
The Ralph M. Brown Act

Workforce Development Board
Youth Committee
January 21, 2016

Brown Act Policy Declaration

- Government Code section 54950 provides, in relevant part, that “It is the intent of the law that their actions be taken openly and their deliberations be conducted openly.”
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News

The following article was posted on October 21st, 2015, in the New Times - Volume 30, Issue 13

Nipomo CSD accused of violating Brown Act

By CHRIS MCGUINNESS

If plans for development at Nipomo's Blacklake Golf Resort weren't already controversial enough, one local man is taking the small South County town's Community Services District to court over it.

Nipomo resident Noel Heal filed a petition in SLO County Superior Court claiming that the CSD **violated the state's public meeting laws** during a discussion about Blacklake at its August 12 regular meeting.

At the crux of Heal's petition is a question over whether the CSD's manager and board of directors **veered from the meeting's published agenda** during a discussion about the CSD's intent-to-serve letter process, which the Blacklake development is currently in the midst of.

Violations & Remedies

- **Invalidation** – any interested person may seek to invalidate certain actions of a legislative body through court action
 - **Civil Action to Prevent Future Violations** – any interested person can file a lawsuit asking the court to take action
 - **Criminal Charges** – may be brought against a member whose intent was “to deprive the public of information to which the member knows or has reason to know the public is entitled” by the Brown Act
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Public Participation

- General comments within the Board's purview must be allowed
 - Public comment on each specific agenda item must be allowed
 - Length of any person's public comment may be limited by Board rule
 - **Closed sessions are limited to specific matters designated by law**
(litigation, real estate negotiations, public employment, and labor negotiations)
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Agenda Requirements

- Agenda must list the items to be considered in general language
- Items off agenda may not be discussed; no action may be taken on such items . . . **except**
 - Commission Members may report on their activities
 - In response to public comment on a non-agenda item
 - Brief questions may be asked
 - Staff can be requested to respond
 - Item can be placed on future agenda

Agenda Requirements (continued)

- ❑ Items that need immediate attention and can not reasonably wait for the next regularly scheduled meeting, as long as:
 - The matter in question constitutes an emergency *OR*
 - The the need for immediate action must have come to the attention of the local "agency" after the agenda had already been posted *AND*
 - The determination that a need for immediate action exists is made by two-thirds of the members present or, if two-thirds of the body is not present, by a unanimous vote of those remaining.
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Agenda Posting Requirements

- Must be posted in an area freely accessible to the public 24 hours/day
 - (In San Luis Obispo County, we are required to post the agenda at the meeting location and the Government Center)*
 - Regular Meetings: must be posted at least 72 hours in advance of a meeting
 - **Internet posting alone is inadequate**
 - Special Meetings: must be posted 24 hours in advance
 - (However, absent an emergency situation, we will adhere to the 72-hour posting requirements.)*
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What Constitutes a Meeting?

- “...any congregation of a majority of the members... to *hear, discuss, or deliberate* upon any item that is within the subject matter jurisdiction...”.
- This definition is not limited to meetings where action is taken but also includes deliberative proceedings or any type of discussion about matters that may come before the Board.

Teleconferencing at Meetings:

- Quorum must be located within jurisdiction
 - Each location must be identified in the notice and agenda
 - Each location must be fully accessible to the public
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Regular Meetings

- Occurring at dates, times, and location set by resolution, ordinance, or other formal action by the legislative body

(Gov't Code § 54954(a))

Special Meetings

- Called by presiding officer or majority of the legislative body to discuss discrete items on the agenda **OR**
- A legislative body calls a meeting at a time or place other than the time or place specified for regular meetings

(Gov't Code § 54954(a)) & (Gov't Code § 54956)

Adjourned Meetings

- Regular or special meetings that have been adjourned or re-adjourned to a time and place specified in the order of adjournment

(Gov't Code § 54955)

Emergency Meetings

- Held only in emergency situations when prompt action is necessary due to the actual or threatened disruption of public facilities

(Gov't Code § 54956)

Exceptions to Definition of Meeting

- Individual Contacts with staff or members of the public
 - Conferences
 - Community Meetings
 - Meetings of Other Legislative Bodies
 - Social or Ceremonial Events
 - Attendance at Standing Committee Meetings as Observers
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Not Exceptions to Definition of Meeting

- Collective Briefings
- Informal Gatherings *(unless scrupulous avoidance of topics within body's jurisdiction is taken)*
- Retreats or Workshops
- Teleconferencing
- Serial Communications or Meetings

Effective January 1, 2009, the Act prohibits majority of members of a legislative body from using a “series of communications of any kind, directly or through intermediaries, **to discuss, deliberate, or take action on any item of business** that is within the subject matter jurisdiction of the legislative body.”

Still Permitted . . .

Separate Conversations With Agency Staff

- Separate conversations or communications between an employee or official of a local agency and members of its legislative body

Purpose:

- Efficient & Effective Operation of Government
 - To answer questions or provide information regarding a matter within the subject matter jurisdiction.
 - Agency staff must not communicate to a member or members of the legislative body the comments or position of any other member or members.
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Reporting Actions at Meetings

- Any **ACTION** taken at an open meeting must be publicly reported and the vote or abstention of each member present for the action must be reported.
 - Unanimous voice votes may be sufficient if it is clearly reported in the minutes which members are present for the vote.
 - Otherwise, roll call votes may be necessary to record the vote or abstention of each member.
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Questions?

