

THE BROWN ACT “OPEN MEETINGS LAW”

The purpose of this document is to summarize and explain relevant portions of California’s open meeting law, as set forth in the California Brown Act. The topics covered in this document are as follows:

1. What is the Brown Act?
2. Who does the Brown Act apply to?
3. What is a Meeting under the Brown Act?
4. When a Brown Act Meeting occurs Notices and Agendas are required
5. Closed sessions
6. The Public’s right to participate
7. Resources

What is the Brown Act?

The Ralph M. Brown Act (“Brown Act”) is California’s open meetings law and guarantees the Public’s right to attend and participate in meetings of local Legislative Bodies. The Brown Act seeks to promote several core principles, including:

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

The Brown Act is found in California Government Code sections 54950 through 54963. The following is a link to the aforementioned Government Code sections:

https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?division=2.&chapter=9.&part=1.&lawCode=GOV&title=5.

Who does the Brown Act apply to?

The Brown Act applies to local “Legislative Bodies,” as defined in Government Code section 59452. The Chula Vista City Council and Board and Commissions created by City Council and City Charter are considered local “Legislative Bodies,” for purposes of the Brown Act. The Brown Act does not apply to the Public or City Staff or employees.

What is a Meeting under the Brown Act?

What is a meeting: A meeting under the Brown Act occurs when there is any congregation of a majority of the Legislative Body members (1) at the same time and place (2) to hear, discuss, or deliberate on an issue within the subject matter jurisdiction of the body. Commonly, such meetings occur when a majority of the members are meeting face to face. However, meetings may occur even when they are not face to face. For example, meetings may occur in the following communications:

- 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

What is not a meeting: A meeting under the Brown Act does not include situations where **less** than a quorum of the legislative members meet with each other, City staff, or members of the Public. A meeting also does not include:

- 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)

When a Brown Act Meeting Occurs Notices and Agendas Required

If the local Legislative Body is engaging in a Brown Act meeting, then it must provide a timely notice of the meeting and an agenda with the items to be discussed at the meeting.

First, the notice (including agenda) must be timely. For a regular meeting, a notice (including agenda) must be posted 72 hours before the meeting. For a special meeting, a notice (including agenda) must be posted 24 hours before the special meeting. The aforementioned time frames may be reduced in emergencies, if certain findings are made. Such situations are very rare and limited.

Second, the notice (including agenda) must briefly describe the item to be discussed, usually in twenty words or so. Only items on the agenda may be heard, discussed, deliberated, or acted upon.

The City Clerk is tasked with preparing and posting the City Council's agendas. City Council agendas may be found at: <http://www.chulavistaca.gov/departments/mayor-council/council-meeting-agenda>

Closed Session

Under the Brown Act, the local Legislative Body may meet in "closed session," meaning the meeting is closed to the Public in very specific situations. Closed sessions may include meetings to discuss: (1) personnel matters (commonly performance evaluations or discipline), (2) pending or potential litigation, (3) labor negotiations, (4) real estate negotiations, (5) public security; and (6) consideration of license applications. The agenda typically identifies closed session items. A member of the public may speak on the closed session item in open session, prior to the City Council going into the closed session meeting.

The Public's Right to Participate

The Public has the right to attend and speak at noticed public meetings under the Brown Act. The Public may speak on items listed on the agenda or, if an item is not on the agenda, but within the purview of the City Council, the Public may also speak at the portion of the agenda entitled "Public Comments." The Legislative Body is very limited in its ability to respond to public comments regarding items not on the agenda. The Legislative Body can refer the person to staff to address the issue, or vote to place the item on a future agenda for discussion.

Time limits may be set to speak. Usually, if an item is on the agenda, a person may speak for five minutes and for the Public Comments section, a person may speak for three minutes.

A person may record the meeting and take photos. However, a person may not be disruptive at a meeting.

Resources

The California Attorney General's Office has prepared a manual explaining the Brown Act in greater detail. The manual may be found as follows: http://ag.ca.gov/publications/2003_Intro_BrownAct.pdf