

POLICY TITLE: OPEN MEETING REGULATIONS (BROWN ACT) - CITY COUNCIL MEETINGS

POLICY STATEMENT:

This policy is established to comply with the Brown Act. The law requires local agencies to post an agenda prior to each meeting of the legislative body, 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 city advisory bodies.

Stated below are procedures to be followed:

1. An agenda for each regular City Council Meeting and each adjourned regular City Council Meeting will be posted on the bulletin board outside the Council Chambers, in the enclosed bulletin board located on Church Street, and on the City's website at least 72 hours prior to the meeting. The agenda shall be accessible through a prominent, direct link posted on the City's primary website homepage. A record of the posting will be maintained by the City Clerk and it will include a declaration of the time and place of posting. Notice of any special meeting of the City Council 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 on the matter rather than the contemplated action.

3. If Council 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 under a Brown Act exception; the current exceptions are outlined below. Action may be taken¹ on items not appearing on the posted agenda under the circumstances listed below.

(a) Council 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 Council or a unanimous vote if less than two-thirds of the Councilmembers are

¹ Government Code Section 54952.6 defines "action taken" 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."

present. Gov. Code § (b)(2). If Council 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 Council 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 Council could not properly determine that the need arose after the agenda was posted.

(b) Council determines that an emergency situation exists as defined in Government Code Section 54956.5 (work stoppage or other activity which severely impairs public health, safety or both; or a crippling disaster). Gov. Code § 54954.2(b)(1). 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 Councilmembers.

(c) The item was on a properly noticed agenda of a prior Council meeting “occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.” Gov. Code § 54954.2(b)(3).

(d) “To consider action on a request from a member to participate in a meeting remotely due to emergency circumstances, pursuant to Section 54953, if the request does not allow sufficient time to place the proposed action on the posted agenda for the meeting for which the request is made. The legislative body may approve such a request by a majority vote of the legislative body.” Gov Code § 54954.2(b)(4).

Council shall provide an opportunity at some point during each regular meeting for public oral input on matters of public concern which are not listed on the posted agenda. (See Policy No. 6.6)

As to matters brought up by members of the public during oral communications, the Mayor is empowered to refer any such publicly raised matter to staff or to direct that it be placed on a specific Council 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 Brown Act provides for the right of the public to testify at meetings. At the beginning of each agenda section, the audience will be given the opportunity to indicate the need to comment on any items on that section of the agenda. Brevity will be encouraged, and time limits will be stated on the agenda and may be increased or decreased at the Mayor's discretion. Agendas for special meetings shall include a statement describing the public's rights to address the Council on any item listed on the agenda for that special meeting.

VIOLATIONS OF THE ACT: The Brown Act provides for civil remedies and criminal penalties , and actions taken in violation of the Brown Act may be declared null and void.

AUTHORIZATION:

Council Policy Manual Update of November 17, 1998
Revised by Resolution No. NS-30,168 on June 27, 2023