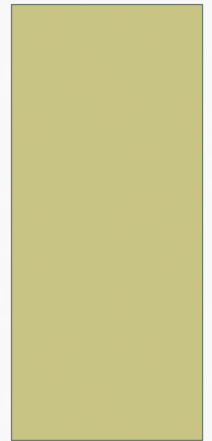


RALPH M. BROWN ACT

AN INTRODUCTION

HOMELESS STRATEGIC PLAN WORKING GROUP
MARCH 22, 2023



HISTORY AND PURPOSE

- The Brown Act was passed in 1953
 - Government Code Sections 54950 through 54963
- Fundamental purpose is twofold:
 - “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 a local agency”

WHAT IS A LEGISLATIVE BODY OF A LOCAL AGENCY?

- Defined broadly to include almost every type of decision-making body of a local agency
- Includes:
 - The governing body created by state or federal statute
 - Newly elected members who have not yet assumed office
 - Appointed bodies
 - Standing committees – ongoing committees created to discuss a specific issue

WHAT IS NOT A LEGISLATIVE BODY?

- A **temporary advisory “ad hoc” committee** composed solely of less than a quorum
- **Advisory groups** to a single decision-maker or appointed by staff

SUBJECT MATTER JURISDICTION

Homeless Strategic Plan Working Group

- Purpose: The Homeless Strategic Plan Working Group is a Council appointed 9-member special-purpose Working Group to advise staff, the consultant team, and the Council on the development of the Homeless Strategic Plan. The Homeless Strategic Plan is intended to guide future City efforts and investments related to responding to the impacts from and the needs of Concord's unsheltered population, using data and fact-based information.

MEETINGS

- A meeting is defined as “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.”
- In terms of this nine (9) member Homeless Strategic Plan Working Group , **five (5)** or more Committee members together constitutes a “meeting”

TYPES OF MEETINGS

- **Regular meetings** that occur at the dates, times and locations set by resolution, ordinance or formal action and are subject to 72 hour posting requirements
- **Special meetings** where only certain items on an agenda are discussed, subject to 24 hours posting
- **Closed sessions, emergency meetings, and off-site meetings** allowed under limited circumstances
- Adjourned meetings

EXCEPTIONS TO MEETINGS DEFINITION

- Individual contacts between a member of a legislative body and any other person
- Conferences
- Community meetings held by another organization to address a topic of local community concern
- Other legislative bodies' meetings
- Standing committees of local agency – Can attend only as observers
- Social or ceremonial Events

SERIAL MEETINGS PROHIBITED

- A majority of members of a legislative body shall not, outside of 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 of the jurisdiction.

SERIAL MEETINGS CONT'D

- Types of prohibited serial meetings:
 - “Daisy-Chain” scenario: Member A contacts Member B, who contacts Member C, who contacts Member D and so on to discuss a specific action
 - “Hub-and-spoke”: Staff member communicates with each member of the legislative body one-by-one for a decision on a proposed action.
 - But note - staff may have discussions with individuals board members in order to answer questions or provide information

SERIAL MEETINGS – EMAILS, TEXTS, BLOGS, SOCIAL MEDIA

- “Meeting” includes communication made by email or texts
 - Never hit the “reply all” button to emails sent by staff to all Homeless Strategic Plan Working Group members
 - Staff should use “bcc” in sending emails to Homeless Strategic Plan Working Group members
- Warning about social media or internet blogs: If members make comments in blogs, Facebook, or internet articles, an illegal serial meeting could occur

NOTICE AND AGENDAS

- Regular meetings – Agendas must be posted 72 hours in advance
- Homeless Strategic Plan Working Group may only take action on items listed on the agenda, subject to 3 exceptions
 - There is a need for emergency action
 - 2/3 of the body present determine that there is a need for immediate action and the matter came to the attention of the body after agenda was posted
 - Continuance of an item from previous meeting held no more than 5 days earlier

AGENDAS

- Comments on Items Not on Agenda - Homeless Strategic Plan Working Group members are permitted to:
 - Respond briefly to questions from the public
 - Ask for clarification from staff
 - Make a brief report on member's activities
 - Request staff report for future meeting
 - Direct staff to place matter on a future agenda

SPECIAL MEETINGS

- Occur on a different day, time or frequency than a regular meeting
- Require 24 hours notice
- Can only address the business stated in the agenda (no general public comment permitted)

PUBLIC PARTICIPATION AT MEETINGS

- Public has right to attend, observe and participate in decision-making process.
 - Public must given an opportunity to comment on each agenda item
 - At regular meetings, public must given an opportunity (typically at the beginning of a meeting) to comment on items not on the agenda
- Homeless Strategic Plan Working Group can limit time for each speaker, but limitation should be uniformly applied
- Public is not required to give name or fill out speaker card to speak (although can be requested)

PUBLIC PARTICIPATION - CONT'D

- Disruptive behavior: If a person willfully interrupts the meeting so as to make the meeting infeasible or unable to continue, the governing body may ask for the removal of the individual. If order still cannot be restored, the meeting room may be cleared. See Govt. Code Section 54957.95.
- Public may make own recording (either audio or videotape) of meeting so long as it is not disruptive

VIOLATIONS OF BROWN ACT

- Certain violations of Brown Act can be designated as a misdemeanor
- Civil Action – an individual (or district attorney) may file a legal action to invalidate the decision made in violation of Brown Act
 - Before filing action, the governing body must be given an opportunity to “cure” the violation

BROWN ACT - AN INTRODUCTION

QUESTIONS?