



## BROWN ACT TRAINING

City Attorney's Office

Budget Engagement Commission  
June 10, 2021

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## BROWN ACT

The Brown Act was created and requires that all meetings of the 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, except as otherwise provided by law.



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## BROWN ACT

### Who it applies to

- City Council.
- Committees, Commissions and Boards.
- Entities created by the City Council or over which a City Council retains authority.
- Standing Committees created by a Commission.



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## BROWN ACT

### Who it doesn't apply to

Ad Hoc committees:

An ad hoc committee is a temporary advisory committee composed of solely less than a quorum of the legislative body that serves a limited purpose for a limited time. It is dissolved once the specific task is completed. But note, per the Charter, any ad hoc committee created by City Council is subject to the Brown Act.



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## BROWN ACT Requirements

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



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## WHAT IS A MEETING

A meeting is any congregation of a majority of the members of the legislative body at the same time and place to hear, discuss, and/or deliberate upon any item that is within the subject matter jurisdiction of the legislative body.



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## PROHIBITED ACTIONS

Except as part of an open and noticed meeting, the Brown Act prohibits any use of direct communication, personal intermediaries, or technological devices, including social media accounts, by a majority of a legislative body to develop a collective concurrence as to action to be taken on an item.



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## PROHIBITED ACTIONS

- A majority of the legislative body of a local agency may not e-mail each other to develop a collective concurrence as to action to be taken by the legislative body.
- "Liking" or commenting on another member's social media account regarding a matter within that body's jurisdiction.



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## SOCIAL MEDIA

AB 992, signed into law in 2020, prohibits members of a legislative body from responding “directly to any communication on an Internet-based social media platform regarding a matter that is within the subject matter jurisdiction of the legislative body that is made, posted, or shared by any other member of the legislative body.” Thus, members of the legislative body may not respond directly to any communications posted on the internet by their colleagues regarding a matter within their jurisdiction.



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## SERIAL MEETINGS

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



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## NOT A SERIAL MEETING

City staff is allowed to engage in separate communications outside of a public meeting with members of the legislative body in order to answer questions or provide information regarding a matter that is within the subject matter of the legislative body, provided that staff does not communicate to the members the comments or position of any other member or members.



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## PUBLIC COMMENT

The public has a right to address the legislative body at any meeting on any subject that is within that body's subject matter jurisdiction. The public also has a right to speak on a specific item **before** formal action is taken.



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## REGULATION OF PUBLIC COMMENTS

The Legislative Body:

- May impose reasonable restrictions upon public comment at meetings so long as such restrictions are not too broad and do not constitute “prior restraints.” This can include reasonable time restrictions.
- May regulate the total amount of time on a 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 monitoring the time.



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## REGULATION OF PUBLIC COMMENTS

- May require members of the public wishing to address the legislative body 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 allowable if it is identified as being voluntary.



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## REGULATION OF PUBLIC COMMENTS

- May prohibit a member of the public from speaking on a matter not within the legislative body's subject matter jurisdiction or from addressing their comments to one member rather than the legislative body as a whole.



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## AGENDAS

- 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.
  - "Consideration of X" is not a sufficient agenda description.
  - Approval of a contract in the amount of \$X with ABC company for – is a better description.
- If a matter is not on the agenda, it may not be discussed or acted upon.



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### EXCEPTIONS FOR MATTERS NOT ON THE AGENDA BEING DISCUSSED

- Brief responses by members of the body and staff to statements or questions posed by the public.
- Questions for clarification.
- References to staff or other resources for factual information.



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### EXCEPTIONS FOR MATTERS NOT ON THE AGENDA BEING DISCUSSED

- 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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## FORMAT OF AGENDA

- Public Comment
- Consent Items
- Discussion Matters
- Update from Commissioners on specific items requiring no action
- Update from staff on items of interest/future items
- Items for future agendas



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## BROWN ACT NOTICE REQUIREMENTS

- Regular meetings - agendas must be posted at least 72 hours before the meeting in a location that is freely accessible to the public. Weekend hours may be included to satisfy this requirement, but the agenda must be accessible for the entire 72-hour period.
- Special meetings – agendas must be posted at least 24 hours before the meeting.



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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.



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## SUNSHINE ORDINANCE

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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## EXCUSE OF SUNSHINE NOTICE REQUIREMENTS

- There is a need to take immediate action on an item to avoid a substantial impact that would occur if the matter is deferred.
- The immediate action which relates other governmental agency legislation or action or grant.
- The item is purely ceremonial.



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## PROCESS FOR EXCUSE

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



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## SUPPLEMENTAL MATERIALS

You can supplement the agenda or agenda related materials no later than 72 hours before a regular meeting but only if to:

- Add an item due to an emergency
- Delete a matter from the agenda
- Provide additional information or materials that was not known to staff or considered relevant at the time the agenda was published.



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## SUPPLEMENTAL MATERIALS

- Correct errors or omission or change a stated financial amount
- Continue an item to a future agenda

Again, in order for the supplemental materials to be included, they must **not** have been available or considered relevant at the time of publishing the agenda.



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## BROWN ACT VIOLATIONS

Government Code section 54960.2 allows the District Attorney or an individual to file an action for Brown Act violations but only if the following has occurred:

1. Cease and desist letter to the legislative body has been made within 9 months of the claimed violation; and



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## BROWN ACT VIOLATIONS

2. The legislative body failed to issue an unconditional commitment to cease and desist from the alleged past action within 30 days of the request.

Attorney's fees and costs shall be awarded to plaintiff if action is filed and the commitment to cease and desist is made after the 30-day period and the lawsuit caused the agency to enter into the commitment to cease and desist.



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## QUORUM

A majority of the Commission positions constitutes a quorum in order to hold a meeting.

- Example, you have 9 Commissioners but only 7 are currently filled (two are vacant) the quorum is still 5 and not 4.
- If you do not have a quorum present you cannot start or conduct a meeting. Even to discuss procedural matters.



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## QUESTIONS

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