

Brown Act & Robert's Rules Refresher

Disability Advisory Commission

April 9, 2019

Topics

- Brown Act ("Open Meetings Law")
- Robert's Rules of Order

Brown Act Basics

Basic Rule: meetings of legislative bodies must be open and public

- Codified in Government Code §§ 54950 et seq.
- Purpose:
 - Facilitate Public Participation
 - Curb Misuse of Democratic Process by Secret Legislation by Public Bodies

Brown Act

- DAC Subject to Brown Act
- Meetings Must be Conducted in Open Public Sessions
- Agendas Must be Posted in Advance

Agenda Posting Rules

Agenda

- Posted at least 72 hours in advance
 - 24 hours in advance for special meetings
- Specify time and place
- General description of each item

Agenda Content Rules

Agenda must provide:

- public comment period to address each item on the agenda
- unscheduled public comment period
 - any matter w/in the jurisdiction of the committee not on the agenda

Meeting Discussions

- Board cannot discuss or take action on any item not appearing on the agenda
- Narrow Exceptions:
 - briefly responding to comments made by a private person during public comment period;
 - asking staff for clarification,
 - directing staff to place item on future agenda
 - Making brief announcement regarding member's own activities

Public Rights

- Open to all
- Not required to register to attend
- Can be asked to give name and address to comment (not required)
- Right to videotape or record meetings if it doesn't create a persistent disruption

Information Shared in Meetings

- Information, documents, reports given to committee must be equally available at same time to the public
- No requirement for reports to be prepared prior to a meeting (common misunderstanding)

Decorum

- Everything is public record
- You are a representative of the Mayor

Meeting Definition

Any congregation of a majority of the members of the Board at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the Board or the local agency to which it pertains. (GC 54952.2).

- No need for Board to take action for a gathering to be a meeting

Serial Meetings

- Prohibited
- Involve less than a quorum
- Eventually result in a collective concurrence without formal meeting

Types of Serial Meetings

- Chain of direct communications
 - E.g.: e-mails being forwarded
- A series of communications between individual decision makers and a third party

Gatherings that aren't Meetings

- Individual Contact
 - Conversation between committee member
 - Not polling members
- Conference, Public Meeting, Social or Ceremonial Events
 - members can not discuss specific business among themselves

Closed Sessions

Narrowly limited to discussions on:

- Pending litigation
- Employee performance
- Labor negotiations
- Real estate negotiations

Must report out on actions taken in closed session

Resource: Legal Handbook

Recommend Review of Legal Handbook
for City of Fresno Boards, Commissions,
Committees, and Similar Bodies

What is Robert's Rules of Order?

- Set of rules/procedures for conduct
- Allows everyone to be heard and to make decisions without confusions

Silence is Consent

Not understanding parliamentary language

=

Not having an opinion

The Chair

- The person that runs meetings, calls the votes, and ensures adherence to an agenda
- Can be delegated to another member for the duration of a meeting

Quorum

- The number/percentage of members that must be presented for business to be conducted legitimately.
- Once established, it is maintained for the duration of the meeting, even if people leave
- DAC Quorum: simple majority (4/7)

The Motion

- A call to action
 - Can be a request to do something
 - Can be a request to vote
 - Can be a request to change something
- Essentially you are saying “I think we should consider doing this”
- Expressed in the positive

Motion Actions

Members can:

- **Present Motions** (Make a proposal)
- **Debate Motions** (Give opinions about the motion)
- **Second Motions:** (Express support for discussion of another member's motion)
- **Vote on Motions:** (Make a decision)

The second

- The “second” makes the motion important enough to discuss
 - Eliminates unnecessary discussion on a point that only one member believes is worth discussing
 - If at least one other person believes the motion is worth discussing then they can put forth a second requiring action
 - A second doesn't mean the person seconding agrees with the motion, but feels that it should at least be discussed
- Second can be given by any member

Motions from Committee

- Since a committee consists of more than one person, a second is implied
- If a committee recommends adoption of a motion, then it is clear that multiple people believe the motion should be discussed
 - “The committee recommends adoption and WE do so move...”

Discussion

- After a motion is made and seconded, it belongs to the group; it's "on the floor"

Discussion Etiquette

- Limits to discussion defined in advance and agreed upon by the group
- The chair ensured discussion is orderly and relevant
 - **Individuals must be recognized by the chair before speaking**
 - Make sure discussion is directly related to the motion and its merits

Discussion Etiquette (cont.)

- Members to wait to speak a second time until all other interested members speak first
- Discussion should be directed towards the chair and not at other members
 - Reduces assumption of “direct attacks”

Permission to Withdraw

- Requests a motion be withdrawn
 - Often debate brings to light that this is not a valid motion and desire to retract is present
 - Can only be done by the person who supplied the original motion
- Chair will ask if anyone objects to the withdrawal of the motion
 - If no objections, it is withdrawn without a vote
 - If there is even a single objection, there must be a vote to withdraw

Calling the Question

- Purpose is to call for the vote
 - “Call the question” or “I move the previous question”
- Officially ends debate
 - Group should allow reasonable amount of time for discussion before this motion is called
 - Caller must be recognized formally by the chair

Voting

- Once the chair has recognized there is no further discussion, they can call the vote
- A result of majority ayes of those voting passes a motion

Postponement

■ Reasons:

- Running out of time and another more important item needs to be addressed
- Want to think about it more before deciding
- Don't want to deal with it right now
- Not used to avoid a vote or topic
- Motion include when the topic will be discussed
 - “Motion to postpone until the next meeting”