

POLICY TITLE: OPEN MEETING REGULATIONS (BROWN ACT) — APPLICATION TO CITY ADVISORY BODIES

POLICY STATEMENT:

This policy is established to comply with amendments to Government Code § 54950 et seq. (the Ralph M. Brown Act). The law requires local agencies to post an agenda prior to each meeting of the legislative body (and advisory bodies), requires local agencies to provide an opportunity for the public to address the legislative body, generally prohibits the legislative body from acting on items not appearing on the agenda, and authorizes bringing suit to void certain actions taken in violation of the Brown Act. This legislative bill applies to every local legislative body including all advisory bodies and standing subcommittees.

Stated below are procedures to be followed:

1. An agenda for each regular board, commission, committee, task force or standing subcommittee (see Policy 5.12) meeting and each adjourned regular meeting will be posted outside the meeting room and in a place visible to the public in/at the department responsible for staffing a given advisory body at least 72 hours prior to the meeting. A record of those two postings will be maintained by the department and it will include a declaration of the time and place of each posting. Notice of any special meeting of an advisory body will be posted at least 24 hours prior to the meeting; such notice will specify the business to be transacted. A record of posting will be maintained as noted above.
2. The agenda will bear a brief general description of each item of business to be transacted or discussed at the meeting. The description will be reasonably calculated to inform the public of the general nature of the subject matter of the item so that the public may seek further information on items of interest. The description will focus on the substance of the matter rather than the contemplated action.
3. If an advisory body member or staff intends to bring up an item for discussion or action it is to be included on the posted agenda unless the item qualifies as an exception as outlined in a) and b) below. The existing definition of "action taken" which is found in Government Code § 54952.6 will be used in determining the effect of the regulations. In that Government Code Section "action taken" is defined as "a collective decision made by a majority of the members of a legislative body, a collective commitment or promise by a majority of the members of a legislative body to make a positive or a negative decision, or an actual vote by a majority of the members of a legislative body when sitting as a body or entity, upon a motion, proposal, resolution, order or ordinance." Action may be taken on items not appearing on the posted agenda under the following circumstances:

POLICY 5.11 (continued)

- (a) The advisory body makes a determination that "the need to take action" arose after the agenda was posted. This determination requires the affirmative votes of at least two-thirds of the members or a unanimous vote if less than two-thirds of the members are present. If the advisory body is able to make such determination, a motion will be made, seconded, and voted upon and that action, along with a brief explanation of the circumstances, will be included in the minutes of that meeting. The brief explanation will state the need for action and the reason that the need arose after the agenda was posted. In general, if either the members or staff knew of the need for action before the agenda was posted and it was not included on the agenda for reasons of scheduling convenience or oversight, the members could not properly determine that the need arose after the agenda was posted.
- (b) The advisory body determines that an emergency situation exists. A motion would be made, seconded, and the vote taken and that action, along with a brief explanation of the emergency, would be included in the minutes of that meeting. This determination requires the affirmative vote of a majority of the members.

Council-appointed city advisory bodies shall provide an opportunity at some point during each meeting for public oral input on matters of public concern which are not listed on the posted agenda.

As to matters brought up by members of the public during oral communications (if any), any such publicly raised matter may be placed on a specific agenda as appropriate. It is the intent of this section of this policy to defer action on any item brought up by members of the public during oral communications while providing a procedure for responding to the public.

- 4. The advisory body will allow for public comment on agenda items. At the beginning of each agenda section, the audience will be given an opportunity to indicate the need to comment on any items on that section of the agenda. The advisory body may encourage brevity and set time limits on speakers and indicate such limits on the agenda.
- 5. The Brown Act authorizes the attendance of non-subcommittee members at subcommittee meetings provided that they attend only as observers.
- 6. Should an action of an advisory body be challenged on the basis of alleged Brown Act violation, the complaint must make a demand on the city to cure or correct the allegedly improper action. Any action to cure or correct must be filed within 30 days from the date of the action taken. The City Clerk is then responsible for expeditiously notifying the affected department and/or advisory body secretary and the city manager and City Attorney that such claim has been filed.