



## 2006-2007 SANTA CLARA COUNTY CIVIL GRAND JURY REPORT

# STATE OF THE MINUTES: AN INQUIRY INTO THE AVAILABILITY, TIMELINESS, AND RETENTION OF THE MINUTES OF THE SAN JOSE CITY COUNCIL

## Introduction

A complaint received by the Santa Clara County Civil Grand Jury (Grand Jury) on August 4, 2006, alleged that the current form of the Minutes of the San Jose City Council (City Council) lacks completeness, timeliness, and availability.

## Background

The complaint received by the Grand Jury alleged the following issues:

In August 2005, the City Council changed the type of official Minutes of City Council meetings from Summary Minutes to less complete Action Minutes. This change generated a complaint alleging that the lack of details in the Action Minutes resulted in a loss of accountability, historical value, and the public's right to complete information.

The Grand Jury found that although Action Minutes lack the information of Summary Minutes, there exist fully detailed alternatives. City Council meetings are locally televised. There are video and audio recordings made that contain the full details of each public meeting of the City Council. The video recording is available to the public, both from the Office of the City Clerk (City Clerk), on a compact disc, and on the City Clerk's website. The California Government Code authorizes municipalities to periodically purge these documents; however, there was a concern that essential information could be permanently lost. The City Clerk has developed a procedure for permanent retention of all vital information. This permanent retention procedure is described later in this report.

As of the date of the complaint, the City Clerk had not made available to either the City Council or the public, the official Minutes of City Council meetings for the previous ten months. Only unofficial synopses have been available. As a result, the official Minutes of all meetings for those ten months had not been approved by the City Council nor posted on the City Clerk's website for public viewing.

## Observations

City Clerks can employ one of three types of minutes: Verbatim Minutes, Summary Minutes, or Action Minutes. Verbatim Minutes are an exact, complete written account of what occurred at a meeting. Verbatim Minutes are usually too costly for legislative bodies to produce.

The traditional type of minutes recorded are known as Summary Minutes. Summary Minutes are similar to Verbatim Minutes in that they detail the kind of meeting, name of group, date and time of meeting, and participants. However, they do not provide a word-by-word account of the proceedings. They do provide an accurate summary of the proceedings, including a discussion of the topics, who said what, information presented, decisions made, and discussion of future actions. Motions made and votes tallied are recorded, along with the names and how they voted. Summary Minutes, while perhaps not as costly to produce as Verbatim Minutes, can be expensive and time consuming to produce.

The Minutes of the City Council meetings currently being recorded by the City Clerk's office are known as Action Minutes. Action Minutes are substantially less detailed than Summary Minutes. Action Minutes include the date, type of meeting, and the participants. They chronicle only the actions taken (i.e. consensus, motions, resolutions, ordinances, and summaries). They may or may not contain the names of the persons responsible for specific actions.

The City Council memorializes its meetings by audio recordings, video recordings, laptop computer, and handwritten notes taken by the City Clerk and staff. The company that does the closed captioning for the televised meeting also prepares an unofficial transcript of the video recording. Administrative needs and timeliness necessitate the City Clerk's preparation of a synopsis of the meeting. The synopsis reflects the action taken on each agenda item. The synopsis is prepared using the audio and video recordings, laptop computer notes, and handwritten notes. Synopses are usually available three days after a City Council meeting. Neither the transcripts nor the synopses are considered to be official documents and neither is approved by the City Council at subsequent meetings. Both the transcripts and the synopses are available to the public on the City Clerk's website.

Under California Government Code §§ 34090, 34090.5, and 34090.6, the video recordings, the audio recordings, the transcripts, and the synopses may be purged on a periodic basis. The City Clerk reports that, "Agendas, synopses, and meeting minutes are kept permanently, on paper and electronically. We also microfiche these records for vital storage off-site. The video files are stored indefinitely on a computer server and backed up on a regular basis."

A survey of seventy-four agencies in Santa Clara County, taken by the Grand Jury in September 2006, found that ninety-five percent are keeping approved minutes. The remaining five percent are keeping only a synopsis of the meetings. Ninety-five percent of these agencies make their minutes available to the public. Not all seventy-four agencies surveyed post their minutes on a website. The average time to produce their minutes for approval is nineteen days.

The issue of a ten-month backlog of unapproved, unavailable minutes was discussed with the City Clerk. In a letter to the Grand Jury, the City Clerk stated, "The Office of the City Clerk has been understaffed over the past year and there are currently two vacancies in the position of Legislative Secretary. Recording and preparing the minutes is the primary function of these critical positions."

The City responded to the City Clerk's request for additional personnel by authorizing the filling of two full-time positions and hiring one temporary employee. These personnel are assigned to rectifying the issues of the minutes backlog and to maintaining the currency of the official Minutes. As of mid-March 2007, the official City Council Minutes were still not current.

## **Conclusions**

The video recordings and printed transcripts of the City Council meetings answer the complainant's concern about the lack of detail available to the public.

The procedures the City Clerk has developed for the retention of the video recordings, printed transcripts, and synopses give the public the ability to access information detailing the decisions of the City Council.

The City Clerk has filled the personnel vacancies, which has resulted in substantial progress in resolving the backlog of official City Council Minutes. However, as of the beginning of April 2007, they are still not current.

## Appendix

### Survey of Minutes Record Keeping by Santa Clara County Government Agencies (October 11, 2006)

	<b>MINUTES RECORDED</b>	<b>AVAILABLE TO PUBLIC</b>	<b>TIME TO PUBLISH (days)</b>	<b>POSTED ON WEBSITE</b>
Santa Clara County Board of Supervisors	Yes	Yes	30	Yes
<b>CITIES</b>				
Campbell	Yes	Yes	14	Yes
Cupertino	Yes	Yes	8	Yes
Gilroy	Yes	Yes	14	Yes
Los Altos	Yes	Yes	14	Yes
Los Altos Hills	Yes	Yes	14	Yes
Los Gatos	Yes	Yes	14	Yes
Milpitas	Yes	Yes	10	Yes
Monte Sereno	Yes	Yes	14	Yes
Morgan Hill	Yes	Yes	14	Yes
Mountain View	Yes	Yes	28	Yes
Palo Alto	Yes	Yes	28	Yes
San Jose	Yes	Yes	28	Yes
Santa Clara	Yes	Yes	28	Yes
Saratoga	Yes	Yes	12	Yes
Sunnyvale	Yes	Yes	8	Yes
<b>SCHOOL DISTRICTS</b>				
Alum Rock Union	Yes	Yes	30	Yes
Berryessa Union	Yes	Yes	30	Yes
Cambrian	Yes	Yes	14	Yes
Campbell Union High	Yes	Yes	7	Yes
East Side Union High	Yes	Yes	30	Yes
Evergreen	Yes	Yes	30	No
Franklin-McKinley	Yes	Yes	7	Yes
Gilroy Unified	Yes	Yes	14	Yes
Lakeside Joint	Yes	Yes	7	Yes
Loma Prieta Joint Union	Yes	Yes	14	Yes
Los Altos	Yes	Yes	14	Yes
Los Gatos-Saratoga Joint Union	Yes	Yes	10	Yes
Los Gatos Unified	Yes	Yes	14	Yes

	<b>MINUTES RECORDED</b>	<b>AVAILABLE TO PUBLIC</b>	<b>TIME TO PUBLISH (days)</b>	<b>POSTED ON WEBSITE</b>
<b>SCHOOL DISTRICTS</b>				
Luther Burbank	Yes	Yes	30	No
Metropolitan Education	Yes	Yes	7	Yes
Milpitas Unified	Yes	Yes	14	Yes
Montebello	Yes	Yes	7	No
Moreland	Yes	Yes	7	Yes
Morgan Hill Unified	Yes	Yes	14	Yes
Mount Pleasant Elementary	Yes	Yes	14	Yes
Mountain View-Los Altos	Yes	Yes	30	Yes
Mountain View-Whisman	Yes	Yes	14	Yes
Oak Grove	Yes	Yes	14	Yes
Orchard	Yes	Yes	30	Yes
Palo Alto Unified	Yes	Yes	14	Yes
San Jose Unified	Yes	Yes	14	Yes
Santa Clara County Office of Education	Yes	Yes	14	Yes
Santa Clara Unified	Yes	Yes	14	No
Saratoga Union	Yes	Yes	14	Yes
Sunnyvale Union	Yes	Yes	14	No
Union	Yes	Yes	21	Yes
<b>SPECIAL DISTRICTS</b>				
Cupertino Sanitary	Yes	Yes	14	No
El Camino Hospital	Yes	Yes	21	Yes
LAFCO of Santa Clara Co.	Yes	Yes	60	Yes
Purissima Hills Water	Yes	Yes	n/a	No
Rancho Rinconada Recreation and Park	Yes	Yes	n/a	No
Santa Clara Valley Transportation Authority	Yes	Yes	21	Yes
Santa Clara County Open Space Authority	Yes	Yes	14	Yes
Santa Clara County Vector Control	Yes	Yes	30	No
Silicon Valley Animal Control Authority	Yes	Yes	60	No
South Santa Clara County Fire District	Yes	Yes	7	No

	<b>MINUTES RECORDED</b>	<b>AVAILABLE TO PUBLIC</b>	<b>TIME TO PUBLISH (days)</b>	<b>POSTED ON WEBSITE</b>
<b>COMMISSIONS CITY OF SAN JOSE</b>				
Arts	Yes	Yes	21	No
Civil Service	Yes	Yes	30	Yes
Council on Salary Setting	Yes	Yes	n/a	Yes
Disability Advisory	Yes	Yes	30	No
Early Care and Education	Synopsis	No	n/a	Yes
Elections	Yes	Yes	30	Yes
Historic Landmarks	Yes	Yes	30	Yes
Housing Advisor	Yes	Yes	30	Yes
Human Rights	Yes	Yes	10	Yes
Library	Synopsis	No	n/a	Yes
Mobile Home Advisory	Synopsis	No	n/a	No
Parks, Recreation, and Neighborhood Services	Yes	Yes	n/a	Yes
Planning	Yes	Yes	30	Yes
Senior Citizens	Yes	Yes	30	Yes
Small Business Development	Synopsis	No	n/a	Yes
Traffic Appeals	Yes	Yes	14	No
Youth	Yes	Yes	14	No

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## **Interview**

September 1, 2006

City of San Jose, Staff member, Office of City Clerk.

**PASSED** and **ADOPTED** by the Santa Clara County Civil Grand Jury on this 3<sup>rd</sup> day of April 2007.

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Ronald R. Layman  
Foreperson

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David M. Burnham  
Foreperson Pro tem

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Kathryn C. Philp  
Secretary