work2future Board Training

Presented by:
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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: 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

- 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

- **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 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!

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