



The Brown Act

IOLERO Community Advisory Council

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Intent: Transparency & Public Input

- Government officials are elected by the people and govern on behalf of the people.
- The public needs to have access and be able to **observe**, **monitor**, and **evaluate** its government officials.



When Does the Brown Act Apply?

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.

Government Code Sec. 54953.

What is a Legislative Body?

The Brown Act broadly defines a “legislative body” to include:

“A commission, committee, board, or other body of a local agency whether **permanent or temporary**, **decision making or advisory**, created by charter, ordinance, resolution or formal action of the legislative body.” Government Code Sec. 54952(b).

What about subcommittees?

If a legislative body takes action to create a subcommittee or advisory body, that subcommittee or advisory body becomes its own legislative body.

Exception ~ *Ad Hoc Committee*

The Brown Act does not apply to a subcommittee that is made up of less than a majority, is an advisory committee AND is not a standing committee.

Standing Committee

- *Ongoing or indefinite term
- *Continuing subject matter
- *Subject to Brown Act
if less than a quorum

Ad Hoc

- * Temporary committee
- * Less than a quorum
- * Single/limited purpose
- * Dissolved when done
- * Not subject to Brown Act requirements

What is a Meeting

* Meeting means any congregation of a majority of members of a legislative body at the same time and location to hear, discuss, deliberate or take action on any item within their subject matter jurisdiction;

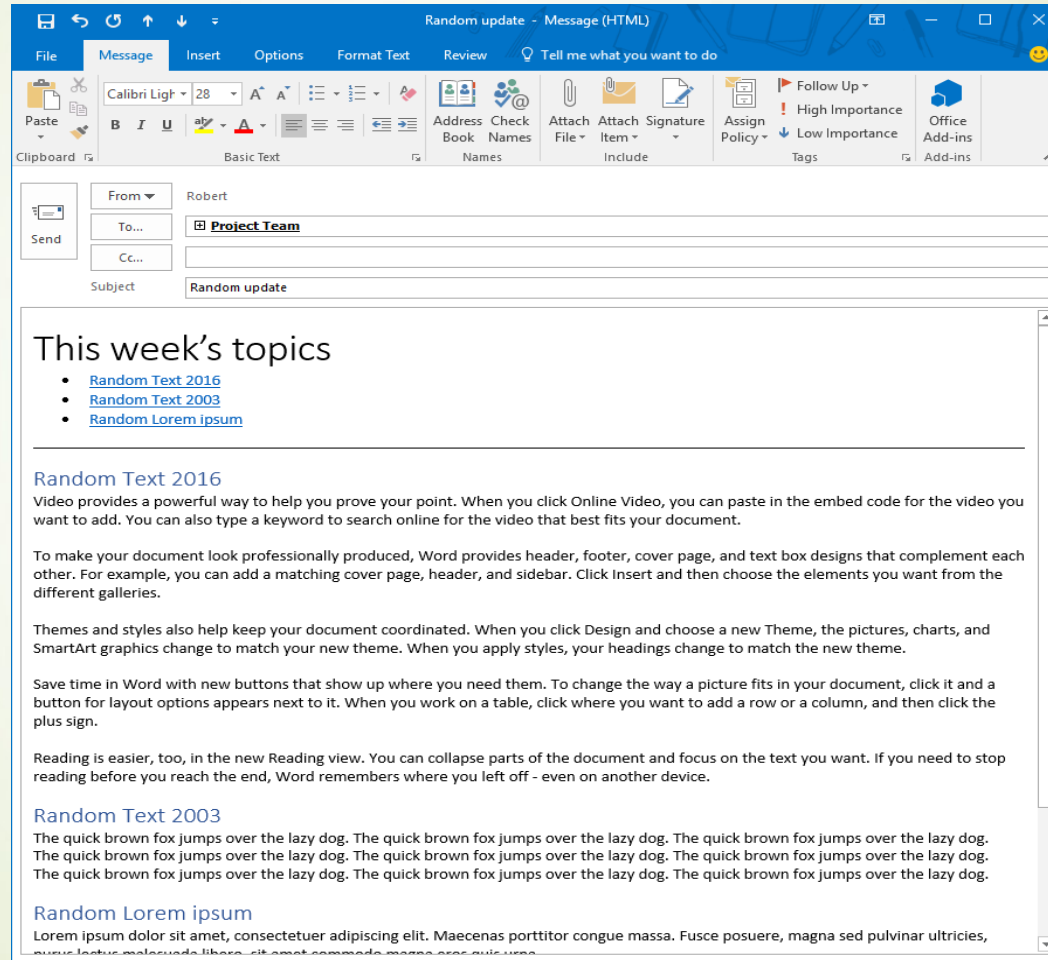
and

* A majority of members shall not use a **series** of communications of any kind, directly **or through intermediaries**, to discuss, deliberate or take action

Is this a meeting?



Is this a meeting?



Random update - Message (HTML)

File Message Insert Options Format Text Review Tell me what you want to do

Clipboard Paste Calibri Light 28 A⁺ A⁻ B I U Address Book Check Names Attach File Attach Item Signature Assign Policy Follow Up High Importance Low Importance Office Add-ins

From: Robert

To: Project Team

Cc:

Subject: Random update

Send

This week's topics

- [Random Text 2016](#)
- [Random Text 2003](#)
- [Random Lorem ipsum](#)

Random Text 2016

Video provides a powerful way to help you prove your point. When you click Online Video, you can paste in the embed code for the video you want to add. You can also type a keyword to search online for the video that best fits your document.

To make your document look professionally produced, Word provides header, footer, cover page, and text box designs that complement each other. For example, you can add a matching cover page, header, and sidebar. Click Insert and then choose the elements you want from the different galleries.

Themes and styles also help keep your document coordinated. When you click Design and choose a new Theme, the pictures, charts, and SmartArt graphics change to match your new theme. When you apply styles, your headings change to match the new theme.

Save time in Word with new buttons that show up where you need them. To change the way a picture fits in your document, click it and a button for layout options appears next to it. When you work on a table, click where you want to add a row or a column, and then click the plus sign.

Reading is easier, too, in the new Reading view. You can collapse parts of the document and focus on the text you want. If you need to stop reading before you reach the end, Word remembers where you left off - even on another device.

Random Text 2003

The quick brown fox jumps over the lazy dog. The quick brown fox jumps over the lazy dog. The quick brown fox jumps over the lazy dog. The quick brown fox jumps over the lazy dog. The quick brown fox jumps over the lazy dog. The quick brown fox jumps over the lazy dog. The quick brown fox jumps over the lazy dog.

Random Lorem ipsum

Lorem ipsum dolor sit amet, consectetur adipiscing elit. Maecenas porttitor congue massa. Fusce posuere, magna sed pulvinar ultricies, curae lectus malesuada libero, sit amet commodo magna eros quis urna.

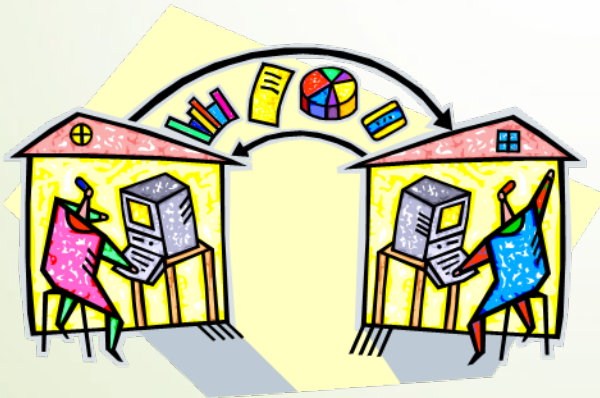
Serial Meetings

A majority of members of a legislative body shall not, outside of an open and public meeting, use a series of communications of any kind, directly **or through intermediaries**, to discuss, deliberate, or take action on any item of business.

[Government Code Sec. 54952.2(b).]

Email or Text Chain

Board Member A texts Board Member B to chat about agenda item #7. Board Member B emails Board Members C and D about the same issue. The group is holding a serial meeting in violation of the Brown Act.



Hub and Spoke



- ▶ Board Member A calls Board Member B to discuss agenda item #3. Next, A texts C and D to get their thoughts too.

What is NOT a Serial Meeting?

- ▶ Individual contacts between Commission Members and staff, counsel or others, e.g. staff meeting with a Commission Member to answer questions or provide information. Government Code Sec. 54952.2(c)(1)
- ▶ Staff should not ask and Commission Member should not answer questions about concerns or positions of other Commission Members.

NOT a Meeting

- Attendance at social or ceremonial events where no business of the Board is discussed. Government Code Sec. 54952.2(c)(5).
- Community forums and meetings of other government bodies.
- Attendance at public conferences if Board Members do not discuss among themselves the business of their jurisdiction. Government Code Sec. 54952.2(c)(2)(3) and (4).

Social Media

This area is developing. Best practices to avoid allegations of Brown Act violations:

- ▶ Don't engage in discussions within your Commissions/Committee subject matter jurisdiction on fellow Members' blogs and FB pages.
- ▶ Don't text, email or engage in other forms of electronic communication during meetings.
- ▶ Don't send "reply all" texts or emails.



Notice & Posting Agendas

- Agenda must be posted 72 hours in advance (if a special meeting is called by the Board, 24 hour notice must be given)
- Brief description of items of business
- Agendas must be publicly accessible and distributed in advance to those who request copies

Items Not on Agenda

No discussion or decision on items not on the posted agenda



- ▶ Members or staff may briefly respond to questions posed by the public.
- ▶ Members may ask staff a question, make a brief announcement or make a brief report on his or her own activities.
- ▶ Members may ask staff to report back to the body at a subsequent meeting, or take action to direct staff to place a matter on a future agenda.

Public Comment

- ▶ Every agenda for a regular meeting must allow members of the public to speak on any item of interest, so long as the item is within the subject area of the legislative body. ([Gov. Code § 54954.3\(a\)](#).)
- ▶ Further, the public must be allowed to speak on a specific item of business before or during the legislative body's consideration of it.

Public Comment

PUBLIC SPEAKING



- Must allow public to speak on specific item of business before or during the your Commission/Committee's consideration of it
- May adopt a policy to limit public comment on a topic (such as 1 minute per speaker).
- Recent change in the law requires that whenever a Brown Act body limits the time for public comment, it must provide at least twice the allotted time to a member of the public who utilizes a translator to ensure that non-English speakers receive the same opportunity. Government Code section 54954.3.

Brown Act Violations: Civil Action

- ▶ Any individual or the District Attorney may file a civil lawsuit for injunctive relief or to void action taken in violation of the Brown Act. Government Code Sec. 54960.
- ▶ Attorneys' fees are available to prevailing plaintiffs. Government Code Sec. 54959.

Brown Act Violations: Criminal Penalties

- Each member of a legislative body who attends a meeting of that legislative body where action is taken in violation of the Brown Act and where the member intends to deprive the public of information to which the member knows or has reason to know the public is entitled to, is guilty of a misdemeanor. Government Code Sec. 54959.

Brown Act Teleconference Options Available on March 1, 2023

- March 1, 2023 return to in Person Meetings
- (1) full compliance with the Brown Act's traditional rigid teleconferencing requirements — including posting all members' remote locations on agendas and making all of those locations publicly accessible; or
- (2) following new complex teleconferencing provisions added by Assembly Bill 2449
 - (A) Just Cause
 - (B) Emergency Circumstances

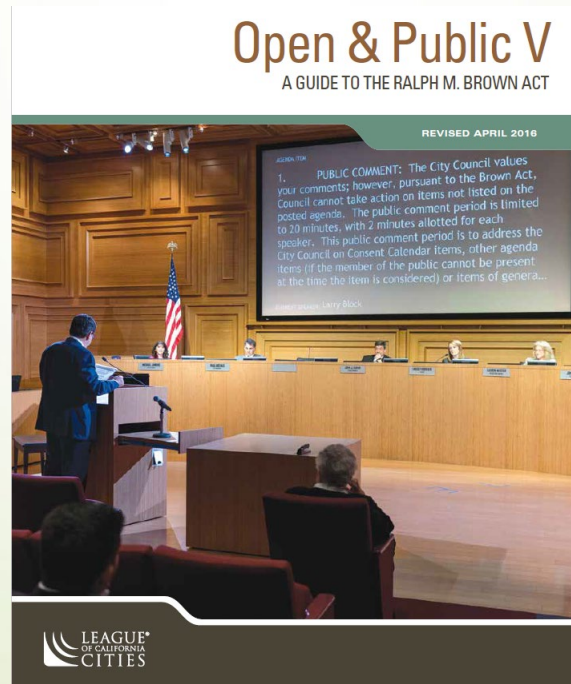
Public Records Act

- ▶ The Public Records Act ensures public access to information concerning the conduct of the people's business. (Gov. Code 7921.000)
- ▶ All of the County's records must be disclosed to the public upon request, unless there is a specific exemption. Exemptions are very narrow.
- ▶ Public records include email messages, text messages, notes kept in the ordinary course of business that pertain to the County's work.
- ▶ Best practice: draft written communication carefully and thoughtfully. Keep in mind the public's right to view records upon request.
- ▶ Additional resource: https://www.calcities.org/docs/default-source/city-attorneys/the-peoples-business-2022.pdf?sfvrsn=6671a8ea_7

Helpful Resource

California League of Cities Brown Act Guide

<https://www.calcities.org/resource/open-public-v-a-guide-to-the-ralph-m.-brown-act>



Questions?

Thank you for your service to the community!