

BROWN ACT TRAINING

FOR NEIGHBORHOOD COUNCIL PRESIDENTS AND LEGAL LIAISONS



OFFICE OF THE LOS ANGELES CITY ATTORNEY
MUNICIPAL BRANCH
NEIGHBORHOOD COUNCIL ADVICE DIVISION

HOUSEKEEPING RULES

Good evening! Welcome!

We look forward to your participation in today's workshop.

Thank you for all the questions submitted for tonight's Brown Act training. Some will be addressed during the training slides and some will be answered live during our Q&A portion at the end of the training. Please be advised that the hand raised function will be disabled. Please utilize the Q&A function at the bottom of the screen to enter all questions during the training.

There will be no break in this training. Interpretation is available in Spanish. (Please click on the globe icon at the bottom of your screen).

This training will not be recorded, however we will provide the presentation to you after the training.

Thank you so much for your leadership and service in the Neighborhood Council system!

Neighborhood Council Advice Division ("NCAD")



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3

Neighborhood Council Legal Liaison



Legal Liaison - Board President or Designated Board Representative

The Board President (or designated legal liaison) provides a bridge between NCAD and the board when legal issues arise. This helps to streamline communications between NCAD and the 99 Neighborhood Councils.

4



The Ralph M. Brown Act

- California state law governing **open meetings** (*Government Code § 54950, et seq.*).
- Establishes rules designed to ensure that actions of public bodies are taken openly and with public access and input.
- Applies to Certified Neighborhood Council boards and committees.
 - Certified Neighborhood Councils, and thus their committees, are created by the formal action of a legislative body (City Council) and therefore are subject to the Brown Act.

5



Broad Definition of "Meeting"

A "meeting" occurs when a **majority of members of a board or committee** meet at the same time and place to **hear, discuss, or deliberate** upon any matter under the subject matter jurisdiction of your Neighborhood Council, including any use of:

- direct communication;
 - personal intermediaries; and
 - technological devices.
- Majority = The least number of members who can take an official action, depending on Bylaws (ex. majority of quorum).

Meeting Exceptions



Individual contacts or conversations that are not “serial” in nature.

If no business is discussed, a majority of the members of the body may attend:

- A social or ceremonial occasion (so long as board issues are not discussed).
- A conference if open to the public.
- An open and publicized meeting of another organization.
- A meeting of another public body.

Regular & Special Meetings



- **REGULAR MEETINGS**

- Meetings held at a regular place and time set by formal action/rule of the NC.
- Agenda must be posted at *least* 72 hours before meeting.

- **SPECIAL MEETINGS**

- Meetings called by presiding officer or majority of legislative body.
- Usually called to address discrete or time-sensitive items.
- Agenda must be posted at *least* 24 hours before meeting.
- Should not be used to simply shorten notice required for a Regular Meeting.

Special Joint Meetings of NCs, or Board and Committees



- A Neighborhood Council may hold a joint meeting of two or more Neighborhood Council bodies.
- A board may agree that the committee chairs may agendaize a special joint meeting for certain purposes, such as allowing greater participation by board members at committee meetings.
- The agenda must make clear that:
 - The meeting is solely noticed as a joint board and committee meeting to accommodate board participation and compliance with the Brown Act;
 - Any items considered at the joint meeting will only be voted upon by the committee members (not other board members in attendance); and
 - The matters voted upon will be referred to the full board for discussion and possible action at a future agendaized date and time.

Disclaimer for Special Joint Meetings



- “Out of an abundance of caution due to the possible attendance and participation of a majority of [NAME] Neighborhood Council Board Members at this SPECIAL Joint Committees meeting, this meeting is noticed as a Special Joint Meeting of the Committees and the Board, in adherence with the State’s Brown Act. No action will be taken on behalf of the Board at this meeting of the Committees. Only Committee Members are allowed to vote.”

Include this language in the agenda and read it aloud at the start of every Special Joint Meeting so the public is aware of the nature of the meeting.



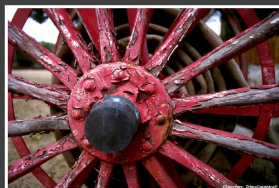
Avoid Unintended Meetings

- Serial Communications
- Social Media postings and conversations
- Email

Avoid the Serial Communications



Chain: If board member A contacts board member B, and B contacts board member C, and C contacts board member D, and so on, until a quorum has been involved.



Hub and spoke: A board member contacts at least a quorum of the members



Internet & Social Media Communications

Neighborhood Council members could violate the Brown Act in their use of social media. Serial meeting rules that apply to traditional communications and e-mail apply to other digital and social media online conduct

- Government Code Section 54592.2 (b) (1) - A majority of the members of a legislative body shall not, outside a meeting authorized by this chapter, use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the legislative body.
- 54592.2 (B)(i) "Discuss among themselves" means communications made, posted, or shared on an internet-based social media platform between members of a legislative body, including comments or use of digital icons that express reactions to communications made by other members of the legislative body.

13

Email



- E-mail can create a "virtual serial meeting."
- Reply All or Forwarding Emails
What may start out as ministerial under the Brown Act, such such as making a suggestion on an action, may turn into a Brown Act violation when it is replied to by a majority or by "Reply to All."
 - "I agree" [Reply to All] "Good idea!!!" [Reply to All] "Concur . . ." [Reply to All], "Yes, however...." [Reply all], "I disagree because ..." [Reply to All].
 - This is why we recommend "BCC" on a limited bases and we recommend reaching out to DONE or NCAD for clarification.

14



Meeting Issues Examples

Q1: The Neighborhood Council with a quorum of seven board members, establishes a standing committee comprised of five members, two of which are neighborhood council board members. Two additional neighborhood council board members wish to attend this standing committee's meetings and participate. May they?

Q2: The Neighborhood Council Board wants to hold a team-building event. May such a session be conducted without an agenda?

Q3: Can all the board members attend a social gathering together?



Agendas & Posting

- Physical Posting (*required by Brown Act*)
 - Must be posted in an a physical location freely accessible to public (24/7)
 - Regular Meetings – must be posted *at least* 72 hours before meeting
 - Special Meetings – must be posted *at least* 24 hours before meeting

- Webpage and ENS Posting (*required by BONC Policy*)
 - BONC Policy available on the Empower LA website
 - BONC Policy Requires
 - Physical posting location
 - Posting on the NC Website



Agendas & Posting

- **Written Agendas:** Written agendas must list a general description of all items that will be discussed or acted upon by your Neighborhood Council (20 words or fewer).
- **Time for Public Comments** noted on agendas must be adhered to strictly.
 - For example, if you give 15 minutes for public comments on an agenda item, but comments end at 10 mins, you must keep the public comments open for the entire 15 minutes.

17



Non-Agenda Items

Action or discussion on any item not appearing on the posted agenda is generally prohibited.

Members may **ask for clarification** to statements made or questions posed by the public. Best course of action here is to request to have an item considered for a future agenda.



Public Participation

- Must allow an opportunity for members of the public to speak if an item is within the subject matter of the neighborhood council (broad).
 - Must allow public comment *before* or *during* board's consideration of the issue.
- Neighborhood Council may adopt *reasonable* regulations/rules on public comment, including time limits.
 - NC must not stop comment conduct based on foul language alone, only for disruptive conduct.
 - Off-Topic: The participant can be directed to stay on topic.

19



Public Participation (Public Comments)

- Expressions of support or opposition constitute protected speech.
- Body cannot prohibit public criticism of policies, procedures, programs, or services
- Members of public allowed to record meetings if not disruptive.
- Be prepared to handle disruptions.
- INTERPRETERS- Allow for longer time for public comment when there is an interpreter providing interpretation.

20



Attending & Recording Meetings

- Public cannot be required to register their names, provide other information, complete a questionnaire to attend a meeting.
- No meeting can be held in a facility that prohibits attendance based on race, religious creed, color, national origin, ancestry or sex, or which is inaccessible to the disabled.
- No payment or purchase required to attend.

Meeting Records



The Public has the right to review agendas and other writings distributed to the legislative body.

Writings must be made public:

- Prior to the meeting: at the time the members receive the materials.
- Distributed at the meeting: at the meeting if prepared by the agency.
- After the meeting: if prepared by an outside person.



Meeting Records

Any recording of a public meeting made by the agency is subject to inspection under the Public Records Act.

Any inspection of a recording is to be made possible without charge by the local agency.

Members of public may request agenda packets on annual basis.

Alternate format to persons with a disability if requested.

Brown Act Complaints



- NCAD should be advised IMMEDIATELY of any complaints or allegations of a Brown Act Violation.
 - NCAD needs to be sent any and all information regarding the allegations.
- President / Chair should send copy of complaint to DONE Representative and copy their assigned Deputy City Attorney.
- Board Members should not respond to Brown Act complaint until reviewed by the City Attorney's Office. NCAD and DONE will assist with the response.
- If violation exists, the Neighborhood Council has only **30 Days** to Cure and Correct (8 Cal. Gov. Code, § 54960.1, subd. (c)(2).)

SB 411 Teleconferencing - Gov't Code Section 54953.8



- SB 411 allows Neighborhood Councils to elect to use virtual meetings under certain conditions through **January 1, 2026**.

Prior to Implementation of SB 411 by NC



- Two-thirds of the entire Neighborhood Council board must vote to use virtual meetings.
- The City Council has the authority to prohibit an individual NC from using the new teleconferencing.
- Please contact your DONE representative to assist the NC in complying with the necessary requirements to elect teleconferencing under SB 411.

SB 411 Teleconferencing Requirements



- **LOCATION REQUIREMENT:** At least a quorum of the members of the neighborhood council must participate from locations within the boundaries of the City of Los Angeles. (Note: for in person meetings, a quorum of the members must meet within the boundaries of the NC.)
- **YEARLY IN PERSON MEETING REQUIREMENT:** At least once per calendar year, at least a quorum of the members of the Neighborhood Council must participate in person at a singular physical location that is open to the public and is within the boundaries of the Neighborhood Council.

SB 411 Teleconferencing - Meeting Location



- If the meeting is during **regular business hours**, the city council member that represents the area of the Neighborhood Council shall provide for a meeting location unless the Neighborhood Council identifies an alternative location.
- If the meeting is **outside regular business hours**, the NC shall provide a publicly accessible physical location that has access to technology necessary to participate in the meeting, or identifying locations and resources available that could provide the member of the public with an opportunity to participate in the meeting.

Registration & Agenda Requirements Under SB 411



- Registration to log into a teleconference may be required to register as required by a third party internet website or online platform to participate.
- For example, a stakeholder may be required to register on Zoom to access a meeting taking place via Zoom.
- AGENDA - Must state the following:
 - Notice of the means by which members of the public may access the meeting and offer public comment (e.g. Zoom, Google Meet etc.).
 - Must identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option.

Public Comments & Access to Meeting Under SB 411



- TIME PERIOD FOR PUBLIC COMMENTS
 - The period for public comment must remain open if a set time period is provided on the agenda. If not specified, a reasonable amount of time shall be provided.
- DISRUPTIONS TO ACCESS BY THE BOARD'S SERVICE PROVIDER - No further action shall be taken upon a disruption of public access to the meeting until service is restored.
- INTERPRETERS- Allow for longer time for public comment when there is an interpreter providing interpretation.

SB 411 Does Not Override AB 2449 Requirements



- If the quorum of a Neighborhood Council meets in person, then the requirements for AB 2449 must be followed if other board members wish to join virtually.
- As long as **less than a quorum** of the Neighborhood Council meets in person, within the boundaries of a Neighborhood Council jurisdiction, other board members may join virtually without following the guidelines of AB 2449. However, in order to meet virtually, the NC must adopt virtual meetings under the rules established by SB 411 (see prior slides).

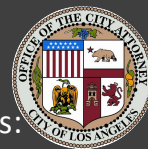
31

Teleconferencing Under AB 2449 Government Code Section 54953



- Before you take on any teleconferencing available under AB 2449, please check in with DONE to ensure that your NC is ready to use AB 2449.
- A minimum of a quorum of the legislative body must participate in person in a single physical location and within the Neighborhood Council boundaries under AB 2449.

32



Teleconferencing Under AB 2449

A limited number of members may meet remotely under two circumstances: "Cause" and Emergency Circumstances.

- A member may not participate in meetings remotely for more than three consecutive months or 20% of the regular meetings within a calendar year.
- If the legislative body regularly meets less than 10 times a year, a member may not participate remotely for more than two meetings.
- Additionally, members participating remotely must publicly disclose at the meeting whether an individual 18 years or older is present with the teleconferencing member and the general nature of the member's relationship with the individual.

33



Teleconferencing Under AB 2449 Agenda and Public Comment Requirements

- The agenda must provide the public with information on how to access and provide public comment either by call-in, in person, or internet option.
- As with every meeting, public commenting must be available.
- ACCOMODATIONS: The NC must implement a procedure for receiving and resolving requests for reasonable accommodations for individuals with disabilities and must give notice of these procedures.

34

Teleconferencing Under AB 2449 Two-way Audio Video Requirements



- Members teleconferencing under AB 2449, who meet the criteria, must satisfy the two-way audio and visual requirements (e.g. all board members, public participants, and board member(s) teleconferencing must be able to see and hear each other).
- Public must be able to see, hear, and speak during public comments

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▶ Question and Answer Session