



The Ralph M. Brown Act and City Policies

Tuesday, April 22, 2025 | EHRAC | City Attorney's Office

Brown Act

California's Sunshine Law

"The people, in delegating authority, **do not give their public servants the right to decide what is good for the people to know and what is not good for them to know.** The people insist on **remaining informed** so that they may **retain control** over the instruments they have created."

(Gov. Code § 54950.)

PURPOSE

“Public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people’s business. It is the intent of the law that **their actions be taken openly** and that **their deliberations be conducted openly.**”

(Gov. Code § 54950.)

- Thus, the purpose of the Brown Act is to ensure:
 - Public access to meetings
 - Public attendance and participation (i.e., public comment)
 - Open and transparent deliberations and decisions

MEETINGS

A meeting is

- any gathering of a **majority** of the members of a **legislative body**
- at the **same time** and **location**
- to **hear, discuss, deliberate, or take action** on any item within its **subject matter jurisdiction**

A "**legislative body**" includes the governing body of a local agency or a commission, committee, board or other body of a local agency, whether permanent or temporary, decision making or advisory, created by resolution or formal action of the legislative body

NOTICE TO THE PUBLIC

- Regular meetings – 72 hour notice required
- Special meetings – 24 hour notice required
- Emergency meetings – at least 1 hour notice to media
 - Rare and limited

AGENDAS

- Must include:
 - Meeting time/location/access
 - A “brief, general description” of each item so that members of the public are informed of the subject matter and can decide whether they want to participate
- Action or discussion on any item not appearing on the posted agenda is generally prohibited
 - Some exceptions exist, such as scheduling of future agenda items, staff/member announcements, brief questions/responses to public, etc.

PUBLIC PARTICIPATION

- All meetings must have public comment
- A regular meeting agenda must allow “general” public comment, i.e., it can cover **any issue within the subject matter jurisdiction** of that legislative body
- Public comment must also be allowed for **each specific agenda item of business** – either before or during the legislative body’s consideration of that item
- **Reasonable time limits** are authorized but must be applied consistently

TELECONFERENCING

1. Traditional Teleconferencing
2. Teleconferencing during a State of Emergency
3. Teleconferencing for “Just Cause” or “Emergency Circumstances”
4. Teleconferencing as a “reasonable accommodation” under the ADA

NOTE: Teleconferencing is subject to City policy. EHRAC may currently utilize teleconferencing only during a State of Emergency or pursuant to requirements of the ADA.

UNLAWFUL MEETINGS - SERIAL COMMUNICATIONS

- “A majority of the members of a legislative body shall not...use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the legislative body.”

(Gov. Code § 54952(b)(1).)

***Member A contacts Member B, and Member B contacts Member C,
and so on, until a quorum has been involved.
This is a violation of the Brown Act.***

SERIAL MEETINGS – COMMUNICATIONS WITH NON-MEMBERS

➤ **COMMUNICATIONS WITH STAFF**

- Do not ask about or discuss views of other members
- Avoid disclosing your own views as a member

➤ **COMMUNICATIONS WITH CONSTITUENTS AND OTHER NON-STAFF**

- Ask if they are discussing the matter with other members and, if so, they should not be disclosing those members' views or your views to those members
- Make clear you are not making any decision on a specific matter until it is brought before the full legislative body during a public meeting
- Hear them out rather than express your opinions

Disclosing viewpoints/opinions on an item within the subject matter jurisdiction of your legislative body should be reserved for a public meeting

EMAILS

- Use of e-mail or other technology/media by a majority of a legislative body to discuss, deliberate, or take action on items within the body's jurisdiction violates the Brown Act.
- **BEST PRACTICES:**
 - Avoid sending emails to the entire legislative body
 - Be careful replying to emails
 - Think carefully before sending any email regarding legislative body business

SOCIAL MEDIA RULE

- Members of legislative bodies may use social media platforms to answer questions, provide information to the public, or to solicit information from the public regarding a matter within the subject matter jurisdiction of the body, provided that a majority of the members do not use the social media platform to discuss among themselves agency business
- Members of the legislative bodies may not respond directly to any communication on a social media platform regarding a matter that is within the subject matter jurisdiction of the body that is made, posted, or shared by any other member
 - This includes "liking," "retweeting," "reacting" (emoji use), etc.

(Gov. Code § 54952.2(b)(1)(3).)

“NON-MEETINGS” WHERE QUORUM IS PRESENT:

- Meetings of other legislative bodies
- A conference that is related to the business of the agency that is open to the public
- Individual contacts or conversations between a member and any other person
- A social or ceremonial occasion
- Community meetings that are open and publicized
- Open and noticed meeting of a committee (non-members must only attend as observers if there is a quorum)

GENERAL RULE: a majority shall not discuss amongst themselves business within their legislative body's subject matter jurisdiction at non-meetings. Otherwise, it becomes a meeting that should be noticed and public!

CLOSED SESSION MEETINGS:

The Brown Act allows closed sessions under the scope of regular meetings, and the agenda shall include a description of the items to be discussed. Prior to holding any closed session, the legislative body shall disclose, in an open meeting, the item(s) to be discussed in closed session (e.g., existing litigation, employee discipline, etc.).

TEMPORARY ADVISORY COMMITTEES

- Composed solely of **less than a quorum** of the legislative body
- Serves a **limited or single purpose, that is not perpetual, and that will be dissolved once its specific task is completed**
- Such committee is not a “legislative body” for purposes of the Brown Act
- Example: an advisory / ad hoc committee composed of less than a quorum created to meet with representatives of other entities to exchange information on a matter of concern to the legislative body

BROWN ACT VIOLATIONS

- **If you are aware of a violation or potential violation, notify staff to correct the problem ASAP**
 - Remedies could include re-agendizing topics, reconsidering actions taken, etc.
- **Civil Action:** a court can void actions taken, enjoin future violations, and grant attorney's fees to be paid by the City.
- **Criminal Charges:** if the member intends to deprive the public of information to which the member knows or has reason to know the public is entitled under the Brown Act, that member is guilty of a **misdemeanor**.

City of Culver City

Relevant Policies and Laws for Members of Legislative Bodies

COUNCIL POLICY STATEMENT NO. 3002

- General guidelines applicable to City Commissions, Boards and Committees (CBCs) and Appointed Representatives to Outside Agencies and Boards
- **GENERAL ROLE OF CBCs:**
 - Advisory bodies to the City Council that provide the Council with a more complete picture on many issues
 - CBCs make recommendations concerning City policy and may administer policies adopted by the Council
 - However, **unless expressly authorized to do so by the Council**, CBCs shall **not** make policy

CODE OF CONDUCT:

➤ **Preparation for meetings**

- Be prepared to discuss items on the agenda

➤ **Punctuality/attire**

- You are professionals in your respective areas
- Begin meetings on time
- When attending official City events, including meetings, business casual is the generally acceptable mode of attire

➤ **Conduct at Meetings**

- Comply with the Brown Act
- Conduct meetings with proper decorum and respect even where differences of opinion may arise
- Be cautious in expressing views which might be considered views of the entire Body
- Until an issue has been fully considered and a decision or recommendation rendered by the full Body, no individual Member should purport to represent the collective opinion of other Members
- When speaking at Council or other meetings, or to members of the public, Members may state they are a member of the Body, but must also specifically state they are speaking as an individual and any statements, views, or opinions expressed are their own

- A Member may only speak on behalf of the Body if they have been authorized by a majority of such Body to speak on the Body's behalf about a particular matter
 - Best practice is that the Body chooses the Chair or Vice Chair to be the representative of choice in such circumstances
- Rosenberg's Rules of Order should be the parliamentary standard and guide for the conduct of meetings
- **A majority of the CBC Members' votes to place an item on a future agenda does not indicate an implicit approval or denial of the agenda item itself**

➤ **Fair and Unbiased Consideration of Issues**

- Members shall approach items before the Body in a fair and unbiased manner
- Each Member is responsible to ensure any programs, policies, and activities it oversees provide equal access and opportunities to all persons regardless of race, religion, gender, gender identity, gender expression, sex, sexual orientation, age, disability, immigration status, citizenship, color, ethnicity, national origin, ancestry, socioeconomic status, income, or other protected categories or personal characteristics
- While Members are entitled to their viewpoint, the quality of the Body's recommendations rely on consideration of all viewpoints
 - Thus, Members shall be cautious of creating the appearance of a predetermined bias prior to and during meetings, and while in contact with the press and members of the public

- **Role of the Chair (or Vice Chair in the Chair's absence)**
 - Responsible for maintaining order and decorum of meetings

- **Misconduct**

- ***Minor misconduct:*** examples include, but are not limited to, lack of preparation for a meeting, late arrival at meetings, consistent absence from meetings, failure to complete mandatory training, and discourteous behavior in relations with fellow Members, staff, or the public
 - ***Major misconduct:*** examples include, but are not limited to, repeated instances of minor misconduct, misuse of official City identification, violation of City Council Policies, drugs and alcohol in the workplace, discrimination and harassment in the workplace, smoking in the workplace, etc.

- **Members serve at the pleasure of the City Council** and violations of this Policy shall be handled as follows:
 - Minor misconduct: issues will be reported to the Department Head of the support staff who will attempt to resolve the issue with the Member and City Manager
 - Major misconduct: issues will involve a preliminary review by the City Manager and City Attorney and may lead to a recommendation to the City Council to remove the Member from their seat
- The City Manager shall inform the City Council of all Member misconduct and the determination of what (if any) discipline to impose shall be at the sole discretion of the City Council

➤ **Discipline of Members by the City Council**

- If the Council determines a Member may have acted in a manner inconsistent with law or this Policy, it may impose any or all of the following:
 - Provide direction to the City Manager to meet with the Member(s) to informally investigate alleged misconduct and provide counseling
 - Provide direction to the City Manager to formally investigate the Member misconduct and report findings to the Council
 - Require the Member to appear before the Council at a public meeting to hear charges of misconduct
 - Determine, in the Council's sole discretion and with or without cause, to remove a Member from their seat (requires majority vote of Council)

➤ **Interaction with the City Council**

- Periodically, but no less than biannually, each CBC must submit a written report on their respective activities to the Council
- On each Council agenda, there is an opportunity for a rep from a CBC to provide a report to the Council:
 - Must have authority from their CBC to make the report
 - Shall coordinate with Department staff and the Clerk's Office to request time on the agenda
- Members' communications with the City Council may be subject to the Brown Act and Members shall ensure communications do not create a serial meeting

➤ **Interaction with City Staff**

- Members shall interact with staff with proper politeness and courtesy
- Issues and concerns of Members and/or City Staff shall be addressed to the Department Head and, should resolution not be reached after such consultation, Members and/or Staff may consult with the City Manager's Office
- City Staff are not full-time assistants to Members. Rather, they serve and support the CBC as a whole and as part of their overall responsibilities. The priority of their duties and responsibilities are established by the Council and administered by the City Manager and the respective Department Head
- CBCs may make routine informational requests to staff that do not require significant research or other allocation of staff resources
- CBCs and their Members shall not provide direction to staff (other than placing items on agendas that do not require the dedication of significant time and resources and that have the proper City Manager/City Council approval)

➤ **Work Plans**

- Work Plans are approved by the City Council each year
- CBC Work Plans shall be created in collaboration with City Staff and presented to City Council for approval
- Work Plans may or may not be approved based on availability of Staff resources and the desire of the City Council
- **In order to amend a Work Plan** for items that require significant research or other allocation of staff resources, CBCs must receive prior City Council approval prior to being placed on a CBC agenda. The Department head shall vet the matter and may provide additional information/comments to the City Council along with the CBC's request
- From time to time, the Council may remand certain topics to a specific CBC to research and/or provide recommendations, which take priority over any CBC Work Plan

- Standing and ad hoc subcommittees of CBCs may be created in accordance with the Brown Act, and only for matters within the purview of the CBC and only as needed
- A CBC may only advise on, plan, host or produce an event that is within the approved Department Work Plans, CBC Work Plans, or otherwise approved by the City Council, which would require the following minimum information:
 - Amount of City Staff time required;
 - Other City resources needed;
 - Amount of City funding requested; and
 - Any other information requested by City Staff that may be necessary for City Council to have an informed discussion

CULVER CITY MUNICIPAL CODE

SECTION 3.01.145

- While the CBC is in session, Members must preserve order and decorum including, but not limited to, treating everyone courteously, listening to others respectfully, providing fair and equal treatment for all persons and matters coming before the CBC, and allowing other Members and the public to speak without intimidation or interruption, except as otherwise provided in this Section
- Members of the public are expected to observe the rules of order and decorum, including but not limited to treating others courteously, listening to others respectfully, and allowing Members and others to speak without intimidation or interruption

- No person shall disrupt a CBC Meeting
- “Disrupting” means engaging in behavior during a meeting that actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of the meeting and includes, but is not limited to, one of the following:
 - Failure to comply with reasonable and lawful regulations (such as public comment time limits)
 - Engaging in behavior that constitutes a use of force or true threat of force (a threat that has sufficient indicia of intent and seriousness that a reasonable person would perceive it to be an actual threat to use force by the person making the threat)

➤ Removal for Disruptions:

- The Chair or their designee may remove, or cause the removal of, an individual for disrupting the meeting
- Prior to such removal, the Chair or designee shall warn the individual that their behavior is disrupting the meeting and their failure to cease such behavior may result in their removal
 - A use of force or true threat of force does not require such warning
- If the individual does not promptly cease their behavior, the individual may then be removed from the meeting
- The Chief of Police or designee shall carry out all orders and instructions by the Chair or designee for the purpose of maintaining order and decorum

- ***This presentation only includes some laws and policies, or portions thereof, that are applicable to CBCs in the City of Culver City***
- ***Please contact Staff or the City Attorney's Office should you have any questions on these or other CBC policies or laws***