

SECTION 2



THE RALPH M. BROWN ACT: CALIFORNIA'S OPEN MEETING LAW



RALPH M. BROWN ACT

- Authored by Ralph Milton Brown
- Passed into law in 1953
- Intent: *"All meetings of a legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency..."* Section 54953(a)
- California Government Code Sections: 54950-54963



BROWN ACT: PURPOSE

- Ensures deliberations and actions are:
 - Open and accessible to the public
 - Held on regular schedule
 - Adhering to properly noticed agenda
- Facilitates public participation and access to all phases of decision-making
- Ensures public access to meeting documents and records



LEGISLATIVE BODY: DEFINED

- *“The governing body of a local agency or any other local body created by state or federal statute”*
- *“A commission, committee, board, or other body of a local agency, whether permanent or temporary, decision-making or advisory, created by charter, ordinance, resolution, or formal action of a legislative body”*
- Planning/Sponsor Groups are legislative bodies because they’re advisory and were created by a formal action of the Board of Supervisors



TYPES OF LEGISLATIVE BODIES

The Brown Act applies to the following:

Governing Bodies

- Board of Supervisors; City Councils; and School Boards

Appointed Bodies

- Planning Commission; Sponsor Groups

Standing Committees

- Planning Group Subcommittees; Budget Committees

New Members

- Unseated newly elected or appointed members



LEGISLATIVE BODY IS NOT

- Ad hoc advisory committees
- Groups advisory to a single decision-maker or appointed by staff that are not created by a legislative body's formal action
- Individual decision makers (PDS Director) not elected or appointed to a legislative body



MEETINGS: DEFINED

- *“Any congregation of a majority of the members of a legislative body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the legislative body or the local agency to which it pertains” Section 54952.2(a)*
- Any use of direct communication, personal intermediaries, or technological devices employed by a majority of the members to develop a **“collective concurrence”** is considered a meeting and is prohibited

Section 54952.2(b)



MEETING EXCEPTIONS

- Provided group business is not discussed:
 1. Individual Contact between a group member and a non-group member
 2. Conferences open to the public that involve a discussion of issues of general interest to the public
 3. Community Meetings held by another organization addressing a topic of community concern
 4. Social or Ceremonial Events in the community
 5. Other Legislative Bodies: Open and publicized meeting of (a) another body of the local agency or (b) a legislative body of another local agency
 6. Standing Committees: Members may attend subcommittee meeting as observers if they are not a members of the standing committee



COLLECTIVE CONCURRENCE

- Developing collective concurrence is prohibited
- When a majority of members are made aware of each other's views and reach a decision after interaction between or among themselves
- Ways of developing collective concurrence:
 - Taking straw polls
 - Series of emails or texts
 - Face to face/telephone conversations
 - Through intermediaries



SERIAL MEETINGS

- Serial meetings are prohibited
- Series of communications involving less than a quorum of members, but if taken as a whole involves a quorum for the purpose of developing a collective concurrence
- Serial meetings can occur through:
 - Face to face conversations
 - Telephone conversations
 - Email/Texts
 - Blogs/Facebook



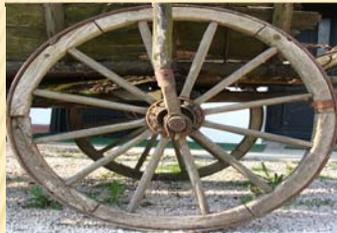
DAISY CHAIN SERIAL MEETINGS



- Member A contacts Member B
- Member B contacts Member C
- Member C contacts Member D
and
- So on, until a quorum has discussed, deliberated, or taken action on an item



HUB & SPOKE SERIAL MEETING



- Member A contacts Member B
- Member A contacts Member C
- Member A contacts Member D
and
- So on, until a quorum has discussed, deliberated, or taken action



MEETING LOCATIONS

- Must be fully accessible pursuant to the Americans with Disabilities Act
- May not discriminate on the base of race, religion, color, national origin, sex, ancestry, ethnic group identification, age, sexual orientation, etc...
- Generally, all group meetings must be held within the group's boundaries *Section 54954(b)*



COMPOSING MEETING AGENDAS

- Each agenda item must include:
 - Brief general description
 - Project location
 - Date, time, and place of meeting
 - Opportunity for public comments
- Agenda items should be heard based on their order in the posted agenda
- Continued Items – First on Agenda



POSTING AGENDAS

- Meeting agendas must be posted in a public place that is freely accessible 24 hours a day
- Must be posted 72 hours prior to a meeting
- Posting agendas online may supplement but not replace publicly-posted agendas
- When no quorum is present and a meeting is continued, a notice of adjournment must be posted at the meeting location
- Agendas must be available in alternative formats for persons with disabilities



REGULAR VS SPECIAL MEETINGS

- Regular Meetings are held at established dates, times, and locations
- Special Meetings are called to discuss specific topics or items
 - Notices are posted 24 hours prior to meeting
 - Notices shall specify business to be discussed
 - Notices are given to each requesting newspaper, television and radio station



ADDRESSING NON-AGENDA ITEMS

- Action or discussion of non-agenda items by planning or support groups is prohibited

For non-agenda items, Groups may:

- Ask a question for clarification
- Make a brief announcement
- Make a brief report on activities
- Provide a reference for factual information
- Ask to report back at a subsequent meeting
- Place the item on a future agenda



PUBLIC RIGHTS: ATTEND MEETINGS

- All group meetings are open to the public
- All members of the public may attend and observe all group meetings
- Members of the public cannot be required to register, provide other information, complete a questionnaire, or fulfill any other condition to attend a meeting
 - Any attendance list, register, questionnaire, or similar document must clearly state that they are voluntary



PUBLIC RIGHTS: PARTICIPATION

- Members of the public must be allowed to:
 - Speak on any item within group's purview
 - Speak on specific items either before or during group's consideration
 - Criticize policies, procedures, programs, or services of the County or your group
- If a person or group willfully disrupts a meeting such that orderly conduct becomes unfeasible, the meeting room may be cleared and the meeting continued with only the media present.



PUBLIC RIGHTS: RECORD MEETINGS

- The public is allowed to record meetings using audio or video tape recorders, as well as still or motion picture cameras
- Recording or broadcasting meetings cannot be prohibited or restricted unless a reasonable finding is made that the noise, illumination, or obstruction of view constitutes a persistent disruption of the proceedings
- Tape or film record of a meeting made by the County is subject to Public Records Act but may be erased or destroyed after 30 days



PUBLIC RIGHTS: ACCESS TO RECORDS

- Documents distributed to groups are public records and subject to the Public Records Act
- All written materials distributed during a meeting must be made public:
 - At the meeting if prepared by a local agency or a member of a legislative body; or
 - After the meeting if prepared by some other person
- Materials distributed less than 72 hours prior to a meeting must be available to the public at time of distribution



POTENTIAL CIVIL ACTIONS

- The District Attorney or others may file a civil action asking a court to:
 - Stop or prevent violations or threatened violations
 - Determine applicability of the Brown Act to actions or threatened future actions
 - Determine whether any rule or action is valid under the law
- Plaintiffs may seek court costs and attorney fees



CRIMINAL VIOLATIONS/PENALTIES

- You may be found guilty of a misdemeanor if:
 - You attend a meeting where action is taken in violation of the Brown Act

AND

- You intend to deprive the public of information that you know or have reason to know the public is entitled to

