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OVERVIEW:
OPEN MEETINGS LAW
THE RALPH M. BROWN ACT

Purpose of the Ralph M. Brown Act



The purpose of the Brown Act is to facilitate public participation in local government decisions and to curb misuse of the democratic process by secret legislation by public bodies.

The Brown Act, therefore, imposes an “open meeting” requirement on local legislative bodies.

Scope of the Ralph M. Brown Act



Except for a small number of limited exceptions, compliance with the Brown Act is mandatory for the City's legislative bodies. This includes:

- City Council
- Commissions
- Standing Committees
- Newly-elected/Appointed Members

What Constitutes a Meeting



- A Meeting Is: Any congregation of a majority of the members of the legislative body in the same time and place to hear, discuss or deliberate upon any item within their jurisdiction.
- Watch out for:
 - Informal discussions
 - Telephone conversations for purpose of discussing decisions in advance
 - Serial Meetings
 - E-mails, texts, blogs, social networking sites

Brown Act Basics



- Regular Meetings must be noticed at least 72 hours in advance by posting of an Agenda.
- Special Meetings must be noticed at least 24 hours in advance by posting of an Agenda.
- All meetings must be open to the public.
- Nothing within the City Council's subject matter jurisdiction may be discussed at a meeting that is not on the Agenda for that meeting.
- The presence of a quorum of the Council is necessary to conduct a meeting.

Brown Act Basics (cont.)



A meeting is NOT:

- Individual contacts or conversations
- Attendance by majority at certain conferences or social events, so long as majority does not discuss issues within their jurisdiction
- Attendance at meeting of other legislative bodies, so long as majority does not discuss issues within their jurisdiction

Practical Considerations



- A quorum of the Council may not discuss a matter within its jurisdiction outside of a Regular or Special Meeting.
- This includes serial meetings where Person A speaks with Person B who then speaks with Person C, who in turn speaks with Person D, and so on.
- This also includes a situation where Person A, who is on the Council, speaks to Persons B, C, and D where B, C, and D do not speak with each other.
- Brief responses to public comment to statements or questions posed by the public are permitted; however, Council members should not be responding to each other.

E-Mails



- It is easy to violate the Brown Act by simply hitting the “Reply All” button.
- Caution is needed.
- Potential Public Records Act Problems:
 - Using your own email to discuss City business may subject personal emails to disclosure.
 - *City of San Jose v. Superior Court*
 - Recommend use of City email address.

Texting



- Similar problems as with e-mail.
- Can be easily used to hold a serial meeting before or during a meeting (cell phones).
- Avoid Sending or Receiving Texts/Emails:
 1. To/From the public during a meeting
 2. To/From members of the body during a meeting.
 3. If you have declared conflict.

Blogging



- Short for “Web-Log”. A “frequently updated website, normally with dated entries, commonly used to post opinions.”
 - Very popular with public officials.
 - Includes sites such as Facebook and Twitter.
 - Has not yet been formally addressed by FPPC.
 - Potential serial meeting if a majority gets involved

Closed Session



- Permissible only where allowed by statute
 1. Litigation
 2. Real Estate Negotiations
 3. Public Employment
 4. Labor Negotiations
- Disclosure of information discussed is illegal

BROWN ACT VIOLATIONS



- Nullification of decision
- Criminal sanctions for intentional violations (up to 6 months in jail/\$1000 fine)
- Intense adverse media attention



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QUESTIONS? COMMENTS?