



## TRANSPORTATION BOARD BROWN ACT and DUTIES TRAINING

City Attorney's Office

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# BROWN ACT



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## BROWN ACT

- "...the Legislature finds and declares that the public commissions, boards and councils and other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly."



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## BROWN ACT – Basic Principles

- All meetings of the legislative body of a local agency shall be open and public
- All persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided by law.



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## **BROWN ACT**

### **Who it applies to**

- City council meetings.
- Commissions, Committees and Boards.
- Entities created by a City Council or over which a City Council retains authority.



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## **BROWN ACT**

### **Requirements**

- The Brown Act creates certain minimum procedural requirements for conducting meetings.
- One of these rules requires this Board to adopt rules as to the conduct of business of the Board.



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## MEETINGS

- What is a “meeting”?
  - includes any congregation of a majority of the members of the Board at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter of the Board.



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## MEETINGS

- Except as part of an open and noticed meeting, the Brown Act prohibits any use of direct communication, by personal intermediaries, or technological devices by a majority of the Board to develop a collective concurrence as to action to be taken on an item.
- A majority of the Board ***may not e-mail each other to develop a collective concurrence*** as to action to be taken by the Board.



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## SERIAL MEETINGS

- A serial meeting is a series of communications, each of which involves less than a quorum of the Board, but which taken as a whole involves a majority of the Boards' members.
- Does not require a collective concurrence to occur in order for there to be a violation.



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## SERIAL MEETINGS cont.

- City staff is allowed to engage in separate communications outside of a public meeting with Board members in order to answer questions or provide information regarding a matter that is within the subject matter of the Board
  - City staff cannot communicate to members of the Board the comments or position of any other member or members.



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## PUBLIC SPEECH

- The public has a right to address the legislative body or board at any meeting on any subject that is within the Board's subject matter jurisdiction.



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## PROCEDURES WHICH REGULATE PUBLIC SPEECH

The Board:

1. May impose reasonable restrictions upon public comment at meetings so long as such restrictions are not too broad and do not constitute "prior restraints."
2. May prohibit a member of the public from speaking on a matter not within the Board's subject matter jurisdiction or from addressing their comments to one member rather than the Board as a whole.



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## PROCEDURES WHICH REGULATE PUBLIC SPEECH

3. May require members of the public wishing to address the Board to fill out a speaker's card.
  - The ***public cannot be required to give names or sign a register as a condition of attendance.***
  - Many cities do ask for names and addresses during oral communications in order facilitate staff responses or the preparation of minutes. This practice is certainly allowable if it is identified as being ***voluntary.***



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## PROCEDURES WHICH REGULATE PUBLIC SPEECH

4. May regulate the total amount of time on particular issues and for each individual speaker, subject to the requirements of due process.
  - Time limits of 3 – 5 minutes are most common.
  - The ***chair is responsible for enforcing the time limit*** and depending on the board or commission may also monitor the time.



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## AGENDA REQUIREMENTS AND OTHER PROCEDURAL ISSUES

- The agenda must specify the time and location of the meeting and a “brief general description” of each item of business to be transacted or discussed.
- If a matter is not on the agenda, it ***may not be discussed*** or acted upon.



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## EXCEPTIONS

- Brief responses by members of the legislative body and staff to statements or questions posed by the public.
- Questions for clarification.
- References to staff or other resources for factual information.
- Requests to staff to report back on an issue at a subsequent meeting.
- Requests to agendize a matter of business for some future meeting.
- Brief announcement by members of the body or staff and brief reports on their activities.



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## SUNSHINE ORDINANCE

- The Sunshine Ordinance was adopted October 6, 2015. It can be found in Title 4 of the Riverside Municipal Code.
  - It is applicable to the City Council, City Council Standing Committees, and all Boards and Commission.
  - It requires posting a copy or image of the agenda and all reports and presentations in a location freely accessible to the public no later than 12 days before the date of the meeting.



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## BOARD AND COMMISSION MEMBER DUTIES



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## DUTIES

- Make recommendations to City Council
  - Examine the facts
  - Gather information
  - Resolve potential conflicts
- Hold yourselves to the highest ethical standards



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## DUTIES

- Respect for Others
  - Treat fellow officials, staff and the public with courtesy
  - Focus on the merits in discussion
  - Listen carefully and ask questions that add value to the discussions
  - Never debate an issue with an applicant or a member of the public



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## DUTIES

- Responsibility
  - Come to meetings prepared
  - Refrain from an action that might appear to compromise your independent judgment
  - Consider the City's vision when acting on a proposal



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## TRANSPORTATION BOARD POWERS, DUTIES & FUNCTIONS - RMC 2.62.030

The Transportation Board shall act in an advisory capacity to the City Council in matters pertaining to:

- A. Advise the City Council with respect to on-street and off-street parking of vehicles.
- B. Advise the City Council with respect to the regulation of traffic on city streets.
- C. Annually review Public Works Department-proposed Capital Improvements Projects, including traffic signal construction and make recommendations to the City Council.
- D. Review proposed amendments to the Circulation and Community Mobility Element of the General Plan and make recommendations to the Planning Commission and the City Council.
- E. Annually review the City's Traffic Signal Synchronization Master Plan and make recommendations to the City Council.
- F. Explore neighborhood traffic calming alternatives and make recommendations to the City Council.
- G. Review speed limits, major road closures, grade crossings and other traffic operation and circulation matters and make recommendations to the City Council, when requested.
- H. Perform other functions and duties as may be directed by the City Manager or any member of the City Council.



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## Meeting Procedures

- Respect the Chair at all times
- Chair identifies the item to be discussed
- Staff makes their presentation
- Public is invited to speak
- Board members ask questions of staff
- Deliberations
- Adding conditions - Advisory
- Motion made



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## QUORUM AND MOTIONS

- A majority of the Board constitutes a quorum for the transaction of business.
- Types of Main Motions
  - Regular
  - Substitute
  - Call the Question
  - Limit the Debate
- Abstention



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## PUBLIC RECORDS ACT

- “access to information concerning the conduct of the people’s business is a fundamental and necessary right of every person in this state”
- “public record,” is:
  - (1) a writing;
  - (2) with content relating to the conduct of the public’s business;
  - (3) prepared by or owned, used or retained by any state or local agency.



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## PUBLIC RECORDS ACT

- Writings contained in **personal email or text messages** may be subject to the Public Records Act
  - When relate in some substantive way to the conduct of the public’s business.
- This standard is broad
- Communications that are primarily personal, containing no more than incidental mentions of agency business, generally will not constitute public records.



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## CONCLUSION

- Thank you!
- Any questions, please call me at 826-5567

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