



## BROWN ACT TRAINING

Presented by the City Attorney's Office

Cultural Heritage Board

Agenda Item: 4

June 16, 2021

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## The 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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## The **BROWN ACT**

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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## To Whom Does the **BROWN ACT** Apply?

- City Councils.
- 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 for the conduct of its business, including the time and place for holding regular meetings.



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## MEETINGS

- A "meeting" includes any congregation of a majority of the members of the CHB at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter of the CHB.
- 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 CHB to develop a collective concurrence as to action to be taken on an item.
- A majority of the CHB may not e-mail each other to develop a collective concurrence as to action to be taken by the CHB.



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## SERIAL MEETINGS

- A serial meeting is a series of communications, each of which involves less than a quorum of the CHB, but which taken as a whole involves a majority of the CHB's members.
- Does not require a collective concurrence to occur in order for there to be a violation.
- City staff is allowed to engage in separate communications outside of a public meeting with members of the CHB in order to answer questions or provide information regarding a matter that is within the subject matter of the CHB provided that staff does not communicate to members of the CHB the comments or position of any other member or members.



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## PUBLIC SPEECH

The public has a right to address the CHB at any meeting on any subject that is within the CHB's subject matter jurisdiction.



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## PROCEDURES REGULATING PUBLIC SPEECH

The CHB:

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."
  
1. May prohibit a member of the public from speaking on a matter not within the CHB subject matter jurisdiction or from addressing their comments to one member rather than the CHB as a whole.



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## PUBLIC SPEECH, Cont'd

3. May require members of the public wishing to address the CHB 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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## PUBLIC SPEECH Cont'd

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 agendaize 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 Commissions.
- 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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## EXCEPTIONS TO THE SUNSHINE ORDINANCE

- 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 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.



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## EXCEPTIONS CONT.

- 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 circumstances, it was not reasonably possible to meet the additional notice requirements.



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



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## QUORUM AND MOTIONS

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



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