

The People's Business



CALIFORNIA CONSTITUTION



"We, the People of the State of California, grateful to Almighty God for our freedom, in order to secure and perpetuate its blessings, do establish this Constitution."

California Constitution, Art. I, sec. 3(b)(1)

“The People have the right of access to information concerning the conduct of the people’s business and, therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny.”

The Ralph M. Brown Act

- Transparency in Government
- Public Participation

“In politics, strangely enough,
the best way to play your cards
is to lay them face upwards
on the table.”

H.G. Wells

Conduct Of Public Business, and Deliberative Process:

- Must Take Place In Public,
AND
- With Public Notice And
Participation

BROWN ACT APPLIES TO ALL LEGISLATIVE BODIES OF LOCAL AGENCIES

- City Council (quorum or more)
- Commissions, Boards, or Committees created by formal action of a legislative body.

THE BROWN ACT APPLIES TO ALL MEETINGS OF MAJORITY OF MEMBERS:

- Congregating At The Same Time
And Place
- To Hear, Discuss, Deliberate
- On Matters Within Their Subject
Matter Jurisdiction

WITH A FEW EXCEPTIONS...

MEETINGS

Exceptions

- Conferences open to the public where general issues are discussed
- Community organized meetings that are open and publicized
- Attendance at open/noticed meeting of another local agency

MEETINGS

Exceptions

- Social or ceremonial occasions
- Individual contacts with third persons
- Less than quorum
- Note: Majority of you may not discuss amongst yourselves issue of specific nature relating to your subject matter that is not on scheduled program

Time and Place of Meetings

- 72 hours advance notice for Regular Meeting
- 24 hours notice plus personal service
- Meetings outside jurisdiction under limited circumstance
 - Inspect property or extra-territorial facilities (notice required; limited discussion)
 - Multi-agency meetings (notice)
 - Meet at agency-owned property outside jurisdictional limits
- Teleconferencing, including voting

Agendas

- Brief, General Description of items of business to be transacted or discussed –
- Enough information to permit member of public to make informed decision whether they want to attend
- 20 words generally enough
- Tip: List any formal action connected with agenda item

Secret ballots are prohibited!!



“SERIAL MEETINGS” Are Prohibited

- Through
 - Intermediaries
 - Technological Devices (phone, email)
 - Other forms of communications
- Used by a majority
 - To discuss
 - Deliberate, or
 - Take action on any item of business required to be conducted in public

SERIAL MEETINGS

- Series of communications
- Each of which involves less than a quorum of the legislative body
- Which taken as a whole, involve a majority of the body's members
- To develop a collective concurrence as to action to be taken

SUCH AS ?

Conversations/Communications which:

- Facilitate an agreement or compromise among members
- Advance the ultimate resolution of an issue
- Contribute to the development of a concurrence as to action to be taken

“ACTION TAKEN”

- A collective decision made by a majority of members of body
- A collective commitment or promise by a majority of members of body to make a positive or negative decision

OR

- An actual vote when sitting as a body

Use of Intermediaries – Not A Serial Meeting Where:

Distribution of legal memorandum written by city attorney to all councilmembers in the absence of evidence that the council members deliberated *collectively* with respect to the memorandum or its general subject matter.

Not A Serial Meeting

- Individual contacts or conversations between a member of a legislative body and any other person.
- No Violation where city manager or staff discuss plans for dates, times, etc.

Not A Serial Meeting

- *Separate* contacts, conversations or communications between an employee or official of public agency in order to
 - Answer questions or
 - Provide Information regarding matter within subject matter jurisdiction of local agency

IF

- Individual *does not communicate* the comments or position of any other member of legislative body

PUBLIC ACCESS To Meeting

- Cannot “condition” attendance on registration, identifying self, pay fees
- Public must have opportunity to address Legislative Body:
 - General issues of interest within jurisdiction of the Body
 - On Agenda items before or during consideration of the item
 - Time limits may be imposed
- Meetings must comply with ADA requirements

Meeting Conduct

- Public may criticize the policies, procedures, programs or services of the Council (“thick skin rule”).
- Public may tape or broadcast unless noise, light or obstruction of view causes a persistent disruption.
- Officials/staff may briefly respond, may refer the matter to staff, or seek to have the matter placed on an agenda.

Written Materials Available To The Public

- Writings distributed to majority of legislative body except those exempt by law to be made available for public inspection upon request without delay
 - If distributed less than 72 hours before meeting must be made available to public at same time as distributed to members
- If distributed during meeting by agency – shall be available for public inspection at the meeting.
- Must be made available in alternative formats upon request (A.D.A.)

Closed Sessions

Limited only to specific areas
within jurisdiction of
legislative body

BROWN ACT VIOLATIONS

- VIOLATION TO

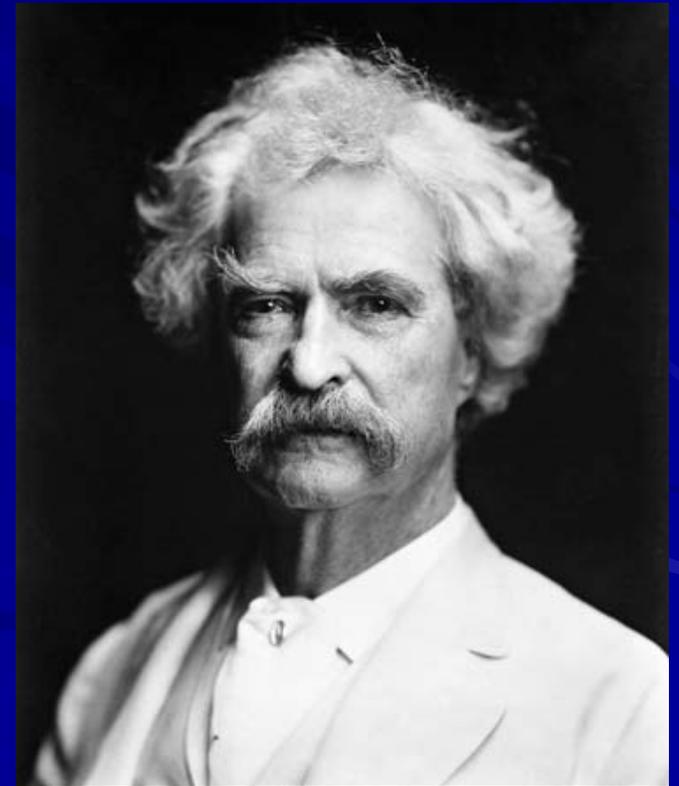
Intentionally deprive public of information

- VIOLATION TO

Disclose confidential closed session
communications

“Always do right —
this will gratify some and
astonish the rest.”

Mark Twain



QUESTIONS?

