


Commissioners' Training:
Brown Act and Administrative Code,
Levine Act, and Robert's Rules of Order

Presented to: Alameda County
Transportation Commission
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Presented by:
Amara Morrison and **Neal Parish**



Overview

- **Brown Act Fundamentals**
 - Legislative Bodies
 - Meetings
 - Closed Sessions
 - Notice / Agenda and Public Participation Requirements
- **Robert's Rules of Order**
- **Levine Act**



The Ralph M. Brown Act

Legislative Bodies and Intent of the Brown Act

- Alameda CTC and the Sunol Smart Carpool Authority are both defined as legislative bodies and must operate under the Brown Act (Government Code 54952)
- Intent is for legislative bodies covered by the Brown Act to conduct their business in an open and transparent fashion
- Allows public access to, and participation in, local government decisions
- Prohibits making decisions in private

The Ralph M. Brown Act

Meetings – When does the Brown Act apply?

- Congregation of a majority of the members of the Commission or Committee to discuss Alameda CTC issues
 - Alameda CTC has 22 members and Standing Committees range from 9-11 members
- Can include use of technology (phone and now virtual meeting platforms) by a majority of Commission/Committee members to discuss an issue
- Prohibited serial meetings can occur by phone, text or email as well as in person

The Ralph M. Brown Act

Serial Meetings Are Prohibited

- **Hub and Spoke** contact between members prior to a formal meeting which reveals information about the members' respective views
- **Daisy Chain** (i.e., Member A contacts Member B, Member B contacts staff of Member C who reports to Member C who contacts Member D, and so on, sharing positions along the way)
- **Email—Beware of “reply to all”**
- **Group Texts**
- **Social Media and Chat Rooms**

California Public Records Act

Keep in mind that Commissioners' and Alternates' emails and texts pertaining to Alameda CTC issues, even if on a Commissioner's or Alternate's personal electronic device or sent through a personal email account, are subject to release under the California Public Records Act.

The Ralph M. Brown Act

Standing Committees

- Each must include less than a quorum of the Commission, but some are already close to reaching a quorum
- Per Brown Act and Administrative Code, other Commissioners/Alternates may attend, but only as neutral observers
- No comments, questions, or reactions from Commissioners or Alternates who are not members of Committee

The Ralph M. Brown Act

- **Virtual Meetings -The New Frontier**
 - Commissioner's participation should reflect "presence" – be visible to audience – the clerk and the public need to know it is the member
 - If technical audio difficulties occur: a Commission member who is visible to the audience may signal a physical hand gesture of "thumbs up" or "thumbs down" via video, not the emoji or reaction symbols in Zoom
 - Email vote is not acceptable

The Ralph M. Brown Act

- Closed Sessions
 - Closed session may be held pursuant to specific exceptions in the Brown Act
 - Certain employment matters
 - Real estate negotiation
 - Litigation matters, including eminent domain matters
 - Public Safety
 - Labor negotiations

The Ralph M. Brown Act

Closed Sessions

- Information from Closed Sessions should not be disclosed to others
- Report out in open session if any action taken, except:
 - Certain actions regarding litigation
 - Instructions regarding Real Estate negotiations
 - Personnel evaluations or other actions
- Must report out the vote of each member present

Meeting Notifications

- Meeting agendas and packets must be available
- Agenda must be posted on website
 - Regular meetings posted 72 hours in advance
 - Special meetings posted 24 hours in advance

Public Engagement

- Public may comment on open and closed session items and items not on the agenda
- Chair may set limit of comment time
- Commission does not need to respond to comments
 - Best Practice: After presentation of an agenda item, public comment is heard first, followed by commission member deliberation, then a motion

Robert's Rules of Order

Admin Code §4.22 requires Commission and Committee meetings to follow the Rules. This process is generally straightforward and easily followed by the Chair and Clerk, but there have been two recent questions:

- Can Commissioners or Committee members comment on or vote to approve minutes for meetings they did not attend? The clear answer is **Yes**.
- Can members vote if they were not in the room for the motion? The answer here is **No** – the member must be in the room for the presentation and the motion in order to vote.

Alameda CTC Tips for Efficient Meetings

Getting Started

- Log in early to ensure system is working
 - Email Vanessa Lee at vlee@alamedactc.org if having trouble accessing the meeting
- Clerk will notify Chair when a quorum is achieved
- Chair will call meeting to order

During Meeting

- Commissioners present themselves as if they are in a live meeting - remain visible
- Commissioners state their presence during Roll Call and all subsequent actions
- Order for comments on agenda items
 - Public comment
 - Commission/Committee member comments
 - Chair comments

The Levine Act*

- Applies to local agencies where the member is not elected to that agency – which applies to all Alameda CTC members
- Precludes member from participating in the consideration of a contract (including a contract amendment) if:
 - Political contributions totaling more than \$250 in the 12 months preceding the contract award and for three months following the final decision are received by the contractor or a principal of the contractor
 - Applies to contributions directed by one member to another elected official
 - Does not preclude Alameda CTC from awarding a contract
- Contractor is obligated to report disqualifying contributions
- Contractor who makes disqualifying contribution is not disqualified from receiving award

*California Government Code § 84308

Thank You!



Amara Morrison

amorrison@wendel.com

Neal Parish

nparish@wendel.com
