



# BBK

BEST BEST & KRIEGER <sup>LLP</sup>  
ATTORNEYS AT LAW

# City of Albany

Brown Act

(Gov. Code 54950 et seq.)

# 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.

# Brown Act

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

# Legislative Body Includes:

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- 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

# Ad Hoc Committees vs. Standing Committees

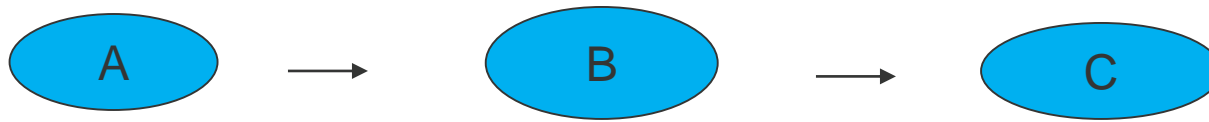


- Ad Hoc Committee – temporary advisory committees that are **solely** less than a quorum of the legislative body and serve a limited purpose and will dissolve when the task is completed
- Standing Committee – continuing subject matter jurisdiction or a meeting schedule fixed by charter, ordinance, resolution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

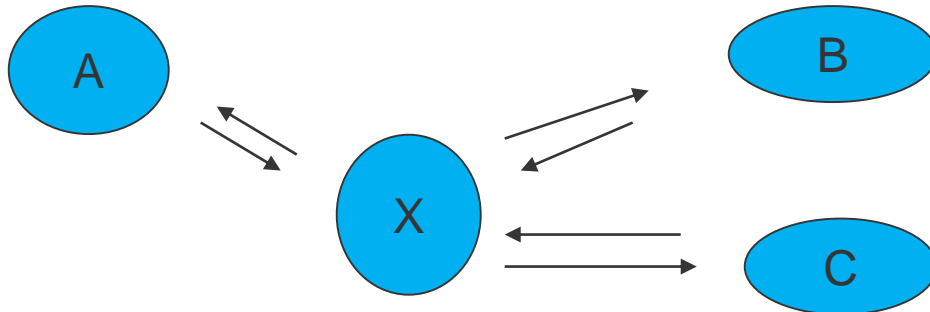
- Gathering of Majority – to hear, discuss, deliberate or take action on any item that is within the subject matter jurisdiction of the legislative body
- Serial Meeting – series of communications to discuss, deliberate, or take action on an item of business that is within the subject matter jurisdiction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

# Brown Act – Serial Meetings

- Chain



- Hub and Spoke



# 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



# 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

# Brown Act and Social Media

## AB 992

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- 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 to 5 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 two meetings per year, if the legislative body meets regularly one per month or less or no more than 5 meetings per year, if the legislative body meets regularly twice per month.

# 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



# Questions?

## Contact Advisory Body Staff Liaison or City Clerk

### Mala Subramanian, City Attorney

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