

Brown Act Requirements and Campaign Activity Limitations

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AGENDA

- **Brown Act Requirements**
- **Brown Act Limitations**
 - **City Sunshine**
- **Campaign Activity Limitations**

BROWN ACT

- General Rule: All meetings must be open to the public.
- The Ralph M. Brown Act, Government Code Sections 54950 - 54963, was enacted in 1953 to ensure local government meetings *were open and public*.
- Scope:
 - Applies to any “legislative body”, decision-making or advisory, *including boards, commissions and subcommittees*.

BROWN ACT – MEETING

- **Any congregation**
- **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 the *subject matter jurisdiction* of the legislative body or the local agency to which it pertains**

BROWN ACT – NOT A MEETING

- **Individual contacts by members of the public**
- **Attending a conference**
- **Attending an open & publicized community meeting (e.g., an election debate)**
- **Attending an open and noticed meeting of another body (but, cf. serial meetings), or**
- **Attending a social function (e.g., a holiday party)**

BROWN ACT – PROHIBITED MEETINGS

- Use by
- *A majority of members*
- *Of a series of communications of any kind,*
- *Directly or through intermediaries*
- *To discuss, deliberate, or take action*
- *On any item of business within the subject matter jurisdiction of the board or commission*

BROWN ACT – PROHIBITED MEETINGS

- **Serial Meetings – Examples:**

- **“Daisy Chain”** **[A → B → C]**

- Member A talks to Member B, who then texts to Member C about the same topic.



- **“Hub And Spoke”**

- Member A talks to Member B and then talks to Member D about the same topic

- **Email Reply to All**

BROWN ACT – PROHIBITED MEETINGS

- **Staff Briefings are allowed**
- **Staff may contact a Commissioner to answer questions or provide information if the Staff member does not communicate the comments or position of any other Commissioner.**

BROWN ACT – PUBLIC COMMENT

- **Limited to items within scope of Commission’s subject matter jurisdiction**
- **Required for Regular Meetings**
- **Highly Recommended for Special Meetings**
- **City standard = 2 minutes, but Chair has discretion to limit time when appropriate**
- **Speakers using a translator get twice the time**

BROWN ACT – PUBLIC COMMENT

Responding to Issues Not on the Agenda

- Refer the speaker to staff
- Refer the speaker to appropriate reference material
- Request staff to report back at a future meeting
- Direct staff to place the matter on a future agenda

Teleconference Meetings (Post-COVID)

- **At least a quorum of the Board must participate from within the City of San Jose**
- **Specifically identify each teleconference location on the meeting agenda**
- **Post agendas at each teleconference location**
- **Each teleconference location must be accessible to the public and have technology to allow the public to participate from that location**
- **All votes must be by roll call.**



Campaign Activities: Do's and Don't's

Use of Public Resources

No City or work2future money to support or oppose a ballot measure or candidate

Taking a Position

May participate in political activities if NOT:

- using public resources
- on “City time”
- on City property

Fundraising Activities

No City funds to attend fundraisers

No fundraising while on City time

Disclose fundraising activities (DFR1)

COUNCIL POLICY 0-4

COMMISSION DON'Ts

- **DON'T** use your Commissioner title to make personal political endorsements
- **DON'T** interview candidates for political office or endorse such candidates
- **DON'T** individually or as a body independently support or oppose legislation, including ballot measures

Penalties

Criminal liability

Disqualification from holding any office in the state

Civil liability— may need to reimburse agency

Penalties

City may need to report expenditure as a campaign committee

City may be subject to penalties

Person may need to pay attorney fees of challenging party

Questions & Answers

Thank you for participating
in this training.