

THE BROWN ACT & ROBERT'S RULES OF ORDER

Office of the Long Beach City Attorney

Independent Redistricting Commission

November 11, 2020

The Brown Act General Principles



All meetings shall be open and public



Actions and deliberations must be taken openly



All persons shall be permitted to attend and participate in the meetings



Only matters on the agenda can be discussed

The Brown Act Appearance of Impropriety



Brown Act encourages avoiding the possibility of improperly discussing local agency business and to avoid the appearance of a Brown Act violation.



Besides the Brown Act, there may be other reasons, such as due process considerations, why Commission members should avoid giving public testimony or trying to influence the outcome of proceedings before another body.

Who is Subject to the Brown Act?



Applies to “legislative bodies” including advisory commissions created by the Long Beach City Council or the Long Beach City Charter



Applies to subcommittees created by formal action of the advisory commission

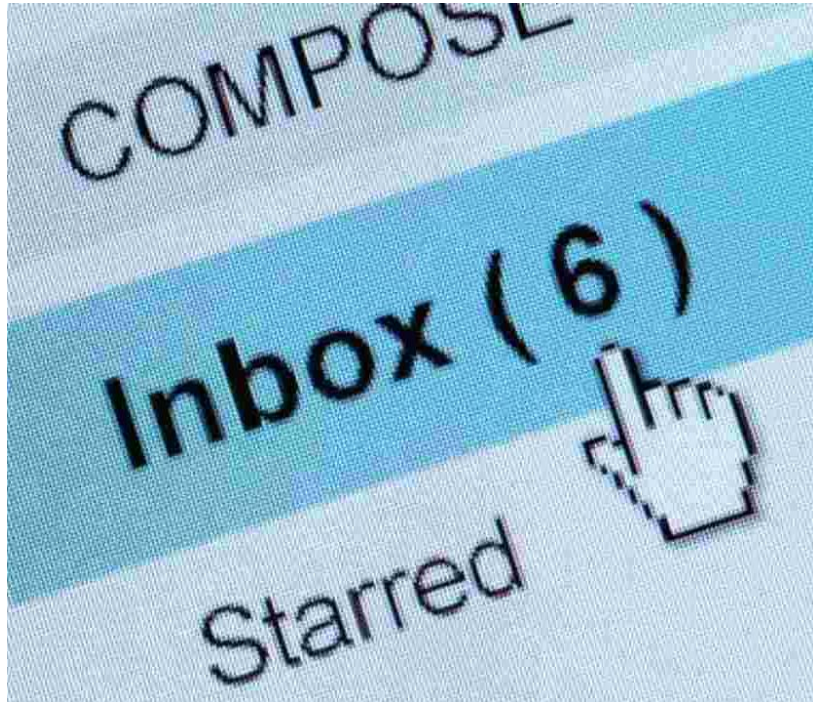
But not temporary ad hoc advisory committees made up solely of commission members and constituting less than a quorum

What Constitutes a Meeting?



- ▶ Any congregation of a majority of the commission members at the same time and place to hear, discuss or deliberate on any item that is within the subject matter jurisdiction of the commission
- ▶ Includes regular and special meetings
- ▶ The Independent Redistricting Commission, for most purposes, must have 9 commission members present to hold a meeting

Serial Meeting/Series Communications



- ▶ Beware of email communications. A majority cannot email each other to discuss topics before the commission.
- ▶ Beware of “serial” contacts. “A to B” and “B to C” can lead to a “collective concurrence.”
- ▶ A majority of a legislative body is prohibited from meeting together with staff in advance of a meeting for a collective briefing. Any such briefings that involve a majority of the body in the same place and time must be open to the public and satisfy Brown Act meeting notice and agenda requirements.

What is Not a Meeting?

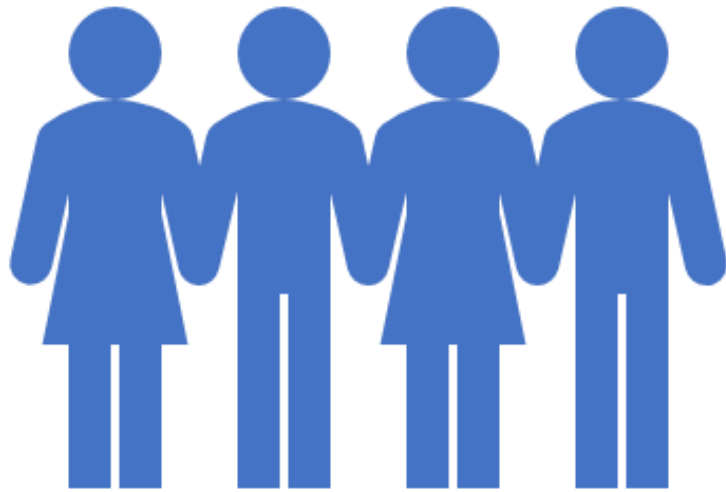


Individual contacts between a commission member and another person or commission member



This exception recognizes the right to confer with constituents, advocates, consultants, reporters, staff and colleagues

What is Not a Meeting?



Majority of the members at a:

- ▶ Conference open to the public
- ▶ Local public meeting
- ▶ Open meeting of another body
- ▶ Social or ceremonial event

But commissioners cannot discuss commission matters among themselves at these events

When Can Meetings Be Held?



- ▶ Regular meetings:
 - Agenda posted 72 hours before
- ▶ Special meetings:
 - Called by chair or majority of commission members, agenda posted 24 hours before

Where Can Meetings Be Held?

Within the boundaries of the City,
unless a specific exemption applies

Meetings must be accessible under the
Americans with Disabilities Act of 1990

Agenda Descriptions

Brief general description of each item

Include the date, time, and location of the meeting

Must inform public of scope of the commission's intended plans so public can decide whether to participate

Must be posted in a location "freely accessible" to members of the public



Public Right to Comment

- ▶ Regular meeting
 - ▶ Public may comment on any matter within the commission's subject matter jurisdiction even if not on the agenda (non-agenda public comment)
 - ▶ Public also must be allowed to comment on agenda items
 - ▶ Reasonable regulations, including time limits, may be adopted

Public Right to Attend



Public has a right to record the meeting with an audio or video tape recorder, or take photographs



Public has a right to review agendas and other writings distributed to a majority of the commission members



No secret ballots allowed

Closed Sessions

- ▶ Take place in private without the attendance of the public or press
- ▶ Only permitted if expressly authorized by the Brown Act
- ▶ Examples:
 - ▶ Anticipated or pending litigation
 - ▶ Public employment
 - ▶ “Appointment, employment, evaluation of performance, discipline, or dismissal of public employee or to hear complaints or charges brought against the employee”
 - ▶ Public Security

Closed Sessions Agendas and Reporting



Agenda must list the closed session category (e.g., pending litigation, etc., and the specific statute listed) with a brief description as permitted under law



Report out the actions taken and the vote



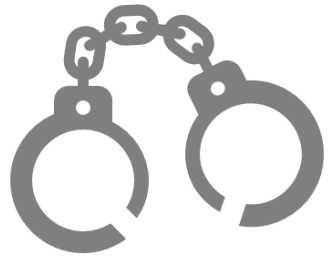
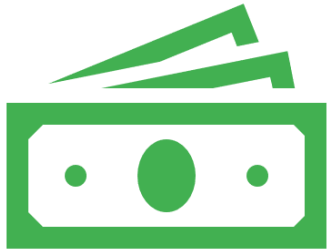
Closed Sessions Confidentiality

There may be no unauthorized disclosure of confidential information acquired in a closed session by any person present

Closed Session Authorized Attendees

- ▶ Differs based on the topic of the closed session
- ▶ Could include members of the body, agency counsel, management and support staff, and others needed for consideration of the subject matter of the closed session

Violations of Brown Act



▶ Civil Actions

- ▶ Any interested party may begin action to invalidate certain actions that violated Brown Act. However, the commission will have an opportunity to cure and such alleged violation.
- ▶ Any interested party may also file a civil action to prevent future violations.
- ▶ Costs & attorney fees may be awarded to successful party.

▶ Criminal penalties

- ▶ With intent to deprive public of information.
- ▶ Punishable as a misdemeanor.

Robert's Rules of Order - Purpose



Fairness and courtesy for all



Allowing each board member to provide input



Majority rules



Maintenance of order



Consideration of one item at a time



Allowing all viewpoints to be heard, including the majority

Robert's Rules of Order Basic Principles

A quorum must be present for the meeting to be held and business to be conducted (consistent with the Brown Act)

No person can speak until recognized by the chair

Personal remarks during debate are out of order

Only one item at a time may be considered, and only one person may have the floor at any one time

All discussion must be relevant to the agenda item (also consistent with the Brown Act)

No member should speak more than once unless all members wishing to debate the motion have had an opportunity to speak

All remarks must be addressed to the chair - no cross debate should be permitted

Speakers at public comment must also address their comments to the chair, and the chair should not engage in debate with the speaker, other than a "brief response." (It is "public comment," not Q & A.)

Role of the Chair



To run an orderly meeting which complies with the Brown Act



To introduce business in proper order per the agenda



To recognize speakers, both Commission members and members of the public



To determine if a motion is in order



To keep discussion focused on the agenda item



To enforce time limits fairly and neutrally for public speakers



To put motions to a vote and announce results.

Motions and Voting

Any commission member (including the chair) has the ability to either make or second a motion.

The purpose of making a motion is simply to put the matter "on the floor" for discussion and vote.

A motion needs a "second" before it can be voted on.

Someone other than the maker of the motion, must "second" it.

Questions

- ▶ If you have questions, please let us know.
- ▶ Thank you for your service on this Commission!