



Boards, Commissions and Committees

Rules and Procedures

Adopted on March 20, 2023
by Resolution No. 15196

City of San Rafael, Boards, Commissions and Committees Rules and Procedures

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Chapter 1. Purpose and Overview

The City of San Rafael has a long and proud tradition of open government, and civil and intelligent public discourse. These Boards, Commissions and Committees Rules and Procedures (“Rules”) are assembled for the purpose of providing protocols and procedures for the conduct of governmental business by San Rafael’s various boards, commissions and committees (“BCC’s”), including conduct of meetings, preparation of agenda items, scheduling of meetings, public participation, and appointment to and removal from boards, commissions, and committees. These rules are intended to enhance public participation and debate so that the best possible decisions are made for San Rafael. These rules apply to all public bodies of the City of San Rafael with the exception of the City Council.

Appointed board, commission, and committee members and Staff Liaisons are expected to understand and comply with these Rules.

For purposes of this document, all City boards, commissions and committees other than the City Council are referred to as “BCC’s” and all their respective members are referred to as “Commissioners”.

These rules have been formally adopted by resolution of the City Council (Resolution No. 15196) and are subject to review. If during the course of their official duties Commissioners encounter an item that affects the business of the BCC and that item is not covered in this document, the BCC shall not take action and the Staff Liaison shall consult the City Attorney.

Chapter 2. Duties and Responsibilities of Commissioners

1. Duties of the Chair

- A. All City BCC's elect a presiding officer, known as the Chair, for a one-year period; appointment procedures are set forth in greater detail below. BCC's may have the Staff Liaison serve as the Chair. However, where the Staff Liaison serves as the Chair they shall neither vote nor deliberate on BCC matters. The Staff Liaison shall serve in a purely advisory role, unless otherwise specified in the bylaws.
- B. The Duties of the Chair shall include the following:
 - i. Ensure that consideration of items on the agenda move along without delay.
 - ii. Ensure that community input is received, if any.
 - iii. Ensure that decorum is maintained at the meeting.
 - iv. In presiding over agendized matters where the public has provided testimony and/or raised questions:
 - a. Direct questions or comments requiring a response to staff for a response.
 - b. If necessary, help keep Commissioners' questions relevant to the matter being considered by the BCC.
 - c. If necessary, consider calling for a brief recess, or adjournment, if orderly conduct of the meeting is being disrupted.
 - d. Announce the decision of the BCC on all subjects.
 - v. To ensure that each member of the BCC is provided an opportunity to completely express their views on items of business, recognize each Commissioner and give them the opportunity to provide feedback.

2. Duties of Vice Chair

In the absence of the Chair, a Vice-Chair shall possess all powers of the Chair and be subject to all prescribed duties for that position during the Chair's absence.

3. Duties of Commissioners

- A. Attend and arrive on time for all BCC meetings.

Attendance at any regularly scheduled meeting is a necessary part of being an effective Commissioner. If a Commissioner is unable to attend a regularly scheduled meeting, the Commissioner shall notify the Staff Liaison in advance of a regularly scheduled meeting to have an excused absence.

- B. Review all meeting materials in preparation for BCC meetings.

4. Duties of Alternates

- A. Attend and arrive on time for all BCC meetings.

Attendance at any regularly scheduled meeting is a necessary part of being an effective Alternate Commissioner. If a Commissioner is unable to attend a regularly scheduled meeting, the Commissioner shall notify the Staff Liaison in advance and the Alternate Member shall be notified of their attendance as a full voting member, and be recognized as such during the roll call.

- B. Review all meeting materials in preparation for BCC meetings.

- C. Vote in the absence of a full voting member.

- D. If more than one Alternate member exists, there shall be a pre-determined first and second Alternate, and they shall alternate between first and second Alternate member annually. First Alternates shall vote in the absence of one voting member, and Second Alternates shall vote in the absence of a second voting member.

- E. If no full voting member is absent, the Alternate Member shall still attend meetings, deliberate, and ask questions of staff, but shall not vote.

5. Duties of Staff Liaison

- A. The City Manager or their designee shall designate a Staff Liaison to each BCC. The Staff Liaison has the following responsibilities:

- i. Prepare meeting agendas and staff reports (verbal or written as needed).
- ii. Notify the City Clerk of consecutive unexcused absences, issues with attendance, resignations, and Commissioner's change of contact information.
- iii. Ensure that sufficient research and analysis has been performed by City staff to allow an informed discussion by the BCC on matters before them.

- iv. Help facilitate and advise the Chair on meeting management.
- v. Ensure that all City departments with subject matter expertise have an opportunity for input before bringing an item forward for BCC consideration.
- vi. Ensure that meeting materials, including a sufficient number of agendas, and at least one binder of all related staff reports being presented (if any) at that meeting, are available in physical print format for the public to examine at the meeting.
- vii. Ensure all agendas include the following notice for accessibility services:

Any records relating to an agenda item, received by a majority or more of the Council less than 72 hours before the meeting, shall be available for inspection online and in the [location where meeting is held] placed with other agenda-related materials on the table in front of the meeting location prior to the meeting. Sign language interpreters may be requested by calling (415) 485-3066 (voice), emailing city.clerk@cityofsanrafael.org or using the California Telecommunications Relay Service by dialing "711", at least 72 hours in advance of the meeting. Copies of documents are available in accessible formats upon request. To request Spanish language interpretation, please submit an online form at <https://www.cityofsanrafael.org/request-for-interpretation/>.

- viii. Produce action minutes for each meeting.
 - ix. Ensure all meeting materials and any other documents submitted to the BCC at the meeting are retained and stored as material in connection with that meeting, according to the City's retention policies.
 - x. Coordinate with the City Council Liaison once per year to either attend a BCC meeting or meet with the Chair.
 - xi. Include the City Council Liaison in the email to Commissioners with the agenda packet materials.
- B. The Staff Liaison, along with the City Clerk, is responsible for ensuring that appointed Commissioners are oriented about policies and procedures as they relate to the BCC.

6. Duties of City Council Liaison

- A. On an annual basis, the City Council designates liaison positions to the BCCs. The role of the liaison is to generally stay abreast of the activities of the BCC which may include attending one or more meetings per year, checking in with

the Chair of the BCC on a quarterly basis, reporting out on significant activities during City Council meetings as needed, assisting in culling down applications into an interview list when there is a vacancy, and providing a “mentor” role for the needs of the BCCs which could relate to answering procedural questions, facilitating training, or other assistance. Additionally, the Mayor may act in the acting role of the Council Liaison for each BCC in their absence.

7. Appointment of Chair and Vice-Chair

- A. The Chair and Vice-Chair shall be appointed by a majority vote of the BCC membership at the last meeting of each calendar year, to serve for a one-year term. The Chair and Vice-Chair shall rotate among the Commissioners based on tenure, as defined by total years of service. The City Council believes that experience as a Commissioner will assist those who are selected to serve as Chair or Vice-Chair, and that it is in everyone’s best interest that candidates have experience in cycles of governing to acclimate themselves to the jobs, tasks, and roles of the BCC. In the event the years of service are identical, tenure will be determined in alphabetical order by last name. It is the general rule that a Commissioner shall not serve as Chair more than once in the number of years there are members. However, in the event that:
 - 1. a position is vacated;
 - 2. a Commissioner is not interested in serving as an officer; or
 - 3. there is limited tenure among the other Commissioners, then a Commissioner may be appointed as an officer more than once in the number of years there are members.
- B. The Vice-Chair shall serve as Chair in the following year and shall be appointed as such at the last meeting of each calendar year.
- C. The Chair and Vice-Chair may not succeed themselves in the same position. However, in the event the current Chair or Vice-Chair has served less than one year, the BCC may choose to re-elect them for an additional term.
- D. The Vice-Chair shall succeed the Chair if the Chair vacates the office and shall serve the unexpired term of the Chair. The BCC shall elect a new Vice-Chair to serve the unexpired term of that office. Selection shall be based on seniority.
- E. In the absence of the Chair and Vice-Chair at any meeting of the BCC, the member of the BCC with the longest tenure, as defined by total years of service, shall preside over the meeting. In the event the years of service are identical, seniority will be determined by alphabetical order.
- F. This section shall not apply to BCCs where the Staff Liaison serves as the Chair, per the bylaws.

8. Removal and Resignation

A. Removal

Commissioners serve at the pleasure of the City Council and Commissioners shall be subject to removal by a majority vote of the City Council.

B. Resignation

A Commissioner who wishes to resign shall submit their resignation in writing to the Staff Liaison. The resigning Commissioner shall provide as much notice as possible.

C. Voluntary Resignation

Unexcused absence from consecutive meetings, specified in the BCC Bylaws, shall be considered a voluntary resignation.

Previously dismissed Commissioners may be eligible for reappointment to the BCC.

Chapter 3. Rules of Decorum

1. At all public meetings, commissioners shall:
 - A. Always put the community's interests first by making decisions with the interest of the community at-large in mind and avoid representing personal interests;
 - B. Treat each other, councilmembers, staff, and members of the public with dignity, courtesy, and respect;
 - C. Not interrupt speakers or other members, allow them to finish their presentation before asking questions;
 - D. Not engage in discussion with a member of the public;
 - E. Be attentive to others, limiting interruptions and distractions;
 - F. Encourage diverse viewpoints in debate while being mindful not to prolong discourse or block consensus;
 - G. Agree to respectfully disagree with fellow Commissioners;
 - H. Keep comments clear, concise, and on-topic;
 - I. Start and end meetings on time and work from the agenda;
 - J. Present problems in a way that promotes discussion and resolution;
 - K. Meet with the Council Liaison to the BCC when requested.
2. Commissioners are subject to all the provisions of the City's *Policy Against Harassment, Discrimination and Retaliation* and all other Human Resources policies that apply to the City Council.

Chapter 4. Meetings

1. All BCC decisions must be taken at BCC meetings. Before acting, the BCC may take testimony from, and be provided information by, project applicants, interested members of the public, or City staff.
2. No business may be transacted by the BCC at a regular or special meeting unless a quorum of the membership is present. A quorum requires a majority of the total number of Commissioners on the BCC to be present (i.e., 50% plus one of those currently appointed).
3. Types of Meetings
 - A. **Regular Meetings** are those identified in the adopted meeting schedule.
 1. BCC's shall hold meetings at the regularly scheduled date and time for the BCC's meetings.
 2. BCC's shall adopt a schedule of meetings as close to December 15 as possible on an annual basis, which shall become the regular meeting dates of the BCC.
 3. Regular meeting dates may be amended by the BCC.
 - B. **Special Meetings** are called at non-regular meeting date and times. They are called by the Staff Liaison with a minimum of 24 hours' notice, versus 72 hours' notice for regular meetings.
 1. If at any time any regular meeting of the BCC falls on a holiday, if it is known that a quorum will not be available, or if there are items of business that require scheduling at a special meeting due to the need to take action prior to a regular meeting or that require a meeting devoted to the subject matter proposed for the meeting, a Special Meeting may be scheduled to the earliest convenient time.
 - C. **Study Sessions** are meetings that are held for the purpose of providing information to the BCC, particularly on issues that are more complex or more time-consuming than matters typically scheduled on regular meetings. At study sessions Commissioners may collectively provide direction to City staff. Typically, no action is taken at the study sessions; the public may provide comments.
 - D. **Closed Sessions** at the BCC level would be very rare and would only occur at the direction of the City Attorney.
 - E. **Emergency Meetings** are allowed per the Ralph M. Brown Act.

4. Voting

A motion, second, and a vote of the BCC shall be required for any formal action of BCC. In the absence of a contrary law, the number of votes required to take action is a majority of a quorum.

Votes shall be called using a roll call vote where each Commissioner shall indicate their vote verbally after their name has been called.

5. The Chair may change the order of hearing of items on the agenda.

6. Public Participation

- A. All members of the public are encouraged and invited to participate in the legislative process of the City's BCC's; including by submission of comments to the Staff Liaison before the meeting or speaking in-person at the scheduled meeting.
- B. All communications addressed to Commissioners received by the Staff Liaison or their designee are relayed to the appointed body.
- C. It is the intent of these rules to allow everyone to be heard without fear of responses that may discourage public participation. For these reasons, these rules are taken seriously. Disruptive or unruly behavior may result in removal from the BCC meeting.

7. Ralph M. Brown Act

All BCC meetings shall be open and public, and all persons shall be permitted to attend any meeting of the BCC, except as otherwise provided in the Ralph M. Brown Act relating to Closed Session (Government Code Sections 54950 et seq.). Meetings will be accessible to all, with accommodations for accessibility issues made upon request. Any person who disrupts the meeting may be asked to leave and be removed.

8. Rosenberg's Rules of Order

To the extent these Rules do not address an issue of parliamentary procedure for legislative body meetings, Rosenberg's Rules of Order: Simple Parliamentary Procedures for the 21st Century shall apply.

9. Minutes

- A. Decisions of BCC meetings are recorded in Action Minutes.
- B. Action Minutes contain very little, if any, narrative content and do not capture

details of public comment or Commissioner comments, questions and opinions. The Staff Liaison is responsible for producing action minutes. Commissioners may request correction only of factual errors when presented with the draft minutes. No supplemental materials may be appended to minutes.

- C. Media (audio/video) recordings, when employed, may be used to record the complete minutes of the meeting including a verbatim record of meetings and are kept as identified in the City's Records Retention Schedule.

10. Agenda Item Submission

- A. The Staff Liaison coordinates all agenda items for consideration on a given agenda. In order to ensure that each item for discussion has been thoroughly analyzed, a Staff Report shall be presented verbally or in writing as deemed appropriate by the Staff Liaison.

- 1. The preparation of Staff Reports applies to all BCC's in order to ensure:
 - i. The BCC has all the information needed to make a well-informed decision; and
 - ii. Any action is fully transparent to the public.
- 2. Staff Reports shall be part of the public agenda packet issued prior to the meeting. Copies of the agenda, staff reports and supporting materials shall be made available to the public at the meeting and online.

- B. Members of the public may request an item be brought to the BCC during Open Time at a BCC meeting, and Commissioners may contact the Staff Liaison and request a specific topic be considered or introduced to the BCC. The Staff Liaison sets the agenda based on department priorities and the City Council's goals and priorities. If a member of the public or Commissioner disagrees with the Staff Liaison's decision not to place an item on the agenda, they may contact the City Council Liaison to the BCC, the City Council by correspondence, or by providing public comment at a City Council meeting during Open Time.

11. Conflict of Interest

BCC's must conduct business ethically and follow all state and local regulations, including the Political Reform Act, Government Code section 1090 and the Ralph M. Brown Act.

- A. Whenever it appears to a Commissioner they may have a prohibited financial interest in any City contract, or an item that may be presented to the BCC, the Commissioner should consult with the Staff Liaison and the City Attorney at the

earliest opportunity for advice on whether a disqualifying conflict of interest exists.

- B. If the City Attorney is consulted on such a matter, the City Attorney shall provide their advice in writing, and shall provide a copy of their opinion to the BCC, the Staff Liaison, and the City Clerk.
- C. Commissioners shall not vote upon any matter on which they have a conflict of interest, as determined by the Conflict of Interest Code or the City Attorney's Office.
- D. Commissioners shall openly state the reason for their conflict of interest as required by law or regulation.
- E. Commissioners who are disqualified by a conflict of interest shall recuse themselves from all deliberation and voting on the matter. The Commissioner shall leave the dais and leave the room where the matter is not on the Consent Agenda or involves deliberation by the Commissioners. The Commissioner may return to the room and dais after final voting on the matter has occurred.

Chapter 5. Communication

1. All communications are public records.

All letters, memoranda, and email communications involving Commissioners, the subject of which relate to the conduct of government or the performance of any governmental function, with certain exceptions as outlined in the Public Records Act, are public records. Public records are subject to disclosure under the Public Records Act.

2. Ralph M. Brown Act

Each Commissioner should be mindful of all of the requirements of the Brown Act in communicating with each other.

3. Correspondence

- A. Any correspondence from the public related to BCC business is considered a public record that must be retained in accordance with the City's Retention Schedule; therefore, Commissioners should not solicit emails through their personal email addresses but should direct the public to submit any correspondence to staff who will distribute them to the Commissioners. If Commissioners do receive correspondence relating to BCC business to their personal email or home address, Commissioners shall forward all such correspondence to the Staff Liaison.
- B. Staff will not provide Commissioners personal email addresses to the public without the Commissioner's consent.
- C. After the BCC has taken a position on an issue, official correspondence should reflect this position. While Commissioners who may disagree with a position are free to prepare correspondence on such issues as private citizens, City letterhead, official BCC title, and staff support shall not be utilized.
- D. City letterhead, logo, insignia and brand, as well as staff support cannot be utilized for personal or political purposes.

4. Electronic Communication

- A. All emails sent and received through the City server are subject to the Public Records Act.

5. Social Media

- A. Commissioners' use of their personal social media to discuss governmental business creates a public forum under the First Amendment.

- B. Therefore, Commissioners are advised not to use their personal social media to discuss BCC or City business. Commissioners should be careful not to refer to their official position or use their titles on their social media pages in a manner that suggests the social media is being used to conduct governmental business. They should consider adding disclaimers stating that the social media is the personal page of the official, is for personal use, and does not represent the views of the BCC or City.
- C. If a Commissioner uses their social media for governmental business, they are subject to claims under the First Amendment, and may not block constituents from that social media, or delete, hide, or otherwise censor any comments with which they disagree.
- D. Also, Commissioners need to ensure that their interactions on social media do not violate the Brown Act.

Chapter 6. Selection Process

1. Reappointments, Vacancies and Appointments
 - A. The City Clerk's Office manages the BCC application process. The process begins with the Clerk contacting members who are eligible for appointment to an additional term and determining their interest in reappointment.
 - B. The City Clerk recruits for all open seats utilizing multiple avenues, including but not limited to the following: print and digital advertising, the news media, and email networking lists to present qualified candidates to the City Council for consideration.
 - C. The City Clerk receives the applications for BCC's (preference is a minimum of three applications sought for each seat) and agendas a public meeting of the City Council to interview applicants.
 - i. If the City Clerk receives a high volume of applications, the City Clerk will provide the Mayor or their designee, and/or the Council Liaison with the applications, and they will select the applicants to be interviewed by the City Council, in collaboration with the Staff Liaison.
 - D. In some circumstances, applicants may be interviewed by the Council Liaison and the Staff Liaison. In this instance, the Liaisons would recommend appointment of an applicant or applicants, and it would be returned to the full body of the City Council for approval. Applicants are appointed by a majority vote of the City Council at a public meeting.
 - E. If the only application received is the incumbent application, staff may create a recommendation to the City Council to approve the reappointment of the incumbent on the Consent Calendar.
 - F. Unscheduled Vacancies
 - i. Subject to the Maddy Act (California Government Code § 54974), whenever an unscheduled vacancy occurs a vacancy notice shall be posted in the City Clerk's Office and on the website., not earlier than 20 days before or not later than 20 days after the vacancy occurs. Final appointment to the board, commission, or committee shall not be made by the legislative body for at least 10 working days after the posting of the notice in the clerk's office.
 - ii. For such non-routine vacancies, the announcement for new applications is made as soon as possible in order to maintain viable memberships on the various BCC's.

iii. All appointments occur in an open public meeting.

2. Commissioner Terms

A. Commissioner terms are dictated by Resolution of the City Council.

Chapter 7. Attachments

1. Attachments

- A. Agenda Example and Template
- B. Minutes Example and Template
- C. Rosenberg's Rules of Order
- D. Summary of the Ralph M. Brown Act



[BCC NAME]
[DATE] AT [TIME]
[LOCATION]
[ADDRESS], SAN RAFAEL, CALIFORNIA

AGENDA

CALL TO ORDER – [TIME]

MINUTES

1. Approve regular meeting minutes of [date]
Recommended Action – Approve as submitted

OPEN TIME FOR PUBLIC EXPRESSION

The public is welcome to address the [Commission] at this time on matters not on the agenda that are within its jurisdiction. Comments may be no longer than [time] minutes and should be respectful to the community.

SPECIAL PRESENTATIONS

2. Special Presentations:

PUBLIC HEARING (as necessary)

Duly noticed hearings as mandated by local, state, or federal law, providing an opportunity for public review and comment of a proposed action by the Commission.

3. Public Hearing:
 - a. [Brief explanation of agenda item. Please spell out all abbreviations and be clear and concise for the public – include recommended action]
Recommended Action – [Approve, Accept, etc.]

OTHER AGENDA ITEMS

If necessary to assure completion of the following items, the Chairperson may establish time limits for the presentations by individual speakers.

4. Other Agenda Items:
 - a. [Brief explanation of agenda item. Please spell out all abbreviations and be clear and concise for the public – include recommended action]
Recommended Action – [Approve, Accept, etc.]

STAFF LIAISON REPORT

5. Staff Liaison Report:

COMMISSIONER REPORTS

6. Other brief reports on any meetings, conferences, and/or seminars attended by the [Commission/Committee/Board] members:

ADJOURNMENT

Any records relating to an agenda item, received by a majority or more of the Council less than 72 hours before the meeting, shall be available for inspection online and in the [location where meeting is held] placed with other agenda-related materials on the table in front of the [location prior to the meeting]. Sign Language interpreters may be requested by calling (415) 485-3066 (voice), emailing city.clerk@cityofsanrafael.org or using the California Telecommunications Relay Service by dialing "711", at least 72 hours in advance of the meeting. Copies of documents are available in accessible formats upon request. To request Spanish language interpretation, please submit an online form at <https://www.cityofsanrafael.org/request-for-interpretation/>.



[BCC NAME]
[DATE] AT [TIME]
[LOCATION]
[ADDRESS], SAN RAFAEL, CALIFORNIA

MINUTES

Present: Chair [last name]
Vice-Chair [last name]
Commissioner [last name]
Commissioner [last name]
Commissioner [last name]

Absent: None

Also Present: [City title] [first, last name]
Alternate [first, last name]

CALL TO ORDER

Chair [first and last name] called the meeting to order at [exact time]

MINUTES

1. Approve regular meeting minutes of [date]

Commissioner [last name] moved, Commissioner [last name] seconded, to approve the minutes of the [date] meeting.

AYES: Commissioners: [last name in alphabetical order followed by Chair]
NOES: Commissioners: [last names]
ABSENT: Commissioners: [last names]

Motion passed [5-0].

OPEN TIME FOR PUBLIC EXPRESSION

[SPEAKER NAME] addressed the Commission regarding [TOPIC].

SPECIAL PRESENTATIONS

2. Special Presentations:

a. Presentation for Department of Digital Service and Open Government

[TITLE] [FIRST & LAST NAME] gave a presentation

Speakers: [members of the public]: Jane Doe, John Doe, Alex Doe, Alexis Doe.

Staff responded to questions from the Commission/Board/Committee.
Commission/Board/Committee provided comments.

PUBLIC HEARING

3. Public Hearing:

a. 5800 Northgate Drive (Northgate Mall) –Temporary Use Permit (UP19-027) for a base camp/staging operation area for the movie production for “13 Reasons Why” in a portion of

the Northgate Mall Shopping Center parking lot along Las Gallinas Ave; APN: 175-060-67; General Commercial (GC) Zoning District; XGP XI Northgate LLC, owner; Dan Kemp (for Paramount Television), applicant. File No.: UP19-027. Project Planner: Raffi Boloyan
Recommended Action – Adopt Resolution

[TITLE] [FIRST & LAST NAME] presented the staff report.
Staff responded to questions from the Commission.

Speakers: [members of the public]: Jane Doe, John Doe, Alex Doe, Alexis Doe.

Staff responded to questions from the Commission. The Commission provided comments.

Commissioner [last name] moved, Commissioner [last name] seconded, to approve [ACTION].

AYES: Commissioners: [last name in alphabetical order followed by Chair]
NOES: Commissioners: [last names]
ABSENT: Commissioners: [last names]

Motion passed [5-0].

OTHER AGENDA ITEMS

4. Other Agenda Items:

- a. Informational Report on City Boards and Commission Rules and Procedures
Recommended Action – Accept report

[TITLE] [FIRST & LAST NAME] presented the staff report.
Staff responded to questions from the Commission.

Speakers: [members of the public]: Jane Doe, John Doe, Alex Doe, Alexis Doe.

Staff responded to questions from the Commission. The Commission provided comments.
Commissioner [last name] moved, Commissioner [last name] seconded, to approve [ACTION].

AYES: Commissioners: [last name in alphabetical order followed by Chair]
NOES: Commissioners: [last names]
ABSENT: Commissioners: [last names]

Motion passed [5-0].

STAFF LIAISON REPORT

5. Staff Liaison Report:

[TITLE] [FIRST, LAST NAME] reported on [TOPIC/S]

COMMISSION REPORTS

6. Commission Report:

Commissioner [LAST NAME] reported on [TOPIC/S]

ADJOURNMENT

Chair [LAST NAME] adjourned the meeting at [TIME].

Approved this [day] of [month] [year],

[Name], Staff Liaison



Rosenberg's Rules of Order

REVISED 2011

Simple Rules of Parliamentary Procedure for the 21st Century

By Judge Dave Rosenberg



MISSION AND CORE BELIEFS

To expand and protect local control for cities through education and advocacy to enhance the quality of life for all Californians.

VISION

To be recognized and respected as the leading advocate for the common interests of California's cities.

About the League of California Cities

Established in 1898, the League of California Cities is a member organization that represents California's incorporated cities. The League strives to protect the local authority and autonomy of city government and help California's cities effectively serve their residents. In addition to advocating on cities' behalf at the state capitol, the League provides its members with professional development programs and information resources, conducts education conferences and research, and publishes Western City magazine.

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ABOUT THE AUTHOR

Dave Rosenberg is a Superior Court Judge in Yolo County. He has served as presiding judge of his court, and as presiding judge of the Superior Court Appellate Division. He also has served as chair of the Trial Court Presiding Judges Advisory Committee (the committee composed of all 58 California presiding judges) and as an advisory member of the California Judicial Council. Prior to his appointment to the bench, Rosenberg was member of the Yolo County Board of Supervisors, where he served two terms as chair. Rosenberg also served on the Davis City Council, including two terms as mayor. He has served on the senior staff of two governors, and worked for 19 years in private law practice. Rosenberg has served as a member and chair of numerous state, regional and local boards. Rosenberg chaired the California State Lottery Commission, the California Victim Compensation and Government Claims Board, the Yolo-Solano Air Quality Management District, the Yolo County Economic Development Commission, and the Yolo County Criminal Justice Cabinet. For many years, he has taught classes on parliamentary procedure and has served as parliamentarian for large and small bodies.



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INTRODUCTION

The rules of procedure at meetings should be simple enough for most people to understand. Unfortunately, that has not always been the case. Virtually all clubs, associations, boards, councils and bodies follow a set of rules — *Robert's Rules of Order* — which are embodied in a small, but complex, book. Virtually no one I know has actually read this book cover to cover. Worse yet, the book was written for another time and for another purpose. If one is chairing or running a parliament, then *Robert's Rules of Order* is a dandy and quite useful handbook for procedure in that complex setting. On the other hand, if one is running a meeting of say, a five-member body with a few members of the public in attendance, a simplified version of the rules of parliamentary procedure is in order.

Hence, the birth of *Rosenberg's Rules of Order*.

What follows is my version of the rules of parliamentary procedure, based on my decades of experience chairing meetings in state and local government. These rules have been simplified for the smaller bodies we chair or in which we participate, slimmed down for the 21st Century, yet retaining the basic tenets of order to which we have grown accustomed. Interestingly enough, *Rosenberg's Rules* has found a welcoming audience. Hundreds of cities, counties, special districts, committees, boards, commissions, neighborhood associations and private corporations and companies have adopted *Rosenberg's Rules* in lieu of *Robert's Rules* because they have found them practical, logical, simple, easy to learn and user friendly.

This treatise on modern parliamentary procedure is built on a foundation supported by the following four pillars:

1. **Rules should establish order.** The first purpose of rules of parliamentary procedure is to establish a framework for the orderly conduct of meetings.
2. **Rules should be clear.** Simple rules lead to wider understanding and participation. Complex rules create two classes: those who understand and participate; and those who do not fully understand and do not fully participate.
3. **Rules should be user friendly.** That is, the rules must be simple enough that the public is invited into the body and feels that it has participated in the process.
4. **Rules should enforce the will of the majority while protecting the rights of the minority.** The ultimate purpose of rules of procedure is to encourage discussion and to facilitate decision making by the body. In a democracy, majority rules. The rules must enable the majority to express itself and fashion a result, while permitting the minority to also express itself, but not dominate, while fully participating in the process.

Establishing a Quorum

The starting point for a meeting is the establishment of a quorum. A quorum is defined as the minimum number of members of the body who must be present at a meeting for business to be legally transacted. The default rule is that a quorum is one more than half the body. For example, in a five-member body a quorum is three. When the body has three members present, it can legally transact business. If the body has less than a quorum of members present, it cannot legally transact business. And even if the body has a quorum to begin the meeting, the body can lose the quorum during the meeting when a member departs (or even when a member leaves the dais). When that occurs the body loses its ability to transact business until and unless a quorum is reestablished.

The default rule, identified above, however, gives way to a specific rule of the body that establishes a quorum. For example, the rules of a particular five-member body may indicate that a quorum is four members for that particular body. The body must follow the rules it has established for its quorum. In the absence of such a specific rule, the quorum is one more than half the members of the body.

The Role of the Chair

While all members of the body should know and understand the rules of parliamentary procedure, it is the chair of the body who is charged with applying the rules of conduct of the meeting. The chair should be well versed in those rules. For all intents and purposes, the chair makes the final ruling on the rules every time the chair states an action. In fact, all decisions by the chair are final unless overruled by the body itself.

Since the chair runs the conduct of the meeting, it is usual courtesy for the chair to play a less active role in the debate and discussion than other members of the body. This does not mean that the chair should not participate in the debate or discussion. To the contrary, as a member of the body, the chair has the full right to participate in the debate, discussion and decision-making of the body. What the chair should do, however, is strive to be the last to speak at the discussion and debate stage. The chair should not make or second a motion unless the chair is convinced that no other member of the body will do so at that point in time.

The Basic Format for an Agenda Item Discussion

Formal meetings normally have a written, often published agenda. Informal meetings may have only an oral or understood agenda. In either case, the meeting is governed by the agenda and the agenda constitutes the body's agreed-upon roadmap for the meeting. Each agenda item can be handled by the chair in the following basic format:

First, the chair should clearly announce the agenda item number and should clearly state what the agenda item subject is. The chair should then announce the format (which follows) that will be followed in considering the agenda item.

Second, following that agenda format, the chair should invite the appropriate person or persons to report on the item, including any recommendation that they might have. The appropriate person or persons may be the chair, a member of the body, a staff person, or a committee chair charged with providing input on the agenda item.

Third, the chair should ask members of the body if they have any technical questions of clarification. At this point, members of the body may ask clarifying questions to the person or persons who reported on the item, and that person or persons should be given time to respond.

Fourth, the chair should invite public comments, or if appropriate at a formal meeting, should open the public meeting for public input. If numerous members of the public indicate a desire to speak to the subject, the chair may limit the time of public speakers. At the conclusion of the public comments, the chair should announce that public input has concluded (or the public hearing, as the case may be, is closed).

Fifth, the chair should invite a motion. The chair should announce the name of the member of the body who makes the motion.

Sixth, the chair should determine if any member of the body wishes to second the motion. The chair should announce the name of the member of the body who seconds the motion. It is normally good practice for a motion to require a second before proceeding to ensure that it is not just one member of the body who is interested in a particular approach. However, a second is not an absolute requirement, and the chair can proceed with consideration and vote on a motion even when there is no second. This is a matter left to the discretion of the chair.

Seventh, if the motion is made and seconded, the chair should make sure everyone understands the motion.

This is done in one of three ways:

1. The chair can ask the maker of the motion to repeat it;
2. The chair can repeat the motion; or
3. The chair can ask the secretary or the clerk of the body to repeat the motion.

Eighth, the chair should now invite discussion of the motion by the body. If there is no desired discussion, or after the discussion has ended, the chair should announce that the body will vote on the motion. If there has been no discussion or very brief discussion, then the vote on the motion should proceed immediately and there is no need to repeat the motion. If there has been substantial discussion, then it is normally best to make sure everyone understands the motion by repeating it.

Ninth, the chair takes a vote. Simply asking for the “ayes” and then asking for the “nays” normally does this. If members of the body do not vote, then they “abstain.” Unless the rules of the body provide otherwise (or unless a super majority is required as delineated later in these rules), then a simple majority (as defined in law or the rules of the body as delineated later in these rules) determines whether the motion passes or is defeated.

Tenth, the chair should announce the result of the vote and what action (if any) the body has taken. In announcing the result, the chair should indicate the names of the members of the body, if any, who voted in the minority on the motion. This announcement might take the following form: “The motion passes by a vote of 3-2, with Smith and Jones dissenting. We have passed the motion requiring a 10-day notice for all future meetings of this body.”

Motions in General

Motions are the vehicles for decision making by a body. It is usually best to have a motion before the body prior to commencing discussion of an agenda item. This helps the body focus.

Motions are made in a simple two-step process. First, the chair should recognize the member of the body. Second, the member of the body makes a motion by preceding the member’s desired approach with the words “I move . . .”

A typical motion might be: “I move that we give a 10-day notice in the future for all our meetings.”

The chair usually initiates the motion in one of three ways:

1. **Inviting the members of the body to make a motion**, for example, “A motion at this time would be in order.”
2. **Suggesting a motion to the members of the body**, “A motion would be in order that we give a 10-day notice in the future for all our meetings.”
3. **Making the motion**. As noted, the chair has every right as a member of the body to make a motion, but should normally do so only if the chair wishes to make a motion on an item but is convinced that no other member of the body is willing to step forward to do so at a particular time.

The Three Basic Motions

There are three motions that are the most common and recur often at meetings:

The basic motion. The basic motion is the one that puts forward a decision for the body’s consideration. A basic motion might be: “I move that we create a five-member committee to plan and put on our annual fundraiser.”

The motion to amend. If a member wants to change a basic motion that is before the body, they would move to amend it. A motion to amend might be: “I move that we amend the motion to have a 10-member committee.” A motion to amend takes the basic motion that is before the body and seeks to change it in some way.

The substitute motion. If a member wants to completely do away with the basic motion that is before the body, and put a new motion before the body, they would move a substitute motion. A substitute motion might be: “I move a substitute motion that we cancel the annual fundraiser this year.”

“Motions to amend” and “substitute motions” are often confused, but they are quite different, and their effect (if passed) is quite different. A motion to amend seeks to retain the basic motion on the floor, but modify it in some way. A substitute motion seeks to throw out the basic motion on the floor, and substitute a new and different motion for it. The decision as to whether a motion is really a “motion to amend” or a “substitute motion” is left to the chair. So if a member makes what that member calls a “motion to amend,” but the chair determines that it is really a “substitute motion,” then the chair’s designation governs.

A “friendly amendment” is a practical parliamentary tool that is simple, informal, saves time and avoids bogging a meeting down with numerous formal motions. It works in the following way: In the discussion on a pending motion, it may appear that a change to the motion is desirable or may win support for the motion from some members. When that happens, a member who has the floor may simply say, “I want to suggest a friendly amendment to the motion.” The member suggests the friendly amendment, and if the maker and the person who seconded the motion pending on the floor accepts the friendly amendment, that now becomes the pending motion on the floor. If either the maker or the person who seconded rejects the proposed friendly amendment, then the proposer can formally move to amend.

Multiple Motions Before the Body

There can be up to three motions on the floor at the same time. The chair can reject a fourth motion until the chair has dealt with the three that are on the floor and has resolved them. This rule has practical value. More than three motions on the floor at any given time is confusing and unwieldy for almost everyone, including the chair.

When there are two or three motions on the floor (after motions and seconds) at the same time, the vote should proceed *first* on the *last* motion that is made. For example, assume the first motion is a basic “motion to have a five-member committee to plan and put on our annual fundraiser.” During the discussion of this motion, a member might make a second motion to “amend the main motion to have a 10-member committee, not a five-member committee to plan and put on our annual fundraiser.” And perhaps, during that discussion, a member makes yet a third motion as a “substitute motion that we not have an annual fundraiser this year.” The proper procedure would be as follows:

First, the chair would deal with the *third* (the last) motion on the floor, the substitute motion. After discussion and debate, a vote would be taken first on the third motion. If the substitute motion *passed*, it would be a substitute for the basic motion and would eliminate it. The first motion would be moot, as would the second motion (which sought to amend the first motion), and the action on the agenda item would be completed on the passage by the body of the third motion (the substitute motion). No vote would be taken on the first or second motions.

Second, if the substitute motion *failed*, the chair would then deal with the second (now the last) motion on the floor, the motion to amend. The discussion and debate would focus strictly on the amendment (should the committee be five or 10 members). If the motion to amend *passed*, the chair would then move to consider the main motion (the first motion) as *amended*. If the motion to amend *failed*, the chair would then move to consider the main motion (the first motion) in its original format, not amended.

Third, the chair would now deal with the first motion that was placed on the floor. The original motion would either be in its original format (five-member committee), or if *amended*, would be in its amended format (10-member committee). The question on the floor for discussion and decision would be whether a committee should plan and put on the annual fundraiser.

To Debate or Not to Debate

The basic rule of motions is that they are subject to discussion and debate. Accordingly, basic motions, motions to amend, and substitute motions are all eligible, each in their turn, for full discussion before and by the body. The debate can continue as long as members of the body wish to discuss an item, subject to the decision of the chair that it is time to move on and take action.

There are exceptions to the general rule of free and open debate on motions. The exceptions all apply when there is a desire of the body to move on. The following motions are not debatable (that is, when the following motions are made and seconded, the chair must immediately call for a vote of the body without debate on the motion):

Motion to adjourn. This motion, if passed, requires the body to immediately adjourn to its next regularly scheduled meeting. It requires a simple majority vote.

Motion to recess. This motion, if passed, requires the body to immediately take a recess. Normally, the chair determines the length of the recess which may be a few minutes or an hour. It requires a simple majority vote.

Motion to fix the time to adjourn. This motion, if passed, requires the body to adjourn the meeting at the specific time set in the motion. For example, the motion might be: “I move we adjourn this meeting at midnight.” It requires a simple majority vote.

Motion to table. This motion, if passed, requires discussion of the agenda item to be halted and the agenda item to be placed on “hold.” The motion can contain a specific time in which the item can come back to the body. “I move we table this item until our regular meeting in October.” Or the motion can contain no specific time for the return of the item, in which case a motion to take the item off the table and bring it back to the body will have to be taken at a future meeting. A motion to table an item (or to bring it back to the body) requires a simple majority vote.

Motion to limit debate. The most common form of this motion is to say, “I move the previous question” or “I move the question” or “I call the question” or sometimes someone simply shouts out “question.” As a practical matter, when a member calls out one of these phrases, the chair can expedite matters by treating it as a “request” rather than as a formal motion. The chair can simply inquire of the body, “any further discussion?” If no one wishes to have further discussion, then the chair can go right to the pending motion that is on the floor. However, if even one person wishes to discuss the pending motion further, then at that point, the chair should treat the call for the “question” as a formal motion, and proceed to it.

When a member of the body makes such a motion (“I move the previous question”), the member is really saying: “I’ve had enough debate. Let’s get on with the vote.” When such a motion is made, the chair should ask for a second, stop debate, and vote on the motion to limit debate. The motion to limit debate requires a two-thirds vote of the body.

NOTE: A motion to limit debate could include a time limit. For example: “I move we limit debate on this agenda item to 15 minutes.” Even in this format, the motion to limit debate requires a two-thirds vote of the body. A similar motion is a *motion to object to consideration of an item*. This motion is not debatable, and if passed, precludes the body from even considering an item on the agenda. It also requires a two-thirds vote.

Majority and Super Majority Votes

In a democracy, a simple majority vote determines a question. A tie vote means the motion fails. So in a seven-member body, a vote of 4-3 passes the motion. A vote of 3-3 with one abstention means the motion fails. If one member is absent and the vote is 3-3, the motion still fails.

All motions require a simple majority, but there are a few exceptions. The exceptions come up when the body is taking an action which effectively cuts off the ability of a minority of the body to take an action or discuss an item. These extraordinary motions require a two-thirds majority (a super majority) to pass:

Motion to limit debate. Whether a member says, “I move the previous question,” or “I move the question,” or “I call the question,” or “I move to limit debate,” it all amounts to an attempt to cut off the ability of the minority to discuss an item, and it requires a two-thirds vote to pass.

Motion to close nominations. When choosing officers of the body (such as the chair), nominations are in order either from a nominating committee or from the floor of the body. A motion to close nominations effectively cuts off the right of the minority to nominate officers and it requires a two-thirds vote to pass.

Motion to object to the consideration of a question. Normally, such a motion is unnecessary since the objectionable item can be tabled or defeated straight up. However, when members of a body do not even want an item on the agenda to be considered, then such a motion is in order. It is not debatable, and it requires a two-thirds vote to pass.

Motion to suspend the rules. This motion is debatable, but requires a two-thirds vote to pass. If the body has its own rules of order, conduct or procedure, this motion allows the body to suspend the rules for a particular purpose. For example, the body (a private club) might have a rule prohibiting the attendance at meetings by non-club members. A motion to suspend the rules would be in order to allow a non-club member to attend a meeting of the club on a particular date or on a particular agenda item.

Counting Votes

The matter of counting votes starts simple, but can become complicated.

Usually, it’s pretty easy to determine whether a particular motion passed or whether it was defeated. If a simple majority vote is needed to pass a motion, then one vote more than 50 percent of the body is required. For example, in a five-member body, if the vote is three in favor and two opposed, the motion passes. If it is two in favor and three opposed, the motion is defeated.

If a two-thirds majority vote is needed to pass a motion, then how many affirmative votes are required? The simple rule of thumb is to count the “no” votes and double that count to determine how many “yes” votes are needed to pass a particular motion. For example, in a seven-member body, if two members vote “no” then the “yes” vote of at least four members is required to achieve a two-thirds majority vote to pass the motion.

What about tie votes? In the event of a tie, the motion always fails since an affirmative vote is required to pass any motion. For example, in a five-member body, if the vote is two in favor and two opposed, with one member absent, the motion is defeated.

Vote counting starts to become complicated when members vote “abstain” or in the case of a written ballot, cast a blank (or unreadable) ballot. Do these votes count, and if so, how does one count them? The starting point is always to check the statutes.

In California, for example, for an action of a board of supervisors to be valid and binding, the action must be approved by a majority of the board. (California Government Code Section 25005.) Typically, this means three of the five members of the board must vote affirmatively in favor of the action. A vote of 2-1 would not be sufficient. A vote of 3-0 with two abstentions would be sufficient. In general law cities in

California, as another example, resolutions or orders for the payment of money and all ordinances require a recorded vote of the total members of the city council. (California Government Code Section 36936.) Cities with charters may prescribe their own vote requirements. Local elected officials are always well-advised to consult with their local agency counsel on how state law may affect the vote count.

After consulting state statutes, step number two is to check the rules of the body. If the rules of the body say that you count votes of “those present” then you treat abstentions one way. However, if the rules of the body say that you count the votes of those “present and voting,” then you treat abstentions a different way. And if the rules of the body are silent on the subject, then the general rule of thumb (and default rule) is that you count all votes that are “present and voting.”

Accordingly, under the “present and voting” system, you would **NOT** count abstention votes on the motion. Members who abstain are counted for purposes of determining quorum (they are “present”), but you treat the abstention votes on the motion as if they did not exist (they are not “voting”). On the other hand, if the rules of the body specifically say that you count votes of those “present” then you **DO** count abstention votes both in establishing the quorum and on the motion. In this event, the abstention votes act just like “no” votes.

How does this work in practice?

Here are a few examples.

Assume that a five-member city council is voting on a motion that requires a simple majority vote to pass, and assume further that the body has no specific rule on counting votes. Accordingly, the default rule kicks in and we count all votes of members that are “present and voting.” If the vote on the motion is 3-2, the motion passes. If the motion is 2-2 with one abstention, the motion fails.

Assume a five-member city council voting on a motion that requires a two-thirds majority vote to pass, and further assume that the body has no specific rule on counting votes. Again, the default rule applies. If the vote is 3-2, the motion fails for lack of a two-thirds majority. If the vote is 4-1, the motion passes with a clear two-thirds majority. A vote of three “yes,” one “no” and one “abstain” also results in passage of the motion. Once again, the abstention is counted only for the purpose of determining quorum, but on the actual vote on the motion, it is as if the abstention vote never existed — so an effective 3-1 vote is clearly a two-thirds majority vote.

Now, change the scenario slightly. Assume the same five-member city council voting on a motion that requires a two-thirds majority vote to pass, but now assume that the body **DOES** have a specific rule requiring a two-thirds vote of members “present.” Under this specific rule, we must count the members present not only for quorum but also for the motion. In this scenario, any abstention has the same force and effect as if it were a “no” vote. Accordingly, if the votes were three “yes,” one “no” and one “abstain,” then the motion fails. The abstention in this case is treated like a “no” vote and effective vote of 3-2 is not enough to pass two-thirds majority muster.

Now, exactly how does a member cast an “abstention” vote?

Any time a member votes “abstain” or says, “I abstain,” that is an abstention. However, if a member votes “present” that is also treated as an abstention (the member is essentially saying, “Count me for purposes of a quorum, but my vote on the issue is abstain.”) In fact, any manifestation of intention not to vote either “yes” or “no” on the pending motion may be treated by the chair as an abstention. If written ballots are cast, a blank or unreadable ballot is counted as an abstention as well.

Can a member vote “absent” or “count me as absent?” Interesting question. The ruling on this is up to the chair. The better approach is for the chair to count this as if the member had left his/her chair and is actually “absent.” That, of course, affects the quorum. However, the chair may also treat this as a vote to abstain, particularly if the person does not actually leave the dais.

The Motion to Reconsider

There is a special and unique motion that requires a bit of explanation all by itself; the motion to reconsider. A tenet of parliamentary procedure is finality. After vigorous discussion, debate and a vote, there must be some closure to the issue. And so, after a vote is taken, the matter is deemed closed, subject only to reopening if a proper motion to consider is made and passed.

A motion to reconsider requires a majority vote to pass like other garden-variety motions, but there are two special rules that apply only to the motion to reconsider.

First, is the matter of timing. A motion to reconsider must be made at the meeting where the item was first voted upon. A motion to reconsider made at a later time is untimely. (The body, however, can always vote to suspend the rules and, by a two-thirds majority, allow a motion to reconsider to be made at another time.)

Second, a motion to reconsider may be made only by certain members of the body. Accordingly, a motion to reconsider may be made only by a member who voted in the majority on the original motion. If such a member has a change of heart, he or she may make the motion to reconsider (any other member of the body — including a member who voted in the minority on the original motion — may second the motion). If a member who voted in the minority seeks to make the motion to reconsider, it must be ruled out of order. The purpose of this rule is finality. If a member of minority could make a motion to reconsider, then the item could be brought back to the body again and again, which would defeat the purpose of finality.

If the motion to reconsider passes, then the original matter is back before the body, and a new original motion is in order. The matter may be discussed and debated as if it were on the floor for the first time.

Courtesy and Decorum

The rules of order are meant to create an atmosphere where the members of the body and the members of the public can attend to business efficiently, fairly and with full participation. At the same time, it is up to the chair and the members of the body to maintain common courtesy and decorum. Unless the setting is very informal, it is always best for only one person at a time to have the floor, and it is always best for every speaker to be first recognized by the chair before proceeding to speak.

The chair should always ensure that debate and discussion of an agenda item focuses on the item and the policy in question, not the personalities of the members of the body. Debate on policy is healthy, debate on personalities is not. The chair has the right to cut off discussion that is too personal, is too loud, or is too crude.

Debate and discussion should be focused, but free and open. In the interest of time, the chair may, however, limit the time allotted to speakers, including members of the body.

Can a member of the body interrupt the speaker? The general rule is “no.” There are, however, exceptions. A speaker may be interrupted for the following reasons:

Privilege. The proper interruption would be, “point of privilege.” The chair would then ask the interrupter to “state your point.” Appropriate points of privilege relate to anything that would interfere with the normal comfort of the meeting. For example, the room may be too hot or too cold, or a blowing fan might interfere with a person’s ability to hear.

Order. The proper interruption would be, “point of order.” Again, the chair would ask the interrupter to “state your point.” Appropriate points of order relate to anything that would not be considered appropriate conduct of the meeting. For example, if the chair moved on to a vote on a motion that permits debate without allowing that discussion or debate.

Appeal. If the chair makes a ruling that a member of the body disagrees with, that member may appeal the ruling of the chair. If the motion is seconded, and after debate, if it passes by a simple majority vote, then the ruling of the chair is deemed reversed.

Call for orders of the day. This is simply another way of saying, “return to the agenda.” If a member believes that the body has drifted from the agreed-upon agenda, such a call may be made. It does not require a vote, and when the chair discovers that the agenda has not been followed, the chair simply reminds the body to return to the agenda item properly before them. If the chair fails to do so, the chair’s determination may be appealed.

Withdraw a motion. During debate and discussion of a motion, the maker of the motion on the floor, at any time, may interrupt a speaker to withdraw his or her motion from the floor. The motion is immediately deemed withdrawn, although the chair may ask the person who seconded the motion if he or she wishes to make the motion, and any other member may make the motion if properly recognized.

Special Notes About Public Input

The rules outlined above will help make meetings very public-friendly. But in addition, and particularly for the chair, it is wise to remember three special rules that apply to each agenda item:

Rule One: Tell the public what the body will be doing.

Rule Two: Keep the public informed while the body is doing it.

Rule Three: When the body has acted, tell the public what the body did.



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THE RALPH M. BROWN ACT
The “Open Meeting” Law

“In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the People’s business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.

The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.” Government Code section 54950.

The Basic Legal Requirement of the Brown Act:

“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 of the legislative body of a local agency, except as otherwise provided in this chapter.” Government Code section 54953(a).

A. Notice and Agenda Requirements

All meetings of a local legislative body must:

1. Be open to the public;
2. Be noticed 72 hours in advance;
3. Provide an opportunity for the public to speak;
4. Be located within the jurisdiction;
5. Not consider or take action on items not noticed on the agenda.

B. What is a “Legislative Body”?

The term “local Legislative Body” means not just the City Council, but also includes multi-person task forces, committees and commissions established by formal action of the City Council.

C. What is a “Meeting”?

A meeting is “...any congregation of a majority of the members of a legislative body (a quorum) 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.” Government Code section 54952.2(a).

Important: There are also some situations that do not appear to be traditional meetings, but that will or may be considered to constitute a violation of the Brown Act. They include the following:

1. Collective Briefings: A majority of the members may NOT meet together with staff outside the public meeting for a collective briefing.
2. Retreats/Workshops: A majority of the members may NOT attend retreats or workshops of the legislative body that are not noticed and open to the public as required by the Brown Act.
3. Informal gatherings: A majority of the members may NOT continue to discuss business after the noticed meeting formally ends.
4. Serial Meetings: A serial meeting occurs when by seriatim contact, a majority of the members of the local legislative body discuss, deliberate or take action on items of the body's business, or reach a collective concurrence as to such matters. In effect, the decision-making process of the legislative body in such a case has occurred in private, not in a noticed, public meeting. This can occur in several ways:
 - "Daisy-Chain" meetings: Member A contacts member B who contacts member C who contacts member D, all concerning the same item of committee business. This produces a collective consideration or concurrence of a quorum of the legislative body not occurring at a noticed public meeting, in violation of the Brown Act.
 - "Hub-and-Spoke" meetings: A person (citizen, staff member, colleague) contacts each member separately. While a member of a local legislative body may have individual contacts with constituents, advocates, consultants, staff, news reporters or a colleague, such contacts cannot be used to do in stages what is unlawful to do in one step. "Individual contacts" that lead to a collective concurrence of the legislative body are prohibited.
 - Email/Text Meetings: Computer messages to, from and between members of the legislative body that lead to a "collective concurrence" as to issues before the body are a type of serial meeting that violates the Brown Act. (Note: does not include emails merely to schedule a meeting, but not discussing committee business.)

This area in particular is one which can easily lead committee members into Brown Act violations. In order to avoid Brown Act

violations, staff and committee members should follow the following rules:

- Avoid webconferencing, social media communications, or individual communication of intended vote to third persons who may learn of intentions of the majority.
- Committee members should avoid initiating or participating in an email discussion of committee business with other members. Always remember that the business of the committee is to be done in public, at noticed meetings. Even if an email is meant to be sent unilaterally, with no need to reply, a recipient might choose to reply and accidentally “reply all.” While inadvertent, this is a Brown Act violation. Outside of a public meeting, it is best to communicate on committee business only through staff.

D. Exceptions: What is NOT a Meeting?

There are certain gatherings of a majority of the committee that will not be considered to be meetings, such as attendance by a majority of the committee at conferences open to the public; community meetings of another organization on topics of local community concern (e.g. a local candidate’s night); noticed, open meetings of another local agency (e.g. Board of Supervisors); or purely social or ceremonial events (e.g. funeral, ground-breaking); provided that the members do not discuss among themselves, other than as a part of the scheduled program, business of a specific nature that is within their subject matter jurisdiction.

E. Remedies

1. Civil actions to prevent violations of the Act.
2. Criminal action against individual members who intentionally violate the Act.
3. Civil action to invalidate a legislative body’s action taken in violation of the Act.

Conclusion

Committee members must be constantly aware of the Brown Act’s mandate that all decision-making and collective concurrence be done in a noticed public hearing, and not, albeit unintentionally, behind closed doors. Committee members should consult staff any time they have a concern or question about the applicability of the Brown Act.