A stylized background featuring a bright yellow sun rising over a green hill. The sun is a large, semi-circular shape with rays emanating from it, filling the upper half of the frame. The hill is a solid green shape at the bottom. The overall color palette is warm and bright, with yellow, orange, and green tones.

California's Sunshine Law: The Ralph M. Brown Act Conducted by the OFFICE OF THE COUNTY COUNSEL COUNTY OF ALAMEDA

Raymond Lara
Senior Deputy County Counsel

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The Guiding Principle

The Public's business must be conducted in *public*, with ample opportunity for public participation



The Brown Act

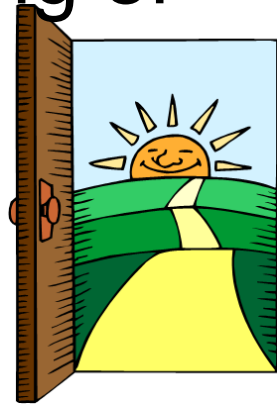
The Brown Act was enacted in 1953 in response to a 10-part exposé in the *San Francisco Chronicle* on the lack of transparency in local government, entitled “Your Secret Government”

San Francisco Chronicle
NORTHERN CALIFORNIA'S LARGEST NEWSPAPER

The Open Meeting Rule

THE RULE is that meetings are OPEN to the public; exceptions to the rule are narrowly construed:

“all meetings of the legislative body of a local agency shall be **open** and **public**, and all persons shall be permitted to attend any meeting of the legislative body of a local agency.”



Who is Subject to the Brown Act?

- Any board, commission, committee or other body **created by** a charter, ordinance, **resolution or other formal action of the Board of Supervisors**
- Exception: ad hoc committees (other than standing committees) made up of less than a quorum of the body

What is a “Meeting?”

A meeting occurs whenever a majority of the members of the Commission or of a committee come together at the same time or place



Meetings May Be:

- Formal or informal
- In person, or through technology



Meetings Can Include:

- Retreats
- Site visits
- Social gatherings



Unlawful Meetings

- “Pre-meetings” and “Post-meetings” held without notice to the public
- Serial meetings

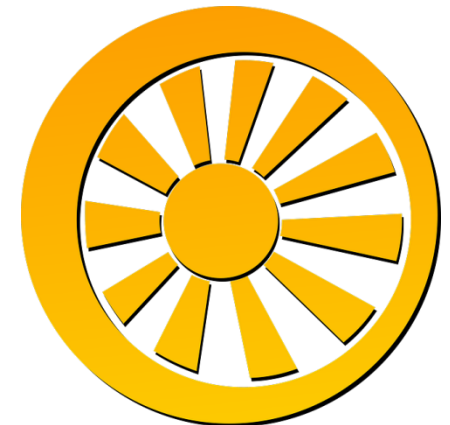


Types of Serial Meetings

- “Chain” meetings: Member A talks to member B, who talks to Member C...

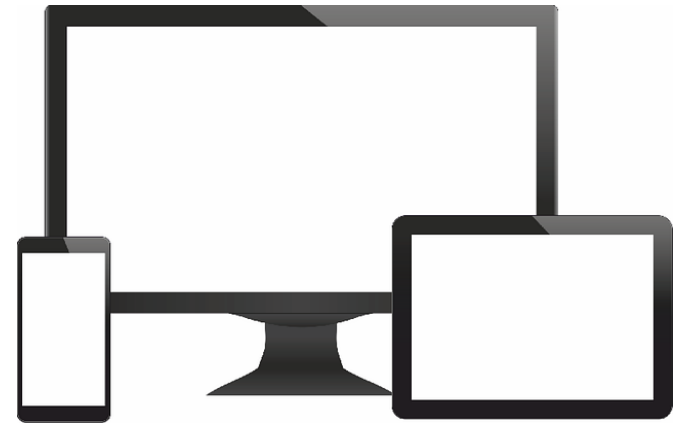


- “Hub-and-Spoke” meetings: A talks to B, then C, then D ...



How Serial Meetings Occur

- Through technology:
 - Text, Email
 - Phones
- Through staff



Discussions With Staff

Staff ***answer questions*** or ***provide information*** to individual Commission members ***so long as*** any views or positions expressed by the member are ***not communicated*** to other members of the Commission



What ISN'T a Meeting?

- Attendance of majority at
 - regional/state/national conference
 - local meeting open to the public
 - social, recreational, ceremonial event not sponsored by or for the body
- Are OK PROVIDED no collective discussion of HCH Commission business

Meetings: Locations and Time

- Meetings must be within Alameda County
- Meetings must occur at a time and location set by ordinance, resolution or bylaws



Notice & Agenda Requirements

- Regular meeting agendas must be posted 72 hours in advance of the meeting
- Special meeting agendas require only 24 hours advance notice
- Agendas must describe each item to be considered in enough detail that a person of ordinary intelligence could determine whether the item is of interest



Why Does It Matter?

A body subject to the Brown Act may not discuss or act on items not on an agenda or that are beyond the reasonable scope of the agenda description



Very Limited Exceptions

- Public health/safety emergency
 - Immediate need to avoid serious injury to public interest
 - Item on previous agenda, and continued to next meeting no more than 5 days later



EMERGENCY

These Don't Need to be On the Agenda

- Commendations
- Announcements
- Request to agendize future items
- Limited follow-up to general public comment, to provide information or direction to staff



Rights of the Public

ACCESS TO MEETINGS

- To have meetings open and public with limited exceptions
- To have access to all agendas of public meetings and documents distributed to the Legislative Body members
- To audio/video record the meetings and to inspect any recordings of the meetings made by the agency.
- To attend without any condition precedent (i.e., need to register or provide any information). **Careful**
With attending by conference call!



Rights of the Public

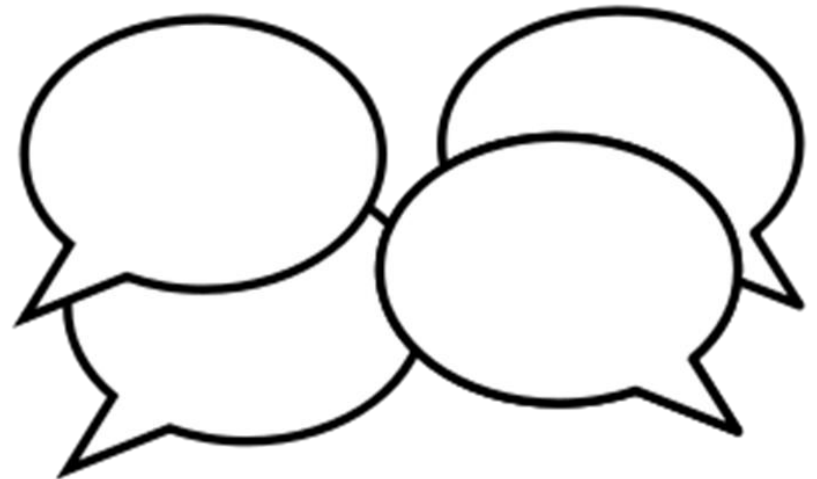
PARTICIPATION IN MEETINGS

The public has the right to address the Commission at any regular or special meeting on any item on the agenda, ***before conclusion of the discussion or the Commission takes action***



Types of Public Comment

- Specific: Concerning an item on the agenda, at the time of consideration
- General: Any item within the Commission's subject-jurisdiction



Specific Public Comment

- Any agenda item – discussion or action
- Must occur before
 - conclusion of consideration of item (discussion item); or
 - action taken (action item)

1. =

2. =



General Public Comment

- May occur at any time in the meeting, at the discretion of the Chair/Commission majority
- Is limited to matters not on the agenda, but within scope of Commission's jurisdiction
- Members may not discuss or respond substantively
- Not required at special meetings

Rights of the Speaker

- Right to equal time
- Right to criticize policy body, its members, and its staff



Limits on Public Comment

- “Up to” three minutes on an item
- Reasonable limit on total public comment time on an item
- No right to a response from policy body or its members



Controlling Unruly Speakers

- Commission Chair can impose reasonable time, place, and manner restrictions on public participation
- Unruly speakers may be excluded from the forum if necessary to allow business to continue



Closed Sessions



- Meetings must be open to the public unless the Brown Act specifically authorizes the Commission to meet in “closed session” (aka Executive Session)
- Closed sessions are limited to a few specified circumstances and fact specific
- Standard is NOT whether the subject matter is sensitive, embarrassing, controversial or ‘private’
- Only Commission members and necessary support staff can be present in closed session

Closed Session Topics

- Personnel
- Litigation
- Labor Negotiations
- Real Estate Negotiations
- Medical Quality Assurance Matters



It is VERY unlikely that the Commission will ever have any closed session matters; any plans to hold a closed session can be discussed with counsel prior to being placed on an agenda.

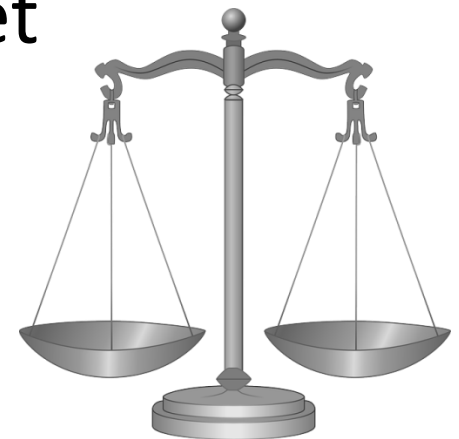
Criminal Penalties

- Disclosure of closed session discussion
- Willful violation of Brown Act
 - Action taken in violation of Brown Act
 - Member intends to deprive the public of information to which the public is entitled



Additional Penalties

- Voiding of action taken in violation of Brown Act
- Injunction or declaratory relief to stop or prevent violations of Brown Act
- Prevailing plaintiff may get attorneys' fees and costs



QUESTIONS?

