



Overview of The Ralph M. Brown Act California's Open Meeting Law

Oversight Board for Redevelopment

Presented by the Office of the City Attorney

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Purpose & Intent

- To ensure that the actions of public bodies are taken openly and that their deliberations are conducted openly
- To facilitate public participation in all phases of local government decision-making and provide “meaningful public access”
- To curb misuse of the democratic process by secret legislation of public bodies



Basic Rules For Public Access

- Meetings must be open to the public and held on a regular schedule
- Meeting agendas must be available to the public in advance; only noticed items can be addressed
- Closed sessions are limited to specific purposes authorized in the Act
- No secret ballots allowed
- Rules are interpreted liberally in favor of public access.



Who is Subject to the Brown Act?

- “Legislative bodies” includes a commission, committee, board or other body of a local agency created by charter, ordinance, resolution or formal action of a legislative body
- Oversight Board is subject to the Brown Act pursuant to Health & Safety Code § 34179(e)
- Standing subcommittees with continuing subject matter jurisdiction also subject to the Brown Act



What Constitutes a Meeting?

- The Brown Act applies to all “meetings” of the Oversight Board
- A “meeting” is any congregation of a majority of the Board at the same time and place to hear, discuss, deliberate or take action on any item that is within the Board’s subject matter jurisdiction
- A majority of the Oversight Board is four members



Serial Meetings are not Allowed

- A majority of the members shall not, outside a meeting authorized by the Brown Act:
 - use a series of communications of any kind, directly or through intermediaries
 - to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the Board
- However, staff may communicate with separate members to answer questions or provide information if Board member's comments are not shared with other members



Serial Meetings are not Allowed

- “Serial” communications
 - “A to B” and “B to C” (*no “daisy chains” or “telephone trees”*)

- Email communications
 - A majority cannot email each other to discuss topics that are within the subject matter of the Board. (*E.g., do not “reply to all” to emails that include other Board members*)



What is Not a “Meeting”?

- Individual contacts between a Board member and another person is not a “meeting”
 - A majority of members may attend a:
 - Conference open to the public
 - Community meetings
 - Open meeting of another legislative body or agency
 - Social or ceremonial event
- But, a majority of the members may not discuss Board matters among themselves at these events



Contacts With the Public

- Communication with a member of the public does not violate the Act
- If an individual contacts a majority of the Board, members should not respond outside public meeting – deliberations should occur in public
- One-way transmission of background materials and solitary review by Board members would not violate Act



Holding Meetings

- Regular meetings:
 - Post agenda 72 hours in advance in location “freely accessible” to the public
- Special meetings:
 - Called by chair or majority of Board
 - Post agenda 24 hours in advance
- Emergency meetings:
 - Only in an emergency situation
- Meetings must be held within City boundaries, unless a specific exemption applies
- Meetings must be held at an ADA accessible facility



Public Participation

- Agendas: Written to Inform the Public
 - Date, time and location of meeting
 - General description of each item
- Public Right to Attend
 - Cannot require names or other information as a condition of attending meeting
 - Voluntary sign-in is allowed



Public Participation

- Right to Comment at Regular Meetings
 - Public may comment on any matter within the Board's subject matter jurisdiction even if not on the agenda (non-agenda public comment)
 - Public may comment on agenda items before action is taken on an item
 - Reasonable regulations, including time limits, may be adopted
 - Must allow criticisms and complaints



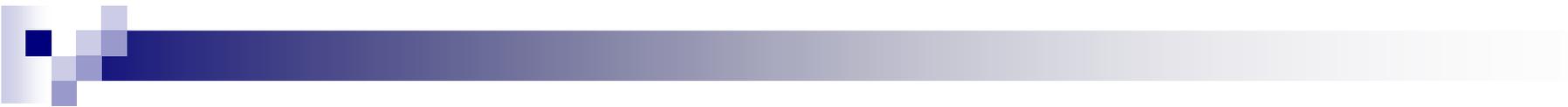
Public Participation

- Right to Comment at Special Meetings
 - Must allow public comment on agenda items
 - May allow non-agenda comment, but not required



Public Participation

- No discussion on non-agenda items raised during public comment
 - May provide a brief response to statements or questions, but no discussion or action
 - May ask questions for clarification
 - May refer the matter to staff for follow-up or to report back
 - May direct that the matter be placed on a future agenda



Public Right to Documents

- Public has a right to review agendas and other writings distributed to a majority of the Board members
- Board records, data and plans shall be available for public inspection and copies provided for a reasonable fee
- Public has a right to record the meeting with an audio or video tape recorder, or take photographs



Closed Session

- Closed sessions are allowed for specific subject areas that are confidential or sensitive, for example:
 - Personnel Matters
 - Pending Litigation
 - Real Estate Negotiations
- Exceptions are narrowly construed



Closed Session

- Limited Attendance:
 - Only members of the Board and necessary support staff
- Publicly Noticed Agenda:
 - Must state the legal authority for the closed session and include a brief description of the closed session item.
- Confidential:
 - The Act prohibits “leaks” of information presented in closed session.



Closed Session

- Open Session Discussion
 - Provide opportunity for public to address Board in open session on closed session items
 - Provide opportunity for Board to discuss basis for convening into closed session
 - Where required, report out in open session the final action taken in closed session



Violations of Brown Act

■ Civil Actions

- Any interested party may begin action
- Board will have an opportunity to cure and correct actions taken
- With judgment, action is void, with certain exceptions
- Costs & attorneys fees may be awarded

■ Criminal penalties

- With intent to deprive public of information
- Guilty of a misdemeanor



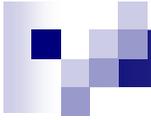
Summary

- All meetings must be open and public
- Discussions, actions, deliberations must take place in open meetings
- All persons must be permitted to attend and participate in the meetings
- Judicial interpretation favors open and public meetings and exceptions are narrowly construed.



Resources

- *Open & Public IV: A Guide to the Ralph M. Brown Act, (2010)* League of California Cities
<http://www.cacities.org/index.jsp?zone=locc&previewStory=24887>
- *The Brown Act, Open Meetings for Local Legislative Bodies, (2003)* California Attorney General's Office
<http://oag.ca.gov/open-meetings>



Questions?

