

# California's Sunshine Law: The Ralph M. Brown Act

Presentation by  
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COUNTY OF ALAMEDA  
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VETERANS AFFAIRS COMMISSION

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# The Brown Act

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The Brown Act was enacted in 1953 after 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 Guiding Principle

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





# Who is Subject to the Brown Act?

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- Any board, commission, committee or other body created by a charter, ordinance, resolution or other formal action of the Board of Supervisors + standing committees
- The Advisory Commission on Aging is codified in the Admin Code, Ch. 2.92
- Exception: ad hoc committees made up of less than a quorum of the body

# Ad Hoc Committees:

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- Purely advisory
- comprised solely of members
- < quorum (of body or standing committee)
- limited duration and purpose
- No meeting schedule fixed by formal action
- charged with accomplishing a specific task
  - *No continuing subject matter jurisdiction*
- in a short period of time
  - *dissolved when their specific task is completed*



# Ad Hoc Examples:

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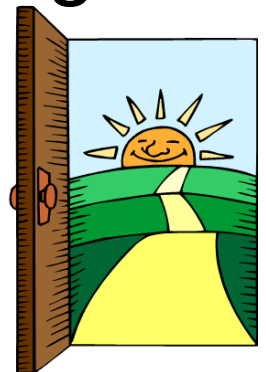
- Meetings by 2/5 city council members to review Coastal Commission's new draft land use plan regarding city
- Ad hoc advisory committee created to advise Board of Education regarding candidates' qualifications for vacant board position

# The Open Meeting Rule

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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.”



# What is a “Meeting?”

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





# Meetings May Be:

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- Formal or informal
- Involve only discussion or action, or both
- In person, or through technology



# Meetings Can Include:

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- Retreats
- Site visits
- Social gatherings or “networking” before or after a noticed meeting



# Unlawful Meetings

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

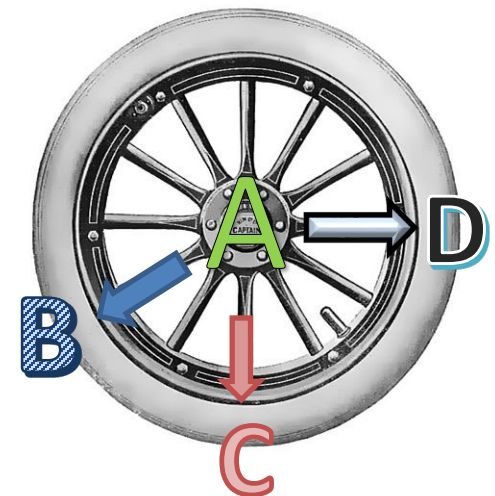


# Types of Serial Meetings

- “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

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- Through technology:

- Text
- Email
- Phones, etc.



- Through staff



# Discussions With Staff

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





# What ISN'T a Meeting?

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- 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 Commission business



# What about Social Media?

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- AB 992 applies to Social Media (*e.g.*, Twitter, Facebook, Instagram, Reddit, etc.)
- *Meeting does not include* “engaging in separate conversations or communications on [Social Media] to answer questions, provide information to the public, or to solicit information from the public regarding a matter that is within the subject matter jurisdiction of the legislative body...”

— Government Code sec. 54952.2 (*cur. 12/31/25*)





# *...still...*

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- **No** “discuss[ion] among [members about] business of a specific nature that is within the subject matter jurisdiction of the legislative body”
- **No** “responding directly to any communication...regarding a matter that is within the subject matter jurisdiction of the legislative body that is made, posted, or shared by any other member of the legislative body”
  - Government Code sec. 54952.2

# Meetings: Locations and Time

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



# “Teleconference” =

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- “a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both.”
- “Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.”

# Teleconference Rules

- Each teleconference location must be identified in the notice and agenda
- Agenda must be posted at each location
- Each location must have public access
- Public must have opportunity to speak at each location
- A quorum must be inside the County
- All votes must be taken by rollcall



# Teleconference cont.

- The body must “conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency”



# Remote Attendance

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- Gov. Code sec. 54953
  - Current version expires on December 31, 2025
- Does not require a state of emergency, **but...**
  - A *quorum* must meet in-person in *1 physical place*
  - Only for a limited number of times
  - Only if either “*just cause*” (e.g., contagious; childcare; etc.) or “*emergency circumstances*” (e.g., medical emergency)
  - Notification/request process to participate via teleconference
  - Must attend using **both** video & audio
  - Must announce if there is anyone 18 years or older with the member



# Just Cause Remote Attendance

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- *Just Cause* – Cannot attend because:
  - Childcare or caregiving need
  - Contagious illness
  - Immunocompromised family member
  - Qualifying mental or physical disability under Gov. Code sec. 12926 and 12926.1 (which may include HIV/AIDS, epilepsy, seizure disorder, clinical depression, multiple sclerosis, etc.)
  - Travel on official County business



# Just Cause Remote Attendance

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- Procedure:
  - At earliest opportunity
  - must provide notice, including a general description of the circumstances relating to their need to appear remotely at the given meeting
  - *NO more than twice per calendar year*





# Emergency Circumstances

## Remote Attendance

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- Emergency Circumstances
  - a physical or family medical emergency that prevents a member from attending in person

# Emergency Circumstances

## Remote Attendance

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- a limited number of attendance:
  - Two meetings per year,
    - *if the legislative body regularly meets once per month or less.*
  - Five meetings per year,
    - *if the legislative body regularly meets twice per month.*
  - Seven meetings per year,
    - *if the legislative body regularly meets three or more times per month.*



# Emergency Circumstances

## Remote Attendance

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- Procedures:
  - As soon as possible
  - must make a request with a general description of the circumstances relating to their need to appear remotely at the given meeting.
  - Request is added to posted agenda (if enough time), otherwise can be added to the agenda at the beginning of the meeting
  - Body to take vote on the request

# 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?

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



# Very Limited Exceptions

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- Public health/safety emergency
  - Immediate need to avoid serious injury to public interest



- An item continued from previous agenda *and* that last meeting was within the last 5 days

# These Don't Need to be On the Agenda

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- 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

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## 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 (e.g., cannot mandate that attendees register)





# Rights of the Public

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## PARTICIPATION IN MEETINGS

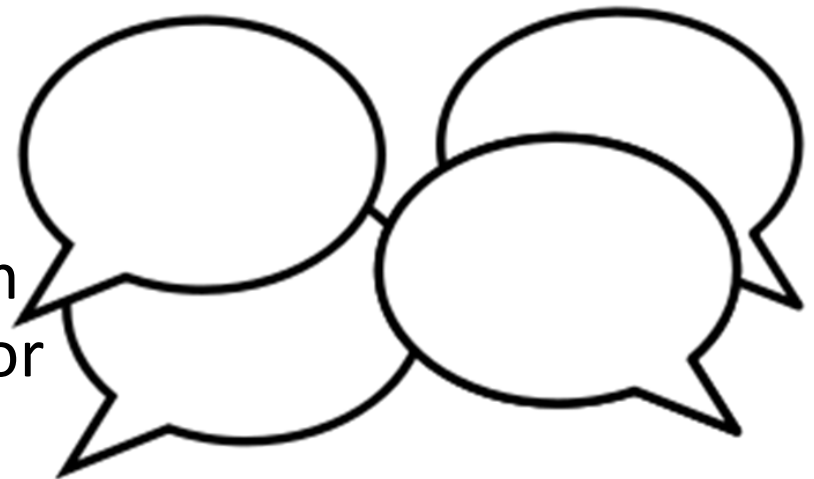
The public has the right to address the Board at any regular or special meeting on any item on the agenda, ***before conclusion of the discussion or the Board takes action***



# Types of Public Comment

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





# Specific Public Comment

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- 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

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

# Rights of the Speaker

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



# Limits on Public Comment

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- “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

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- Board 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 Session

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Meetings must be open to the public *unless* the Brown Act specifically authorizes the Board to meet in “closed session”

It may not be likely that the Commission will have any closed session matters; any plans to hold a closed session can be discussed with County Counsel prior to being placed on an agenda.

Example Topics:

- Personnel
- Litigation
- Labor Negotiations
- Real Estate Negotiations





# Closed Sessions

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- 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 Board members and necessary support staff can be present in closed session

# Criminal Penalties

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- 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
- Misdemeanor
  - punishable by imprisonment in the county jail not exceeding six months, or
  - by fine not exceeding one thousand dollars (\$1,000), or
  - by both



# Other Potential Penalties

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- Invalidation of action taken in violation of Brown Act
- Injunction or declaratory relief to stop or prevent violations
- Disciplinary action
- Prevailing plaintiff may get attorneys' fees and/or costs
- Referral to grand jury for disclosing closed session discussion



QUESTIONS?

