

# The Basics of the Brown Act

Presented to:



General Plan Advisory Committee

September 22, 2014

bourke

BURKE, WILLIAMS & SORENSEN, LLP

# Intro. to the Rules

## The Brown Act

- “Public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people’s business. ***It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.***”

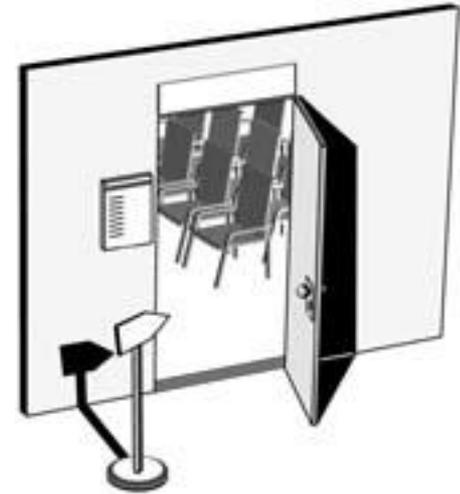
Gov’t Code § 54950



# Basic Rule of the 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, except as otherwise provided in the Brown Act.

Gov't Code § 54950



# What is a Meeting?



- A “**meeting**” includes any gathering of a **majority** of the **members** of a body at the **same time and location** to **hear, discuss, deliberate or take action** upon any item which is within its **subject matter jurisdiction**.

Gov’t Code § 54952.2(a)

# Types of Meetings

## ■ Public Meetings

- Regular meetings
- Special meetings
- Emergency meetings

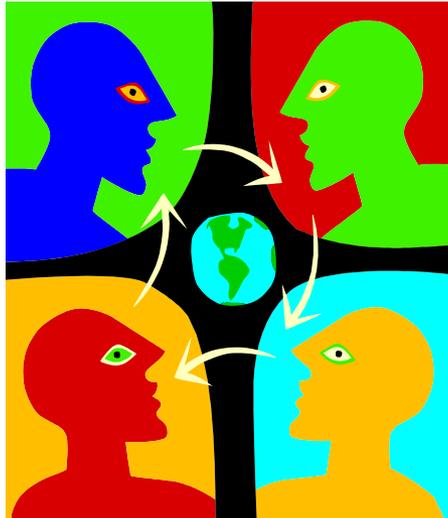
## ■ Non-Public Meetings

- Daisy Chain Serial meetings
- Hub and Spoke Serial meetings
- Email/Technology meetings



# Non-Public Meetings

## CAUTION!!!



- A majority of the members of a body shall not...***use 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 body.

§ 54952(b)(1)

# Daisy Chain Serial Meetings

- If Member A contacts Member B, and Member B contacts Member C, and so on, until a quorum has been involved, this type of “serial meeting” may result in a violation of the Brown Act.



# Hub and Spoke Serial Meetings

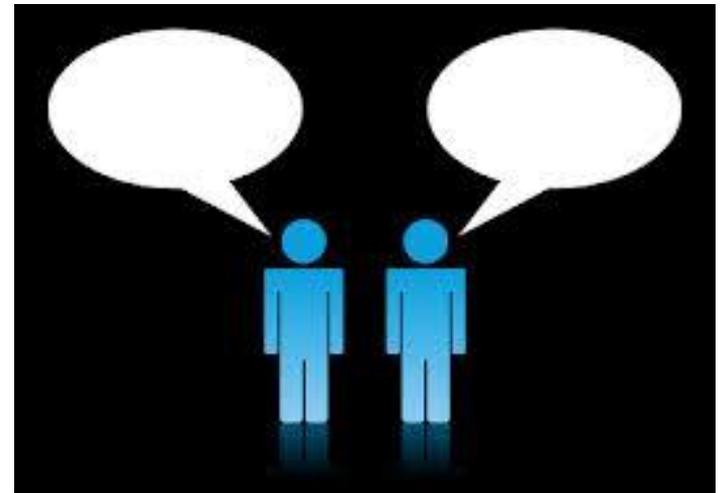
- An intermediary -- such as a City staff member -- contacts at least a quorum of the members to develop a collective concurrence on action to be taken by the body.



# Hub and Spoke Serial Meetings

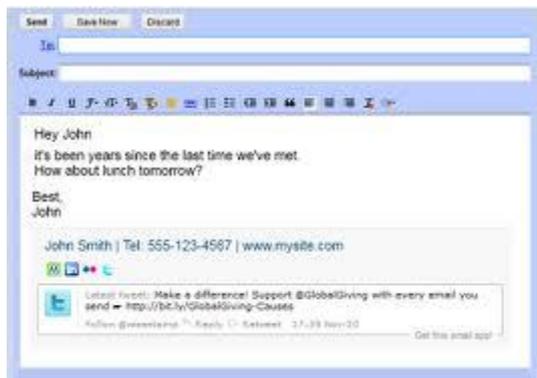
- An employee or official of a local agency may engage in “***separate conversations or communications***” outside of a meeting in order to “***answer questions or provide information***” so long as that person “***does not communicate to members of the body the comments or positions of any other member or members.***”

§ 54952.2(b)(2)



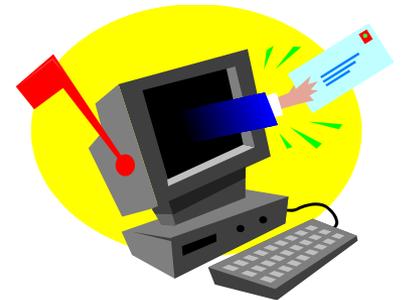
# E-mail/Technology Meetings

- Use of e-mail or other technology/media by a majority of a body to discuss, deliberate, or take action on items within the body's jurisdiction violates the Brown Act.



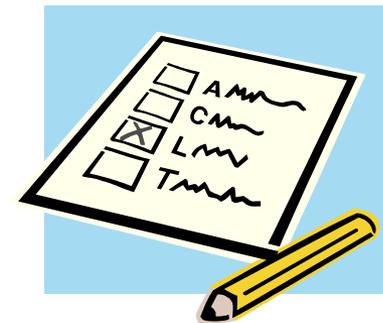
# Recommendations

- Avoid sending e-mails to the whole GPAC.
- Be careful replying to e-mails.
  - Do not communicate your position or make a commitment on a pending matter.
  - Do not direct a reply to a majority of the GPAC.
- Think carefully before sending any e-mail.
  - E-mail can be forwarded by others to a majority of the GPAC.
- Think carefully before posting online.
  - Think about who can potentially see the post.
  - People can copy or repeat what you've posted.
  - Once it's online, you can't control it anymore.



# The Agenda

- Every meeting must have an agenda.
- The agenda contains a brief description of the items of business to be conducted.
- Non-agendized items should not be discussed or acted upon at the meeting



# Non-Agendized Items

- Members may:
  - Briefly respond to public statements or questions;
  - Ask a question for clarification;
  - Make a brief announcement;
  - Make a brief report on his or her activities;
  - Provide a reference to staff or other sources for factual information; or
  - Request staff to report back to the GPAC in a subsequent meeting.
- The GPAC may ask staff to place the matter on a future agenda.



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