José Arena Authority Board of Directors, Deferred Compensation Advisory Committee, Mayor's Gang Prevention Task Force, Federated Retirement Board, Police and Fire Retirement Board, and work2future Board.

¹⁹ Though the April draft Policy does not indicate *who* is responsible for hosting such trainings, the Clerk's Office has stated that it plans to coordinate trainings twice a year to coincide with the two scheduled recruitment periods—July and January.

Clarifying Who Provides Mandatory Training to Board and Commission Members

Historically, the Clerk's Office has provided orientations to boards and commissions for which it serves as Commission Secretary when there has been a substantial change in membership (defined as two or more new members). For instance, the Council Appointment Advisory Commission received the orientation in February 2015. These orientations have covered the Brown Act; select topics of the City Charter and Municipal Code; Council Policies 0-4 (Boards and Commissions), 0-15 (City's Code of Ethics), and 0-36 (Commission Code of Conduct), and other topics.

However, although the Housing and Community Development Commission has requested and received a presentation on the Brown Act from the City Attorney's Office (CAO), not all commissions receive such comprehensive orientations. Additional support from the Clerk's Office for other trainings would be beneficial, particularly with regard to expected meeting procedures.

The April draft of the *Consolidated Board and Commission Policies* does not specify who is responsible for providing or coordinating the mandatory trainings for board and commission members. We recommend further clarification to the draft that clarifies the role of the Clerk's Office in coordinating such trainings. There also is currently no mechanism with which the Clerk's Office can enforce compliance with such training requirements. This should be addressed in the revision as well.

Currently, the Clerk's Office utilizes a Boards and Commissions software platform within the Granicus system. This software allows the Clerk's Office to manage vacancies and track documents, such as a Code of Ethics. The Clerk's Office should utilize the platform to track members of advisory bodies who have completed the anticipated mandatory in-house training stipulated in Council Policy 0-4.

Recommendation #6: The City Clerk's Office should work with the City Attorney's Office to finalize and implement the revised *Consolidated Policy Governing Boards and Commissions (Council Policy 0-4)*, including language that clarifies the City Clerk's responsibility to:

- a) Coordinate the semi-annual trainings for new board and commission members, and**
- b) Monitor member attendance and report noncompliance to the responsible officials.**

This page was intentionally left blank

Finding 2 The City Clerk Should Prioritize and Ensure the Smooth Implementation of an Updated Records Management System

Summary

The Clerk's Office maintains various City records, including contracts and legislative documents, and coordinates with the City's Open Government Manager and other departments to fulfill internal and external records requests. The Clerk's Office appears to meet statutory requirements for records requests. However, Council History and Documents (CHAD), the City's records management program for contracts and legislative documents, is outdated and severely limited in its functionality. Although the Clerk's Office is working with the Information Technology Department (ITD) to implement an online records management platform, there appears to be little guidance from the City Clerk in determining the future functionality of the system. To ensure the smooth implementation of the system, the City Clerk should provide better guidance in implementing and developing appropriate policies and procedures for the system.

The Clerk's Office Is Responsible for Maintaining Public Access to City Legislative Records

The Clerk's Office maintains official City records—including ordinances, resolutions, Council memos and reports,²⁰ contracts,²¹ and grants—and makes them available for public access.

The Clerk's Office uploads these records onto its records management system, Council History and Documents (CHAD).²² However, certain records (e.g., those from before the inception of CHAD) are only available as hard copies, stored either in the Clerk's Office or at the Central Service Yard.

²⁰ City Charter, Section 804 states that the City Clerk is to maintain legislative records, including proceedings of the Council, resolutions, and ordinances, and make them readily accessible to the public.

²¹ Municipal Code 4.04.06 states that the City Clerk shall maintain originals of contracts executed by the City.

²² In rare instances, the Clerk's Office cannot upload records into CHAD, such as when the file size is too large or when an ordinance or resolution number is duplicated. See the section on CHAD below for more information.

Staff from various functional areas of the Clerk's Office are responsible for different records:

- Records staff generally maintains the filing and storage of hard copies within the Clerk's Office, as well as coordinating the storage and retrieval of documents at the offsite facility. When records staff obtains hard copies of records from offsite storage, staff uploads electronic copies into CHAD for future reference. In consultation with CAO, records staff occasionally disposes of files eligible for destruction under the City's Records Retention Schedules.
- Legislative Secretaries upload ordinances and resolutions.²³
- The Contracts Analyst processes contracts and grants²⁴ and uploads them into CHAD. Records staff then reviews the uploaded contracts—correcting any typos and editing descriptions as needed—and assigns them filing numbers.

The Clerk's Office Fulfills Internal and External Public Records Requests

The Clerk's Office receives records requests from both City staff (internal) and the general public (external). The Clerk's Office coordinates with the City's Open Government Manager (CMO) and other departments to fulfill records requests.²⁵ The Clerk's Office records staff retrieves contracts and legislative documents in several ways:

- Researching online via search engines and CHAD,
- Locating physical records within the office using its internal filing system,
- Locating microfilm records using its internal filing system, or

²³ The Clerk's Office reports the performance measure “% of Resolutions/Ordinances posted online within 3 business days of receipt from the City Attorney's Office.” As of March 2016, approximately 35 ordinances and resolutions dating as far back as 2004, roughly 25 of which were approved by Council more than two years ago, had not been posted. The City Attorney's Office is working with other departments to document final council actions in order to finalize these ordinances and resolutions.

²⁴ The Clerk's Office reviews an executed contract for completeness, including verifying that a department has obtained the required insurance documents for contracts under \$250,000. If the contract complies with all document requirements, the Clerk's Office uploads the contract onto CHAD and designates it “Status 11,” which signifies that work may proceed and payments may be made. For more information, see the June 2013 audit report [Consulting Agreements: Better Enforcement of Procurement Rules, Monitoring, and Transparency Is Needed](#).

To track contracts, the Contracts Analyst maintains a contract log. Of eight contracts we sampled, one contract that had been entered in the contract log was not uploaded into CHAD. We confirmed that contract was a duplicate mistakenly entered into the contract log with a new contract number instead of being added as an amendment. This instance of a contract entered into the log but not into CHAD appears to be exceptional.

²⁵ City staff and the public send information requests to the Open Government Manager and/or departments directly. The Open Government Manager coordinates responses to requests requiring the involvement of multiple departments. The Clerk's Office responds to requests that it receives directly for records specific to the office (i.e. contracts and legislative documents). Records staff in the Clerk's Office also assists in fulfilling records requests for other departments if it has access to some of the requested documents.

- Requesting physical records from offsite storage via the online software FileTrail (typically takes about 24 hours, according to the Clerk's Office).

The Public Records Act, the Open Government Resolution, and the Public Records Policy and Protocol (City Policy 6.1.1) delineate timeliness requirements for fulfilling public records requests²⁶ and describe what types of records are eligible for public access. It appears records staff in the Clerk's Office has been meeting these statutory requirements.

The Council History and Documents (CHAD) Records Management Program Is Outdated

The *City Clerks Handbook*, a reference material published by the City Clerks Association of California, states that a records management program should allow active oversight of the life of e-files. For example, users should be able to delete documents that no longer have a useful life, update as needed, and add new folders and new program mission areas.²⁷

Nearly a decade ago, a former City employee developed CHAD specifically and solely to store and retrieve City records. With limited functionality, this City-specific system fails to meet the *City Clerks Handbook* requirements identified above. For example, CHAD users cannot:

- Upload documents beyond a certain file size,
- Delete documents from the server (can only overwrite with new records), or
- Upload new kinds of records (e.g., Redevelopment Agency documents given to Clerk's Office for storage and maintenance).

Furthermore, CHAD users cannot share files with information requestors directly from CHAD; instead, they must download and email the files. Neither can they upload multiple resolutions with the same number, such as when Council changes the numbering system.

²⁶ The Ethics and Open Government Resolution (Section 4.3.1.6) states such requirements as:

- Department records coordinators shall acknowledge receipt of a request within one business day.
- For simple or routine requests, the records coordinator shall provide the requested documents within two business days.
- For extensive or demanding requests, the records coordinator shall provide within three days of acknowledging receipt of the request a time estimate for fulfillment. The records coordinator shall provide the requested information within ten calendar days, unless this deadline is extended by mutual agreement.

²⁷ *City Clerks Handbook*, 2012 Edition, City Clerks Association of California, p. 14-10

Lastly, CHAD does not include a public-facing component that empowers residents to independently and anonymously search for such documents as resolutions and contracts. Other jurisdictions, including Long Beach and San Diego, have searchable public-facing databases.

The Clerk's Office Is Involved in the Implementation of an Updated Records Management System

Given CHAD's limitations, the Mayor's March Budget Message for FY 2013-14 provided direction to the City Clerk to work with CMO to fund a self-service electronic document management system.

After several years of discussion and planning, the City determined that SharePoint Online is a possible Citywide technology solution that could include a records management component. As one of the first departments chosen to pilot an updated document management system based on SharePoint Online, the Clerk's Office is working with ITD and the system implementer ShareSquared to implement the records management platform.

Among other basic steps, the *City Clerks Handbook* states the implementation of a records management system should include a written plan and workflow diagram, and a written agreement on procedures and protocols among users.²⁸

Currently, a staff technician in the Clerk's Office liaises with ITD and ShareSquared. The staff technician has assisted in the process of migrating data from CHAD to the new records management component of SharePoint Online, including creating libraries and defining hierarchies. The staff technician's job specifications call for entry-level professional administrative work of routine difficulty under general supervision. At the time of the audit, however, there appeared to be little guidance from the City Clerk in determining the future functionality of the system.

According to the Clerk's Office and ITD, the updated records management system will make records publicly searchable and accessible. In helping to determine the interface of the new system, the Clerk's Office should consider the provisions of the Open Data Policy, meant to promote open, honest, and effective government by making data publicly available and easily accessible. It should also reference the Language Access Policy (once it is finalized), which seeks to ensure that limited English proficiency is not a barrier to accessing the City's programs or services.

²⁸ Ibid., p. 14-11

Recommendation #7: To ensure the smooth implementation of the updated records management platform, the City Clerk should:

- a) Set clear roles, responsibilities, and expectations for records staff tasked with assisting the Information Technology Department in implementing the new system;**
- b) Develop appropriate policies and procedures for the new system, including security protocols; and**
- c) Determine which records will be made publicly accessible and/or searchable in accordance with the City's Open Data Policy and Language Access Policy (once it is finalized).**

This page was intentionally left blank

Finding 3 The City Clerk Should Improve Processes for Ensuring Compliance with State and Local Regulations on Elections and Ethics

Summary

Under state and local regulations, the City Clerk is responsible for receiving and providing information on various filings, including electoral forms and petitions, Statements of Economic Interests, and lobbyist registrations and reports. In each of these areas, the Clerk's Office should make improvements to better ensure compliance with state and local regulations. For example:

- The Clerk's Office should disseminate a consolidated list of required state and local campaign disclosure forms to candidates for office, and work with CAO to draft an amendment to the Municipal Code for Council consideration providing for additional steps to be taken to discourage late filings.
- The Clerk's Office should streamline its use of PeopleSoft (a human resources management software) to more efficiently identify required Statement of Economic Interests filers among City employees. The City Clerk should also clarify the roles and responsibilities of the Clerk's Office and liaisons in other City departments in ensuring that required filers are properly identified and comply with the requirement.
- The Clerk's Office should coordinate with CAO to develop and schedule regular trainings on the Lobbyist Ordinance at least once every three years for elected officials and lobbyists as well as for newly elected City officials upon assuming office. Additionally, the Clerk's Office should create policies and procedures for collecting outstanding lobbyist fines and fees.

The City Clerk Is the City's Elections Official Under the California Elections Code

The City Clerk is the City's elections official under the California Elections Code. The Clerk's Office receives campaign filings, provides guidance on paperwork, and sets informational appointments with candidates and residents interested in petitions (i.e., charter amendments, initiatives, referenda, and recalls).

Exhibit 5 lists some of the City Clerk's key statutory responsibilities with respect to elections under the Political Reform Act, the Municipal Code (Title 12), and the State Elections Code.

Exhibit 5: Select Elections-Related Responsibilities of the City Clerk

Political Reform Act of 1974	<ul style="list-style-type: none"> • Accept candidate filings and Form 700s. • Per the Fair Political Practice Commission (FPPC) regulations, review the above filings to ensure compliance <i>prima facie</i> (“at first sight”) with the requirements of the Political Reform Act.
Municipal Code (Title 12)	<ul style="list-style-type: none"> • Publish notice of the city election 113-88 days before any city municipal election to fill offices. • Calculate campaign contribution limit on biannual basis based on Consumer Price Index. • Receive various candidate filings; the City Clerk may require the submission of amendments, impose a fine for late filings, and/or waive/reduce a late fine. • At least five days before an election, prepare and disseminate a report with total amount of total contributions and expenditures for candidates, candidate controlled committees, and independent committees as of seven days before the election.
Elections Code	<ul style="list-style-type: none"> • Provide petitions and information to proponents of initiatives,²⁹ recall elections,³⁰ referendums,³¹ and charter amendments.³² Complete <i>prima facie</i> review of the signatures.

Source: Auditor summary based on observations of Clerk’s Office’s electoral processes and review of related laws and regulations

Particular functions of the Clerk’s Office in fulfilling such statutory requirements include:

- Create and distribute a candidate packet with various forms and other information for Council candidates;
- Answer questions related to what forms or other paperwork are required to be filed and what information is needed to be included on such paperwork;
- Meet with candidates to provide an overview of the election process;
- Meet with residents to provide information on the initiative, referendum, recall, and charter amendment processes;
- Oversee the return to contributors or turnover to the General Fund of campaign-related debts and surplus campaign funds; and

²⁹ California Elections Code 9200-9266.

³⁰ California Elections Code 11000 et seq.

³¹ California Elections Code 9235-9247.

³² California Elections Code 9255-9269. To note, the City of San José has established minimum percentages of voters’ signatures needed for petitions to be put on the ballot that differ from those of the state. See City Charter Section 1603 for more information.

- Send signatures for initiatives, referenda, recalls, and charter amendments to the Santa Clara County Registrar of Voters for verification after *prima facie* review.

The City Attorney’s Office Recently Assumed Responsibility for Providing Campaign Guidance to Candidates

In 2015, the City of San José Ethics Commission investigated a total of 21 former and current City Council or Mayoral candidates and/or elected officials for failing to disclose late campaign contributions³³ in a timely manner. The investigations and potential fines for Title 12 violations were eventually dismissed because they were deemed to be a result of mistaken information provided by the City Clerk.³⁴

In September 2015, the Rules and Open Government Committee of the City Council directed the City Attorney to assess the advisability of his office performing certain election-related functions in lieu of the Clerk’s Office. Subsequently, CAO assumed full responsibility for issuing written guidance and answering questions on legal compliance with election rules.³⁵ The Clerk’s Office continues to provide basic guidance on candidate filings—what forms must be filed and what information is required on those forms. During the current election period, the Clerk’s Office and CAO have been meeting weekly to discuss electoral policies and procedures, and any issues that arise.

The Clerk’s Office Can Provide Better Customer Service to Candidates Navigating the City’s Complex Elections Process

To run for office, a candidate must complete and submit various State and City of San José forms, each with its own purpose, requirements, and deadline (see Appendix B for a compiled list).

³³ The FPPC now refers to “late contributions” as “24-hour contributions.”

³⁴ The City Clerk, in the information packets distributed to candidates, provided information that candidates needed to report only late contributions totaling \$1,000 or more per State law. However, Title 12 of the Municipal Code required disclosure of late contributions meeting a lower threshold: \$250 or more. The City Clerk’s inaccurate information on this discrepancy between state and local laws contributed in large part to the candidates’ technical violation of Title 12.

Since then, an amendment to Title 12 of the Municipal Code (effective December 2015) eliminated the City’s late contribution filing requirement (including the lower \$250 threshold), so that the \$1,000 State law reporting requirements for late contributions apply.

³⁵ The Clerk’s Office now defers to the City Attorney for legal interpretation of the Municipal Code and ethics. More specifically, a memo issued by City Attorney in September 2015 agreed that under his purview are the following:

- 1) Drafting and issuing all written guidance for candidates for office regarding legal compliance with relevant municipal, FPPC, state, or other regulations relating to elections;
- 2) Responding to all questions from candidates and councilmembers relating to election rules, including compliance, filing deadlines, reporting of contributions, and the like;
- 3) Any other inquiries relating to the Code of Ethics, including but not limited to rules regulating gifts, honoraria, and lobbying.

A 2015-16 mid-year budget request for a Senior Deputy Attorney III was granted for these duties.

Currently, the City does not provide a consolidated list of both State and local required filings. Other jurisdictions, like the City of Anaheim and the City of Santa Clara publish such lists (see Appendix C for the City of Anaheim's). The San José City Clerk's Office provides Council candidates with a candidate packet, which includes a *Dates of Interest* handout that specifies filing deadlines for certain forms. However, the original *Dates of Interest* handout distributed to candidates by the Clerk's Office at the beginning of this audit did not list actual form numbers (e.g., it noted the "Semi-Annual Campaign Disclosure Statement," but not the form number: Form 460), nor did it include all potentially required forms. Similarly, Title 12 of the Municipal Code describes various required forms, but does not cite specific form numbers. The FPPC manual referred to candidates is more specific about various required forms, but it does not include unique forms required by the City's Municipal Code.³⁶

Based on our preliminary recommendation, in April 2016 the Clerk's Office began to include the numbers of the forms listed in the *Dates of Interest* handout. But to provide further guidance, the handout should include City of San José forms (e.g., 502 and 503) and FPPC forms (e.g., 410, 496, and 501) not yet listed. It can also make candidates aware of other forms that are not necessarily required of all candidates, but may be required for some. Finally, the Clerk's Office should monitor state and local regulations for any changes to forms and/or requirements during elections season, and update and redistribute the handout (and other relevant campaign guidance materials) as needed.

Recommendation #8: To better serve candidates navigating the City's complex elections process, the City Clerk should, in consultation with the City Attorney's Office:

- a) Include in its candidate packet a clear listing of required state and local forms with form numbers and descriptions, and
- b) Immediately notify candidates of changes to the forms or other filing requirements that occur during the elections process and update the candidate packet accordingly.

The Current Penalty Structure May Not Discourage Late Filing of Campaign Disclosures

To discourage candidates from filing campaign disclosures outside the deadlines outlined in the City's Ethics and Open Government Provisions of the Municipal Code, the Municipal Code states that the City Clerk shall fine delinquent filers \$10 per day following the filing deadline. However, at least one previous candidate

³⁶ [Campaign Disclosure Manual 2 - Information for Local Candidates, Their Controlled Committees, and Primarily Formed Committees for Local Candidates](#) is 239 pages. The April 2016 edition was published in the middle of the City of San José's elections process.

repeatedly and consecutively filed late, and simply paid the fine for each occurrence. Under these circumstances, it does not appear that the relatively small fine, payable by campaign funds, deterred the candidate from filing late. As a further disincentive to file required campaign disclosure documents late, the City Clerk should take additional steps to discourage repeat late filings, such as referral to the Ethics Commission or some other public disclosure.

Recommendation #9: To further discourage late campaign filings by candidates for local elective office, the City Clerk should work with the City Attorney's Office to draft an amendment to Title 12 delineating additional steps to address repeat violations of filing deadlines (e.g., referral to the Ethics Commission and/or the Fair Political Practices Commission, or some other public disclosure).

Improved Procedures and Technological Solutions Can Improve Compliance with Required Statement of Economic Interests Filings

The Political Reform Act requires high-ranking elected officeholders, as well as employees, board and commission members, and consultants designated by the City's Conflict of Interest (COI) Code,³⁷ to disclose certain personal financial holdings via Statements of Economic Interests, also known as the Form 700. Per the Municipal Code,³⁸ the City requires these individuals to also file a separate Family Gift Reporting Form. The City Clerk is responsible for identifying and notifying required filers, receiving their forms, and either retaining originals or forwarding them to the FPPC as appropriate.³⁹

The Manual Process for Updating the List of Required Form 700 Filers Is Inefficient and May Exclude Some Required Filers

To update the list of required Form 700 filers among City staff, the Clerk's Office manually reconciles reports from NetFile (an online e-filing program) and PeopleSoft (the City's human resource management software), since the programs do not communicate with one another. This process is time intensive and susceptible to errors because of possible discrepancies between the NetFile and PeopleSoft reports—for example, a required filer may not be marked as such on the PeopleSoft report, or the Clerk's Office may inadvertently not create a NetFile profile for a required filer. As a result, an employee who is a required filer might

³⁷ The Conflict of Interest Code is biennially revised and designates required Statement of Economic Interests filers based on position description, authority, and responsibility.

³⁸ San José Municipal Code Section 12.08.050.

³⁹ Required filers are required to submit Form 700s annually, as well as when entering or leaving office. See November 2011 [Audit of Annual Form 700 Filers](#) for more information.

receive no notification about the filing requirement, while another might receive notification but be unable to access NetFile.⁴⁰

To facilitate the process of identifying required filers within departments, the Clerk's Office works with department liaisons. The Clerk's Office provides PeopleSoft reports of required filers and asks that the liaisons update the reports based on the COI Code and positions filled, new vacancies, promotions, etc. within the department. Upon receipt of revised lists, the Clerk's Office creates and/or updates employees' NetFile profiles.

However, since two employees in the same position within a department may have different types of responsibilities and thus different filing requirements, departments may misinterpret the COI Code. As result, departments may mistakenly include or, more importantly, exclude some required filers. Additionally, in previous years at least two departments did not update the list as requested, according to the City Clerk.

Furthermore, the Clerk's Office does not run regular PeopleSoft reports to track employees who would be required to file when entering or leaving office. According to the Clerk's Office, it only solicits the Form 700 from an employee entering or leaving office if it is notified by the employee's department.

The City Clerk has proposed to give department liaisons access to NetFile so that they can update the list of required filers directly instead of the Clerk's Office. In accordance with this proposal, the Clerk's Office has preliminarily drafted Form 700 procedures for departments. Still, as the Filing Officer for employees and others designated by the COI Code, the City Clerk is ultimately responsible for ensuring compliance with filing requirements. Therefore, the Clerk's Office should provide continued guidance to departments on Form 700 and the City's Family Gift Reporting requirements, and monitor the process to ensure that filers are properly notified and entered into NetFile. If the administration moves forward with the proposal to grant department liaisons access to NetFile, we believe it is the City Clerk's responsibility to ensure that department staff is sufficiently trained to use the system.

⁴⁰ In addition to City staff, other groups of required filers have failed to file Statements of Economic Interests, preventing the public from identifying potential conflicts of interest. As previously discussed in Finding 1, we noted concerns with non-filings of Form 700s by required board and commission members. Some consultants, too, have not fulfilled and/or been notified about their filing requirements, as concluded in prior audits. The Clerk's Office has open recommendations from the audits of annual Form 700 filers (November 2011) and consulting agreements (June 2013) to help ensure that consultants disclose their economic interests as required (see [Status of Open Audit Recommendations as of December 31, 2015](#) for more information).

Recommendation #10: To improve compliance with Statement of Economic Interests (Form 700) filings, the City Clerk, as the City's filing officer, should:

- a) Work with the Human Resources and Information Technology Departments to develop PeopleSoft report(s) that more efficiently identify required filers and disseminate to departments for reference and/or verification as appropriate;**
- b) In consultation with the Administration, clarify the roles and responsibilities of Clerk's Office and department staff in ensuring that required Form 700 filers are identified, entered into NetFile, and notified, and that they file; and**
- c) Provide policies, procedures, and ongoing training to department Form 700 liaisons to ensure that the steps listed in (b) of this recommendation are completed.**

The Public Access Portal Should Provide Public Access to All Applicable Officials' Statements of Economic Interests

The City Clerk's website includes a publicly searchable database of Statements of Economic Interests.⁴¹ Although state law does not mandate the creation and maintenance of such a database, it helps the public identify potential conflicts of interest by making certain officials' personal financial holdings publicly viewable.

According to the Clerk's Office, staff aims to include the forms of filers identified by Government Code 87200, including the Mayor, Councilmembers, City Manager, City Attorney, City Treasurer (Director of Finance), and other public officials who manage public investments. However, when we searched the database for the filings of City officials within these categories, many of the filings could not be accessed.⁴² We even found cases in which the filings of some officials' subordinates were publicly accessible but theirs were not. The Clerk's Office acknowledges that it needs to review filers' profiles and properly re-categorize 87200 filers as such; it can then upload the applicable officials' forms once any private information is redacted to complete the database.

⁴¹ <http://nf4.netfile.com/pub/?aid=CSJ>

⁴² For instance, all commissioners from the Deferred Compensation Advisory Committee are officials listed in CA Government Code Section 87200 (per the City's Conflict of Interest Code), and according to the Clerk's Office, their Statements of Economic Interests should be available on the City's website. However, only one member of the Deferred Compensation Advisory Committee had a form available online.

Recommendation #11: To ensure the public can properly identify conflicts of interest among key financial decision makers in the City, the City Clerk should:

- a) Identify which Form 700s should have been made publicly accessible and post them to the City’s public portal accordingly, and**
- b) Create policies and procedures to ensure that applicable filings are posted to a public database timely and consistently each year.**

The City Clerk Should Provide the Workshops Assigned Under the San José Municipal Lobbyist Ordinance

Under the Municipal Code, the City Clerk is responsible for overseeing compliance with the San José Municipal Lobbying Ordinance,⁴³ including establishing regular trainings. Specifically, the Ordinance states:

- A. The city clerk oversees compliance with this chapter, including the creation of all forms and explanatory materials.*
- B. A training workshop will be established for elected city officers and lobbyists on city ethics ordinances and a code of ethics for lobbyists. The city clerk establishes a program of required attendance on a regular basis not less than once every three years. Training workshops will be provided to newly elected city officials.*

The City Clerk’s website contains sample lobbyist forms and materials used during the last training, which, according to the City Clerk, was conducted in 2007 and coordinated with CAO. This is well beyond the Ordinance’s stipulated three year recurring timeframe.

The CAO provides legal interpretation of the San José Municipal Code regarding ethics, including inquiries relating to rules regulating lobbying; on the other hand the Clerk’s Office is tasked with maintaining a list of registered lobbyists and performing lobbying-related administrative duties (e.g., accepting forms and filings).

⁴³ The purposes of the San José Municipal Lobbying Ordinance include, but are not limited to: guarantee to the residents that the City continues the highest ethical work environment for the residents of the City and the City’s elected officials and employees; and to enhance public confidence and trust with respect to lobbyist activities and city practices.

Among other reasons, the Lobbying Ordinance was established to enhance public trust, allowing the public to know and better understand the relationship among its elected officials, lobbyists, and lobbyists' clients. The trainings, which are outlined in the Lobbying Ordinance, help ensure that requirements supporting open and transparent government (such as lobbyist registration and quarterly reports) are met. The Clerk's Office should continue to be responsible for the logistical aspects of such trainings and guidance on what paperwork is required to be filed, while those in CAO, who are the subject matter experts, provide the content and materials for trainings.

Recommendation #12: To further the Lobbying Ordinance's goals of an ethical work environment and an open and transparent government, the City Clerk's Office should:

- a) Coordinate with the City Attorney's Office to develop and schedule trainings on the Lobbying Ordinance at least once every three years for elected officials and lobbyists as well as for newly elected City officials upon assuming office, and**
- b) Update lobbyist training materials on the City Clerk's website.**

The City Clerk Should Develop Procedures to Ensure the Proper Collection of Required Lobbyist Registration Fees and Any Related Penalties and Interest

Per the Municipal Code, lobbyists are required to register with the City Clerk and annually renew registration by January 15. The FY 2015-16 annual registration fee is \$648 per registrant and \$119 per each client for whom lobbying activity is undertaken for compensation over \$500. If the fee is not paid at the time of registration or renewal, a late registration fee is assessed. The late fee continues to accrue on a daily basis until the registration fee is paid in full.⁴⁴

Lobbyists must also file with the City Clerk a quarterly report of activities. A lobbyist who has failed to file a quarterly report or filed after the due date should be assessed a late filing fee with interest calculated on a monthly basis.⁴⁵

As the Clerk's Office dealt with staffing reductions, the City Clerk determined lobbyists were a lower priority item. It does not appear that late filers were consistently notified about assessed penalties or the ongoing accrual of fees and interest.

⁴⁴ The delinquent registration fee is 5 percent of the unpaid fee per day, up to but not exceeding 100 percent of the unpaid registration fee.

⁴⁵ The FY 2015-16 quarterly report delinquency fee is \$79 per day and is not capped.

In fall 2015, the Clerk's Office conducted an internal review of lobbyist reports for calendar years 2014 and 2015. The Clerk's Office identified that approximately \$60,000 was owed to the City in outstanding fines and fees, and it began collecting on those lobbyist accounts. The Clerk's Office is currently working with CAO to reconcile accounts still outstanding. Furthermore, the offices are working to address some of the issues identified during the internal lobbyist review, such as the need to standardize late fine calculations.

There are currently no procedures in place for the Clerk's Office to collect on outstanding lobbyist fines and fees. The City's *General Guidelines for Accounts Receivable / Revenue Collection* (City Administrative Policy 5.3.6) states that:

All aspects of revenue recording and accounts receivable monitoring shall be subject to proper internal controls established by the Finance Department's management staff. Departmental internal control procedures should be approved by the Department Director and sent to the Finance Director or designee for review and approval.

Established procedures would help ensure that late registrants and filers are properly notified and that collection of accounts receivable is done in accordance with City policy.

Furthermore, as part of the Mayor's 2015 Biennial Ethics Review and Recommendations, the City Clerk is to examine the feasibility of creating an electronic filing system for lobbyist tracking and reporting. According to the City Clerk, her office will work with CAO to bring forward an ordinance amending the Municipal Code to move from quarterly to weekly lobbyist reports if/when electronic filing is available, making sound notification and collection of lobbyist fees even more important.

Recommendation #13: The City Clerk's Office should develop policies and procedures for the collection of outstanding lobbyist and other fees, which should be approved by the Department of Finance and be in accordance with *General Guidelines for Accounts Receivable / Revenue Collection* (City Policy 5.3.6).

Finding 4 The City Clerk Should Provide Better Customer Service to the Mayor and Council Offices

Summary

The Clerk's Office provides various administrative support services to the Mayor's Office and Council Offices, including fiscal and human resource-related services. Currently, the Clerk's Office does not have standard procedures for most of the support services it provides to Mayor and Council Offices. This has resulted in avoidable errors such as providing budget projections based on incorrect pay rates for Mayor and Council staff. The Clerk's Office can reduce the risk of errors and improve its quality of service by (1) establishing standard procedures for developing budget spreadsheets and providing those spreadsheets more timely, and (2) developing standard procedures and timeliness targets for the other support services where they currently do not exist. Finally, the City Clerk should also coordinate annual trainings for Council Assistants and Chiefs of Staff on City and Council policies, the legislative process, and other topics.

The Clerk's Office Can Improve the Quality of Support Services Provided to Mayor and Council Offices

It has been a longstanding practice for the Clerk's Office to provide administrative support to the Mayor's Office and Council offices. The *City Council Expenditure and Reimbursement Policy* (Council Policy 0-38)⁴⁶ states:

The City Clerk will perform all administrative functions on behalf of the Mayor's Office and each Council Office, including the review and approval of expenditures and requests for reimbursement made consistent with this Policy, and the negotiation and execution of contracts made consistent with this and all other City policies regarding contracts.

Specific administrative functions provided by the Clerk's Office include:

- Fiscal support such as preparing and tracking office budgets, including projecting expenditures; processing grants and contracts; and approving travel and procurement card (P-card) expenditures.

⁴⁶ The City Council Expenditure and Reimbursement Policy was approved by Council in October 2007. It was revised in June 2009.

- Human resources support such as developing job postings, screening resumes, working with new hires on fingerprinting and badging procedures, and approving online timesheets.

The *City Clerks Handbook* notes that providing administrative support services to elected officials is one of the duties with which a City Clerk may be tasked. Sacramento was the only jurisdiction with which we spoke whose City Clerk provides comparable support services to its mayor and council. Similar to San José, the Clerk’s Office in Sacramento allocates three positions to these functions (see Exhibit 6).

Exhibit 6: Comparison of San José and Sacramento Clerk’s Office Staffing of Administrative Support to Mayor and Council Offices

San José	Sacramento
Assistant City Clerk (0.5 FTE)	Council/Clerk Operations Manager (1 FTE)
Sr. Analyst (0.6 FTE)	Deputy City Clerk (1 FTE)
Analyst II (1.0 FTE)	Administrative staff (1 FTE)
Sr. Account Clerk (1.0 FTE)	Total (3.0 FTE)
Total (3.1 FTE)	

Source: Interviews with staff in San José and Sacramento City Clerk’s Offices. At the time of the audit, one analyst position in San José was vacant; when filled this position may be assigned to this service. The previously vacant Sr. Account Clerk position was filled during the audit.

The Clerk’s Office is staffed to provide support services to Mayor and Council Offices, both in the number of staff and with the job classifications providing such support. In our opinion, having the Clerk’s Office provide these services appears reasonable to maintain separation between the City’s policymakers and the Administration (i.e., the Budget Office, Finance, or other departments). However, there have been concerns about the *quality* of the services provided.

One of the Clerk’s Office’s strategic goals identified in the City’s FY 2015-16 Adopted Operating Budget is to *Maintain high levels of customer service*. However, in his memo from September 2015 requesting this audit, the Mayor expressed concerns with the level of service provided by the Clerk’s Office, stating:

Repeated problems have been reported privately to the Mayor’s Office and more publicly to the media regarding difficulties that Councilmembers and candidates have had in getting reliable, accurate information from the Office of the Clerk on issues ranging from election-related rules to office budgets.

The Mayor further stated:

... multiple council offices—including newly-elected councilmembers have inherited council or mayoral office budgets mid-year—have had considerable difficulty receiving accurate and timely information about the status of their balances.

The Clerk's Office Should Develop Standard Procedures for Tracking Budgets and Other Services Provided to Mayor and Council Offices

On a monthly basis, the Clerk's Office provides Mayor and Council Offices with budget spreadsheets that contain information about each office's annual budget, spending to date from their general and constituent outreach budgets, and their projected end-of-year balance based on projected spending. The projections are based on past spending as well as expected staff costs. The sources of data utilized in the spreadsheets are reports from the City's Financial Management System (FMS) and the PeopleSoft payroll system.

Based on a review of a sample of budget spreadsheets prepared by the Clerk's Office in 2015, we found several recurring errors:

- To calculate projected Mayor and Council staff costs, the Clerk's Office is supposed to obtain staff pay rates from PeopleSoft. However, on multiple occasions, the projections did not include up-to-date pay rates.
- In the Mayor's Office spreadsheets, not all staff members were included in the projections for a number of months. This occurred in one Council Office spreadsheet as well.
- There were data entry errors or incorrect formulas in some cells within the spreadsheets.

In the worksheets that we reviewed, the noted errors related to the use of incorrect pay rates resulted in errors ranging from 1 to 3 percent of remaining fiscal year Council budgets. However, in the instance of the Mayor's spreadsheets not including all staff, we estimate that projected spending was off by significantly more. For one month, projected spending was off by at least 7 to 11 percent of the Mayor's remaining budget (or between \$145,000 and \$215,000).

Standard Procedures Could Have Prevented Errors in the Budget Spreadsheets

At the time of the audit, the Clerk's Office did not have documented procedures for staff to follow in preparing the spreadsheets. Standard procedures are important because they articulate how and when activities are to be carried out. They can also provide guidance to new staff who may be tasked with providing support to Mayor or Council Offices in the future.

The errors found in the budget spreadsheets could generally have been avoided if the Clerk's Office followed such procedures. For example, specific steps to identify correct pay rates and a complete listing of staff members would have ensured that staff costs were more accurately projected. Procedures providing for review by another staff member may have caught any data entry or formula errors. The

Clerk's Office has acknowledged that developing standard procedures for this service is an area where the office can improve.

Recommendation #14: To ensure that the Clerk's Office provides accurate and reliable budget information to Mayor and Council Offices, the City Clerk should develop standard procedures for the preparation and review of Mayor and Council Office budget spreadsheets.

The Clerk's Office Should Provide the Budget Spreadsheets More Timely

To prepare the budget spreadsheets, the Clerk's Office waits until the month end close in FMS, which usually occurs during the first week following the end of a calendar month. Waiting until the month end closes is important so that all expenditures are accurately posted and reflected in FMS. The spreadsheets take roughly 30 minutes to prepare for an individual district. The Mayor's Office spreadsheet can take about two hours as the budget is larger and more complex.

Based on our sample review, we estimate the average time from month end until the budget spreadsheets were sent to Mayor and Council offices was nearly two weeks from month end in FMS (or between the 17th and the 21st of the following month). The Clerk's Office has noted that it tries to complete the spreadsheets within one to two weeks from the month end close; however, it does not appear that there has been anything communicated to Mayor or Council Offices regarding when the spreadsheets would be provided.

As noted previously, the Mayor specifically commented on the difficulty that Council offices have had receiving timely information about the status of their budgets in his September 2015 memo. This was noted in interviews with Council staff as well. To that end, the Clerk's Office should work to provide the budget spreadsheets more timely, based on the needs and expectations of the Mayor's Office and Council Offices.

Recommendation #15: To improve customer service to the Mayor and Council, the City Clerk should define in the standard procedures for preparing budget spreadsheets (see recommendation #14) a specific timeframe for when they are to be prepared. Further, this timeframe should be communicated to Mayor and Council Offices.

The Clerk's Office Should Develop Standard Procedures for Other Services Provided to Mayor and Council Offices

The Clerk's Office provides additional services to Mayor and Council Offices, including:

- Processing Council grants to nonprofit or other organizations for educational, recreational, or cultural purposes.
- Processing contracts, such as facility use agreements, for Council-sponsored events.
- Reviewing and approving P-card and travel expenditures.
- Approving online timecards entered by Mayor and Council staff.
- Developing job postings and other activities related to hiring and onboarding new staff.

As described earlier, standard procedures should articulate how activities are to be carried out and can provide guidance to new staff. This latter point is important because of the level of turnover that the Clerk's Office has seen in recent years. For example, at least three different individuals have been assigned to compile supporting documentation for P-card expenditures within the last year. At least two individuals have been assigned to approve online timecards of Mayor and Council staff over that same time.

At the time of the audit, the only administrative support activity for which the Clerk's Office had written procedures was grant processing. It is important that the Clerk's Office develop standard procedures for the various services to ensure consistency in the provision of such services. These should also include timeframes (e.g., turnaround times or deadlines) for when activities should be completed for services that may have some time sensitivity (e.g., late payment of P-cards resulting from a delay in the review and approval of expenditures could result in revocation of P-card privileges).

Recommendation #16: To improve customer service to Mayor and Council Offices and provide guidance to staff, the City Clerk's Office should develop written procedures, including timeframes for when work is to be completed, related to:

- a) **Compiling required documentation from Mayor and Council Offices for procurement card and travel expenditures,**
- b) **Approving Mayor and Council staff online timecards,**
- c) **Processing Mayor and Council contracts, including facility use agreements for Mayor and Council-sponsored events, and**
- d) **Other support services as necessary.**

Training for Mayor and Council Staff Is a Key Component of Providing Quality Customer Service

Another area where the Clerk's Office plays a role is providing or coordinating training for Mayor and Council staff on City policies, the legislative process, and other areas. Training is important as it enables individuals to develop the skills and competencies appropriate for their roles and reinforces standards and expectations. For Mayor and Council Offices, staff may not have previously worked in the City⁴⁷ and may not be familiar with the City's expenditure or Open Government policies, or other rules or regulations they are expected to follow.

Resources Provided to Mayor and Council Staff Are Limited

The Clerk's Office maintains an online *Survival Guide for Council Assistants* that contains guidance on state and local policies and other resources that may be relevant for Mayor and Council staff. The *Survival Guide* includes such items as:

- Links to various Council and City policies, including those related to Council expenditures and reimbursements, travel, food and beverage expenditures, accepting gifts to the City, and others.
- State and local regulations and other guidance surrounding the legislative process (e.g., the Brown Act, the City's Open Government Resolution, parliamentary rules for Council meetings (e.g., motions, substitute motions, etc.)).

However, at least one member of Council staff was not aware of the *Survival Guide*, and the Clerk's Office has noted that it receives questions frequently on topics contained within it, such as the *City Council Expenditure and Reimbursement Policy* (0-38).

Ongoing Training Can Better Inform Mayor and Council Staff on Council and City Policies

Over time, the Clerk's Office has provided trainings for Mayor and Council staff in a number of ways, often in coordination with the CAO or City departments.

- In 2012, the Clerk's Office coordinated a series of trainings for Council staff with other City departments, covering a variety of policy and department-specific topics (this was described as a Government 101-type training)
- In January 2015, the Clerk's Office provided a 4-hour Council Assistant Survival Training covering the *City Council Expenditure and Reimbursement Policy* (Council Policy 0-38), P-card usage, the agenda process, and other

⁴⁷ Each Council Office is budgeted for an Administrative Assistant that is a City employee and may have worked in the City prior to working with a particular elected official. Some Council Offices have kept that position vacant.

topics. According to the Clerk's Office, all Councilmembers and their staff were invited.

- More recently, the Clerk's Office has provided short, topic-specific trainings at a weekly Council Assistant meeting (described as "mini-trainings"). Topics have included expenditures for special events, the use of pre-approved vendors, and the City's P-card policy.

Despite providing different types of trainings over time, the Clerk's Office's training efforts have not been consistent from year to year. Staff turns over in any organization, and ongoing training is important to ensure all Council staff have the opportunity to better understand the City's policies and other rules under which they work.

As described earlier, the Clerk's Office has noted receiving questions frequently from Council staff on the *City Council Expenditure and Reimbursement Policy* and other topics, many of which have been covered in past trainings. Providing regular and ongoing training is needed to ensure proper handling of these issues. In our opinion, the Clerk's Office, in coordination with the CAO and other City departments, should provide ongoing trainings for Mayor and Council staff on City and Council policies, the legislative process, personnel-related matters, and other topics.

Recommendation #17: The City Clerk should coordinate with the City Attorney's Office and other City departments to provide annual trainings for Council Assistants and Chiefs of Staff on:

- a) The City Council Expenditure and Reimbursement Policy (0-38),**
- b) City policies related to P-Card, travel, and other expenditures,**
- c) Required filings such as the Statement of Economic Interests and Family Gift Reporting forms,**
- d) Hiring-related policies and guidelines,**
- e) Legislative processes and regulations, and**
- f) Other topics contained in the *Survival Guide for Council Assistants*.**

This page was intentionally left blank

Finding 5 The City Clerk Should Clarify Work Assignments and Monitor Performance of Statutory Responsibilities

Summary

The City Clerk is responsible for having a system of controls in place to fulfill statutory and other responsibilities. At the time of the audit, the Clerk's Office had not clearly identified staff responsibilities across all work units, such as in an organizational chart or other plan. Not having such an organizational plan can lead to gaps in service when there is turnover, new priorities emerge, or other issues arise. For example, legal publications of ordinances did not occur for a number of months in the fall of 2015 because one staff member left and those responsibilities were not assigned to other staff. The City Clerk should develop an organizational chart, including identifying staff leads for specific areas of responsibility. The City Clerk should also begin reviewing performance measures related to the Office's statutory responsibilities on a regular basis to assess performance against established targets.

The City Clerk Is Responsible for Having a Plan in Place to Fulfill Statutory and Other Responsibilities

As described earlier, the Clerk's Office provides a variety of services critical to the administration of the City's democratic processes, such as elections, access to official City records, and legislative support services. According to the *City Clerks Handbook*:

The City Clerk must have a basic plan of operation to assure that deadlines are met and work flows smoothly into and out of the office, and to be prepared to deal with an emergency situation, or a demand for special service or assistance.⁴⁸

Basic plans of operation include internal control systems designed to ensure that that the organization's objectives are met. According to the Government Accountability Office, "Internal control comprises the plans, methods, policies, and procedures utilized to fulfill the mission, strategic plan, goals, and objectives of (an) entity."⁴⁹ An effective system of internal controls is meant to provide reasonable assurance that an organization will achieve its objectives. Designing and implementing such a system of controls is the direct responsibility of management.

⁴⁸ *City Clerks Handbook*, 2012 Edition, City Clerks Association of California, p. 2-1

⁴⁹ *Standards for Internal Control in the Federal Government*, September 2014, United States Government Accountability Office, p. 5

The City Clerk Can Better Meet Statutory Responsibilities by More Clearly Assigning and Distributing Work Among Staff

In addition to the various policies and procedures that have been described as needing improvement in earlier findings of this audit, among the foundations of a system of internal controls is an organizational structure that assigns responsibilities to achieve objectives. At the time of the audit, the Clerk's Office had not clearly identified staff responsibilities across all work units, such as in an organizational chart or other plan. For some responsibilities there appear to be specific identified work groups (e.g., records); however, that is not the case for other responsibilities (e.g., Form 700 compliance).

Although ultimately the City Clerk is responsible for all of the Office's activities, identifying discrete responsibilities among staff and work units is important to ensure that work continues to be completed in the face of turnover, the emergence of new priorities, or other issues that may arise. Things can be missed under such circumstances when roles and responsibilities are not clearly defined.

For example, when one staff member left the Clerk's Office in the fall of 2015, some of her duties were not picked up by other staff. One of those duties was the legal publication of ordinance titles and public hearing notices.⁵⁰ When this individual left, no ordinances were published for a number of months (more than 20 ordinances in total). As a result, when the issue was identified and corrected, final adoption of the ordinances by City Council occurred much later than otherwise should have. In a few cases, final adoption occurred two to three months after the Council initially passed the ordinance for publication.

In another example, in Finding I we noted concerns with board and commission members filing required Statements of Economic Interests (Form 700). Staff in the Clerk's Office had not been assigned to notify or follow up with board and commission members who had not filed. During the course of this audit, the Clerk's Office began notifying members who had not filed their required Statements of Economic Interests.

The City Clerk Should More Clearly Define Staff Roles and Work Units

The core of any organization is its people and the environment in which they operate. It is up to management to establish the structures, reporting lines, and responsibilities necessary to achieve organizational objectives. In many cases within the Clerk's Office, there does not appear to be clear lines of authority or identified leads accountable for ensuring that work is done.

⁵⁰ According to the City Charter, final adoption of ordinances by the City Council cannot occur until after publication in a newspaper of general circulation in the City.

Delegating responsibilities to staff leads can play a key role in ensuring that the City Clerk's statutory and assigned responsibilities are fulfilled. The Assistant City Clerk is the lead of the fiscal unit that provides administrative support to the Mayor and Council offices (i.e., budget spreadsheets, P-card approvals). However, staff leads and lines of authority are not identified for many of the other major functions. If a staff lead had been identified for the legislative services function, it is possible that the problem with ordinances not being published noted above could have been avoided.

The Clerk's Office maintains an *Employee Phone Number & Assignment List* on its intranet site; however, it does not accurately or completely describe work assignments. In some cases, work units or assignments listed do not align with work staff is currently undertaking. It also does not identify staff for some responsibilities (e.g., it notes that a Deputy City Clerk can accept service of legal documents or claims but does not identify which staff have been deputized).

The *Assignment List* identifies leads for some tasks (e.g., interns, front desk, web posting); however, these generally fall within larger functional areas (e.g., administration, legislative services). These also do not appear to align with the work to which these individuals are normally assigned. For example, "web posting" is generally related to legislative support services; however, the identified lead is an analyst in the fiscal unit who provides administrative support to Council offices. The "front desk" lead is a Senior Analyst whose other responsibilities are in the fiscal unit and elections.

Exhibit 7 shows the allocation of staff across the Clerk's Office's core services and functional areas by job classification based on our interviews and observations (Note: this allocation does not clearly align with the *Employee Phone Number & Assignment List*).

Exhibit 7: Distribution of Work by Job Classifications in the Clerk’s Office, May 2015

	City Clerk	Assistant City Clerk	Senior Analyst	Analyst II	Analyst II	Analyst II (vacant)	Staff Technician	Staff Technician	Staff Technician	Legislative Secretary	Legislative Secretary	Legislative Secretary	Legislative Secretary	Senior Account Clerk	Office Specialist
Administrative support to Mayor and Council Offices	X	X	X	X											X
Legislative Activities (e.g., agendas, Brown Act Board, minutes, synopses)	X							X	X	X	X				
Boards and Commissions	X		X										X		
Records (e.g., archiving, retrieving documents for public records requests)	X					X	X								
City contract processing	X			X											
Processing required Statements of Economic Interest and lobbyist forms	X			X									X		
Elections (including processing required candidate filings)	X	X	X												
Clerk’s Office administration (e.g., front desk, office budget, hiring)	X	X													X

Source: Auditor summary based on interviews, observations, and review of Budget documents and the Clerk’s Office’s Employee Phone Number & Assignment List

Recommendation #18: The City Clerk should clearly identify staff responsibilities and lines of authority in an organizational chart that also identifies staff leads for the Office’s primary responsibilities.

The Legislative Secretary Job Classification Should Be Updated to Reflect Current Job Duties

There are currently four legislative secretaries in the Clerk’s Office. The position of legislative secretary, along with the City Clerk and the Assistant City Clerk, is one of just three Clerk-specific job classifications in the City. According to the position’s job specifications, legislative secretaries are generally tasked with duties related to meetings of the City Council, such as preparing agendas, synopses and minutes, and other Council-related activities.

However, the legislative secretary job specifications, last updated in 1997, do not reflect the position’s current workload. For example, the job specifications include

activities that staff no longer performs, such as maintaining the Council meeting tape library and responding to requests for tape recordings. Conversely, current legislative secretaries perform other duties not included in the job specifications, such as working with the City's boards and commissions and the Statement of Economic Interests (Form 700) compliance process.

There also is no clear path for legislative secretaries to move up to more senior positions in the Clerk's Office. These more senior positions are found in the Analyst series and require a different skillset than those described in the legislative secretary job specifications. The job classification just below the Analyst series is staff technician. There are currently three staff technicians in the Clerk's Office, one of whom performs duties nearly identical to those of one of the legislative secretaries.

Other jurisdictions have more Clerk-specific job classifications within their organizations that provide opportunities for advancement. For example, in the City of Long Beach, there are Clerk Specialist, City Clerk Analyst, and Sr. City Clerk Analyst positions in addition to the City Clerk and Assistant City Clerk.

Recommendation #19: The City Clerk should work with the Human Resources Department to:

- a) **Update the Legislative Secretary job classification to reflect the current tasks and responsibilities of the position, and**
- b) **Review the job classifications within the City Clerk's Office to determine whether current positions should be reclassified or whether an additional Clerk-specific classification should be created that reflects additional duties and responsibilities beyond those of the Legislative Secretary position.**

The City Clerk Should Review Performance Measures on an Ongoing Basis to Assess Performance

The City Clerk reports multiple performance measures on an annual basis in the City's Adopted Operating Budget. These include:

- % of complete City Council Agenda packets available online 10 days prior to Council meeting
- Estimated cost to document and track legislative actions per Council meeting
- % of Public Records Act requests received and fulfilled by the Clerk's Office within 10 days of request

- % of City contracts that have all required documents after compliance check
- % of Council synopses completed and posted online within 3 business days after the Council meeting
- % of Resolutions/Ordinances posted online within 3 business days of receipt from the City Attorney's Office
- % of customers rating customer service experience with the Clerk's Office as good or excellent

Unfortunately, the Clerk's Office does not have established methodologies or systems in place to calculate its performance measures consistently. For example, although the Clerk's Office reported that an estimated 85 percent of Council synopses had been completed and posted online within three business days after the Council meeting in FY 2014-15, it currently does not track this activity. As described in Finding 1, we found several had not been posted within that timeframe.

The City Clerk also reports a number of activity and workload highlights, including:

- # of board/commission applications processed
- # of contracts processed
- # of grants processed
- # of Statement of Economic Interests/Family Gift Reports processed
- # of campaign filings processed
- # of lobbyist reports processed
- # of Ordinances and Resolutions processed
- # of Public Records Act requests processed

In some cases, such as *# of contracts processed*, the Clerk's Office maintains logs to track activity. In others, such as *# of Statement of Economic Interests/Family Gift Reports processed*, the Clerk's Office utilizes a database from which reports can be pulled that contain the relevant results. Finally, some results are based on manual counts (e.g., *# of Public Records Act requests processed*). As in any manual system, we found calculation errors in measures that rely on such manual counts.

The City Clerk has stated that she would like to begin reviewing performance measures on a frequent basis, which was not happening at the time of the audit. Comparing actual performance against planned or expected results by reviewing performance measures and indicators on an ongoing basis is important to ensure the office meets its statutory responsibilities. These reviews can help the City Clerk allocate staff resources, identify staff priorities, and address any areas where performance does not meet established targets.

Recommendation #20: The City Clerk's Office should:

- a) Develop consistent methodologies to track and calculate the performance measures for its statutory responsibilities that are reported in the City's Operating Budget,**
- b) Identify staff leads tasked with maintaining these performance measures and reporting them on a frequent basis to the City Clerk, and**
- c) Develop action plans to address areas where results do not meet established targets or expected results.**

This page was intentionally left blank

Conclusion

The City Clerk's Office is the City department that the City Council, other departments, and the general public rely on for information regarding the operations and legislative history of the City. The City Clerk is the local official who administers governmental and democratic processes such as conducting elections, providing access to official City records, and performing legislative functions that promote government transparency. The City Clerk also provides fiscal, human resources, and other administrative support to the Mayor's Office and Council Offices. Many of the City Clerk's specific responsibilities are guided by state laws and local laws, regulations, and policies. The objective of this audit was to examine the Office of the City Clerk's performance of its primary statutory responsibilities, as well as its administrative activities to support the Mayor's Office and Council Offices. This audit was conducted because of concerns expressed by the City Council's Rules and Open Government Committee about the quality of services provided by the City Clerk's Office—in particular, difficulties that Councilmembers and candidates for office have had in getting reliable, accurate information on issues ranging from election-related rules to office budgets.

RECOMMENDATIONS

Recommendation #1: To reduce duplication of effort across units, the City Clerk's Office should work with the City Manager's Office Agenda Services to fully implement the shared agenda workflow system and eliminate the maintenance of draft agendas outside of the system.

Recommendation #2: To increase the transparency of legislative actions taken, the City Clerk's Office should decrease the turnaround time to create and post action minutes. Specifically, the City Clerk should:

- a) Establish and document a more aggressive timeframe for approval of minutes by Council,
- b) Reconsider whether both Council meeting synopses and action minutes are still required, and
- c) Bring to the City Council recommendations to update the Open Government Resolution to reflect these changes.

Recommendation #3: To ensure records of City Council proceedings are posted timely, the City Clerk should utilize existing technology to streamline the approval and posting of synopses and/or minutes.

Recommendation #4: To help ensure members of boards and commissions, decision-making bodies, and other advisory entities comply with state and local regulations, the City Clerk's Office should develop and implement standard procedures to:

- a) Identify which entities are required to file Statements of Economic Interests, attend required ethics trainings (AB 1234), and sign the City's Code of Ethics;

Audit of the Office of the City Clerk

- b) Notify members of those entities of such requirements;
- c) Notify those in noncompliance of such requirements; and
- d) Monitor and report noncompliance to the responsible officials.

Recommendation #5: The City Clerk should develop and implement policies and procedures to:

- a) Monitor compliance with the Open Government Resolution requirements for public posting of agendas and minutes by Commission Secretaries or other responsible officials for the City's boards and commissions, decision-making bodies, and other advisory entities, and
- b) Report noncompliance to responsible officials.

Recommendation #6: The City Clerk's Office should work with the City Attorney's Office to finalize and implement the revised Consolidated Policy Governing Boards and Commissions (Council Policy 0-4), including language that clarifies the City Clerk's responsibility to:

- a) Coordinate the semi-annual trainings for new board and commission members, and
- b) Monitor member attendance and report noncompliance to the responsible officials.

Recommendation #7: To ensure the smooth implementation of the updated records management platform, the City Clerk should:

- a) Set clear roles, responsibilities, and expectations for records staff tasked with assisting the Information Technology Department in implementing the new system;
- b) Develop appropriate policies and procedures for the new system, including security protocols; and
- c) Determine which records will be made publicly accessible and/or searchable in accordance with the City's Open Data Policy and Language Access Policy (once it is finalized).

Recommendation #8: To better serve candidates navigating the City's complex elections process, the City Clerk, in consultation with the City Attorney's Office, should:

- a) Include in its candidate packet a clear listing of required state and local forms with form numbers and descriptions, and
- b) Immediately notify candidates of changes to the forms or other filing requirements that occur during the elections process and update the candidate packet accordingly.

Recommendation #9: To further discourage late campaign filings by candidates for local elective office, the City Clerk should work with the City Attorney's Office to draft an amendment to Title 12 delineating additional steps to address repeat violations of filing deadlines (e.g., referral to the Ethics Commission and/or the Fair Political Practices Commission, or some other public disclosure).

Recommendation #10: To improve compliance with Statement of Economic Interests (Form 700) filings, the City Clerk, as the City's filing officer, should:

- a) Work with the Human Resources and Information Technology Departments to develop PeopleSoft report(s) that more efficiently identify required filers and disseminate to departments for reference and/or verification as appropriate;
- b) In consultation with the Administration, clarify the roles and responsibilities of Clerk's Office and department staff in ensuring that required Form 700 filers are identified, entered into NetFile, and notified, and that they file; and
- c) Provide policies, procedures, and ongoing training to department Form 700 liaisons to ensure that the steps listed in (b) of this recommendation are completed.

Recommendation #11: To ensure the public can properly identify conflicts of interest among key financial decision makers in the City, the City Clerk should:

- a) Identify which Form 700s should have been made publicly accessible and post them to the City's public portal accordingly, and
- b) Create policies and procedures to ensure that applicable filings are posted to a public database timely and consistently each year.

Recommendation #12: To further the Lobbying Ordinance's goals of an ethical work environment and an open and transparent government, the City Clerk's Office should:

- a) Coordinate with the City Attorney's Office to develop and schedule trainings on the Lobbying Ordinance at least once every three years for elected officials and lobbyists as well as for newly elected City officials upon assuming office, and
- b) Update lobbyist training materials on the City Clerk's website.

Recommendation #13: The City Clerk's Office should develop policies and procedures for the collection of outstanding lobbyist and other fees, which should be approved by the Department of Finance and be in accordance with General Guidelines for Accounts Receivable / Revenue Collection (City Policy 5.3.6).

Recommendation #14: To ensure that the Clerk's Office provides accurate and reliable budget information to Mayor and Council Offices, the City Clerk should develop standard procedures for the preparation and review of Mayor and Council Office budget spreadsheets.

Recommendation #15: To improve customer service to the Mayor and Council, the City Clerk should define in the standard procedures for preparing budget spreadsheets (see recommendation #14) a specific timeframe for when they are to be prepared. Further, this timeframe should be communicated to Mayor and Council Offices.

Recommendation #16: To improve customer service to Mayor and Council Offices and provide guidance to staff, the City Clerk's Office should develop written procedures, including timeframes for when work is to be completed, related to:

- a) Compiling required documentation from Mayor and Council Offices for procurement card and travel expenditures,
- b) Approving Mayor and Council staff online timecards,
- c) Processing Mayor and Council contracts, including facility use agreements for Mayor and Council-sponsored events, and
- d) Other support services as necessary.

Recommendation #17: The City Clerk should coordinate with the City Attorney's Office and other City departments to provide annual trainings for Council Assistants and Chiefs of Staff on:

- a) The City Council Expenditure and Reimbursement Policy (0-38),
- b) City policies related to P-Card, travel, and other expenditures,
- c) Required filings such as the Statement of Economic Interests and Family Gift Reporting forms
- d) Hiring-related policies and guidelines,
- e) Legislative processes and regulations, and
- f) Other topics contained in the Survival Guide for Council Assistants.

Recommendation #18: The City Clerk should clearly identify staff responsibilities and lines of authority in an organizational chart that also identifies staff leads for the Office's primary responsibilities.

Recommendation #19: The City Clerk should work with the Human Resources Department to:

- a) Update the Legislative Secretary job classification to reflect the current tasks and responsibilities of the position, and
- b) Review the job classifications within the City Clerk's Office to determine whether current positions should be reclassified or whether an additional Clerk-specific classification should be created that reflects additional duties and responsibilities beyond those of the Legislative Secretary position.

Recommendation #20: The City Clerk's Office should:

- a) Develop consistent methodologies to track and calculate the performance measures for its statutory responsibilities that are reported in the City's Operating Budget,
- b) Identify staff leads tasked with maintaining these performance measures and reporting them on a frequent basis to the City Clerk, and
- c) Develop action plans to address areas where results do not meet established targets or expected results.

APPENDIX A

Matrix of Public Meeting Requirements From Open Government Resolution

Meeting Requirements	City Council	Council Committees	Decision-Making Bodies (Quasi-Judicial)	Boards, Committees, Commissions	Other Advisory Entities
1. Agenda Posting (Regular Meeting)	10 days; exceptions may be requested from Rules if within Brown Act; amended agendas allowed if within Brown Act	7 days in advance; 5 days for Rules	7 days** amended agendas allowed if within Brown Act	7 days	3 days
2. Staff Reports	10 days; exceptions may be requested from Rules or City Council if within Brown Act	7 days in advance; 5 days for Rules; exceptions may be requested from the Committee	7 days	7 days	No posting requirement
3. Cost Benefit of Public Subsidy (\$1M or More)	Info Memo 28 days; Staff Reports 10 days	7 days in advance; 5 days for Rules	NA	7 days	NA
4. Supplemental Staff Reports	Informational Anytime; Substantive Changes: Exceptions may be requested from Rules, or City Council if posted Thursday prior to meeting	Informational Anytime; Substantive Changes prior to 4 days: Committee may hear the item or defer it; but action should be deferred	When necessary, presented at the Evidentiary Hearing	Informational Anytime; Substantive Changes prior to 4 days: May hear the item or defer it; but action should be deferred	No posting requirement
5. Memos from Member(s) of the Body	More than 1 signature 72 hours Single signatures anytime but encouraged to be ≥ 72 hours	More than 1 signature 72 hours Single signatures anytime but encouraged to be ≥ 72 hours	NA	More than 1 signature 72 hours Single signatures anytime but encouraged to be ≥ 72 hours	No distribution deadline
6. Agenda Posting (Special Meeting, including Study Session)	4 days, unless 2/3 of the members determine that an issue must be resolved in less than 4 days, then no less than 24 hours	4 days, unless 2/3 of the members determine that an issue must be resolved in less than 4 days, then no less than 24 hours	4 days, unless 2/3 of the members determine that an issue must be resolved in less than 4 days, then no less than 24 hours	4 days, unless 2/3 of the members determine that an issue must be resolved in less than 4 days, then no less than 24 hours	24 hours
7. Recording	Video record and maintain for at least 2 years*	Video record and maintain for at least 2 years	Video record Planning Commission; audio record all others	Audio record and maintain for at least 2 years	May audio record but not required
8. Public Testimony	At Chair's discretion; May set reasonable limits	At Chair's discretion; May set reasonable limits	At Chair's discretion; May set reasonable limits	At Chair's discretion; May set reasonable limits	At Chair's discretion; May set reasonable limits
9. Minutes	Synopsis posted by next meeting; Action Minutes as soon as possible	Action Minutes posted 5 days before meeting at which Council will hear Committee's report; if not posted in time, report will be deferred	Action Minutes; Post within 10 days of holding meeting	Action Minutes; Post within 10 days of holding meeting	No requirement

Source: City of San José Open Government Resolution, 2014

* Except if Council Meeting is called to order for the sole purpose of either convening or reporting out on the results of a closed session.

** Not required to specify "Recommended Action" on agendas or list all documents of each item.

APPENDIX B
State and City of San José Candidate Filings – Elections 2016
(FOR DEMONSTRATION PURPOSES ONLY. NOT AN OFFICIAL DOCUMENT.)

Form	State/CSJ	Title	Who Files? / Description	Filing Deadline
410	State	Statement of Organization	Recipient committees: Persons (including an officeholder or candidate), organizations, groups, or other entities that raise contributions from others totaling \$2,000 or more in a calendar year to spend on California elections qualify as a recipient committee. <i>Original filed with California Secretary of State. \$50 payment made payable to Secretary of State should be included.</i>	Within 10 days of reaching \$2,000 threshold. <i>May be filed early.</i>
460	State	Consolidated Campaign Disclosure Form (Campaign Finance Statement)	Candidates, officeholders, and committees receiving contributions totaling \$2,000+ during a calendar year to support or oppose various candidates and measures	<i>For current elections cycle:</i> (Feb. 1, 2016) (April 28, 2016) (May 26, 2016) (June 6, 2016) (August 1, 2016)
470	State	Officeholder/Candidate Campaign Statement – Short Form	Officeholders and candidates who do not have a controlled committee, do not receive contributions totaling \$2,000 or more during the calendar year, and do not spend \$2,000 or more during the calendar year <i>If eligible, filed in lieu of Form 460.</i>	<i>For current elections cycle:</i> (April 28, 2016)
496	State	24-hour Independent Expenditure Report	Committees that make independent expenditures whose combined total is \$1,000 or more to support or oppose a single candidate for elective office, or a single ballot measure	Within 24 hours of making the expenditure during the 90 days immediately preceding the election
497	State	24-hour Contribution Report	State and local committees making or receiving contribution(s) whose combined total is \$1,000 or more in the 90 days before an election, committees reporting contributions of \$5,000 or more in connection with a state ballot measure, and state candidates as well as state ballot measure committees that receive \$5,000 or more at any time other than a 90-day election cycle	Within 24 hours of receiving or making contributions of \$1,000 or more. <i>Exception: Those who receive a late non-monetary or in-kind contribution must file Form 497 within 48 hours of the date the contribution was received.</i>
501	State	Candidate Intention Statement	A candidate for state or local office must file this form for each election, including reelection to the same office.	Before soliciting or receiving any contributions, or before making expenditures from personal funds on behalf of candidacy

Form	State/CSJ	Title	Who Files? / Description	Filing Deadline
502	CSJ	Personal Campaign Funds Declaration of Candidate	All City Council candidates must disclose the source of all personal funds deposited into his/her campaign bank account. If the source of the funds is a loan to the candidate, the name and address of the lender and the terms of the loan must also be disclosed.	On or before the date of the next pre-election statement (Form 460), which must be filed after the funds are deposited into the campaign bank account
503	CSJ	Declaration by Candidate or Committee Treasurer	All candidates and candidate controlled committees must file with the City Clerk a declaration by the candidate or treasurer of the candidate controlled committee that the candidate or candidate controlled committee has not accepted nor solicited, and will not accept nor solicit any campaign contribution in violation of the requirements and limitations set forth in Title 12, Part 2 of the San José Municipal Code.	<i>For current elections cycle:</i> (March 11, 2016)
465	State	No longer required as of 1/1/2016.		
495	State	No longer required as of 1/1/2016.		
500	CSJ	No longer applicable per amended Title 12 (amendment effective 12/18/15).		
<i>The below forms are also received by the Clerk's Office, but in more limited circumstances. Candidates may need to discuss their individual circumstances with the City Clerk or the City Attorney's Office to determine which forms must be completed.</i>				
461	State	Independent Expenditure Committee and Major Donor Committee Campaign Statement	(1) Major donors (make monetary/nonmonetary contributions to state/local officeholders/candidates/committees totaling \$10,000+ in a calendar year) (2) Individuals or entities making independent expenditures totaling \$1,000+ in a calendar year to support or oppose state/local candidates or ballot measures (3) Candidates and officeholders who use personal funds to make \$10,000+ contributions to local candidates, officeholders, and committees (including themselves), or \$1,000+ independent expenditures to support or oppose state/local candidates, officeholders, or ballot measures	<i>For current elections cycle:</i> (Feb. 1, 2016) (August 1, 2016)
462	State	Verification of Independent Expenditures	A committee's principal officer, or in the case of a controlled committee, the candidate, officeholder or state ballot measure proponent, must sign an independent expenditure verification, under penalty of perjury. The verification states that the independent expenditure(s) was not coordinated with the affected candidate or measure committee or their opponent and the committee reported all contributions and reimbursements.	Within 10 days from the date of an independent expenditure that totals, in the aggregate, \$1,000 or more in a calendar year to support or oppose a candidate or measure. <i>A candidate or measure is listed only once for each election.</i>

Form	State/CSJ	Title	Who Files? / Description	Filing Deadline
504	CSJ	Disclosure of Post Election Payment Agreements	Candidates and controlled committees with campaign-related agreements entered into by the candidate or controlled committee which provide for post-election payments. Such agreements include, but are not limited to, contingency payment or “bonus” payment plans offered by campaign consultants and agreements with persons who will receive compensation after the election for campaign services performed prior to the election.	After the agreement is entered into and on or before the filing date of the next pre-election statement (Form 460)
511	State	Paid Spokesperson Report	Committees that make expenditures totaling \$5,000 or more to an individual for his/her appearance in a printed, televised, or radio advertisement, or in a telephone message, to support or oppose the qualification, passage, or defeat of a state or local ballot measure	Within 10 days of making an eligible expenditure. <i>An expenditure is made on the date the payment is made or the date the services are received, if any, whichever is earlier.</i>

APPENDIX C

CITY OF ANAHEIM CANDIDATE FILINGS – ELECTIONS 2016

SECTION VII

Page 1

CAMPAIGN DISCLOSURE REQUIREMENTS

Information Manual 2 on Campaign Disclosure Provisions of the Political Reform Act provides comprehensive information relative to campaign reporting - please read it carefully. *(Included in this Section)*

This manual will explain the purposes and instructions for Forms 501, 410, 470 and 460 as well as many others.

Your Candidate Calendar indicates the date campaign disclosure statement forms must be filed with the City Clerk. *(Section I)*

The following forms identified below are required by the Political Reform Act:

WHAT: FORM 501 Candidate Intention Statement
WHY: Notifies interested persons that an individual intends to raise money to run for a specific office. **This form does not get a candidate's name on the ballot.**
WHEN: Must be filed prior to the solicitation or receipt of any campaign funds or use of any personal funds for campaign purposes.
WHERE: File with City Clerk

WHAT: FORM 410 Statement of Organization Recipient Committee
WHY: Statement required when a group or person has become a campaign committee. This is document used by committees to obtain a campaign identification number and to terminate the committee.
WHEN: Must be filed within 10 days of receiving \$1,000 or more. May be filed earlier. After Form 410 is filed, the Secretary of State will issue the identification number for your campaign committee.
WHERE: File original and one copy with Secretary of State's Political Reform Division, one copy with City Clerk.

CAMPAIGN DISCLOSURE REQUIREMENTS

WHAT: **FORM 470** Officeholders and Candidate Campaign Statement Short
WHY: This form used only by candidates who do not raise or spend \$1,000 or more. This statement is also used by an elected officeholder whose salary is \$200 or more per month provided the officeholder does not have an existing committee.
WHEN: Must be filed within 48 hours of receiving contributions totaling \$1,000 or more or expending \$1,000 or more.
WHERE: File with City Clerk

WHAT: **FORM 460** Officeholder, Candidate, and Controlled Committee Campaign Statement Long Form
WHY: This form is used at various times by candidates and committees that raise or spend \$1,000 or more.
WHEN: Please refer to Candidate Calendar filing schedule
WHERE: File with City Clerk

WHAT: **FORM 496** Late Independent Expenditure Report
WHY: The form advises voters when a committee has expended \$1,000 or more on a communication supporting or opposing a candidate or measure *AND* this communication is done entirely independent of the candidate or measure mentioned in the communication.
WHEN: Must be filed within 24 hours of making a late expenditure after August 6, 2014 until November 3, 2014.
WHERE: Must be filed via facsimile, telegram, guaranteed overnight delivery service, online or personal service to the City Clerk. **Regular mail may not be used.**

CAMPAIGN DISCLOSURE REQUIREMENTS

- WHAT :* **FORM 497** Late Contribution Report
- WHY:* Used during the final 16 days before an election. The form is used by committees to report when they have made a contribution of \$1,000 or more to a candidate or measure, and used by candidates or measures to report when they have received a contribution of \$1,000 or more.
- WHEN:* Must be filed within 24 hours of receiving or making a late contribution after August 6, 2014 until November 3, 2014.
- WHERE:* Must be filed via facsimile, telegram, guaranteed overnight delivery service, online or personal service to the City Clerk. **Regular mail may not be used.**

Candidates may need to discuss their individual circumstances with the City Clerk to determine which forms must be completed.

APPENDIX D

Staffing and Basic Requirements of Current Boards, Commissions, and Committees

The City of San José has approximately 30 boards, commissions, committees, decision-making bodies, and advisory entities. For those City boards and commissions, each has a Commission Secretary from the City Clerk's Office, City Manager's Office, or a department. The following table lists current boards, commissions, and committees and selected characteristics as listed in the City Clerk's *Board/Commission/Committee Roster* as of March 8, 2016.

City Boards, Commissions, and Committees On Clerk's Official Roster	Established*	Commission Secretary**	# of members	Code of Ethics Required? (Y/N)	Form 700 & FGR Required? (Y/N)	AB 1234 Required? (Y/N)
Airport Commission	SJMC	Airport	11	Y	Y	N
Appeals Hearing Board	SJMC	PBCE	7	Y	Y	Y
Arts Commission	SJMC	OED	11	Y	Y	N
Board of Admin. for Federated City Employees Retirement System	SJMC	Retirement	7	Y	Y	Y
Board of Admin. for Police and Fire Department Retirement Plan	SJMC	Retirement	9	Y	Y	Y
Civil Service Commission	Charter	Clerk	5	Y	Y	Y
Council Appointment Advisory Commission	SJMC	Clerk	11	Y	N	N
Council Salary Setting Commission	Charter	Clerk	5	Y	N	N
Deferred Compensation	SJMC	HR	7	Y	Y	Y
Downtown Parking Board	SJMC	DOT	7	Y	Y	N
Historic Landmarks Commission	SJMC	PBCE	7	Y	Y	N
Housing and Community Development Commission	SJMC	Housing	13	Y	Y	N
Human Services Commission	SJMC	CMO	13	Y	N	N
Library and Early Ed Commission	SJMC	Library	15	Y	N	N
Mayor's Gang Task Force	SJMC	Mayor's Office	Upon Mayor's discretion	Y	N	N
Neighborhood Commission	SJMC	CMO	20	Y	N	N
Parks and Recreation Commission	SJMC	PRNS	11	Y	N	N

City Boards, Commissions, and Committees On Clerk's Official Roster	Established*	Commission Secretary**	# of members	Code of Ethics Required? (Y/N)	Form 700 & FGR Required? (Y/N)	AB 1234 Required? (Y/N)
Planning Commission	Charter	PBCE	7	Y	Y	Y
San José Ethics Commission	Charter	Clerk	5	Y	Y	Y
Senior Citizens Commission	SJMC	PRNS	11	Y	N	N
work2future Board	Workforce Investment Act	OED	27	Y	Y	Y ¹
Youth Commission	SJMC	PRNS	11	Y	N	N

Other Decision-making and Advisory Entities Not Included in City Clerk's Roster

Bicycle Pedestrian Advisory Committee

Envision San José 2040 General Plan Update Task Force

San José Arena Authority (Established by Resolution #63318)

SARA - Oversight Board Successor Agency to the San José Redevelopment Agency

Treatment Plant Advisory Committee

Other advisory bodies TBD

Source: Auditor summary of City Clerk's Board Commission Committee Roster and City Clerk's website

* SJMC – San José Municipal Code; Charter – City Charter

**CMO – City Manager's Office; DOT – Department of Transportation; HR – Human Resources; OED – Office of Economic Development; PBCE – Planning, Building, and Code Enforcement; PRNS – Parks, Recreation and Neighborhood Services.

¹ The City Clerk updated its Board/Commission/Committee Roster in May 2016 to indicate that members of the work2future Board must satisfy AB 1234 (ethics training) requirements.



Memorandum

TO: Sharon Erickson
City Auditor

FROM: Toni J. Taber, CMC
City Clerk

SUBJECT: Response to the Audit
Office of the City Clerk

DATE: May 31, 2016

BACKGROUND

The City Clerk has reviewed the Office of the City Clerk audit and is in agreement with the recommendations identified in the report. The Audit addresses the many varied roles of the City Clerk's Office specific to its primary statutory responsibilities as well as its administrative duties to support the Mayor/Council offices.

Prior to 2010, the City Clerk's Office had a staffing level of 18, and many of those employees were long time (10+ years) employees of the Clerk's Office. After the economic downturn, many of the longtime employees retired, and employees from other departments were transferred in as their positions were eliminated. Additionally, higher level positions in the City Clerk's Office such as Administrative Manager and Program Manager were eliminated entirely, and other positions, such as Principal Office Specialist and Staff Specialist were downgraded to Office Specialist and Account Clerk. As such, the City Clerk's Office had to completely change how the office had operated for several years. Additionally, work that was not deemed a priority was often put to the side, such as filing, records destruction, lobbyist report reviews and other non-time sensitive duties. While starting in 2013, the City Clerk made strides to catch up on the backlog of work that had been put off, and began reorganizing the workload of the office to make up for the positions lost, we recognize that this is an ongoing process, and welcome the input of the Office of the City Auditor to help us be the most effective office we can be.

The following are the City Clerk's Office responses to each recommendation.

RECOMMENDATIONS AND CITY CLERK'S RESPONSE

Finding 1: The City Clerk Should Streamline Processes and Clarify Roles in Providing Support to the City's Legislative Bodies.

Recommendation #1: To reduce duplication of effort across units, the City Clerk's Office should work with the City Manager's Office Agenda Services to fully implement the shared agenda workflow system and eliminate the handoffs of draft agendas outside of the workflow system.

The City Clerk agrees with this recommendation, which is in progress. Streamlining processes should be a goal of every City department and is an ongoing effort. The City Clerk's office has made many strides in streamlining processes throughout its areas of responsibilities. In 2015, the City Clerk began implementation of the Granicus Legistar system in order to make agendas available electronically via iPads or other tablets for City Council and staff. This was only the

first step in implementing the system. At that time, we were taking the regular agenda, and manually converting it and uploading the items into Legistar. Later in 2015 and continuing into 2016, the City Clerk's Office and City Manager's Office has been working with the Granicus company and their programmers to create templates in the system to allow for agenda creation within the program. In April 2016, Granicus provided a week long training session to City Clerk's Office and City Manager's Office staff to further ready the system for use. We anticipate implementing the next phase late summer/autumn of 2016.

Recommendation #2: To increase the transparency of legislative actions taken, the City Clerk's Office should decrease the turnaround time to create and post action minutes. Specifically, the City Clerk should:

- a) **Establish and document a more aggressive timeframe for approval of minutes by Council,**
- b) **Reconsider whether both Council meeting synopses and action minutes are still required, and**
- c) **Bring to the City Council recommendations to update the Open Government Resolution to reflect these changes.**

Recommendation #3: To ensure records of City Council proceedings are posted timely, the City Clerk should utilize existing technology to streamline the approval and posting of synopses and/or minutes.

The City Clerk's Office agrees with these recommendations. There was no established turnaround time for minutes prior to 2013; therefore, there was a one year backlog on Minutes. Additionally, the reports from the Committees also had no consistent timeline for going to Council for approval. Once the City Clerk's Office eliminated the backlog, we established a timeline of three weeks for committee reports, and three months for City Council Minutes. We've kept to this timeline for the past two years. The City Council's Consolidated Open Government and Ethics Resolution No. 77135 establishes that the synopsis should be published prior to the next meeting, though our internal deadline was within three days. As part of the Granicus implementation mentioned under Recommendation #1, we have been working with them on their minutes software that is a part of the Legistar system. Having just gone through training, the City Clerk will begin testing the Minutes software after the July Council recess, and this may help reduce turnaround time. We do not anticipate significant reduction in turnaround time until the Legistar system is fully implemented. At this time, we may be able to eliminate the need for the Synopsis. Until we are able to have fully completed draft Minutes within one week or less of the council meeting, the Synopsis will still be needed.

Recommendation #4: To help ensure members of boards and commissions, decision-making bodies, and other advisory entities comply with state and local regulations, the City Clerk's Office should develop and implement standard procedures to:

- a) **Identify which entities are required to file Statements of Economic Interests, attend required ethics trainings (AB 1234), and sign the City's Code of Ethics;**
- b) **Notify members of those entities of such requirements;**
- c) **Notify those in noncompliance of such requirements; and**
- d) **Monitor and report noncompliance to the responsible officials.**

The City Clerk's Office agrees with this recommendation. At this time, we have a process drafted for the Statement of Economic Interests (Form 700), but as stated in the response under

Recommendation #10, we are revising the process. Currently, we manually compare the list of Form 700 filers from PeopleSoft and Netfile quarterly, and annually, we send the list of who we have to a liaison in each department. That liaison then checks to see if we have missing staff or if we have staff who have left the City. We then send email reminders beginning in February to all filers, with reminders every two weeks until the April 1 deadline. After April 1, we begin notifying non-filers. After two email notifications, we mail two hard copy notices to the non-filers. At the end of 120 days, non-filers are referred to the FPPC as required by State regulations. This process will be modified as we work with the department liaisons over the next few months.

Regarding the Code of Ethics, the process is included as part of the checklist for incoming employees and incoming Boards and Commissions members. The Code of Ethics is completed at the same time as the incoming paperwork.

While we have a process for AB1234, it has not been documented. Currently, the AB1234 tracking sheet is reviewed the first Monday of every month, and those who are non-compliant receive email notices with a copy going to the City Attorney's office, and any applicable board and commission secretary. As certificates of completion are filed, we record the training date and file the completion certificate. We will work with the City Attorney's office and board and commission secretaries on consequences for those who do not complete the training.

Recommendation #5: The City Clerk should develop and implement policies and procedures to:

- a) **Monitor compliance with the Open Government Resolution requirements for public posting of agendas and minutes by Commission Secretaries or other responsible officials for the City's boards and commissions, decision-making bodies, and other advisory entities, and**
- b) **Report noncompliance to responsible officials.**

The City Clerk agrees with this recommendation. Although the staff of the other Boards and Commissions are under the management of the City Manager's Office, the City Clerk's Office agrees that we are the appropriate body to verify the posting of agendas and minutes of the other Boards and Commissions. The City Clerk will need to assign a staff member and work with the City Manager's Office on how best to track and report those findings.

Recommendation #6: The City Clerk's Office should work with the City Attorney's Office to finalize and implement the revised *Consolidated Policy Governing Boards and Commissions* (Council Policy 0-4), including language that clarifies the City Clerk's responsibility to:

- a) **Coordinate the semi-annual trainings for new board and commission members, and**
- b) **Monitor member attendance and report noncompliance to the responsible officials.**

The City Clerk's office agrees with this recommendation. The City Clerk's Office has been working with the City Attorney's Office since Autumn 2013 on recommended changes to Council Policy 0-4. Over the past few years, the City Clerk and City Attorney have worked on several drafts of the revised Council Policy 0-4. A draft was presented to the Rules and Open Government Committee in August 2014. The Policy was sent out to Boards and Commissions and Boards and Commissions staff for their review and input, and numerous changes have been made based on current practice, current municipal code, Rules and Open Government Committee

input, and staff and commissioner input. The City Clerk and City Attorney are scheduled to bring this back to the full Council in June 2016.

Finding 2: The City Clerk Should Prioritize and Ensure the Smooth Implementation of an Updated Records Management System

Recommendation #7: To ensure the smooth implementation of the updated records management platform, the City Clerk should:

- a) **Set clear roles, responsibilities, and expectations for records staff tasked with assisting the Information Technology Department in implementing the new system;**
- b) **Develop appropriate policies and procedures for the new system, including security protocols; and**
- c) **Determine which records will be made publicly accessible and/or searchable in accordance with the City's Open Data Policy and Language Access Policy (once it is finalized).**

The City Clerk's office agrees with this recommendation. In 2013, the City Council approved the City Clerk's office to utilize leftover funds from FY 2012-13 towards the purchase of an Electronic Document Management System. An RFP was written and submitted to Information Technology Department and Purchasing. Upon further meetings with IT, and at their recommendation, the City Clerk's Office did not release the RFP, but rather worked with IT towards a scope of work to be included with a Citywide system utilizing Sharepoint. The City Clerk's Office has been continuously working with IT and the vendor that was selected in the Citywide project to create a more robust system for the City Clerk's Office within the parameters defined by IT. An effective information governance program is a serious matter; therefore, records staff have been attending training for professional records development through the Association of Records Managers and Administrators. Developing appropriate policies and procedures will be a top priority as the system is implemented. Ideally, the City Clerk's office believes a new position of Records Analyst would provide the necessary oversight (see Recommendation #19). The expected roll out date for the Sharepoint Public Access Portal is July 2017.

Finding 3: The City Clerk Should Improve Processes for Ensuring Compliance with State and Local Regulations on Elections and Ethics

Recommendation #8: To better serve candidates navigating the City's complex elections process, the City Clerk should, in consultation with the City Attorney's Office:

- a) **Include in its candidate packet a clear listing of required state and local forms with form numbers and descriptions, and**
- b) **Immediately notify candidates of changes to the forms or other filing requirements that occur during the elections process and update the candidate packet accordingly.**

The City Clerk's Office agrees with this recommendation. The City's Elections Calendar for the June 7, 2016 election has been updated to include the form numbers in order to make the filing deadlines more clear. Additionally, staff has notified all candidates of any changes to the City's Elections Calendar, City election forms, and candidate packets. We believe directing candidates to also check with the Secretary of State and Fair Political Practices Commission websites for further information is vital to ensure they have the complete information directly from those agencies who create the manuals and forms.

Recommendation #9: To further discourage late campaign filings by candidates for local elective office, the City Clerk should work with the City Attorney's Office to draft an amendment to Title 12 delineating additional steps to address repeat violations of filing deadlines (e.g., referral to the Ethics Commission and/or the Fair Political Practices Commission or some other public disclosure).

The City Clerk's office generally agrees with this recommendation. Because we have had very few instances of the willful avoidance of filing deadlines, we believe the steps to address violations of filing deadlines should be spelled out in a department level policy/procedure document. Therefore, we will work with the Ethics Commission and City Attorney's Office on the possibility of Title 12 amendments to address this.

Recommendation #10: To improve compliance with Statement of Economic Interests (Form 700) filings, the City Clerk, as the City's filing officer, should:

- a) **Work with the Human Resources and Information Technology Departments to develop PeopleSoft report(s) that more efficiently identify required filers and disseminate to departments for reference and/or verification as appropriate;**
- b) **In consultation with the Administration, clarify the roles and responsibilities of Clerk's Office and department staff in ensuring that required Form 700 filers are identified, entered into NetFile, and notified, and that they file; and**
- c) **Provide policies, procedures, and ongoing training to department Form 700 liaisons to ensure that the steps listed in (b) of this recommendation are completed.**

The City Clerk's Office agrees with this recommendation. Prior to 2010, the City Clerk's Office employed an analyst level employee managing the Form 700 program. Current staffing levels have not allowed us to have even a full time Staff Technician managing the Form 700 program, and the program has been split across multiple staff with the Assistant City Clerk supervising at one time. With over 2,000 filers, and filing deadlines occurring throughout the year for assuming office, leaving office and annual filers, and filers covering both employees, and consultants, the Form 700 program is a large amount of work. The current system requires the City Clerk staff to pull a report of all filers from PeopleSoft than manually match those names up with the list in Netfile. Because there is not the staffing to assign one person on Form 700 full time, the report is not run more than quarterly. Annually, Form 700 Department Liaisons are given the list of their department filers which requires them to go through dozens to hundreds of filers depending on the size of the department. In order to provide a solution that will impact all staff the least, the City Clerk's Office has contacted City Administration and staff to allow NetFile access to the Human Resource liaisons across the departments to enter new and leaving staff into the system at the time they prepare the transmemo document to input staff into PeopleSoft. We have an introduction meeting scheduled for June 2016 with training to begin in late summer. Full policies and procedures are drafted and will be ready when training begins. Additionally, the City Clerk's Office met with representatives from Human Resources and Information Technology regarding possible changes to the new PeopleSoft currently being implemented; however, at the time of the meeting, March 2016, changes could not be made to the new PeopleSoft programming. The solution of modifying the transmemo to allow hiring departments to select if their new employer is a filer was agreed to among all parties.

Recommendation #11: To ensure the public can properly identify conflicts of interest among key financial decision-makers in the City, the City Clerk should:

- a) **Identify which Form 700s should have been made publicly accessible and post them to the City's public portal accordingly, and**
- b) **Create policies and procedures to ensure that applicable filings are posted to a public database timely and consistently each year.**

The City Clerk agrees with this recommendation. Prior to 2011, many files were uploaded manually from paper-filing. None of those paper filings were redacted. Regulation 18756 of the FPPC, however, requires that all Form 700s are redacted of address, telephone number and signature block before it's made available on the internet. Therefore, in order to comply with this Regulation, we removed online access from all Form 700s. We then redacted all of the Councilmember Form 700s and reposted them online so they would be available to the public. We will create a written policy that identifies that filers required under Government Code 87200 are appropriately found on the public portal, and how quickly we can post those that are not filed electronically. Currently, any filed via the NetFile system are immediately available online. Additionally, the policy can also inform people how to request copies of Form 700s not found online.

Recommendation #12: To further the Lobbyist Ordinance's goals of an ethical work environment and an open and transparent government, the City Clerk's Office should:

- a) **Coordinate with the City Attorney's Office to develop and schedule trainings on the lobbyist ordinance at least once every three years for elected officials and lobbyists as well as for newly elected City officials upon assuming office, and**
- b) **Update lobbyist training materials on the City Clerk's website.**

The City Clerk agrees with this recommendation. The original lobbyist training material was developed in 2007 and posted to the website in 2007. As there have been no changes to the lobbyist ordinance, the training materials are still in effect. However, as we look towards changing the Lobbyist Ordinance and update the forms used to file reports, the training materials must be updated. The City Clerk's office will work with the City Attorney's office to develop new training materials and a program of scheduled trainings.

Recommendation #13: The City Clerk's Office should develop policies and procedures for the collection of outstanding lobbyist and other fees, which should be approved by the Department of Finance and be in accordance with *General Guidelines for Accounts Receivable / Revenue Collection* (City Policy 5.3.6).

The City Clerk agrees with this recommendation. As part of our Lobbyist "audit" which began in autumn 2015, we recognize a need to develop policies and procedures related to the collection of outstanding fees. While Lobbyist fees are the bulk of our fees, we also have copy fees, and fines related to campaign finance statements and Form 700s. Of the 89 documented policies and procedures, 71 were created after January 2013. We have been working to document all aspects of all parts of the City Clerk's office and will continue to write and revise policies and procedures.

Finding 4: The City Clerk Should Provide Better Customer Service to the Mayor and Council Offices

Recommendation #14: To ensure that the Clerk's Office provides accurate and reliable budget information to Mayor and Council Offices, the City Clerk should develop standard

procedures for the preparation and review of Mayor and Council Office budget spreadsheets.

Recommendation #15: To improve customer service to the Mayor and Council, the City Clerk should define in the standard procedures for preparing budget spreadsheets (see recommendation #14) a specific timeframe for when they are to be prepared. Further, this timeframe should be communicated to Mayor and Council Offices.

The City Clerk agrees with this recommendation. The City Clerk's office is pleased to note that our projected budgets were accurate within 1-3%. We do acknowledge that during the transition period in 2015 there were some complexities we were not expecting such as some employees working across departments, and we cannot view the pay rate and benefits of any of those employees not employed in the Mayor/Council offices. Additionally, we were not clear as to how long employees would be on loan to the Mayor/Council offices until the staffing of the offices was complete. The Fiscal unit has drafted standard procedures for budget spreadsheets, and is drafting a reasonable timeline. The Fiscal Unit was operating short one person from September 2015 to present as well. In June 2016, a new analyst will start in the City Clerk's Office Fiscal Unit bringing that unit back up to full staff.

Recommendation #16: To improve customer service to Mayor and Council Offices and provide guidance to staff, the City Clerk's Office should develop written procedures, including timeframes for when work is to be completed, related to:

- a) **Compiling required documentation from Mayor and Council Offices for procurement card and travel expenditures,**
- b) **Approving Mayor and Council staff online timecards,**
- c) **Processing Mayor and Council contracts, including facility use agreements for Mayor and Council-sponsored events, and**
- d) **Other support services as necessary.**

The City Clerk agrees with this recommendation. While we have written 71 new procedures since 2013, most are not related to the Fiscal Unit. Although we haven't documented the procedures, we have created several forms to assist the Council Offices such as improved special event memo template, travel memo templates, ticket/admission to events short cut handout, an improved intranet site with links to templates, guidelines, rules, etc . . . The Fiscal Unit is working on documenting more procedures so both City Clerk and City Council staff are in the same understanding. Additionally, as noted in our response to Recommendation #17, we will increase the amount of training offered to the Mayor/Council staff.

Recommendation #17: The City Clerk should coordinate with the City Attorney's Office and other City departments to provide annual trainings for Council Assistants and Chiefs of Staff on:

- a) **The City Council Expenditure and Reimbursement Policy (0-38),**
- b) **City policies related to P-Card, travel, and other expenditures,**
- c) **Required filings such as the Statement of Economic Interests and Family Gift Reporting forms,**
- d) **Hiring-related policies and guidelines,**
- e) **Legislative processes and regulations, and**
- f) **Other topics contained in the Survival Guide for Council Assistants.**

The City Clerk agrees with this recommendation. In January 2015, the City Clerk’s Office conducted a half-day training for incoming Councilmembers and staff. Additionally, we have provided one-on-one training with staff, “Survival Guide” training for Council Districts, and mini-training sessions. We will work with the City Attorney’s Office and other City departments to provide annual training for Council offices and provide a tracking system to show who has attended the training which we can report to the Councilmember.

Finding 5: The City Clerk Should Clarify Work Assignments and Monitor Performance of Statutory Responsibilities

Recommendation #18: The City Clerk should clearly identify staff responsibilities and lines of authority in an organizational chart that also identifies staff leads for the Office’s primary responsibilities.

The City Clerk agrees with this recommendation. We currently have a list of job duties and areas of responsibilities, and a basic organizational chart; however, due to the nature of working in a small office, having an accurate organization chart has been difficult to develop. For example, one employee works in the Fiscal Unit, as well as the Elections Unit and Legislative Unit. We agree that it’s important for staff to be clear as to what their duties and responsibilities are, and we will make sure we are explicit and clear.

Recommendation #19: The City Clerk should work with the Human Resources Department to:

- a) Update the Legislative Secretary job classification to reflect the current tasks and responsibilities of the position, and**
- b) Review the job classifications within the City Clerk’s Office to determine whether current positions should be reclassified or whether an additional Clerk-specific classification should be created that reflects additional duties and responsibilities beyond those of the Legislative Secretary position.**

The City Clerk agrees with this recommendation. It has been the opinion of the City Clerk’s Office that an “analyst” level legislative position is necessary to allow the legislative secretaries to promote, as well as to perform analyst level legislative work. As seen in the table below, past staffing of the City Clerk’s Office has had many more varied positions, and several positions have been either eliminated or downgraded during the economic downturn. Currently, a more effective use of a limited number of staff positions has allowed the office to utilize collective wisdom and improve work flow. The addition of the legislative analyst position will not only strengthen our workflow processes but allow professional growth opportunities to current staff while still maintaining institutional memory. Ideally, reclassifying one legislative Secretary to an Analyst level position and adding a Records Analyst would not only provide growth opportunities, but also assist the City Clerk’s Office with streamlining processes and keeping abreast of all statutory responsibilities.

	FY08-09	FY 15-16
City Clerk	1	1
Assistant City Clerk	1	1
Administrative Manager	1	0
Program Manager	1	0

Senior Analyst	0	1
Analyst I/II	4	3
Staff Technician	2	3
Legislative Secretary	5	4
Principal Office Specialist	1	0
Senior Account Clerk	0	1
Senior Office Specialist	1	0
Staff Specialist	1	0
Office Specialist II	0	1

Recommendation #20: The City Clerk’s Office should:

- a) Develop consistent methodologies to track and calculate the performance measures for its statutory responsibilities that are reported in the City’s Operating Budget,**
- b) Identify staff leads tasked with maintaining these performance measures and reporting them on a frequent basis to the City Clerk, and**
- c) Develop action plans to address areas where results do not meet established targets or expected results.**

The City Clerk agrees with this recommendation. The City Clerk’s Office has felt a need to assess its current performance measures and create new ones to fully and accurately measure the scope of work performed in the City Clerk’s office. Since 2013, the performance measures have been modified to better reflect the job duties and performance, but we have felt a need to reevaluate what is being measured, how it is being measured and how to address those results.