

**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.

PLEASE ALSO NOTE that communications about committee business in the form of writings, including emails or texts, or recordings, may be considered public records subject to mandatory disclosure, even if they are on your personal electronic devices, so you should refrain from doing committee business on these devices.

GENERAL PLAN 2040 STEERING COMMITTEE BYLAWS¹

A. ORGANIZATION AND MEMBERSHIP

The San Rafael General Plan 2040 Steering Committee (“Committee”) has been created to provide guidance, oversight, and direction in the update of San Rafael’s General Plan. The Committee will be a sounding board for policies, actions, and priorities throughout the planning process.

Committee members must either reside in the San Rafael Planning Area or own/operate a business in San Rafael to be eligible to serve. If a member is representing a specific group or organization, a written endorsement from that organization is required.

The Committee shall be comprised of 23 “primary” members. Thirteen of the members shall represent the following organizations, with one member from each organization selected:

- City Council
- Planning Commission
- Design Review Board
- Parks and Recreation Commission
- Citizens Advisory Committee on Economic Development and Affordable Housing
- Bicycle and Pedestrian Advisory Committee
- Pickleweed Advisory Board
- Climate Change Action Plan Committee
- Federation of San Rafael Neighborhoods
- Chamber of Commerce
- East San Rafael Working Group
- Point San Pedro Coalition
- Gallinas Creek Watershed Council

Seven of the members shall serve as advocates for specific topics or areas including:

- Youth
- Seniors
- Homelessness
- Housing
- Environment
- Cultural/ Historic Resources
- North San Rafael resident

Three members shall serve at large.

¹ Includes technical corrections for internal consistency made following City Council action on December 4, 2017.

B. ALTERNATES

With the exception of the “at large” seats, each “primary” member of the Committee shall have an “alternate” who may serve in the event the member will be absent at a meeting or leaves the Committee prior to the end of the General Plan Update. In the latter instance, the alternate will become the representative and a new alternate may be appointed. In the case of the “at large” seats, two individuals shall serve as the “alternates” for all three seats, rotating in their attendance if called on to participate.

C. APPOINTMENT

The Council shall formally appoint all Committee members through a vote. In the event of a future vacancy, alternates may replace primary members without a Council vote. However, the designation of replacement alternates shall require a Council vote.

D. LIMITATIONS

The Committee shall serve the Planning Commission and City Council in an advisory capacity only. It shall have no authority to take actions that bind the Planning Commission or City Council. Members of the Committee may be dismissed from the Committee by the Council at any time.

E. TERMS

Members shall serve until General Plan 2040 and its associated CEQA documents are completed and adopted by the San Rafael City Council. However, monthly Committee meetings are expected to conclude upon publication of the Draft Plan, several months prior to adoption.

F. REPRESENTATION

To the extent possible, members of the Committee who have been appointed to represent a particular organization should represent the perspective of their organizations and associated constituents, rather than their personal viewpoints. Members will be responsible for periodically reporting back to their organizations on the Committee’s discussions.

G. ABSENCES

A commitment to participate in the process is important for continuity and progress. At the same time, it is recognized that Committee members may have occasional schedule conflicts, illnesses, vacations, and other circumstances that require that they miss a meeting. Members should notify the City’s Project Manager and their designated alternate at least 24 hours prior to meeting time in the event they will be absent and will be noted as “excused” in such instances. In the event a member has three consecutive unexcused absences, or six

consecutive excused absences, they may be removed from the Committee and replaced by the alternate at staff's discretion.

H. SUBCOMMITTEES

Formal, standing subcommittees of the Steering Committee are not proposed. However, in the event a particular issue or topic requires focused consideration, the Committee may create an ad hoc group comprised of several members and alternates to address the issue. Such groups may meet on an as-needed basis, with no quorum requirement. Under no circumstance may a subcommittee consist of a majority of Committee members.

I. QUORUM

A quorum of the Steering Committee shall be 12 people. Alternates may be counted toward the quorum requirement only if the primary member is absent and the formally designated alternate is present to serve in their place.

J. SELECTION OF OFFICERS

The Committee shall have a Chair and Vice Chair, with the selection made by a majority vote at the first meeting. The Chair shall preside at all meetings and shall represent the Committee before the City Council. In the absence of the Chair at a Committee meeting, the Vice Chair shall assume the duties of the Chair. In the event both the Chair and Vice Chair are absent, the Committee may appoint an acting chair from among the members present. Staff shall act as Secretary and shall take notes of Committee Proceedings.

The Committee may elect to rotate the Chair and Vice Chair positions over the course of the project, in order to provide multiple members with the opportunity to serve in that capacity. For continuity, such rotations should be a minimum of six months in duration.

K. BROWN ACT COMPLIANCE

Meetings shall be subject to the Brown Act, which sets standards for the conduct of public meetings, public access, and noticing requirements. The Brown Act also imposes certain limitations on how and when Committee members may communicate with one another. Steering Committee members will be advised of the basic requirements of the Brown Act as part of their orientation, and may be removed from the Committee if they violate the terms of the Act.

L. FORM 700

Primary members of the Committee (23 members) will be required to complete a statement of economic interest (Form 700) as required by the California Fair Political Practices Act. The Form should be filed with the City Clerk and is a public record. Alternates are not required to complete Form 700. Members of the Committee who have already completed Form 700 in their capacity as a City Commissioner, Councilmember, or Board Member do not need to complete the form a second time.

K. AGENDAS AND SUMMARIES

An agenda shall be prepared for each meeting. Agendas and related attachments will be sent electronically to Committee members at least 72 hours prior to the meeting time. Agendas will also be posted to the project website (www.sanrafael2040.org) 72 hours prior to the meeting time. Committee members may suggest items to be included on upcoming meeting agendas.

A Meeting Summary will be prepared following each meeting. The Summary will be included as an attachment to the agenda packet for the next month's meeting.

L. VOTING

The Committee will strive to reach consensus on policies and proposals. If a consensus cannot be reached, recommendations may be made by a simple majority vote called by the Chair. Alternative perspectives (e.g., minority positions) shall be documented in the Meeting Summary when appropriate.

M. CONFLICTS OF INTEREST

Members shall recuse themselves from discussion and any voting action in the event of a potential conflict of interest on a topic being addressed by the Committee.

N. MEETING TIMES, LOCATION, AND PROTOCOL

Regular meetings shall be held on the second Wednesday of each month. Meetings shall start at 6 PM and end no later than 9 PM. End times may be extended by a majority vote of the Committee when meetings are in session. At the discretion of staff, special meetings may be convened at other times, including weekends. Special meetings may include bus tours, field visits, and similar activities that are difficult to convene during evening hours.

Meetings shall generally be held in large multi-purpose rooms with sufficient capacity for Committee members and the public. Members of the public are encouraged to attend Committee meetings, but may not participate in Committee discussions unless specifically noted on the Agenda or authorized by the Chair. All meetings shall include dedicated agenda

time for public comment. The Committee Chair has the discretion to limit the time available for each speaker based on the number of speakers present and the length of the agenda.

O. MEDIA

In the event Committee members speak to the media, they are encouraged to provide accurate, factual information and shall refrain from engaging in speculation, advocacy for a particular position, or speaking on behalf of other Committee members unless authorized by the Committee to do so. Staff will facilitate communication with the media and will assist Committee members in doing so if desired.

P. PARTICIPATION OF ALTERNATES IN MEETINGS

Alternates are encouraged to attend Committee meetings but are not required to be present. When an alternate and primary member are both present, the alternate shall be seated in the audience and shall not participate in the Committee's deliberations unless specifically called on to do so by the Chair. Alternates may participate in the public comment period. When the primary member is not present, the alternate shall assume the role of that member in the Committee's deliberations and be seated with other primary members.

Q. BOARD AND COMMISSIONER TERM-OUTS

In the event a Committee member representing a City Board or Commission ceases to be a member of that Board or Commission during the course of the General Plan Update, that member may serve on the Committee in a "holdover" capacity for a period not to exceed three months from the end of their Board or Commission term. Following the holdover period, the Committee member shall resign their seat, and the designated alternate shall represent the associated Board or Commission as a full member. A new alternate shall be designated by vote of the City Board or Commission during the holdover period.

At its discretion, a Board or Commission may vote to allow a termed out member to continue to represent them on the General Plan Steering Committee for the duration of the project. In such instances, the termed out member shall report back to the Board or Commission at least once every three months to provide an update on the General Plan and relevant issues.

R. RELATIONSHIP TO COMMUNITY ENGAGEMENT PROGRAM

The Steering Committee is an essential part of the General Plan 2040 Community Engagement Strategy, but it is not the only part. The Committee is part of a broader outreach program that includes community meetings, stakeholder meetings, Board and Commission meetings, direct interviews, and on-line engagement. The City will balance input from the Steering Committee with these other sources to ensure that the process is as fair and inclusive as possible.

S. ROLE OF COMMITTEE MEMBERS

The City expects Committee members to:

- Become familiar with the issues surrounding the General Plan and the future of San Rafael
- Attend and participate in approximately 20 to 24 Committee meetings
- Review agenda packet materials in advance of Committee meetings
- Keep the interest of the entire community in mind, even when representing a particular organization or advocacy group
- Keep stakeholder groups informed of the progress of the Update program
- Serve as ambassadors to the community and encourage participation in the General Plan process by the public, including attendance at community workshops, town hall meetings, exhibits, and focus group discussions
- Work collaboratively and in good faith with fellow committee members, keeping an open mind, being respectful, and listening to other perspectives and viewpoints
- Stay focused on the task at hand and refrain from distracting others through side conversations and commentary that is unrelated from the agenda topics
- Be succinct in their comments in order to allow others to share their thoughts and opinions
- Provide constructive feedback to staff and consultants on process issues and work products throughout the update process
- Make recommendations to the Planning Commission and/or City Council on issues at key milestones

Staff and consultants will play a supporting role at each meeting and will provide discussion points, presentations, and background material. Staff and consultants will also serve as information resources at each meeting and will help guide and focus the discussion of key issues.

10 Ground Rules for Meetings

1 Show up on time and come prepared

Be prompt in arriving to the meeting and in returning from breaks.
Be prepared to contribute to achieving the meeting goals.
Come to the meeting with a positive attitude.



2 Stay mentally and physically present

Be present, and don't attend to non-meeting business.
Listen attentively to others and don't interrupt or have side conversations.
Treat all meeting participants with the same respect you would want from them.

3 Contribute to meeting goals

Participate 100% by sharing ideas, asking questions, and contributing to discussions.
Share your unique perspectives and experience, and speak honestly.
If you state a problem or disagree with a proposal, try to offer a solution.

4 Let everyone participate

Share time so that all can participate.
Be patient when listening to others speak and do not interrupt them.
Respect each other's thinking and value everyone's contributions.



5 Listen with an open mind

Value the learning from different inputs, and listen to get smarter.
Stay open to new ways of doing things, and listen for the future to emerge.
You can respect another person's point of view without agreeing with them.

6 Think before speaking

Seek first to understand, then to be understood.
Avoid using idioms, three letter acronyms, and phrases that can be misunderstood.
It's OK to disagree, respectfully and openly, and without being disagreeable.

7 Stay on point and on time

Respect the groups' time and keep comments brief and to the point.
When a topic has been discussed fully, do not bring it back up.
Do not waste everyone's time by repeating what others have said.



8 Attack the problem, not the person

Respectfully challenge the idea, not the person.
Blame or judgment will get you further from a solution, not closer.
Honest and constructive discussions are necessary to get the best results.

9 Close decisions and identify action items

Make sure decisions are supported by the group, otherwise they won't be acted on.
Note pending issues and schedule follow up meetings as needed.
Identify actions based on decisions made, and follow up actions assigned to you.

10 Record outcomes and follow up

Record issues discussed, decisions made, and tasks assigned.
Share meeting reports with meeting participants.
Share meeting outcomes with other stakeholders that should be kept in the loop.

