



ADVISORY BODY TRAINING

JEFF BOND, Community Development Director
ANNE HSU, City Clerk

CITY OF ALBANY
MARCH 2, 2023

1

SERVING ON CITY ADVISORY BODIES

- ADVISORY BODY ORIGINS
 - City Charter (adopted April 1927)
 - Planning & Zoning Commission, Board of Police & Fire Pension Fund Commissioners
 - City Council Action:
 - Arts Committee, Climate Action Committee, Financial Advisory Committee, Parks, Recreation & Open Space Commission, Policing Commission, Social & Economic Justice Commission, Transportation Commission

2

SERVING ON CITY ADVISORY BODIES

- ADVISORY BODY ROLE & FUNCTION
 - Provide decision-making information including pro/con analysis to the City Council regarding City policies and programs within the Advisory Body's scope of responsibility usually based on Council's direction and/or approved work plan

3

SERVING ON CITY ADVISORY BODIES

- TERM
 - Usually 2 years in length, with appointee serving to December of following year (45 days interim)
 - Appointees needing to resign before the end of a term shall forward a resignation to the City Clerk
 - Appointees are automatically removed if the member fails to maintain a residence in Albany or for conviction of a felony
 - Vacancies are filled by appointment of the Council

4

SERVING ON CITY ADVISORY BODIES

- CONDUCT & ADMINISTRATION - ATTENDANCE
 - Attend all meetings
 - Notify staff liaison/Chair of absence a minimum of 24 hours in advance of meeting
 - Excessive Absenteeism shall be cause for removal from an Advisory body:
 - Unexcused absence from three consecutive regular meetings.
 - For bodies that meet monthly or less: absence from four meetings in any twelve-month period.
 - For bodies that meet more than once per month: absence from six meetings in any twelve-month period.

5

SERVING ON CITY ADVISORY BODIES

- CONDUCT & ADMINISTRATION - ATTENDANCE
 - Meeting End Time
 - Rotation of Chair
 - Contact Info including Emails
 - August Recess

6

SERVING ON CITY ADVISORY BODIES

- CONDUCT & ADMINISTRATION – WORK PLAN
 - Develop Work Plan annual for presentation to the City Council based on the City Council Strategic Plan
 - Changes to Work Plan require Council Approval
 - No Changes after November 1st of 2nd year
- CONDUCT & ADMINISTRATION – PUBLIC RECORDS

7

PUBLIC MEETINGS

- BACKGROUND
 - How staff prepares agendas
 - Public notice
- PUBLIC COMMENT
 - Decorum
 - Emotional audiences
- ROLE OF CHAIR
- START AND END TIME OF MEETINGS

8

REPRESENTING THE ADVISORY BODY

- Members should represent the view of the whole group when commenting on matters relating to the Advisory Body.
- Defer any “official” media inquiries to City staff for assistance.
- Social Media
 - Be cautious about posting Advisory Body business on social media
 - Be cautious about taking action based on social media posts

9

CONFLICT OF INTEREST & ETHICS

- Political Reform Act of 1974:
 - Prohibits financial conflicts of interest on the part of advisory body members.
 - Check with staff if action is within 1,000 of feet of real estate interest.
 - Illegal to participate in a decision that will have a material financial effect on advisory body members.
- Code of Ethics
 - The City Council has adopted a Code of Ethics intended to guide conduct, to sustain respectful, effective leadership and communication. All Advisory Bodies are to conduct business in an ethical manner.
- AB 1234 Training

10

QUESTIONS ?





City of Albany

Brown Act

(Gov. Code 54950 et seq.)

BBKLAW.COM

© 2023 Best Best & Krieger LLP

1

Intent of the Brown Act



- The Legislature finds and declares that the 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 deliberation be conducted openly.

BBKLAW.COM

2

2

Brown Act



- The Brown Act applies to:
 - Local agencies
 - Legislative bodies
 - Persons elected to legislative bodies, prior to assuming office

3

Legislative Body Includes:



- City Council
- Commission, Committee or Other Body (Permanent, Temporary, Decision-Making or Advisory, Created by Formal Action of the Legislative Body)
- Private Board, LLC, or other entity that:
 - Is created by the governing body; or
 - Receives funds and a designated member from the legislative body

4

Ad Hoc Committees vs. Standing Committees



- Ad Hoc Committee – temporary advisory committees that are **solely** less than a quorum of the legislative body and serve a limited purpose and will dissolve when the task is completed
- Standing Committee – continuing subject matter jurisdiction or a meeting schedule fixed by charter, ordinance, resolution or formal action of a legislative body

Meeting



- Gathering of Majority – to hear, discuss, deliberate or take action on any item that is within the subject matter jurisdiction of the legislative body
- Serial Meeting – series of communications to discuss, deliberate, or take action on an item of business that is within the subject matter jurisdiction of the legislative body

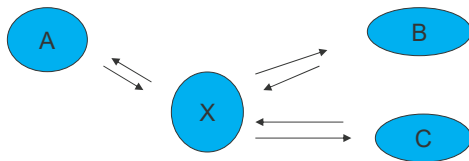
Brown Act – Serial Meetings



- Chain



- Hub and Spoke



BBKLAW.COM

7

7

The Brown Act does not apply:



- Contacts with public
- Conferences open to the public on issues of general interest to the public
- Open and publicized meeting on local topic originated by person or organization other than the agency

BBKLAW.COM

8

8

The Brown Act does not apply:



- Open and noticed meeting of another government agency
- Purely social or ceremonial occasions
- Committee of solely less than a quorum of the legislative body, without continuing jurisdiction (ad hoc committees)

No Action Allowed



- No action or discussion allowed for any item not listed on agenda except for:
 - Adding items by 2/3 vote because of need for immediate action that came to the attention after the agenda is posted
 - Adding items by majority vote for emergency situation
 - Item continued from another meeting within 5 calendar days

No Action Allowed (cont'd)



- No action or discussion allowed for any item not listed on agenda except for:
 - Brief response to statement or question from public
 - Questions to staff for clarification of a matter based upon public comment
 - Brief announcement or report on member's or staff's own activities

No Action Allowed (cont'd)



- No action or discussion allowed for any item not listed on agenda except for:
 - Provide reference or information to staff
 - Ask staff to report back at a future meeting on any matter

Closed Session



- Closed Sessions:
 - Litigation – Existing, Anticipated, and Initiation
 - Real Property Transactions
 - Personnel Issues – Appointment, Performance Evaluation, Discipline/Dismissal/Release

Brown Act and Social Media AB 992



- You can post on social media about the City
- You can answer questions, provide information to the public, or solicit information from the public regarding the City

Brown Act and Social Media AB 992



- Requirements to Avoid Serial Meetings
 - Must be open and accessible to the public – cannot block or deny access to post
 - You cannot discuss amongst yourselves City business on social media
 - No direct responses to other Commissioners – such as emojis or likes that express a reaction

Teleconferencing and the Brown Act



- Traditional Teleconference Rules – identify location on agenda, post at the location, location is available to the public, quorum participates within the City, roll call votes
- AB 361– Response to COVID-19 pandemic
- AB 2449 – New hybrid meeting option for just cause and emergency circumstances

AB 2449 – Just Cause



- Allows for hybrid video meetings (less than a quorum participating remotely) for just cause for no more than 2 meetings per calendar year
- Just Cause
 - Childcare or caregiving need for a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner
 - Contagious illness that prevents in-person attendance
 - Physical or mental disability need
 - Travel while on official City business or another state or local agency

AB 2449 – Just Cause



- Official must notify the legislative body at the earliest opportunity possible, including at the start of the meeting, of their need to participate remotely for just cause and give a general description of the circumstances of why they need to participate remotely.

AB 2449 – Emergency Circumstances



- Allows for hybrid video meetings (less than a quorum participating remotely) under emergency circumstances.
- Emergency circumstances is a physical or family medical emergency that prevents in-person attendance.
- The official must request to participate remotely and provide a general description of the circumstances relating to the need to participate remotely. No requirement to disclose medical diagnosis, disability or confidential medical information.

AB 2449 – Emergency Circumstances



- The Council/Commission must vote on the member's request.
- The official should make the request to participate as soon as possible, if the request occurs after the posting deadlines, the Council/Commission can still take action on it at the beginning of the meeting.
- Cannot be used more than 20% of regular meetings in a calendar year, or more than 2 meetings if meeting less than 10 times per year. It cannot be used more than 3 consecutive months.

AB 2449 Requirements



- Camera must be on the official at all times
- If an individual 18 years or older is in the room at the remote location, the relationship with that individual must be disclosed publically
- All votes must be by roll call
- If a disruption to the City's online meeting occurs, the Council/Commission cannot take any further action until the online meeting is restored
- Only less than a quorum can participate remotely using AB 2449

21



Questions?

Mala Subramanian, City Attorney

DISCLAIMER: BB&K presentations and webinars are not intended as legal advice. Additional facts, facts specific to your situation or future developments may affect subjects contained herein. Seek the advice of an attorney before acting or relying upon any information herein. Audio or video recording of presentation and webinar content is prohibited without express prior consent.

22