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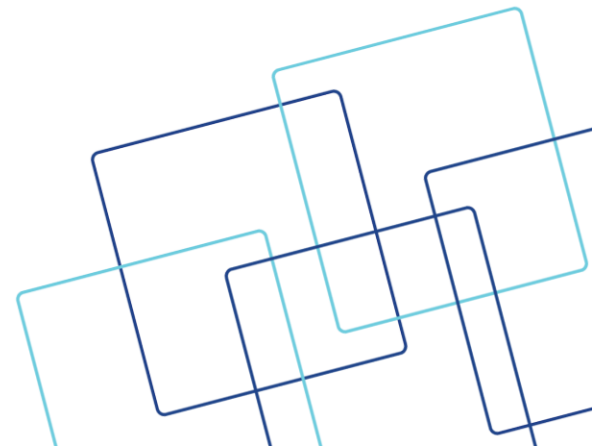
The Brown Act Overview & Governance Tips

City of Merced
Recreation & Parks Commission

Presented by:

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Date: March 27, 2023





Topics

- Brown Act Overview
- Governance Tips

Brown Act Overview

The Legislature adopted the Brown Act, commonly referred to as California's "Open Meetings Laws" in 1964.

On November 2, 2004, the voters approved Proposition 59 to mandate that the Brown Act, be broadly construed in furtherance of the public's "right of access to information concerning the conduct of the people's business."



What Does The Brown Act Require?

- Actions & deliberations taken openly & in public
- Meetings are public, unless closed session is allowed
- Meeting agendas and packets must be publicly available
- Agenda posted on City's Commission website (Direct Link) or dedicated webpage



Who is Subject to the Brown Act?



- Governing Bodies
- Subcommittees and Commissions
- Private Entity Created by Legislative Body or Funded by Local Agency
- Hospital Lessee



Governing Bodies

Subject to the Brown Act if entity is the governing body of a local agency or any other local body created by state or federal statute.

Gov. Code, §54952 (a)

Brown Act Overview – What Is A Meeting?

- Any congregation of a majority of members at the same time and location to hear, discuss, or deliberate on any item within the Public Agency's jurisdiction.
- Even if no action taken or no concurrence reached.



What Is Not a “Meeting”?

The following scenarios are not “meetings” under the Brown Act:

- Individual Contact
- Public Conferences
- Other Local Agency Meetings
- Community Meetings
- Social Gatherings
- Staff Meetings
- Confirming Availability for a Meeting



Brown Act

- Serial Communications
 - “chain links”
 - “hub and spokes”



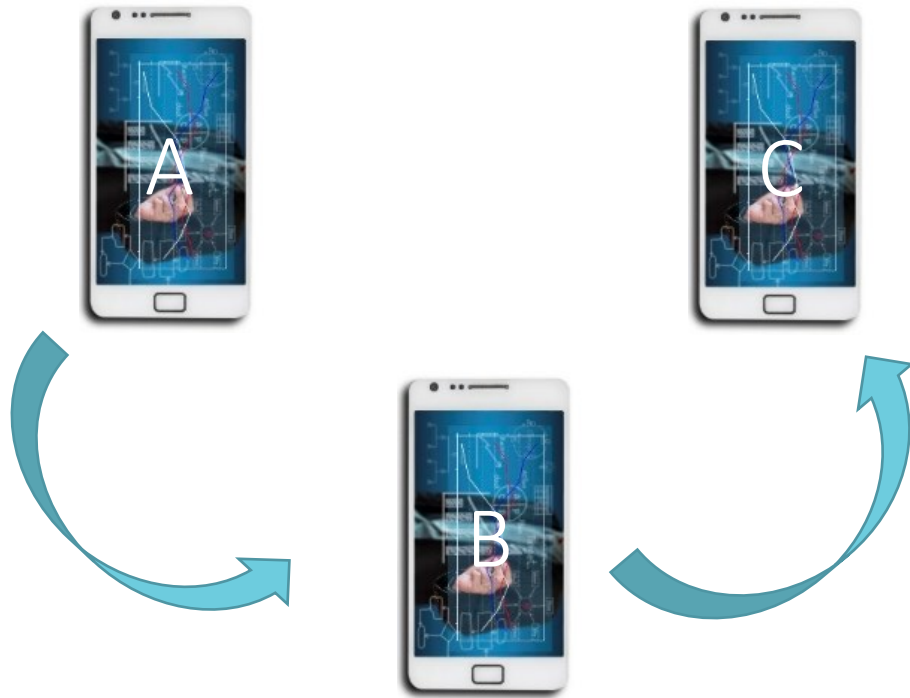
Serial Meetings

“[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 body’s members.”

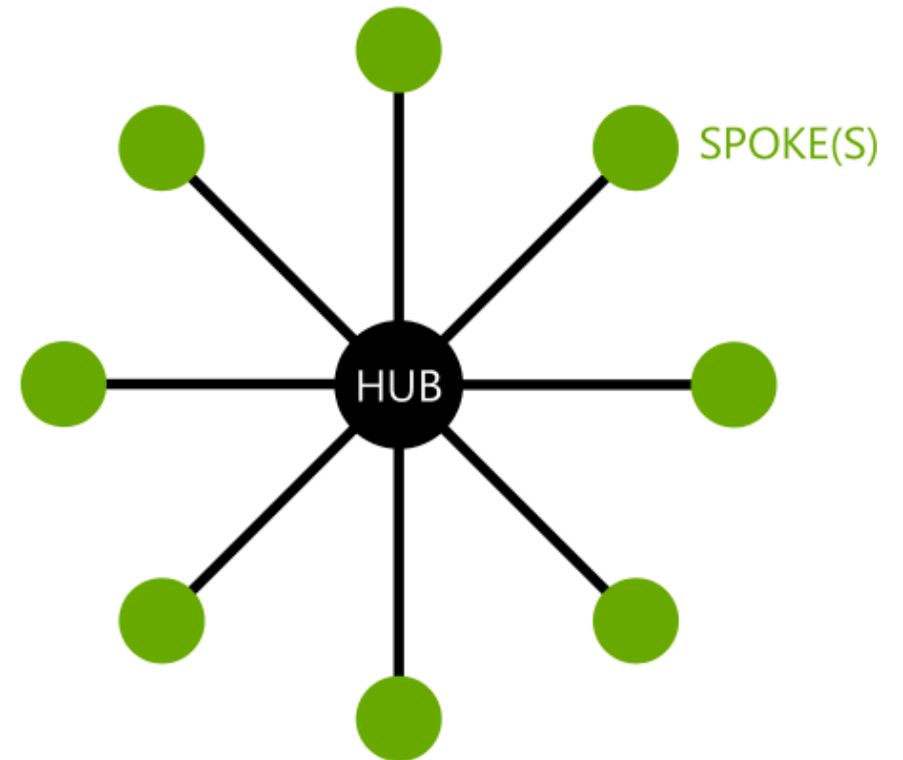
(Attorney General’s Brown Act Handbook)

Serial Meetings

LINEAR OR CHAIN MEETING



HUB OR SPOKE MEETING



Serial Meetings Can Occur Through the Use of Technology

- Telephone
- Email
- Text Message
- Direct Message
- Social Media



Brown Act & Social Media

Commission Member Use of Social Media: Gov. Code § 54952.2

PERMITTED

- Individual Commission member may engage in conversations or communications on a social media platform to:
 - (1) Answer questions from the public
 - (2) Provide information to the public
 - (3) Solicit information from the public regarding a matter that is within the subject matter jurisdiction of the legislative body.

PROHIBITED

- (1) A **majority** of the legislative body using a social media to discuss among themselves agency business of a specific nature that is within the subject matter jurisdiction of the agency; and
- (2) **Any member** of the legislative body responding directly to any communication from another member on an internet-based social media platform regarding a matter within their subject-matter jurisdiction.

One-Way Transmission of Information

- Agency employees and officials can provide information to commission members *if* they are not communicating the position of other commission members
- One-way transmission of information by a commission member to other commission members is ... complicated
 - Avoid communicating a position
 - Information only, with no responses, may be permissible (e.g., an article)

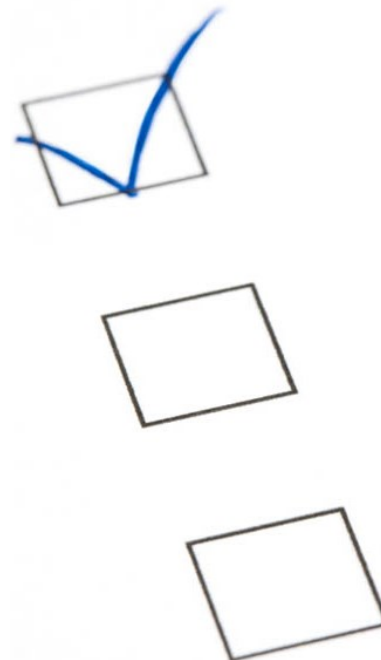
Hidden Pitfalls



- Commission Communications
 - Beware “Reply All” e-mail communications to commission members / chat rooms & social media sites

The Agenda

- All items must appear on the agenda
- Exceptions:
 1. Emergency Situation
 2. “Subsequent Need” Items
 3. Held-Over Items
 4. Response to Public Comments/Announcements



Public Participation

- A commission meeting is a meeting of the commission held in public, not a meeting of the public held in front of the commission.



Public Participation

- Public comment
- Recording / photography
- Disruptions

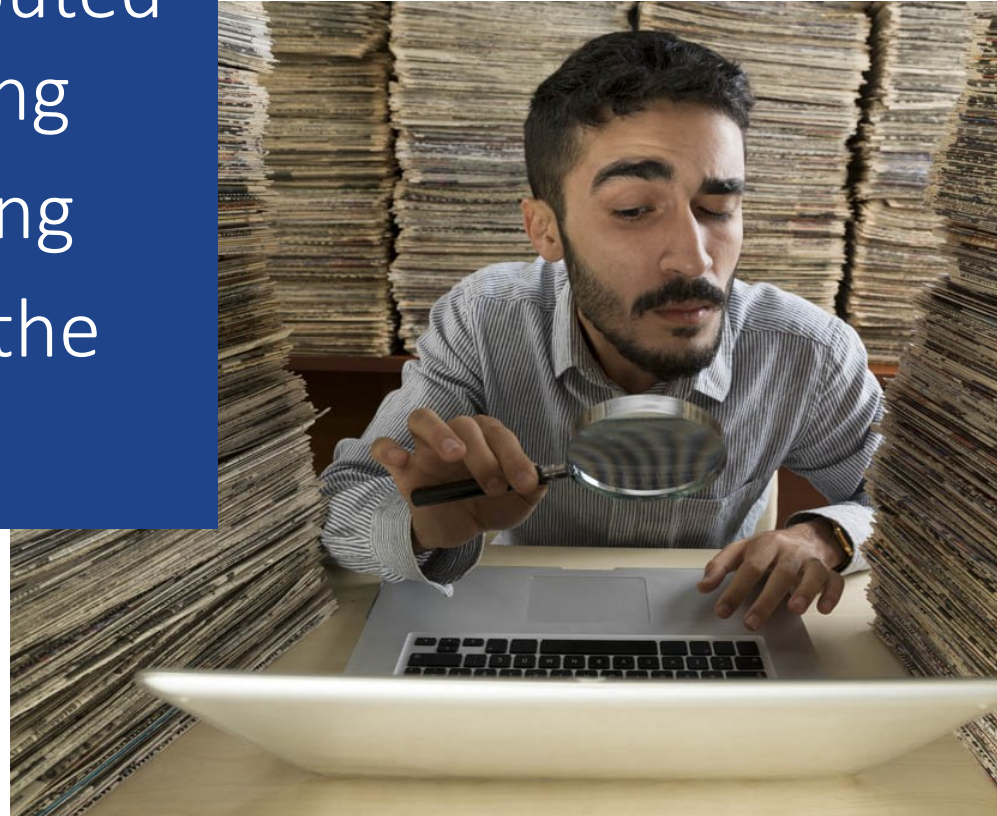


Response to Public Comments

- Commission may:
 - Respond briefly
 - Ask or answer questions
 - Refer to staff
 - Ask to add item to future agenda per “rules or procedures” of the Commission
 - However – it is not an open dialogue

Inspection of Documents

- Writings distributed before a meeting
- During a meeting
- Distributed by the public



Parliamentary Procedure: General Rules of Conduct

- Meetings should be
 - Orderly
 - Efficient
 - Contain little disruption
- Handling Disruptions
 - Initial
 - Second Warning
 - Order the Person to Leave
- What do you do if person refuses to leave?

Parliamentary Procedure: Handling A Motion

Nothing goes to discussion without a motion being on the floor. The process for motions includes:

- Obtaining and Assigning the Floor
- Bringing the Motion Before the Commission
- Consideration of the Motion
- Voting on a Motion

Types of Motions

- Adjournment
- Recess
- Complaint about noise
- Suspend further consideration of something
- End debate
- Postpone consideration
- Amend a motion
- Introduce business

Conflicts of Interest

- Biennial Ethics Training (AB 1234)
 - Gov. Code, § 53235 – requires at least two (2) hours of training in general ethics principles and ethics laws every two (2) years
- Statements of Economic Interest (Form 700)
 - Filing deadline April 1st

Questions regarding potential conflicts of interest:

Resources

- Institute for Local Government
www.ca-ilg.org
- California Fair Political Practices Commission
www.fppc.ca.gov
- California Attorney General
www.oag.ca.gov/publications
- Ask City Attorney



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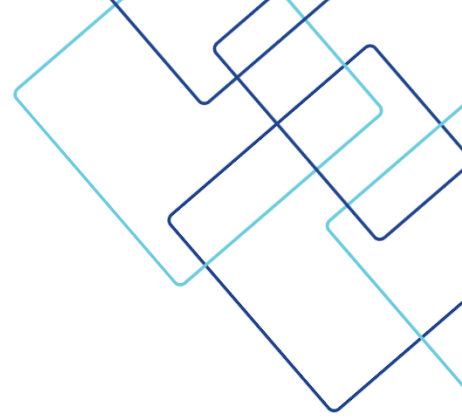
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