

work2future Board Training

Presented by:

Leanne C. Bolaño, Deputy City Attorney

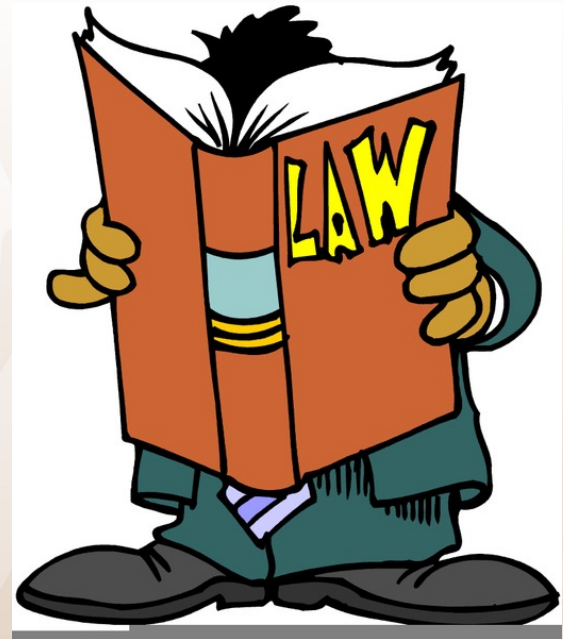
March 21, 2024

AGENDA

- CAO's Role**
- Brown Act**
- Public Records Act**
- Form 700/Conflicts**
- Ethics/Harassment Training**

CAO's Role to w2f Board

- **Advise the Board through the Board Secretary**
 - Open government
 - Conflicts
 - City procedures
- **Note: also advise work2future City staff to negotiate and execute all agreements, pursue grant efforts, assess risk, etc.**





BROWN ACT

Brown Act: Scope

- 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***.
 - Exception: single purpose temporary (“*ad-hoc*”) subcommittees formed solely of less than a quorum of the legislative body. Sunshine Resolution § 2.3.1.2 limits an *ad hoc* committee term to less than 6 months.

Brown Act: Meetings

- ✓ 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

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

Brown Act: Prohibited Meetings

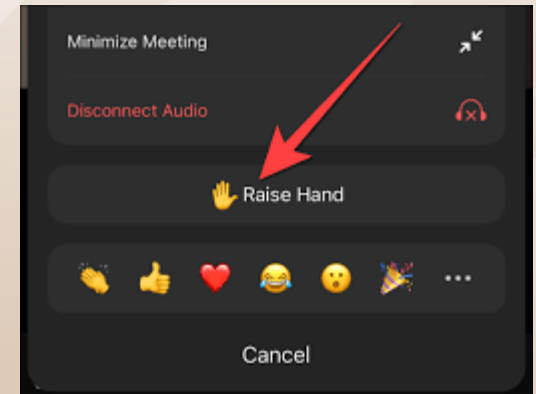
- **Serial Meetings – Examples:**
- **“Daisy Chain”** [$A \rightarrow B \rightarrow C$]
 - Member A talks to Member B, who then texts to Member C about the same topic.



- **“Hub And Spoke”**
 - Member A talks to Member B and then talks to Member D about the same topic

Brown Act: Public Comment

- Limited to items within scope of Board'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
- Note: new rules in the age of "zoom bombing"



Brown Act Body?

- **Decision-Making Body = quasi-judicial body**
 - E.g., Appeals Hearing Board, Civil Service Commission, Planning Commission
 - Hears alleged violations, protests of City polices or efforts

work2future Board is NOT a quasi-judicial body.

- **BUT, it is still subject to open government requirements and is a Brown Act Body!**
- **Same applies to w2f's standing committees.**



Board Parliamentary Procedures

- **Establish a Quorum**
 - Note Absences for the Record
 - Note Arrivals / Departures for the Record (affects vote)
- **Announce Agenda Item Number and Subject**
- **Invite staff / commissioner to present the item**
- **Ask members of the commission if they have questions of clarification**
- **Invite Public Comments**
- **Invite a motion**
 - Announce who made the motion
 - Announce who seconded
- **Vote**
 - Must be verbal or shown on public display screen
 - Announce vote result, and who voted no or abstained

PUBLIC RECORDS ACT

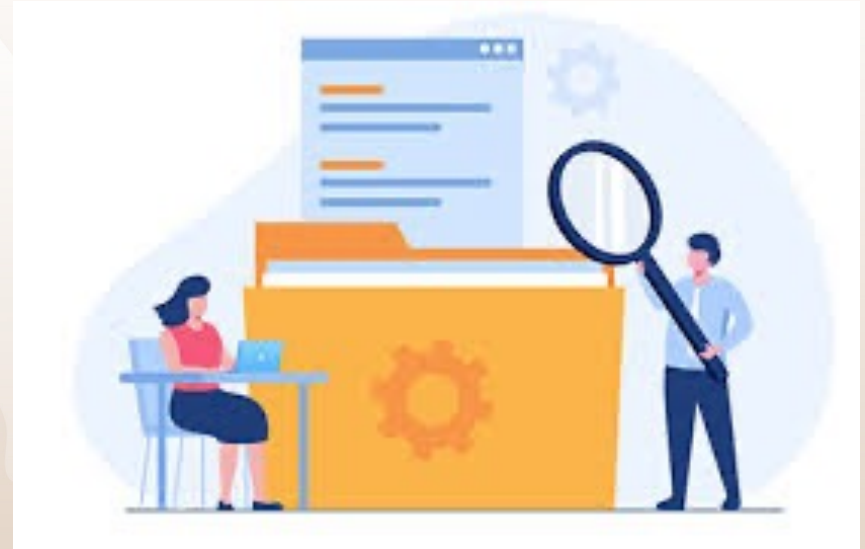
Public Records Act

- **Govt. Code Sections 7920.000 *et. seq.***
 - “public record” = “any *writing* containing information relating to the public’s business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics” (GC § 7920.530)



Public Records Act

- Can be a request for copies of public records; or a request to inspect public records
- Strict timelines associated with acknowledging receipt, estimating production, closing out the request
- “reasonable search”
- **PRODUCE** the record, **UNLESS...**





CONFLICTS AND FORM 700

Conflicts of Interest

Political Reform Act

Govt. Code Sections 87100, *et. seq.* + regulations from the CA Fair Political Practices Commission (FPPC)

- Board Member must recuse if there is a disqualifying financial interest.
- “Disqualifying financial interest” = if the *decision* will have a *reasonably foreseeable material* financial effect, distinguishable from the effect on the public generally, directly on the official, or his or her immediate family, or on any other listed *financial interest*.



Political Reform Act

- **Decision** – Making or attempting to influence a decision includes making recommendations and reports to a decision-maker. Assume that all of your Commission's actions will qualify.
- **Financial interest** – Includes sources of your family's income or gifts; business entities; real property; and your family's personal finances (including a mobile home).
- **Material** – Means significant; specific tests for each type of financial interest are located in the state regulations.
- **Reasonably Foreseeable** – Determined by state test.

Political Reform Act

Other kinds of Interest

- **Gifts**
- **Businesses**
- **Investments**
- **Contracts**
- **Personal bias or interests**
- **Personal finances**



Conflicts: GIFTS - \$50 Limit



- **General Rule: No Gifts over \$50 from anyone who is located in or doing business in the City of San Jose per calendar year**
- **No Gifts from Lobbyists**
- **City Policy 1.2.2: Gift Policy**

Conflicts: What do you do?

If you think you have a conflict:

- ✓ Recuse yourself on the record
 - ✓ from participating in discussion or voting and
 - ✓ refrain from attempting to influence the decision
 - ✓ Fill out Declaration of Conflict of Interest Form!
- ✓ Step down from the dais and leave the room.
- ✓ You may speak as a member of the public with respect to interests that are solely your own.
- ✓ Note: recusal can pose voting and quorum issues.

FORM 700 & FAMILY GIFT REPORT

- **Due within 30 days of assuming or leaving office**
- **Due April 1 annually**
- **City mandatory \$10/day penalty for not filing (maximum \$100)**
- **State can fine up to \$5,000 for not filing**
- **Don't report your personal residence unless using it for rental income (use APN for privacy)**
- **Recommend listing City or business contact address since public record**



ETHICS/HARASSMENT TRAINING

AB 1234 Ethics Training & AB 1661 Sexual Harassment and Discrimination Prevention Training

- More training is required by state law for certain commissions where the state has said so or the members are receiving a stipend.
- Must be completed within 90 days of appointment, and every 2 years thereafter. Certificate of completion needs to be on file with Clerk's office.
- This training includes identifying and preventing abusive conduct or bullying behaviors. Repeated use of derogatory remarks, insults, and verbal or physical conduct that a reasonable person would consider threatening, intimidating or humiliating as well as deliberately sabotaging or undermining someone's performance is not tolerated.
- Bullying has negative effects on victims and others who are present, on productivity and morale





THANK YOU!

Leanne.Bolano@sanjoseca.gov