

CALIFORNIA'S OPEN MEETING LAW

Ralph M. Brown Act:

Government Code sections 54950, et seq.

<http://www.leginfo.ca.gov/calaw.html>

<http://caag.state.ca.us/publications/index.htm>

Intent and Purpose

- Public bodies in California exist to aid in the conduct of the people's business
- Deliberations of public bodies should be conducted openly and their actions should be taken openly
- The Act is broadly interpreted to effect its purposes

Definitions

- “Legislative body” includes the governing body of a local agency (e.g., the Board of Supervisors)
- “Legislative body” includes standing committees and advisory committees of a local agency which are created by formal action of another legislative body (e.g., the Board of Supervisors)

Committees

The Parks Commission is a standing advisory committee created by the formal action taken by the Monterey County Board of Supervisors, and therefore subject to the Brown Act.

Meeting

“Meeting” includes any congregation of a majority of the members of a legislative body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the legislative body or the local agency to which it pertains.

Meeting

For the Parks Commission, a meeting takes place when a majority of the members of the Parks Commission are present together where any discussion is taking place that includes matters within the Parks Commission's subject matter.

Action

- “Action taken” means a collective decision made by a majority of the members of a legislative body, a collective commitment or promise by a majority of the members of a legislative body to make a positive or a negative decision, or an actual vote by a majority of the members of a legislative body when sitting as a body upon a motion, proposal, resolution, order, or ordinance.
- No action may be taken by secret ballot or outside of a meeting.

Serial Meetings Are Prohibited

Serial Meetings Occur When:

- A majority of the members
- Outside a meeting
- 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.

Unilateral Communications

While an employee or official may engage in separate conversations or communications outside of a meeting with members of the legislative body in order to answer questions or provide information, that person may not communicate to members of the board the comments or position of any other member or members of the body.

Meetings

- Meetings must be open and public
- Any sign-in sheets must clearly state they are voluntary
- Meetings must be accessible to the public

Regular Meetings

- Post an agenda at least 72 hours before the meeting – now must also be posted on web
- Agenda must contain a brief general description of each item of business to be transacted or discussed at the meeting
- No action or discussion of any item not appearing on the agenda
- Agenda and documents in agenda packet must be available in appropriate alternative formats to persons with a disability upon request

Public Comment

Members of the public have the opportunity to directly address the legislative body on any item of interest to the public, before or during the legislative body's consideration of the item, that is within the subject matter jurisdiction of the legislative body

Response to Public Comment

- If topic is on agenda, Commission members may respond and interact with public commenter.
- May also NOT respond or interact at all.
- If topic is NOT on agenda, Commission members may not respond substantively to comments.
- May request staff to follow up with commenter.

Other Public Participation Rules

- Public may record audio/visual of any meeting.
- County recordings of meetings are disclosable public records.
- Documents viewed by members during meeting are public records.
- Disruptive public may be removed after warning—rude comments/criticisms are not considered disruptive by themselves.

Social Media Communications

- May use social media to communicate with public freely.
- May NOT communicate with other legislative body members on matters within subject matter of Parks Commission.
- Not even “likes”, emojis, “thumbs up”, etc

Traditional Teleconferencing

- Agenda identifies remote location address.
- Agenda posted at remote address.
- Public access to attend meeting at remote address and make public comment.
- Quorum can include remote teleconferencers located in jurisdiction.
- All votes by rollcall.

Just Cause Remote Participation

- Medical emergency, childcare or caregiving, contagious illness, physical or mental condition not subject to reasonable accommodation.
- 2 Meetings per year.
- Doesn't count for quorum.
- 2-way audio-visual platform required.

Reasonable Accommodation Remote Participation

Brown Act now expressly permits members of legislative bodies to receive reasonable accommodations for participation in meetings, including remote participation.

Disability Accommodation Rules Under Existing Laws Apply.

Subsidiary Body Rules

REMOTE PARTICIPATION BY COMMISSION MEMBERS AT MEETINGS IS AUTHORIZED AND COUNTS FOR QUOROM IF:

Legislative body (Board of Supervisors) authorizes the use of teleconferencing and renews the vote every 6 months; may withdraw authorization at will;

At least one staff member shall be physically present;

Elected Official on subsidiary body cannot appear remotely under this provision.