



**meyers | nave**  
A Professional Law Corporation

## Brown Act Training Youth Commission

Ali Wolf, Assistant City Attorney  
Kimia Mahallati, Assistant City Attorney

November 7, 2022

# What We Will Cover

- Overview of Key Elements
- Meetings
- Agendas
- Public Participation



# Brown Act Key Elements

- “All meetings of the legislative body of a local agency shall be open and public.”
- “All persons shall be permitted to attend any meeting of the legislative body of a local agency.”

**Default: All Commission meetings must be open and public, unless an exception is permitted.**

# Brown Act Key Elements

## **The Brown Act applies to:**

- Committees, Commissions, Advisory Bodies
  - Created by action of the City Council
  - Continuing subject matter jurisdiction
  - Fixed meeting schedule



# Meetings



A congregation of a majority of Commissioners at the same time and place to discuss or act on public business

# Meetings

## Exceptions

- Individual contacts
- Conferences\*
- Open community meetings\*
- Another body of the agency\*
- Social or ceremonial events\*
- Standing committee meetings



\*Provided that a majority of the members do not discuss among themselves, other than as part of the scheduled program, City business.

# Meetings

## **Serial Meetings:**

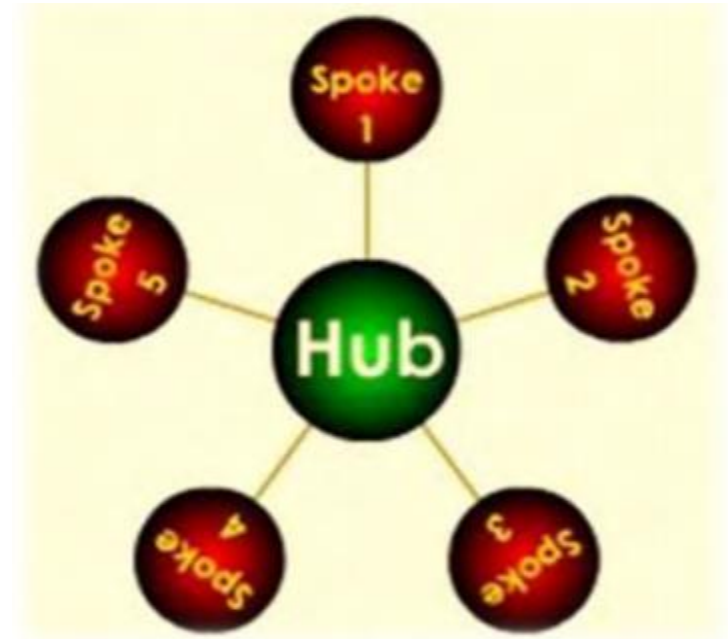
- Outside of an open and noticed public meeting, a majority of a Commission may not discuss, deliberate, or take action by direct communication, intermediaries, or technology



# Serial Meetings

## Hub and spoke

- A staff member or Commissioner (hub) communicates with other members of the Commission (spokes) one-by-one for input on a proposed action
- During this process, members' positions are revealed to other members.



## Daisy chain

- Chain conversation results in a quorum discussing and taking action





# Serial Meetings



## Email, Texts and Social Media

- *Reply-all* when responding to emails or texts copying other Commissioners
- Social Media, Blogs, NextDoor (AB 992)
  - Commissioners may not discuss, or respond directly to any communications posted online by other commissioners, regarding a matter within its jurisdiction.
  - i.e. posting or using emojis

# Agendas

**AGENDA**

- ☐ \_\_\_\_\_
- ☐ \_\_\_\_\_
- ☐ \_\_\_\_\_
- ☐ \_\_\_\_\_
- ☐ \_\_\_\_\_
- ☐ \_\_\_\_\_
- ☐ \_\_\_\_\_

classroomclipart.com ©

# Agendas

## ***Discuss & act only on items on a posted agenda***

- Posting requirements:
  - ***Regular meetings***  
must be posted **72**  
hours before meeting
  - ***Special meetings***  
must be posted **24**  
hours before meeting
- *Exceptions:*
  - Emergency
  - Urgency → need for immediate action came to agency's attention after posting the agenda

# Items on the Agenda

## What items can be agendized?

- Those that are within the Commissions' jurisdiction
- The scope of the Commissions' review is limited to what has been assigned to it by the City Council.



# Jurisdiction

## Youth Commission (SSFMC 2.83.090)

- Advise and make recommendations to City staff regarding:
  - Concerns and needs of City's children and youth
  - Ways to support or improve existing social, economic, educational, and recreational programs for children and youth
- Examples of Duties
  - Seek out and/or receive questions, concerns, and suggestions relating to need for job opportunities for youth aged 14-17
  - Recommend method of linking students seeking work with local businesses who have need for employees
  - Suggest idea for job fair at high school

# Hypothetical

- During “Oral Communications” for items not listed on the agenda, a speaker requested that the Commission review a new youth job opportunity program which an organization has proposed to operate with the City, as well as the related contract.
- The Commission voted to review the proposal and contract and voted to approve the agreement.



***Is this a  
Brown Act  
violation?***

# Answer to Question #8

- **Yes;** the Commission has taken action on an item that was not noticed on the agenda. If the item is not agendized, it cannot be discussed or acted upon.
- In addition, it is likely that the scope of the request is outside of the Commission(s)' scope of duties, as the commission is not authorized to approve contracts for the City. Questions related to the contract probably do not qualify to be placed on the agenda(s). Any discussions must be limited to such scope of duties.

# Public Participation





# Public Participation

- At all regular meetings
  - Before or during consideration of item
  - Any issue within subject matter jurisdiction
- At special meetings
  - Agenda topics only
- Reasonable time limits and other management measures are okay
  - Speaker cards must be voluntary/optional
  - May not limit “negative” comments



# Consequences-Summary

## **Violations of the Brown Act can result in:**

- Nullification of a decision made in violation of the Brown Act's requirements;
- Willful violation can incur criminal penalties;
- A possible award of attorneys' fees to the party successfully bringing a Brown Act lawsuit;
- Loss of public confidence.

# Questions?

