

# LOS OLIVOS COMMUNITY SERVICES DISTRICT BROWN ACT PRESENTATION

Law and Principles (AB 1234)

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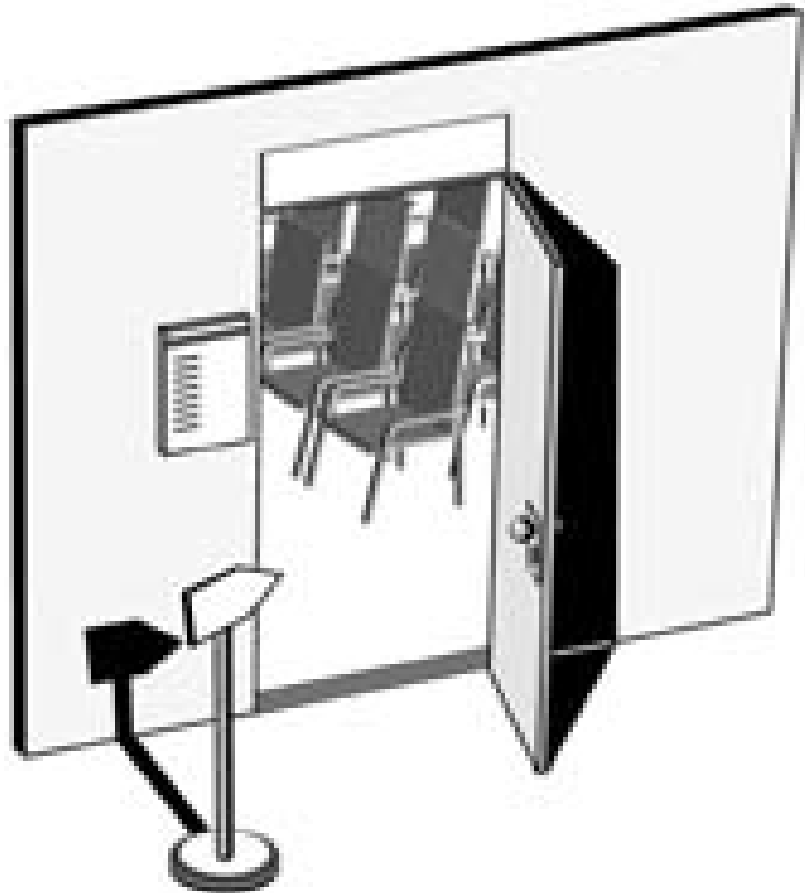
# The Ralph M. Brown Act

- ▶ “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.” (Gov. Code § 54953)

# Conducting Business at Open Meetings

- ▶ A majority may not consult outside a properly noticed meeting open to public
- ▶ Key concept: what constitutes a meeting
  - ▶ Example: Serial communications
- ▶ Exceptions for certain kinds of events
- ▶ As long as a majority does not consult among themselves





# What is a meeting?

## Definition:

"Meeting" includes any gathering of a majority of the members of a legislative body to hear, discuss, or deliberate upon any item which is within its subject matter jurisdiction."

# What is a meeting?

## Means of Communication:

A meeting includes any use of direct communication, personal intermediaries, or technological devices which are employed by a majority of the members of the legislative body to develop a collective concurrence on action to be taken by members of the legislative body.

(Gov. Code § 54952.2)



# What is a meeting



Meetings take place if quorum receives information on, discusses, or deliberates on any item on which the body may legally act

Must be within the boundaries of the agency

Applies to “legislative” bodies and advisory

Special Meetings called by Mayor or majority - 24hr notice

Serial and rotating meetings or polling prohibited, but social gatherings are permitted

# Serial Meetings

- ▶ Examples of serial meetings:
  - ▶ Chain: If member A contacts member B to express his/her opinion on a City-related issue, and B contacts member C and shares the opinions of members A and B, a “serial meeting” may result in violation of the Brown Act.
  - ▶ Hub and spoke: An intermediary, such as staff member or member of the public, contacts at least a quorum of the members to develop a collective concurrence on action to be taken by the legislative body.



# Serial Meetings and AB 992

- ▶ New rule in 2020: A legislative body member shall not respond directly to any communication on an internet-based social media platform regarding a matter that is within the subject matter jurisdiction of the legislative body that is made, posted, or shared by any other member of the legislative body.
- ▶ Take away: Members should avoid commenting on or even liking or posting emojis or other responsive remarks on the social media post of another Council member so as to avoid the possibility that a majority of the body is deemed to be engaged in a communication.



# What is NOT a meeting?

- ▶ If a quorum does not receive information on, discuss, or deliberate on any item, on which the body may legally act, then the following generally are NOT meetings:
  - ▶ Individual contact
  - ▶ Public conferences
  - ▶ Other local agency meetings
  - ▶ Community meetings
  - ▶ Social gatherings

# Agenda Requirements

- ▶ A written agenda must be prepared for each regular or adjourned regular meeting of each legislative body.
- ▶ Action or discussion on any item not appearing on the posted agenda is generally prohibited



# Stay on point!

- ▶ All matters to be transacted or discussed.
- ▶ Must include reasonable period of time for public comment before or during consideration
- ▶ To add a new matter body must find: (1) City became aware of the need for action after agenda was posted, (2) immediate action is necessary, (3) there must be a 2/3 vote of membership—unanimous vote if less than 2/3 present!





# Public Participation in Meetings

- ▶ Anyone can attend open meetings
- ▶ Cannot require names, questionnaires, or conditions to attendance
- ▶ Public may record proceedings by video, film or audiotape
- ▶ If meeting willfully interrupted or order cannot be restored by removing only the disrupting individuals, body may order room cleared

# Penalties: Failing to Comply

- ▶ Nullification of decision
- ▶ Criminal Misdemeanor - for intentional violations (up to 6 months in jail/\$1000 fine)
- ▶ Injunction, Mandamus & Declaratory Relief
- ▶ Challenger must demand corrective action within 90 days of action -- or 30 days if agenda issue
- ▶ 30 days to correct action before suit
- ▶ Intense adverse media attention



# Questions?

