



Sunnyvale

Brown Act Basics LRS Boards & Commissions

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Objectives

- Understand the purpose of and requirements for open public meetings (Brown Act).
- Learn key areas of risk
- Be empowered to fulfill your role as public officials to further the goals of transparency and public participation




5 Key Elements of Open Government

- ***AGENDAS:** Public gets advance notice of proposed topics of discussion and decisions.
- ***OPEN MEETINGS:** Decisions (recommendations for boards/commissions) are made in public.
- ***PUBLIC COMMENT:** Public has a right to be heard and participate before decisions.
- **PUBLIC RECORDS:** Public has right to documents and other information about government activities.
- **CONFLICTS OF INTEREST:** Public right to know if officials' personal financial interests that may affect decisions (Form 700), and officials must recuse themselves from decisions that would personally benefit them.

THE BROWN ACT

California's Open Meeting Law

LEGISLATIVE BODIES: Boards and commissions created by the City Charter or by action of the City Council.



BASIC REQUIREMENT: All meetings of legislative bodies must be open to the public unless an exception applies (none for B/Cs). Open means:

Agendas

Public Comment

AGENDAS



Requirements

Timing: Must be posted 72 hours before regular meetings; 24 hours for special meetings

Required Information: A brief general description of each item of business to be discussed.

Documents Available to Public: All materials provided to the B/C must also be available to the public.

Cannot discuss or take action on any matter that is not on the agenda or goes beyond the agendized topic.

Permissible Non-Agenda Items

KEEP THEM BRIEF!



Request to place an item on a future agenda.



Request information or a report back from staff.



Ask a question for clarification.



Make a brief announcement.



Briefly report on member's own activities.



Briefly respond to questions from the public.

QUIZ!

Agenda title: *Recommendation on Proposed Renovations to Citrus Park and Playground.*

Which discussion topics are appropriate?

- A.** Comments on playground equipment and layout
- B.** Timeline for similar renovations to other parks in the same neighborhood
- C.** Discussing safety compliance for playground structures
- D.** Discussion, questions about distribution of dog parks throughout city parks
- E.** Questions about the project's construction timeline

Public Comment



On any agenda item before action is taken



During open public comment (“citizens to be heard”), public may speak on any matter within the body’s subject matter jurisdiction.



Chair may impose reasonable time limits on public speakers (typically 2-3 min, depending on #).



Tip: chair may gently encourage speakers to be brief and avoid repeating the same comments.

QUIZ

Does this violate the Brown Act?

- A member of the public brings up an issue at “citizens to be heard” that is not on the agenda. The commissioners spend 15 minutes discussing the issue and vote to form an ad hoc committee to look into the issue.



Brown Act - What is a Meeting?

Not just your regularly scheduled City meeting dates!



Agendized meeting



A majority of the members (**quorum**) are together at the same time and place and discuss or deliberate on any matter within their **subject matter jurisdiction**.



A majority of members use direct communication, technology, or intermediaries to discuss, deliberate, or take action.

Is it a meeting?

What's subject matter jurisdiction?

- Anything that the B/C has authority to discuss or consider as defined by the Charter or Council policy.
- Not limited to pending matters or matters that are actually coming before the B/C.

What's a quorum?

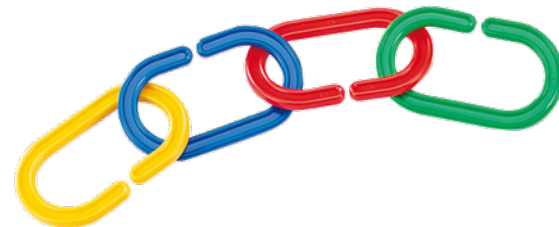
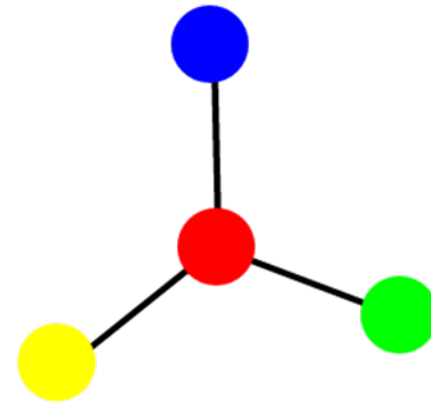
- The minimum number of members who must be present to hold a meeting.



Serial Meetings

“Meetings” can happen outside of a group!

- A series of communications involving a majority of members to deliberate, take action, or develop a consensus.
- Might involve one-on-one conversations, intermediaries, letters, telephone, email, or other technology.



Exceptions to Brown Act Meetings

Certain gatherings are ok.



Individual contacts or conversations (unless it results in a serial meeting)



Conferences and similar gatherings open to the public



Community meetings open to the public sponsored by an entity or organization other than Sunnyvale



Open and noticed meetings of the City Council, other B/Cs, or other local public agencies (other cities, etc.)



Purely social and ceremonial occasions

QUIZ!

Which examples are meetings under the Brown Act?.

- A. The members of the Arts Commission go out for coffee after a meeting, and end up talking about ideas for promoting greater awareness of public art.
- B. One member of BPAC emails another member about a new City policy on bike lanes. That member forwards the email to other members, who reply with their views.



Other Permissible Conduct



Speaking to constituents, even if they have also spoken to other commissioners.



Expressing one's views in a public forum such as giving a speech, writing a newspaper editorial, tweeting or blogging is generally OK, BUT

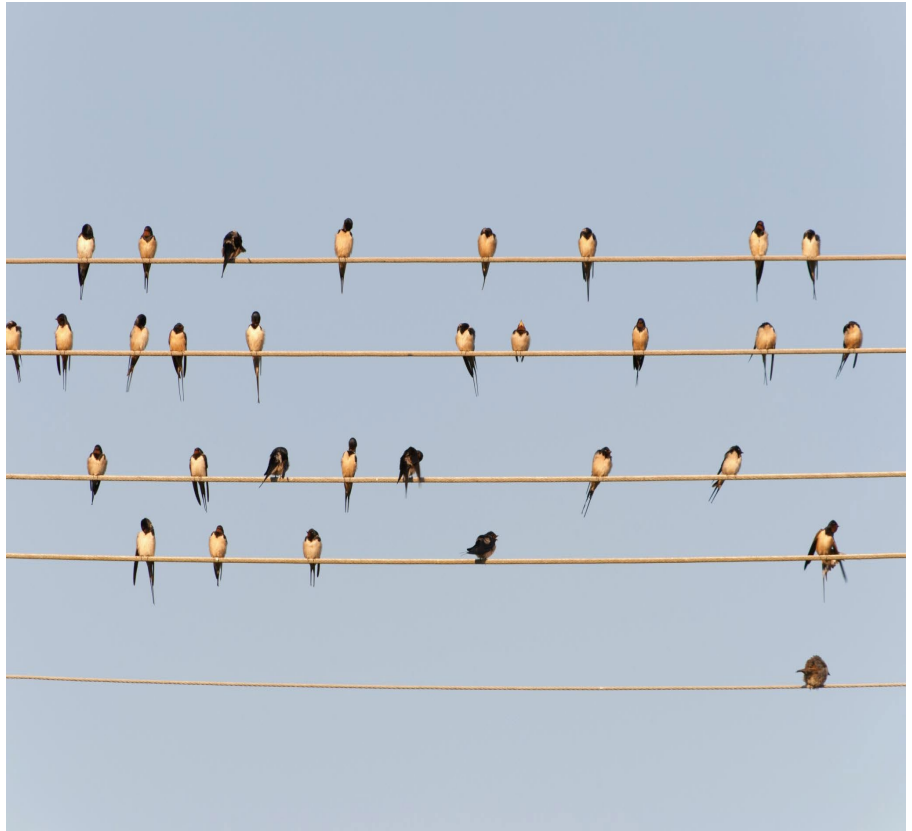
Must not be biased or pre-judge. Implication of bias can arise from public comments or outside contacts with applicants or opponents.



Okay to have and express opinions on general policy.

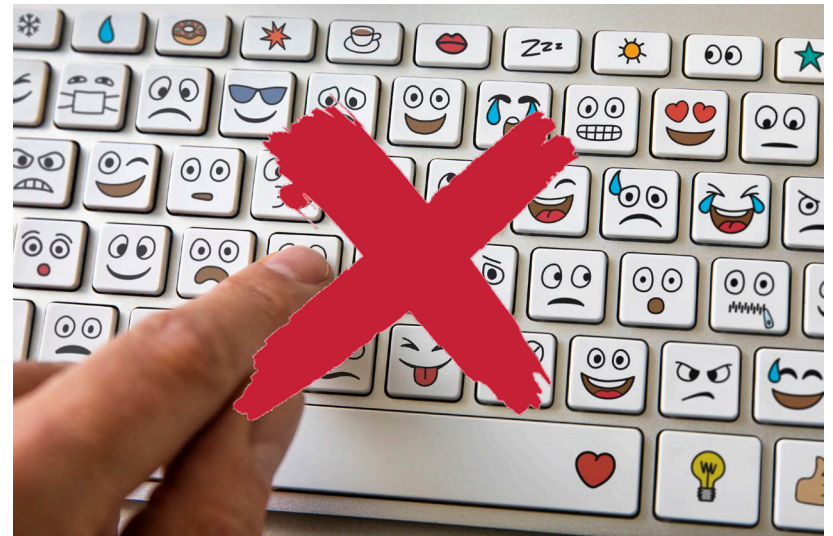
Caution Areas

- Online discussions (including social media comments, posts, especially or likes for posts)
- “Reply all” email responses
- Third parties acting as intermediaries.
- All of these things can lead to an accidental collective deliberation or consensus



Social Media

- Members of the legislative body **may use social media** to provide information to the public, answer questions and solicit information.
- Members of the legislative body can **read** others' posts but **must not** use social media to **communicate with each other**. (Even if less than a quorum!)
- Members are **prohibited** from posting **comments** or **reactions** such as **likes** and **emojis** in response to other member's social media posts



Consequences of Brown Act Violations

- Negative media attention and political embarrassment.
- Nullification of actions (though agency may cure by re-approving the item at a properly noticed meeting).
- Intentional violations may result in criminal prosecution, monetary fines, imprisonment, or removal from office.



Key Things to Remember

- Agenda titles guide what the board or commission can discuss at a meetings.
- Public comment may go beyond agenda titles. The purpose is for you to listen before making a decision; you are not required to engage.
- Remember that a meeting under the Brown Act is more than just your scheduled meeting dates– watch out for gatherings of a majority of members where board/commission business comes up.
- Don't "reply all" to commission emails and don't use emojis!

Thank you!

- You are providing important support to the public process in Sunnyvale!