



# **CPRC DUTIES, BROWN ACT, AND ETHICS TRAINING**

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**City Attorney's Office**

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RiversideCa.gov

# BROWN ACT



# 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**."



# BROWN ACT

- All meetings
- open & public to all persons
- **except** as otherwise provided by law



# 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.
- **Subcommittees** – this includes **standing** subcommittees, but **not *ad hoc*** subcommittees



## BROWN ACT Requirements

- The Brown Act sets minimum procedural requirements for conducting meetings.
- One of these rules requires this Commission and its subcommittees to adopt rules as to the conduct of business of the Commission, which includes the time and place for holding regular meetings.



## MEETINGS

Any congregation of a majority of the members of the Commission or subcommittee at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter of the Commission or subcommittee.



# 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 Commission or subcommittee to develop a "collective concurrence" as to action to be taken on an item.





# MEETING EXCEPTIONS

**ONLY IF** group business is **not** discussed:

- Individual contact between a group member and a non-group member
- Conferences open to the public that involve a discussion of issues of general interest to the public
- Community meetings held by another organization addressing a topic of community concern



# MEETING EXCEPTIONS

- Social or Ceremonial Events in the community
- Other Legislative Bodies: Open and publicized meeting of (a) another body of the local agency or (b) a legislative body of another local agency
- Standing Committees: Members may attend subcommittee meeting as observers if they are not members of the standing committee



# 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



# SERIAL MEETINGS

- Serial meetings are prohibited.
  - A serial meeting is a series of communications, each of which involves less than a quorum of the Commission or subcommittee, but which taken as a whole involves a majority of the members.
- A violation can happen without a collective concurrence.



## SERIAL MEETINGS

City staff can:

- **answer questions or provide information**
- matter within the subject matter of the Commission or subcommittee

City staff cannot:

- communicate to members of the Commission or subcommittee the comments or position of any other member or members.



# PUBLIC SPEECH

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



# REGULATING PUBLIC SPEECH

The Commission:

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 Commission's subject matter jurisdiction or from addressing their comments to one member rather than the Commission as a whole.



## REGULATING PUBLIC SPEECH

3. May ask members of the public 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 clearly stated as being **voluntary**.





## REGULATING 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.



# AGENDA

- 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.
- Additional requirements apply for closed session, as discussed separately.



# EXCEPTIONS

- Brief responses by members of the legislative body and staff to statements or questions posed by the public.
- Questions for clarification. No discussion!
- Referral 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.



## BROWN ACT NOTICE REQUIREMENTS

- 72 hours notice for regular meetings
- 24 hours notice for special meetings



# SUNSHINE ORDINANCE

- The Sunshine Ordinance can be found in Title 4 of the Riverside Municipal Code.
  - applicable to the City Council, City Council Standing Committees, and **all** Boards and Commissions, including its standing committees, and
  - 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.



## EXCEPTIONS

- Must take immediate action on an item to avoid a substantial impact that would occur if the matter is deferred.
- The matter is an emergency to avoid a work stoppage, crippling disaster, **or** other activity exists which severely impairs public health, safety, or both.
- See RMC 4.05.050(C) for additional exceptions.

# EXCEPTIONS

In order to act on a matter outside the Sunshine Ordinance, the local body adopts a motion, by a 2/3 vote of the members present, determining that, upon consideration of the facts and circumstances, it was not reasonably possible to meet the additional notice requirements.



## SUPPLEMENTING THE AGENDA

- No later than 72 hours before a regular meeting & **only if** it is to:
  - Add item due to an emergency
  - Delete item from the agenda
  - Provide additional information or materials **not known** to staff or deemed relevant at the time of original publication
  - Correct errors or omission, or change a stated financial amount
  - Continue item to a future agenda





# QUORUM AND MOTIONS

- A majority of the Commission constitutes a quorum for the transaction of business.
- Types of Main Motions
  - Regular
  - Substitute
  - Call the Question
  - Limit the Debate
- Vote: yea, nay, or abstention



## CLOSED SESSION

- General rule: all meetings must be noticed & conducted openly & publicly, unless law authorizes
- Purpose of closed session:
  - To avoid revealing confidential information which may compromise the privacy interests and rights of employees
  - To allow full and candid discussion by the legislative body



# CLOSED SESSION

- Limitation: **only** for allowable issues
  - Exceptions applicable to CPRC:
    - Performance evaluation, discipline, dismissal, or release of a specific public employee
      - Govt C § 54954.5(e) and 54957(b)
    - To hear complaints or charges brought against the employee by another person or employee
      - Govt C § 54957(b)



# CLOSED SESSION

- Preceded by public agenda
- Public comment before closed session
- Before going to closed session, an oral announcement must be made as to which items will be considered

## CLOSED SESSION

- Only the matter noticed for closed session may be discussed in closed session.
- General topics within the CPRC's purview must be agendized and discussed in open session.

# CLOSED SESSION

For performance evaluation of a specific public employee:

- Notice should state the position or the title of the employee being reviewed



## CLOSED SESSION

For complaints or charges brought against the employee by another person or employee:

- Employee must be given at least 24 hours' written notice of any closed session convened to hear specific complaints or charges against him/her, **and**
- Employee must be given the option to have the matter heard in open session.



# CLOSED SESSION

- Who may attend closed session?

Limited to those with an official role in the meeting and actually necessary to advise or take direction from the body.



## CLOSED SESSION

- Third parties who are not agents of the governing body may not attend closed session.
- Except:
  - Witnesses are permitted into closed session to give evidence during a closed session convened to hear charges or complaints against an employee

# CLOSED SESSION

- Confidentiality
  - Officials have a fiduciary duty to (MUST) protect the confidentiality of closed sessions discussions and any information disclosed therein
  - Possible sanctions for improper disclosure



# VIOLATIONS

Possible sanctions for improper disclosure include:

- Civil injunction to prevent disclosure
- Civil injunction barring attendance at future closed sessions
- Civil injunction against future public disclosures
- Formal accusation filed against member for willful or corrupt misconduct in office

Plaintiffs may seek court costs & attorneys' fees



# VIOLATIONS

Possible criminal penalties:

You may be found guilty of a misdemeanor if:

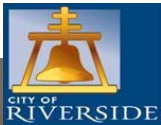
- You attend a meeting where action is taken in violation of the Brown Act

**AND**

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



# CODE OF ETHICS AND CONDUCT



## CODE OF ETHICS AND CONDUCT

- A 2004 City Charter revision added requirement that the City adopt a Code of Ethics.
- In 2005, City Council adopted a Resolution establishing the Code of Ethics and Conduct.
- On April 5, 2016, City Council created a new Code of Ethics in the Riverside Municipal Code, Chapter 2.78.010.



## WHO DOES IT APPLY TO?

- Mayor, members of the City Council, all members of the boards, commissions, and committees appointed by the City Council/Mayor, **including any *ad hoc*** committees.
- Mayor and members of the City Council **at all times during their term** of office as elected officials of the City.
- members of the boards, commissions, and committees **while acting in official capacities** or affecting the discharge of their duties.



## PURPOSE

- To achieve fair, ethical, and accountable local government for the City.
- Public officials are expected to comply with the provisions of the Code of Ethics and Conduct established pursuant to the expressed will of the people.





# PURPOSE

Divided into two areas:

- Core Values
- Prohibited Conduct

# CORE VALUES

- To strive to create a government that is trusted by everyone.
- To strive to make decisions that are unbiased, fair, and honest.
- To strive to ensure that everyone is treated with respect and in a just and fair manner.
- To strive to create a community that affirms the value of diversity.
- To strive to ensure that all public decisions are well informed, independent, and in the best interests of the City.
- To strive to maintain a nonpartisan and civic minded local government.
- To strive to ensure that all public officials are adequately prepared for the duties of their office.
- To strive to ensure that appointed members of boards, commissions and committees attend regularly scheduled meetings.



# PROHIBITED CONDUCT

- Use of official title or position for personal gain.
- Use or divulgence of confidential or privileged information.
- Use of City resources for non-city purposes.
- Advocacy of private interest of third parties in certain circumstances.
- Endorsements for compensation.
- Violation of Government Code sections 87100 *et. seq.*
- Certain political activity.
- Display of campaign materials in or on City vehicles.
- Knowingly assisting another public official in violating Code of Ethics and Conduct.
- Negotiation for employment with any party having a matter pending.
- Ex parte contact in quasi-judicial matters.
- Attempts to coerce official duties.
- Violations of federal, state, or local law.



# COMPLAINT PROCEDURES

- Only Prohibited Conduct violations shall be grounds for a complaint against any public official.
- Complaints are submitted on forms available from the City Clerk alleging the specific conduct.
- Complaints and all required information and tangible evidence shall be filed with the City Clerk.
- Complaints acted on by the Board of Ethics.



# APPEAL PROCEDURES

- A decision by the hearing panel finding a violation of the Prohibited Conduct section shall be automatically appealed to the City Council for final resolution.
- A decision of no violation may be appealed by either party.

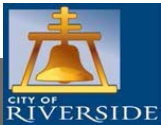


# SANCTIONS

- The City Council may imposed any of the following sanctions:
  - A. Elected Officials.
    - 1. Public censure.
  - B. Appointed officials of Boards, Commissions and Committees.
    - 1. Referral to the Board, Commission or Committee of which the appointed official is a member for public censure;
    - 2. Public Censure by the Mayor and City Council; or
    - 3. Removal from office by a majority of the Mayor and City Council.



# BOARD AND COMMISSION MEMBER DUTIES



# DUTIES

- Charter § 810
  - a) Advise the Mayor and City Council on all issues concerning police-community relations
  - b) Conduct public outreach to educate the community on the purpose of the commission
  - c) Receive and – in CPRC's **discretion** – review and investigate **written** citizen complaints against officers if filed within 6 months of alleged misconduct.





# DUTIES

- Charter § 810
  - d) Review and investigate the death of any individual arising out of or in connection with actions of a police officer, regardless of whether a complaint regarding such death has been filed.
  - e) Conduct a hearing on filed complaints or commission-initiated investigations when – in the CPRC's **discretion** – the hearing will facilitate the fact finding process.



# DUTIES

- Charter § 810
  - f) Power of subpoena given by City Council to
    - Compel attendance of witnesses, including City employees
    - Production of documents pertinent to the investigation
    - Administer oaths to such witnesses and to take testimony to the extent allowed by law

NOTE: Subpoena can only be issued upon an affirmative vote of **six (6)** commission members.



# DUTIES

- Charter § 810
  - g) Make findings concerning allegations in filed complaints and forward to the City Manager and Chief of Police.
  - h) Review and advise the Riverside Police Department in matters pertaining to police policies and practices.
  - i) Prepare and submit an annual report to the Mayor and City Council on CPRC activities.



# DUTIES

- Hold yourselves to the highest ethical standards.
- Respect for others:
  - Treat fellow Commission members, City staff, and the public with courtesy
  - Focus on the pertinent merits of the discussion
  - Listen carefully and ask questions that add value to the discussions
  - Never debate an issue with a complainant or a member of the public



# DUTIES

- Responsibilities
  - Come to meetings prepared
  - Refrain from actions that may appear to compromise your independent judgment
  - Consider the Commission's purpose, responsibilities, and duties at all times
- **Must** keep safe all personnel records, investigative reports, confidential documents, all information related to closed session deliberations, and any other privileged information and secure them from disclosure or breach.



# Meeting Procedures

\* Respect the Chair at all times

- Chair identifies the item to be discussed
- Staff presents item
- Public is invited to speak
- Commissioners ask **clarifying** questions of staff when called upon by the Chair in order of speaker queue



# Meeting Procedures

- Deliberations/discussions
- Motion made and second received
- Vote on Motion



*THE END*

