

Currently, there is a subsection in the Ordinance's "Findings" (section 2-90.2 (f)) that provides that it is not in the public's interest to have private communications occur between decision makers and a limited number of individuals and therefore at public meetings, cell phones and other electronic communications including email, text and instant messaging shall be turned off during public meetings. Staff felt and that this provision should not be in "findings" but placed in a substantive section. Thus a new Section 2.91.4(h) was drafted which reads as follows:

"The use of electronic communication devices, such as cell phones or I-pads, that are capable of sending or receiving e-mail, texts, instant messages, etc., during meetings may lead to the public's perception that a member is receiving information relative to the subject matter at hand that other members and the public are not receiving, which is inimical to good government and transparency. The use of electronic communication devices, other than for the purpose of a member's accessing agenda materials that are on a member's I-pad or lap top computer, shall be prohibited during meetings."

The Commission, however, felt that this subsection as drafted was too narrow and did not reflect today's technological reality that elected and appointed officials should be able to use their personal smart phones or iPads during a meeting to access information relevant to the subject matter then under discussion.

1. An official may want to access electronically a portion of the City's Municipal Code or other data on city website not on agenda.
2. View a google map satellite view of an area of the city that is proposed for development even though such portion is not part of the agenda materials.
3. Review historical information or relevant an issue

The Ordinance, both in its current form and as staff had revised it, would not allow that. The Commission recommended that the second sentence be deleted and replaced with **"The use of electronic communications devices, other than for the purpose of a member's accessing agenda materials that are on a member's I-pad or lap top computer or accessing information available on the internet, shall be prohibited during meetings."**

Staff continues to recommend the language as originally proposed, arguing that if the additional language recommended by the Commission were adopted, there would no longer be a bright line rule as to what is/is not permitted (THE COMMISSION LANGUAGE IS JUST AS BRIGHT AS THAT OF THE STAFF, CLEARLY STATING WHAT IS AND IS NOT PROHIBITED)

My personal view has changed, since voting for the broader language allowing agenda and internet viewing. I would prefer that members' use of their devices be allowed for any purpose other than sending or receiving communications. (note taking, drafting their statement of rationale for a vote, etc.) Also I would redraft subsection (h) to remove any reference to devices at all. The issue is not the devices but one of having private communications with others concerning city business during a public meeting. In this day and age the use of a computer type device during a meeting does not create an impression that one has been using it for some nefarious purpose. Councilmember Daysog always has his laptop in front of him. I doubt that it has ever crossed anyone's mind that he is having secret communications with third parties on city business during the meeting. My revised subsection (h) would read

In order to insure that all communications to members presented in a public meeting are shared with the public, members are prohibited from sending or receiving e-mails, texts, instant messages, etc., during the meeting that pertain to the business thereof.

*Provided by Acting Chair Foreman
at the 2-1-16 meeting
Re: 3-B*

In order to insure that all communications to members presented in a public meeting are shared with the public, members are prohibited from sending or receiving e-mails , texts, instant messages, etc., during the meeting that pertain to the business thereof. However, when acting in a quasi-judicial matter, the use of electronic devices is prohibited for any purpose except for accessing agenda materials or for matters unrelated to the item then under consideration.

2-91.4 Conduct of Business; Time and Place for Meetings; Use of Electronic Communication Devices.

(h) The use of electronic communication devices, such as cell phones or I-pads, that are capable of sending or receiving e-mail, texts, instant messages, etc., during meetings may lead to the public's perception that a member is receiving information relative to the subject matter at hand that other members and the public are not receiving, which is inimical to good government and transparency. In the context of purely legislative matters where the policy body is considering matters of general application, the use of electronic communication devices for sending or receiving e-mails, texts, instant messages, etc. is strongly discouraged. In the context of quasi-judicial matters, where the policy body is applying regulations to particular facts and all communications to and between members must be shared with each other and the public, the use of electronic devices, other than for the purpose of a member's accessing agenda materials that are on a member's I-pad or lap top computer, is prohibited during meetings. Notwithstanding the above, policy body members may use their electronic communication devices during meetings for purposes unrelated to the item then under consideration, such as referring to a calendar, using a calculator or communicating with a family member about an item unrelated to City business.

My suggested edit:

(h) The use of electronic communication devices, such as cell phones or I-pads, that are capable of sending or receiving e-mail, texts, instant messages, etc., during meetings may lead to the public's perception that a member is receiving information relative to the subject matter at hand that other members and the public are not receiving, which is inimical to good government and transparency. Therefore, communicating electronically with others during meetings is prohibited.

Provided by Commissioner Dieker
at the 2-1-16 meeting
Re: 3-B

"2-91.14 Video and Audio Recording, Filming and Still Photography.
(Subsections (a) and (b), no change.)

(c) Every City policy body, agency or department shall audio or video record every noticed regular meeting, special meeting, or hearing open to the public held in a City Hall hearing room that is equipped with audio or video recording facilities, except to the extent that such facilities may not be available for technical or other reasons. Where, due to the nature of the item or items under discussion, the City policy body, agency or department determines that it is in the best interest of the public to conduct its regular meeting, special meeting or hearing open to the public in or at a facility within the City but other than in a City Hall hearing room, such meeting or hearing will be audio and video recorded but the meeting or hearing may not be available via livestreaming. Each such audio or video recording shall be a public record subject to inspection pursuant to the California Public Records Act (Government Code Section 6250 et seq.), and shall not be erased or destroyed for at least ten years. When the meeting or hearing is held in a City Hall hearing room, tThe City shall make such audio or video recording available via livestreaming. , All audio and video recordings will be as well as archived in digital form at a centralized location on the City's website within seventy-two hours of the date of such meeting or hearing and for a period of at least ten years after the date of the meeting or hearing. Inspection of any such recording shall also be provided without charge on an appropriate play back device made available by the City. This subsection (c) shall not be construed to limit or in any way modify the duties created by any other provision of this article, including but not limited to the requirements for recording closed sessions as stated in Section 2-91.8 and for recording meetings of boards and commissions enumerated in the Charter as stated in subsection (b) above.

My edit:

c) Every City policy body, agency or department shall audio or video record every noticed regular meeting, special meeting, or hearing open to the public held in a City Hall hearing room ~~that is equipped with audio or video recording facilities~~, except to the extent that such facilities may not be available for technical or other reasons. Such meetings held outside city hall may not be available via livestreaming. All audio and video recordings will be archived indefinitely in digital form at a centralized location on the City's website within 72 hours of the date of such meeting or hearing ~~and for a period of at least ten years after the date of the meeting or hearing.~~ Each ~~such audio or video~~ recording shall be a public record subject to inspection pursuant to the California Public Records Act (Government Code Section 6250 et seq.), and shall not be erased or destroyed. Inspection of any such recording shall also be provided without charge on an appropriate play back device made available by the City. This subsection (c) shall not be construed to limit or in any way modify the duties created by any other provision of this article, including but not limited to the requirements for recording closed sessions as stated in Section 2-91.8 and for recording meetings of boards and commissions enumerated in the Charter as stated in subsection (b) above.