ADVISORY BOARDS & COMMISSIONS: OVERVIEW OF OPEN MEETING POLICIES

Presented by the Contra Costa County Clerk of the Board of Supervisors

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WHAT THIS TRAINING COVERS

- Roles
- Main Policies
- Resources
PART I: ROLES

LAYERS OF POLICIES THAT GOVERN ADVISORY BOARDS & COMMISSIONS

- Federal
- State
- County
CALIFORNIA COUNTIES

- Counties are a subdivision of the state
- Deliver services mandated by the state and federal governments
- General law county
  - Governed by a board of five elected Supervisors

MULTITUDE OF COUNTY SERVICES

- Health
- Welfare/social services
- Criminal justice
- Elections
- Recording of documents
- Weights & measures
- Agricultural enforcement
- ....And more!
- California counties are responsible for providing any function of the state that the Legislature chooses to delegate
ROLE OF ADVISORY BOARDS & COMMISSIONS

- Created by the Supervisors
- Allows the Supervisors to better understand different viewpoints and needs throughout the county
- Encourage community participation in county government

ROLE OF ADVISORY BOARD MEMBERS

- Members serve at the pleasure of the Board of Supervisors (BOS)
- Serve in an advisory capacity to the BOS
  - Attend meetings
  - Participate and share your ideas
- Follow applicable federal, state, and county policies
LIMITATIONS

- Stay within the scope of federal, state, and county policies

FORBIDDEN ACTIVITIES

Including, but not limited to:
- Bank Accounts and spending
- Contracting
- Setting and/or waiving of County fees
- Personnel actions
- Taking positions on bills: legislative advocacy
- Open meeting law (Brown Act/BGO) violations
  - Closed meeting sessions
  - "Serial" meetings
PART II: POLICIES

KNOW THE RULES!

LAYERS OF POLICIES THAT GOVERN ADVISORY BOARDS & COMMISSIONS

- State Law
  - Brown Act
  - Some boards are mandated or created through state law and may be subject to other state laws
- Local (County) Ordinance
  - Better Government Ordinance ("BGO")
- Governing resolution
  - Specifies the body's scope of authority
  - May be an ordinance, a resolution, or other action of the Supervisors
- (Sometimes) Advisory body's own rules
  - Adopted Bylaws
OPEN MEETING POLICIES

• The Brown Act
• Better Government Ordinance

THE BROWN ACT

• Guarantees the public’s right to attend and participate in meetings of local legislative bodies
• Applies to local legislative bodies, such as the Board of Supervisors, and
• Bodies created by formal action of those bodies, including advisory boards

GET INVOLVED
BROWN ACT: DEFINES A MEETING

- Any gathering of a majority of the members of the legislative body to:
  - Hear
  - Discuss, and/or
  - Deliberate

... on any item of business that is within the subject matter jurisdiction of the body

DISCUSSING BUSINESS OUTSIDE A MEETING IS GENERALLY PROHIBITED

- Majority may not discuss or transact business outside of a properly noticed meeting
  - Person-to-person
  - Through Staff
  - Via technology
- 'Serial' meetings are prohibited
MEETING IN CLOSED SESSION

- Meeting in closed session is allowed **only** for specific matters as expressly authorized by statute
- **Advisory bodies are not authorized to hold closed sessions**

THE BETTER GOVERNMENT ORDINANCE (BGO)

- Codifies main provisions of the Brown Act
- Applies to a broader set of the county's advisory bodies and includes subcommittees
- **Goes beyond the disclosure requirements in the Brown Act**
  - Extends the notice period to a minimum of 96 hours (4 full days) in advance
QUORUM BASICS

- A quorum is the minimum number of members who must be present at the meeting for business to be **legally** transacted (Brown Act)
- Generally, a **quorum is a majority** of the members of the body
  - **Majority**: a number or percentage equaling more than half of a total

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QUORUM BASICS

- **Quorum is fixed**
  - **No** "moving" or "sliding" quorum
  - Based on AUTHORIZED seats, not how many appointments are currently made
- **No quorum, no meeting!**
AGENDA POSTING AND PUBLIC ACCESS

- Physical posting at a location fully accessible to the public is required
  - Have a copy of agenda materials available as well
- Must distribute the agenda and materials to those who have requested the materials within the last year
  - By mail or email (as preferred by the requestor)
- Internet web posting is required for many bodies and is recommended for all bodies

REQUIRED AGENDA CONTENT

- Where/when meeting is held
- Adequate description of agenda items
- Public access to agenda materials
- Disability-related modification or accommodation & how to request
- Public comment
PUBLIC’S RIGHT TO COMMENT

On each agenda item before or during the body’s consideration of the item.

and

On any issue within the body’s subject matter jurisdiction ("open mic" part of agenda).

PUBLIC’S RIGHT TO RECORD MEETINGS

- Members of the public are allowed to record and/or film meetings
- Any tape or film made by the legislative body is a public record and must be made available for inspection for a minimum of 30 days
TELECONFERENCE MEETING

- One or more of the members of the body attend the meeting from a remote location via electronic means, connected by audio or video or both.

Generally advise against teleconferencing; contact Clerk of the Board or County Counsel prior to planning.

CONDUCTING A TELECONFERENCE MEETING (CONT'D)

- Teleconference meetings must be conducted in accordance with the procedures set forth in Government Code §54953(b).
  - All other teleconference meetings are prohibited
- Main requirements include:
  - At least a quorum of members must participate from locations within County.
  - An agenda must be posted at each location.
  - The address of each location must be listed in the notice and agenda.
  - Each location must be fully accessible to the public.
  - Each location must be ADA-compliant.
  - The public's right to testify at each location must be ensured.
  - All votes taken must be conducted by roll call.
MINUTES/RECORD OF ACTIONS

- Accurately reflect any actions taken at the meeting
- Record how members voted
- Be approved by the advisory body
- Must be kept in the county's custody and available for public inspection
- Must be kept indefinitely

PENALTIES & REMEDIES

- Removal from role
- Criminal Penalties
  - Knowing violations are a misdemeanor
- Civil Remedies
  - Any interested person may bring a lawsuit
  - All cases referred to the District Attorney
  - Body has chance to cure and correct
  - Certain illegal actions may be voided
  - Costs and attorney fees awarded
PART III: RESOURCES

- Clerk of the Board Website:
  - www.contracosta.ca.gov/3418
  - Handbook
  - Videos and online trainings

- Staff assistance and support
  - Advisory body staff
  - Clerk of the Board

TRAINING

- Training Certification Form
  - Complete within first two months of appointment

I'm appointed! What next?
- Advisory Body Handbook
- Training Resources
  - Training Certification
  - Advisory Body Training Video
  - Brown Act and Better Government Ordinance Training Video
  - Ethics Training
QUESTIONS? ASK US!

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