



GOVERNMENT TRANSPARENCY TRAINING

Date: July 16, 2015

City of San Leandro Planning Commission

Presented by: Richard Pio Roda, City Attorney

Outline of Presentation

- Brown Act
- Introduction
- Meeting Requirements
- Notices and Agendas
- Public Participation
- Commission's Duties



GOVERNMENT TRANSPARENCY LAWS

The Ralph M. Brown Act



History of the Brown Act



- Authored by Ralph M. Brown, a Central Valley assemblyman, the Brown Act was passed in 1953. **Its purpose is to safeguard the public's right to access and participate in local government meetings within the state.**

Why do we care about the Brown Act?



- Compliance with the law ensures that interested members of the public can:
 - Understand the way in which decisions are made,
 - Participate in the process, and
 - Keep watch over government activity

How Does the Brown Act Achieve this Goal?

- Defining what is a Meeting
- Requiring Meetings be Public
- Requiring an Agenda
- Limiting Discussion and Action to what is on the Agenda
- Requiring Sufficient Public Notice
- Permitting Public Participation
- Providing Remedies for Violations



Consequences of Failing to Comply

- Violations of the Brown Act can result in significant penalties:
 - Nullification of a decision made in violation of the Brown Act's requirements,
 - Criminal penalties, and
 - A possible award of attorneys' fees to the party successfully bringing a Brown Act lawsuit.



Meetings

**“ALL MEETINGS
OF THE LEGISLATIVE BODY
OF THE LOCAL AGENCY
SHALL BE OPEN AND PUBLIC
AND ALL PERSONS SHALL BE
PERMITTED TO
ATTEND ANY MEETING EXCEPT
AS OTHERWISE PROVIDED”
(Gov. Code § 54953)**



What is a Meeting?

- “Any congregation of a majority of the members of a legislative body at the same time and location . . . to hear, discuss, or deliberate, or take action on any item that is within the subject matter jurisdiction of the legislative body.”



Exceptions

- Attendance at:
 - a conference open to the public
 - a community meeting
 - a social or ceremonial function
 - an open meeting of another public agency
 - an open meeting of the body's standing committees, as an observer

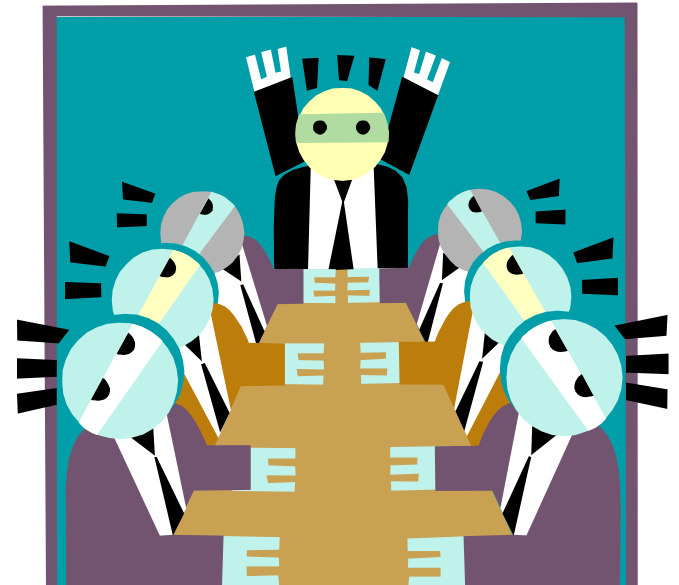
Meeting Rules

- No Required Sign-in
 - Voluntary sign-in permitted if sheet specifies it is voluntary
- Broadcasting, videotaping or photographs by the public must be permitted
- No secret ballots



Who Makes Up the Legislative Body?

- Local Governing Body
(ex: Board of Directors,
City Council), including
newly elected or
appointed members.
- City Council formed
Commission or
Committee
 - Permanent or temporary
 - Decision making or
advisory



Committees and the Brown Act

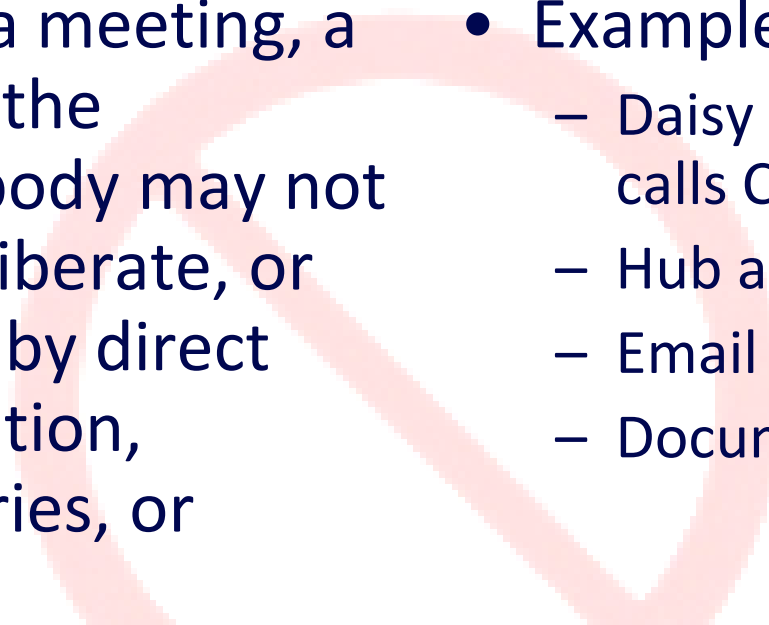
Standing Committees

- Ongoing or indefinite term
- Continuing subject matter jurisdiction, or, has a fixed meeting schedule set by the legislative body
- Subject to Brown Act notice and meeting requirements, even if comprised of less than a quorum

Ad Hoc

- A temporary advisory committee
- Composed solely of less than quorum
- Serves a limited or single purpose and must be dissolved on completion of its task
- Not subject to Brown Act notice and meeting requirements

Serial Meetings

- Outside of a meeting, a majority of the legislative body may not discuss, deliberate, or take action by direct communication, intermediaries, or technology
 - Examples:
 - Daisy Chain – A calls B; B calls C; etc.
 - Hub and Spoke
 - Email
 - Documents
- 

Meeting Agendas

- 72 hours advance posting for regular meetings; 24 hours for special meetings
- Alternate formats for disabled individuals
- Public comment period
- Brief description of each item – 20 words, unless complex
- Must inform public of scope of the intended plans – so they can decide whether to participate
- Must be posted at a location that is “freely accessible to members of the public”
- Posted on City website



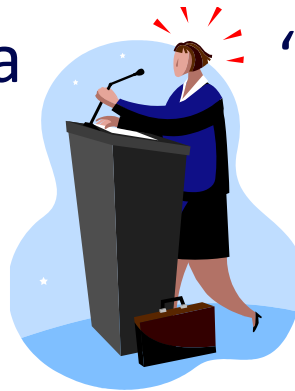
Documents Distributed Less than 72 Hours

- If distributed to majority of legislative body
- Must make available for public inspection at same time
 - At an office/location designated for this purpose
 - Agenda must contain location information
 - May also post on internet Government Code §54957.5(b)



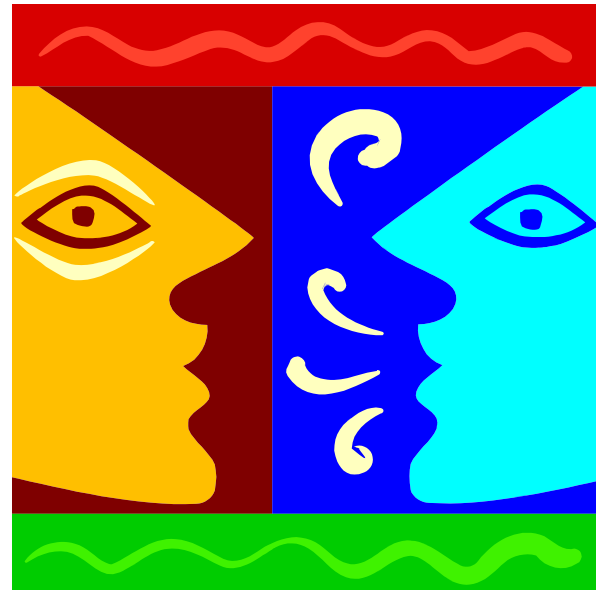
Public Right to Comment

- Regular meeting – any matter within body’s subject matter jurisdiction or listed on agenda
- Special meeting – can be limited to agenda items only
- Comment opportunity occurs either before or during consideration by the legislative body, but before action by body
- May not limit “negative” comments



Keep Discussion to Agenda Topics

- No discussion or decision on items not on the posted agenda



Item Not on Posted Agenda?

Exceptions

- Brief response to comments/questions from public
- Clarification/reference to staff
- Brief announcements/report on activities
- Requests for future report
- Placement of items on future agenda
- Urgency items

Closed Sessions

- Real estate negotiations
- Pending or potential litigation
- Certain personnel matters
- Labor negotiations
- Public security
- “Safe harbor” agenda item language
- Announcements of reportable actions in open session



Duties & Responsibilities of the Planning Commission

- Planning Commissions are actually products of State law
 - California Government Code section 65100 *et seq.* & 65103
 - *Prepare, periodically review, and revise, as necessary, the general plan.*
 - *Implement the general plan through actions including, but not limited to, the administration of specific plans and zoning and subdivision ordinances.*
 - *Annually review the capital improvement program of the city or county and the local public works projects of other local agencies for their consistency with the general plan, pursuant to Article 7 (commencing with Section 65400).*
 - *Endeavor to promote public interest in, comment on, and understanding of the general plan, and regulations relating to it.*
 - *Consult and advise with public officials and agencies, public utility companies, civic, educational, professional, and other organizations, and citizens generally concerning implementation of the general plan.*
 - *Promote the coordination of local plans and programs with the plans and programs of other public agencies.*

Duties & Responsibilities of the Planning Commission

San Leandro Municipal Code 1-3-1000 *et seq.*

- Hear and recommend to the CC on proposals to adopt, amend or repeal a general plan
- Exercise functions with respect to land subdivisions, planning, zoning, future right-of-way, traffic circulation
- Exercise powers conferred by statute

Questions or Comments

- Questions: Contact your staff liaison
- City Attorney's Office: 510.577.3361
- rpioroda@meyersnave.com
- Kit@meyersnave.com
- kkokotaylo@meyersnave.com

THANK YOU FOR YOUR SERVICE!!!