



SAN DIMAS BOARDS COMMISSIONS AND COMMITTEES

ROLE, DUTIES & PROCEDURES

Chris Constantin, City Manager

Jeff Malawy, City Attorney

Debra Black, City Clerk

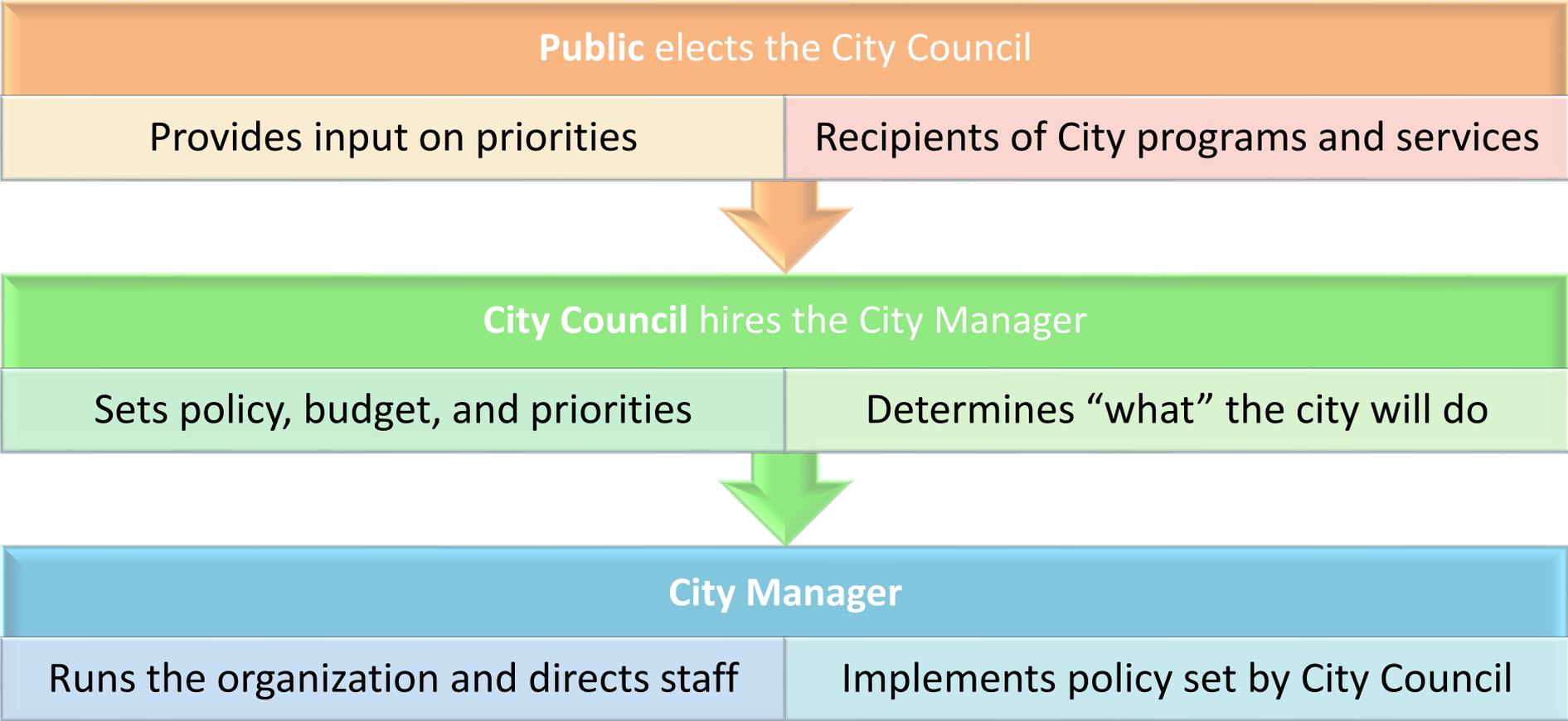


TOPICS

- ▶ City Overview & Board/Commission/Committee (B/C/C) Role
- ▶ B/C/C Duties
- ▶ Processes
 - ❖ Meetings/attendance
 - ❖ Agenda
 - ❖ Minutes
 - ❖ Conflict of Interest
 - ❖ Member Communications
 - ❖ Recommendations to Council
- ▶ Brown Act
- ▶ Public Records Act

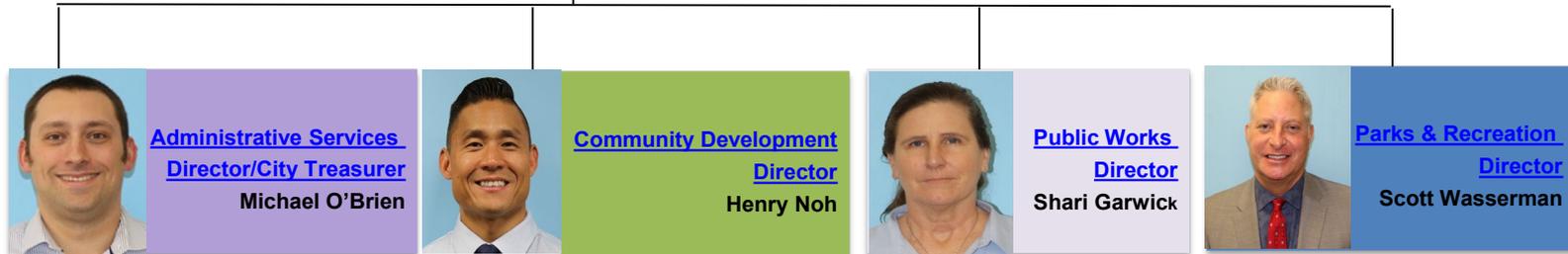
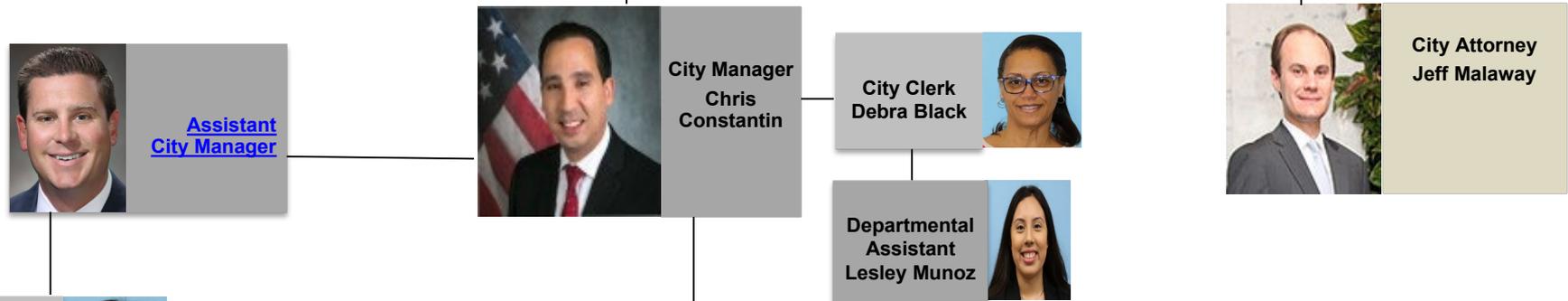


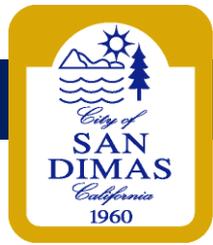
Council-Manager Form of Government





City Structure





B/C/Cs ARE Valuable!

- B/C/Cs enable residents to participate in the City government processes.
- Your activities help shape and influence public policy, because they lend a more diverse viewpoint for the City Council to consider.
- Some B/C/Cs operate in an advisory capacity while others make legally binding decisions.





Role of B/C/Cs

What B/C/Cs Do

- ▶ Ear for the City Council
- ▶ Forum to encourage resident participation early in the process
- ▶ In-depth analysis of specific issues
- ▶ Broad perspective on focused topics
- ▶ Advisory recommendations to the City Council
- ▶ Some B/C/Cs make binding decisions

What B/C/Cs DO NOT do

- ❖ Make policy decisions
- ❖ Direct budget decisions
- ❖ Direct City operations and programs
- ❖ Direct staff



Transition to B/C/C Member

Community Advocate/Activist

- Independent
- Advocacy
- Focused agenda

B/C/C Member

- Official City representative
- Team member
- Collaborative
- Deliberator
- Focused on overall good for City
- Broad agenda



Categories of Member Responsibilities

To the **City Council**

To the **Community**

To **Each Other**

To **Staff**



Responsibilities to the Council

- ▶ Act consistently with Council direction
- ▶ Be familiar with Council priorities
- ▶ Clearly state whether you are speaking for the B/C/C or yourself
- ▶ Ask staff or who nominated you for feedback and insight
- ▶ Stay focused on the official role of your B/C/C
- ▶ Support and promote Council priorities



Responsibilities to the Community

- ▶ Listen to and understand diverse interests within the community
- ▶ Bring forward ideas...but within the scope of the B/C/C's role and work plan
- ▶ Show respect to all who come before the B/C/C
- ▶ Understand that you are seen as a B/C/C member now, not simply a City resident or advocate
- ▶ Help recruit for B/C/C vacancies – you're a great advocate!



Responsibilities to Each Other

- ▶ Be prepared for meetings
- ▶ Advise your staff representative well in advance if you will be absent
- ▶ Allow others to speak without interrupting
- ▶ Seek to understand other points of view
- ▶ Respect decisions of the majority, once made



Responsibilities to Staff

- ▶ Chair coordinates with the Staff Liaison
- ▶ Use staff as a resource – ask questions in advance when possible
- ▶ Be realistic about staff capacity
- ▶ Avoid giving staff direction
- ▶ Treat staff with respect and courtesy, and expect the same in return



Role of Staff Liaison & Support Staff

- ▶ Manages the agenda with the Chair
 - Confirms jurisdiction of the B/C/C
 - Sequences flow
 - Reviews requests
- ▶ Makes professional recommendations
- ▶ Manages work plan
- ▶ Provides input and technical advice
- ▶ Monitors the Brown Act or other issues
- ▶ Manages B/C/C roster



B/C/C Webpage

Boards Commissions and Committees

RELATED PAGES

+ City Commissions

NEED ASSISTANCE OR HAVE QUESTIONS?

We are happy to assist you. Please contact us via email at cityclerk@sandimasca.gov or call 909.394.6216

The City of San Dimas encourages all citizens to involve themselves in the decision-making process by participating in the various City commissions, committees, and boards. Serving on an advisory board, commission or committee provides an opportunity to assist in the implementation of local policies. Each entity is composed of local community members, and not only gives private citizens the ability to participate in civic activities but also gives voice to specific issues that may not otherwise receive proper attention.

Volunteers are appointed by the City Council to serve on each board, commission, or committee. The responsibilities, terms of office, membership size, qualifications, and meeting schedules vary for each board, commission, or committee.

How Do I Become a Board Commission or Committee Member?

Board Commission and Committee openings occur when a member resigns or has served the maximum allowable terms. When a position becomes available an application period is opened. During the open application period, interested persons may submit an application to the Office of the City Clerk. At the close of the application period, applicants are interviewed by the Mayor and one Councilmember or city staff liaison appointed to that board or commission. The Mayor and Councilmember will make a recommendation for an appointment at the next City Council meeting. Once selected the new member will be sworn in at the next Board, Commission, or Committee meeting. For information on upcoming term expirations and duties and responsibilities click on the links below. All meetings are open to the public. We welcome your participation.

For more information click below:

[City Boards Commissions and Committees](#)

[Maddy Act List](#)

If you are interested in serving as a member of a City Advisory Board, Commission or Committee, please complete the [Community Service Opportunity Application](#) and mail or drop off at:

San Dimas City Hall
City Clerk's Office
245 East Bonita Avenue
San Dimas, CA 91773

Board Commission or Committee Member Training Information

- [AB 1234 Ethics Training](#)
- [AB 1661 Prevention Training](#)
- [Brown Act Training](#)

- [Local Officials Ethics Training](#)



B/C/C Duties

- Generally advisory to City Council
- Duties and Qualification can be found in the Commissions Handbook under the Appendix page 29



Meetings and Attendance

- ▶ Please promptly contact the Staff Liaison and the Administrative Staff assigned to your commission if you are going to be absent
- ▶ Notice is important to ensure that we have a quorum
 - An office is deemed vacated if a member has three consecutive unexcused absences from a regular meeting
 - Absences may be excused for the following reasons:
 - Illness; business commitments; pre-planned vacation with notice; funeral/religious services; unscheduled emergency; any other reason where seven (7) days notice provided
 - The B/C/C must vote to excuse absences – a member may vote to excuse their own absence
 - Approval of excused absences must be entered into the minutes.



Agenda

- ▶ The Agenda provides the roadmap for what will be covered at a meeting.
- ▶ Only items placed on an agenda may be discussed/acted upon.
- ▶ Items may be placed on the agenda by the Chair, City staff, or by a vote of the majority of the members.
- ▶ The agenda must provide for public participation, meaning they get to provide comments. For items on Agenda, speakers must be given time before action is taken.



FAQ – Agenda Items

▶ **Q:** How do I get an item added to the agenda?

- **A:** The Chair, staff, or a majority of the B/C/C can add an item to the agenda.

Option 1: The individual can ask the Chair to consider including the item on the next agenda. *Be careful only to email the Chair and secretary.* Emailing or discussing with a majority of the B/C/C may lead to a potential **Brown Act violation**.

Option 2: Individual members can request consensus under the Member Comments section of the agenda to add an item to a *future* agenda. The matter cannot be discussed at that time – the B/C/C can only discuss/decide whether to add the item to future agenda.



Agenda

Rosenberg's Rules of Order

- ▶ Chair leads the meeting and maintains order
- ▶ Majority rules
- ▶ Minority has right to be heard but must respect decision of majority
- ▶ When a member has the floor, do not interrupt



Meeting Fundamentals

Format for Discussing Agenda Items

1. Chair **announces agenda item** and clearly states the subject
2. Chair invites **presentation or report from staff**, including any recommendations
3. Chair invites **B/C/C member questions** on the item for clarification
4. Chair invites **Public Comment**
5. Chair leads **B/C/C member discussion** and further questions
6. Chair invites **a motion** and announces the name of the member who made the motion
7. Chair invites **a second** to the motion and announces the name of the member who seconds
8. Chair **repeats the motion** or asks the maker of the motion or the secretary to repeat it and asks for a **vote** on the motion
9. Chair **announces the result** of the vote (e.g., “The motion passes with 5 voting in favor,” “The motion fails with Members X, Y, and Z opposed.”)



FAQ – Meeting Procedures

Q: How do I make a motion?

- ▶ A: Depending on the situation, the following are examples of how to make a motion, *after being recognized by the Chair*:
 - ▶ *“I move approval of Item 5.”*
 - ▶ *“I move to add an item to next month’s agenda to discuss XYZ.”*
 - ▶ *“I move to [insert action].”*

Be sure to make your motion clear so that the public, staff, and B/C/C know exactly what the vote pertains to. Refrain from saying “so moved” – the action can be easily misunderstood.



Summary Minutes

- ▶ Summary Minutes INCLUDE:
 - ▶ The actions (votes) that took place at the meeting
 - ▶ The members who were present and absent at the meeting
 - ▶ Speakers, if name not provided then identify as Speaker #1, and whether they were in support or opposed to a particular item
- ▶ Summary Minutes DO NOT include
 - ▶ A transcript or verbatim record of the discussions that occurred during the meeting
 - ▶ A transcript or verbatim record of public speaker comments
 - ▶ Verbatim minutes cannot be required

City Council minutes are prepared as action only minutes



FAQ - Minutes

- ▶ Q: Can the B/C/C direct the staff to produce summary or verbatim minutes?
 - ▶ A: No. B/C/Cs are prohibited from directing the work of staff. The City Council minutes are prepared as action only.



Conflicts of Interest Recusal

- ▶ Types of conflicts
 - ❖ Economic
 - ❖ Common Law Bias
- ▶ Recusal
 - ❖ Should only recuse oneself when there is an “actual conflict” or an “appearance of conflict” is so great that it taints the process
 - ❖ Remember you were placed on the B/C/C to participate- don’t use recusal to shirk a decision



Conflicts of Interest Vigilance is Key

- ▶ A public official must diligently monitor business interests, real property, sources of income, including gifts loans and travel payments, to ensure that he or she does not participate in an action in which he or she has a conflict of interest.



RECUSAL

Steps to Follow

- ▶ When a member has a conflict of interest, he or she must:
 - ❖ Publicly state the nature of the conflict (e.g., “I own property within 500 feet of the subject project”); and
 - ❖ Unless the item is on the Consent Calendar, he or she must leave the dais or table until consideration of the item is finished.



Tips to Avoiding Conflicts of Interest

- ▶ Review each agenda statement carefully.
- ▶ If you are aware of any basis for a potential conflict on any item, contact the Staff Liaison for advice.
- ▶ Report any changes in property holdings to the Staff Liaison.
- ▶ When in doubt, don't vote.



To Vote or Not to Vote

Situation	Good Reason NOT to Vote?	Why?
The member owns a house that is next door to the project being considered.	Probably	Member likely has a conflict of interest because of the property owned within 500-1,000 feet of the project.
The decision is very controversial, and the member doesn't want to upset anyone.	Probably Not	Members are appointed to make certain decisions, and sometimes the decisions may be uncomfortable. Members should review the materials thoroughly and consider all points carefully in order to ask questions and engage in discussion during the meeting so that you can feel confident in your vote.
The issue being discussed would financially benefit the member's business	Probably	This scenario could constitute a conflict of interest. If you're not sure, always ask.

If any question, seek advice from the Staff Liaison.



To Vote or Not to Vote

Situation	Good Reason NOT to Vote?	Why?
The item involves the member’s own request for an excused absence.	Probably not	Members can vote on their own excused absences.
The member isn’t sure if they have a conflict of interest.	Yes	When in doubt, don’t vote. Always make an effort to review materials in advance and request advice from the City Attorney through the Staff Liaison.
The item is approving minutes from a meeting the member was absent.	Probably not	There is not legal requirement that a member abstain from voting on minutes when they were absent. Voting to approve minutes is a ministerial action that indicates you’re confident in the secretary’s production of accurate minutes. You can also ask for the audio recording of a meeting.

If any question, seek advice from the Staff Liaison.



Member Communications

- ▶ When making statements, members must ensure that:
 - ❖ Their comments are factual
 - ❖ They indicate that actions taken by the B/C/C are recommendations, with final actions to be taken by City Council, when appropriate
 - ❖ They represent themselves as private residents, unless the views or recommendations they express have been officially voted upon

Individual members making recommendations or expressing views that have not been officially voted on must indicate they are expressing themselves as private residents, not as representatives of their B/C/C.



FAQ – B/C/C Duties

- ▶ **Q:** If there is a topic the B/C/C is passionate about and wants to discuss, but it's not part of the duties, can the B/C/C still discuss and make recommendations
 - ❖ **A:** No. B/C/Cs are charged with a specific scope and duties by the City Council. If the subject matter is not within the scope of the B/C/C duties, the B/C/C doesn't have jurisdiction over the matter.
 - ❖ What you can do: pursue the matter as a private resident or include a recommendation in your annual report to the City Council that the topic be incorporated into your B/C/C's duties.



Recommendations to Council

B/C/Cs may have topics, ideas, suggestions, and requests for direction to bring forward to the City Council. These items require majority approval of the B/C/C/.

The following processes are in place to communicate with the Council:

- ▶ B/C/Cs may have written reports distributed to the City Council through staff, by way of an “Informational Memorandum” to the Council, or the placement of “Written Communication” on the Council agenda.
- ▶ From time to time, the City Council holds joint meetings with B/C/Cs to discuss items requiring significant discussion.
- ▶ By July 30 each year, all B/C/Cs provide an annual report to the City Council on the previous fiscal year’s activities. B/C/Cs may also make recommendation to the City Council as part of that report.



Open Government





The Ralph M. Brown Act

Cal. Govt. Code §§ 54950, et. seq.

Core Principles

- ▶ Local agencies can only deliberate and take actions at public meetings
- ▶ Public must be notified in advance of all meetings and matters to be considered
- ▶ Public must be given access to information and opportunity to provide input to decisions-makers
- ▶ Exceptions are limited



Application: Who is Subject to the Act?

- ▶ Applies to all local “legislative bodies” and their members
 - ❖ City Councils and County Boards
 - ❖ B/C/Cs
 - ❖ Sub-Committees of a legislative body, with limited exceptions
 - ❖ Regional Boards
 - ❖ BIDS and PBIDs per Streets and Highway Code
- ▶ Does not govern conduct of City staff





Definition of “Meeting”



Any congregation of a majority of the members

at the same time and place to hear, discuss or deliberate an issue in the subject matter jurisdiction of the body



No action is required; “Mere” discussions qualify



Includes informal gatherings, with or without public attendance or City sponsorship



What Else is a Meeting?

Other forms of communication constituting a “meeting” include:

- ▶ **Writings:** Written communication, including e-mails, between a majority of the members
- ▶ **Serial Communications:** a chain of communications from member A to member B, then member A or B to member C (until a quorum of members contacted)
- ▶ **Intermediary Communications:** communications between employees or agents on behalf of a majority of members



Examples of Each

Email between two Planning Commissioners regarding their support for a project, with copies to two other Planning Commissioners

One City Councilmember to another: "I've talked with so and so and he thinks. . ."

A department head tells a City Council person that two other City Councilmembers are "onboard" with a pending item.



Meeting Exceptions

- ▶ Not a “meeting” if a majority of members attend:
 - ❖ Conference open to the public
 - ❖ Open and publicized local public meeting
 - ❖ Open, noticed meeting of another legislative body
 - ❖ Social or ceremonial event
 - ❖ Open, noticed meeting of a standing committee (but can’t participate)
- ▶ Gray area: seek legal advice first
 - ❖ Often advisable to notice the meeting or limit attendance to less than majority
- ▶ Quorum still can’t discuss city business



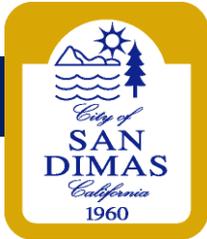
Meeting Exceptions (cont'd)

- ▶ Memoranda from City Manager or City Attorney to all City Council Members
- ▶ Communications for purposes of calling a special meeting or setting an agenda
- ▶ Individual contacts or conversations between less than a majority of members and a member of the public



FAQ - Meetings

- ▶ Q: Can the B/C/C have an informal get together at a member's house for a BBQ and goal setting for the year?
 - ▶ A: No! The discussion of the goal setting would constitute a meeting. The goal setting must occur at a public, noticed meeting of the B/C/C.



Meeting
Rules
Proper
Notice

 Posted in advance on the kiosk in front of City Council Chambers
72 hours Regular Meeting
24 hours Special Meeting

 Indicate location and time

 Description of Items to be Discussed (20 words or less)

 Posted and Mailed to Those Requesting

 Agendas must also be posted on Internet



Meeting Rules

Qualified Location

- ▶ Must be held within the jurisdictional boundaries of the City, unless a specific exemption applies
 - ❖ Comply with a law or court order
 - ❖ Inspect property outside of city
 - ❖ Multiagency meeting
 - ❖ No meeting facility within the jurisdiction
 - ❖ Meeting with federal or state officials on a legislative or regulatory issue
 - ❖ A facility outside of the City, which is the topic of discussion
- ▶ Location must be ADA accessible.



Meeting Rules

What You Can Talk About

- ▶ Only items listed and clearly described on timely posted agenda can be discussed or acted upon
 - Agenda must include a clear description of each item to be considered (generally need not exceed 20 words)
 - Should reference what is sought regarding the item (approval, direction, etc.)
- ▶ If any question, better not to act



Agenda Heading Example #1

(City Manager Negotiate/Execute an Agreement)

▶ Good:

Authorize the City Manager to Negotiate and execute a Right of Use Agreement with MCI for Small Cell Wireless Installations in the City's Public Right of Way

▶ Not so good:

Authorize the City Manager to Negotiate an agreement



Agenda Heading Example #2 (Traffic Safety Commission)

- ▶ Staff Presentation on the Pros and Cons of Speed Bumps – Good/Bad?

- ▶ Consider and Act on Possible Changes to City Policy on when and if to Install Speed Bumps on Residential Streets Experiencing Speeding Problems
Better?



Meeting Rules

What You Can Talk About

- ▶ Cannot consider, discuss, deliberate or take action on matters not on the agenda
- ▶ Otherwise, only appropriate action is to refer item to staff and/or for consideration on a future agenda
- ▶ Brief response, question or statement is allowed
- ▶ Limited Exceptions:
 - ❖ Emergency Majority vote determines an “emergency” exists; (e.g., crippling natural disaster, terrorist act, or major work stoppage); or
 - ❖ Urgency Two-thirds (4 of 5) vote determines the need to take immediate action exists and agency knowledge of need arose after the agenda was posted



Meeting Rules Subcommittee

- ▶ The Act generally applies to all boards, commissions, committees and other bodies created by charter, resolution or formal action of a legislative body
- ▶ Applies whether the body is permanent or temporary, advisory or decision making
- ▶ Limited Exception – A true “Ad Hoc” Subcommittee
 - ❖ Comprised solely of less than a quorum of the members of the appointing body; and
 - ❖ Does not have continuing jurisdiction over a particular subject matter
 - ❖ Cannot have members of other legislative bodies or other 3rd parties
 - ❖ Limited duration: ideally 6 months or less
- ▶ Many gray areas. Seek Staff Liaison advice



Closed Session: Not Available to Most B/C/Cs

- ▶ General Rule for Most B/C/Cs:
No legal basis for closed session



Rights of the Public Attendance

- ▶ Public must be allowed to attend, observe and speak at meetings
- ▶ Cannot be required to register, or fulfill any “condition precedent” to attendance; name and address can be requested, but no obligation to provide
- ▶ Allowed to record the meeting with audio or video recorder; take photographs
- ▶ Public may be critical of B/C/C in comments
- ▶ Public may not engage in conduct that disrupts a meeting. Disruption is a very high standard and literally must be to the point



Rights of the Public: Access to Materials

- ▶ Allowed to review agendas and other documents distributed to a majority of the B/C/C
- ▶ If distributed less than 72 hours prior to meeting, documents must be made available at the meeting location and made available to the public “at the same time” as provided to a majority of the B/C/C



Rights of the Public: Public Comment

▶ Regular Meeting

- ❖ **Agenda Items:** Comment must be allowed; reasonable time limits can be adopted by local agency.

- ❖ Current City Council time limit: 3 minutes.

- ▶ **Non-agenda items:** Regular meeting agenda must provide an opportunity for members of the public to directly address the legislative body on any item of interest to the public within its purview.

- ❖ No action or discussion can occur

- ❖ Can refer to staff for information; request a report back; request item be placed on future agenda

- ❖ Current City Council time limit: 3 minutes.



Rights of the Public: Special Rule for Non-English Speakers

- ▶ AB1787 now requires twice the allotted time be provided for translation for non-English speakers unless simultaneous translation equipment is available. Contact the City Clerk's Office if the City needs to provide translation. Must have advanced notice.



FAQ – Public Speakers

- ▶ The Brown Act doesn't allow discussion or action on items that are not on the agenda, but the B/C/C or staff can “briefly respond” to comments or questions, request information from staff, or place the item on a future agenda for discussion.
- ▶ Examples of acceptable responses:
 - ❖ “I would like to request consensus of the B/C/C to add this item to the next meeting agenda. At that time, can staff please provide additional information regarding the matter?” *Discussion among the B/C/C must be limited to whether to add the matter to the agenda – no discussion of the matter brought forward can take place at that time.*
 - ❖ “Staff, do you know the answer to the speaker’s question about the timing of the budget preparation?” *Staff can respond with a brief explanation of the timeline. Any further discussion about the budget or B/C/C recommendations should be added as an item on a future agenda.*



FAQ – Public Speakers

- ▶ A: Brown Act provisions protect the public’s right to attend, observe, and participate in meetings. B/C/Cs cannot prohibit public criticism of policies, procedures, programs or services of the City or the acts or omissions of the B/C/C itself.
- ▶ Tips:
 - ❖ The B/C/C members should always listen and make an effort to understand the concerns and statements of all public speakers.
 - ❖ A simple “Thank you for your comments. The next speaker is...” is a sufficient reply.
 - ❖ The time for public speakers is provided for them to voice their opinion. B/C/C members are not obligated to engage in discussion or respond to questions.
 - ❖ Members may ask follow up questions, if desired, but should be mindful of the speaker time limit to ensure all speakers have equal opportunity to speak.



Rights of the Public : Public Comment

- ▶ Special Meeting
 - ❖ Must allow comment on agenda items
 - ❖ Comment on non-agenda items is permissible but not required
- ▶ Criticisms and Complaints
 - ❖ Must be allowed.
 - ❖ Disruptive behavior does not have to be tolerated
- ▶ Important to treat everyone the same



Violations of the Brown Act -Remedies and Penalties

▶ Civil Remedies

- ❖ Can be brought by any interested person or District Attorney
 - ❖ Invalidation Action: to void past acts
 - ❖ Injunctive or Declaratory Relief: to prevent future violations
- ❖ Procedural requirements allow opportunity to cure and correct action taken
- ❖ Costs and attorneys' fees may be awarded against agency; City may recover fees if lawsuit is frivolous

▶ Criminal Penalties

- ❖ Member may be subject to misdemeanor penalties if:
 - ❖ Attends meeting at which action taken violates the Act; and
 - ❖ Intends to deprive public of information
- ▶ "Action taken" includes a collective decision, commitment or promise by a majority



Emerging Area: Social Media and the Brown Act

- ▶ Increased Risk of “Serial” Meetings
- ▶ Increased Risk of Bias “Pre-determination” and Due-Process violations
- ▶ Emails, Texts, Tweets or Posts during meetings deny Public Access to Decision Making Process
- ▶ Brown Act applies, but no case law exists to clarify how and when



Good Post/Bad Post

► Good:

“City Council will consider whether or not to approve financial support for RIDA’s Bayfront Project proposal at our January 15th meeting. Please come and share your views!”

► Not so good:

“Eager Beaver LLC’s proposal to dam the Sweetwater River and build a water park is absurd and violates the Clean Water Act. Please join me in opposing this Project at a public hearing on January 15th!”



Practice Tips for Brown Act Compliance

1. Avoid sharing info about another B/C/C member's views;
2. Do not direct or cc emails to a quorum or more of your B/C/C colleagues, or "reply all" on city business;
3. Refrain from public statements (including use of social media) that state final positions on matters pending before you;
4. Review agendas in advance of meeting and think about Brown Act parameters;
5. Don't discuss items not on agenda; instead, refer them to staff for future discussions with consensus of your B/C/C;
6. Don't forget to allow for public input (err on the side of more vs. less; apply rules evenly)
7. When in doubt, don't act;
8. If unclear, seek advice from Staff Liaison--in advance whenever possible.



Essence of the Brown Act

- B/C/C business must be conducted at Public Meetings.
- ▶ All persons have a right to be notified of, attend and participate in the meetings.
 - ▶ Compliance is key to earning and keeping public trust. Takes knowledge, discipline and integrity.



The Public Record Act

▶ “The people have the right of access to information concerning the conduct of the people’s business, and, therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny.”

California Constitution Article 1, Section 3

The Public Records Act implements this policy.

Government Code § 6250 et seq.



Origins of the Public Records Act

The California Public Records Act was enacted in 1968 to:

- ▶ Safeguard the accountability of government to the public.
- ▶ Promote maximum disclosure of the conduct of governmental operations.
- ▶ Explicitly acknowledge the principal that secrecy is antithetical to a democratic system of “government of the people, by the people and for the people.”
- ▶ Applies to City officers, employees, appointees (YOU) and possibly others



What is a “Public Record”?

Government Code § 6252(e)

- ▶ Any **writing** containing information relating to the conduct of the public’s business prepared, owned, used, or retained regardless of physical form or characteristics.
 - ❖ A “writing” includes:
 - ❖ Documents, typed and handwritten
 - ❖ Emails and faxes
 - ❖ Text and voicemail messages
 - ❖ Video and audio recordings
 - ❖ And more!



City of San Jose v. Superior Court

California Supreme Court (3/2/2017)

Emails and texts on personal accounts and devices may be disclosable

- ▶ Records created or stored outside of the workplace are subject to disclosure under the PRA
- ▶ Must contain information relating to the conduct of City business
 - ▶ Yes – Email between member of the public and a public official (elected or appointed) or employee regarding City matter
 - ▶ No – Email regarding “primarily personal” matter
 - ▶ Court example: “My colleague is an idiot” sent from employee to spouse
- ▶ ***Does not matter whether record is on a personal account or device***
- ▶ Search must be reasonably calculated to locate records. Currently, the City Clerk asks individual to search own accounts/devices and sign affidavit.



FAQ – Records

- ▶ Q: If I've been emailing back and forth with a resident about a project that will be discussed at the next B/C/C/ meeting, can someone obtain that by filing a public records request?
- ▶ Yes! Even communications on private devices and accounts can be public records that must be disclosed.
- ▶ Tip: Copy support staff on B/C/C communications and consider creating a separate email account for your B/C/C duties.



Additional Duties

- ▶ **Ethics training:** Required to be completed within one year of being appointed, and every two years thereafter. The City Attorney may conduct periodic trainings that you can attend in person. The FPPC offers free, online training at: <http://localethics.fppc.ca.gov/login.aspx>. Provide your certificate to cityclerk@sandimsca.gov.
- ▶ **Form 700 filing:** Required for some B/C/Cs. Filings are due within 30 days of assuming or leaving office, and annually on April 1.
- ▶ **Reappointments:** You will hear from the City staff shortly before the end of your term, if you are eligible to serve a second term. Please respond and let us know if you're interested in being considered for another term.



Additional Duties

- ▶ **Harrassment Training:** Required to be completed within one year of being appointed, and every two years thereafter.



Additional Resources

- ▶ Attorney General Website:
[ag.ca.gov/publications/brownact2003.pdf?](http://ag.ca.gov/publications/brownact2003.pdf)
- ▶ League of California Cities Publication: “Open & Public IV:
A Guide to the Ralph M. Brown Act”
www.cacities.org/resources/publications
- ▶ Contact City Clerk